

# **ROLE OF OPPOSITION IN PAKISTANI PARLIAMENT (2008-2018): A CRITICAL ANALYSIS**



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**ISLAMABAD**

**2021**

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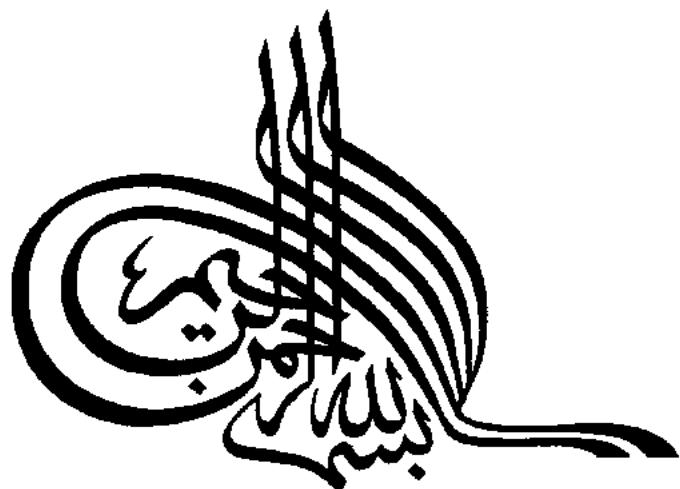
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A thesis submitted in partial fulfillment of the requirements for the Degree of Doctor of Philosophy (Ph.D.) in the Discipline of Pakistan Studies at the Faculty of Social Sciences, International Islamic University, Islamabad

**DEPARTMENT OF HISTORY & PAKISTAN STUDIES  
FACULTY OF SOCIAL SCIENCES  
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ISLAMABAD**

**2021**



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

**DEDICATED**

**To**

**My Worthy Parents**

زه مراوی گل په لار کښي پروت و م

اشنا په سرو منگولو جک کرم نازه شومه

**I was a withered flower lying by the wayside; My beloved took me up  
with her henna-dyed fingers so, I became fresh again.**

## **DECLARATION**

I, Muhammad Adil, 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- Associate Professor Dr. Manzoor Khan Afridi and Co-Supervisor Professor Dr. Naushad Khan- 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.

**MUHAMMAD ADIL**

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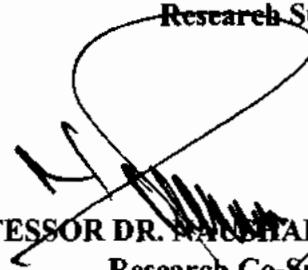
## FORWARDING SHEET

The Dissertation; titled "ROLE OF OPPOSITION IN PAKISTANI PARLIAMENT (2008-2018): A CRITICAL ANALYSIS" put forward by MR. MUHAMMAD ADIL, Regd. No. 11-FSS/PHDPS/S16 in partial fulfillment for the award of the Degree of *Doctor of Philosophy (PhD)* in Pakistan Studies, has been successfully completed under our guidance, care and supervision.

We are 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 (PhD) in Pakistan Studies as per modus operandi of International Islamic University, Islamabad.



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## ABSTRACT

*In parliamentary democracy, opposition has significant role in the parliament. It keeps check on the policies of government and proposes alternative policies against the policies of the government. In the period 2008 to 2018, the two major parties of Pakistan- PPP and PML-N- had ruled the country for five years each. In PPP government (2008-13), PML-N was the major opposition party collaborated by other smaller parties whereas in PML-N government (2013-18), PPP and PTI were the major opposition parties combined with other smaller parties. This research analyzes the role of opposition benches in the governments of PPP and PML-N. Qualitative research method has been adopted for the research. It is an analytical research which evaluate the already available facts and information for finding out the role of opposition in the Parliament of Pakistan from 2008 to 2018. Besides, interviews have also been conducted from different parliamentarians to provide authenticity to the research. In PPP's government, opposition benches have played a remarkable role not only in the constitutional amendments but also in legislation. It was impossible to pass the constitutional amendments from the parliament without the support of the opposition benches. The opposition parties have made objections on those contents of different legislations which violated the fundamental rights of the people and proposed various alternative policies to the treasury benches. Opposition parties have also historic role in the constitutional amendments adopted in PML-N's government. The 25<sup>th</sup> amendment or KP-FATA merger bill was the struggle of the opposition benches. On the other hand, 21<sup>st</sup> and 23<sup>rd</sup> amendments which were related to the establishment of military courts and against the ideologies and manifestos of the opposition parties were also passed with the support of the opposition benches. Opposition benches have fervently participated in elections for various slots in the parliament. They nominated their own candidates against the candidates of the treasury benches to prove their existence. The elections in parliament show that unity among the opposition parties have significant impacts on the results of these elections. It is worth mentioning that both the major parties of Pakistan PML-N and PPP had opposed those policies while sitting on the opposition benches which they adopted in their own governments. The opposition benches in the period 2008 to 2018 were a loyal opposition. It neither tried to topple the government nor attempted to change the whole system of the government. It criticized those policies of the government which were against the general interest of the common people of Pakistan. On the other hand, it proposed different alternative policies against the policies of the government.*

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Prime respects and honors to The Absolute (Last & Final) - the most beloved Prophet- MUHAMMAD (S. A. W. W.)- Mercy for all the worlds, who enabled the human-being to recognize his Creator.

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## **ABBREVIATIONS**

ANP	Awami National Party
AML	Awami Muslim League
ASP	Assistant Superintend of Police
BISP	Benazir Income Support Programme
BNP	Baloch National Party
BNP-A	Baloch National Party Awami
BNP-M	Baloch National Party Mengal
BoG	Board of Governors
CADD	Capital Administration and Development Division
CCI	Council of Common Interest
CCL	Concurrent Legislative List
CEC	Chief Election Commissioner
CII	Council of Islamic Ideology
CJ	Chief Justice
COD	Charter of Democracy
CM	Chief Minister
CrPC	Code of Criminal Procedure
DG	Director General
DPO	District Police Officer
ECP	Election commission of Pakistan
ERRA	Earthquake Reconstruction and Rehabilitation Authority
FATA	Federal Administrative Tribal Area

FBR	Federal Board of Revenue
FCR	Frontier Crimes Regulations
FIA	Federal Investigation Authority
GDP	Gross Domestic Products
GHQ	General Headquarter (of Pakistan's Army)
GIDC	Gas Infrastructure Development Cess
GM	Genetically modified
GST	General Sale Tax
ICT	Islamabad Capital Territory
IMF	International Monetary Fund
INGOs	International Non-governmental Organizations
ISPs	Internet Services Providers
IT	Information Technology
JI	Jamat-i-Islami
JUI-F	Jamiat Ulama-i-Islam (Fazal-e-Rehman Group)
KP	Khyber Pakhtunkhwa
KSM	Khalid Shaikh Mohammad
MNA	Member of National Assembly
MoUs	Memorandum of Understandings
MPA	Member of Provincial Assembly
MQM	Muttahida Qaumi Movement
NA	National Assembly
NAB	National Accountability Bureau
NADRA	National Database and Registration Authority

NAP	National Action Plan
NGOs	Non-governmental Organizations
NP	National Party
NUMS	The National University of Medical Sciences
NWFP	North West Frontier Province
OGRA	Oil and Gas Regulatory Authority
PA	Provincial Assembly
PBUH	Peace be upon him (Hazrat Muhammad)
PIA	Pakistan International Airline
PCCR	Parliamentary Committee of Constitution Reforms
PIMS	Pakistan Institute of Medical Sciences
PkMAP	Pakhtunkhwa Milli Awami Party
PMDC	Pakistan Medical and Dental Council
PM	Prime Minister
PML	Pakistan Muslim League
PML-F	Pakistan Muslim League Functional
PML-N	Pakistan Muslim League Nawaz
PPC	Pakistan Penal Code
PPP	Pakistan People's Party
PPP-S	Pakistan People's Party Sherpao
PTI	Pakistan Tehreek-i-Insaf
QWP	Qaumi Watan Party
SAFRON	States and Frontier Regions
SC	Supreme Court

**US**      United States of America

**VC**      Vice Chancellor

# INTRODUCTION

## 1. Background

Researchers have worked on the question of political uncertainty in Pakistan from various dimensions. Some scholars have emphasized on the role of government whereas some have underlined the role of establishment especially military and civil bureaucracy. Others scholars have focused on the foreign elements and Pakistan's economic dependency on international organizations. However, countable scholars have pointed towards the role of political parties particularly political opposition. Moreover, the role of parliamentary opposition and its work in constitutional amendments and other legislations have not been researched, especially the era from 2008 onward.

Although, the term "opposition" is not an independent concept. it relies upon the notion of government.<sup>1</sup> The Cambridge Encyclopedia defines it as the prerogative of political parties and political movement not sitting on treasury benches to keep check and balance on government, to censure its policies and to change the policies of government by proposing its own policies.<sup>2</sup> The Modern Politics' thesaurus describes opposition as a political party or loose affiliation of people who desire replace the government and change its plans.<sup>3</sup> However, Robert Dahl defines opposition as the political parties which are working against the behavior and policies of the ruling parties.<sup>4</sup> To put it more comprehensively, the political parties sitting on the opposition benches of parliament and propose alternative policies against the policies of treasury benches. In

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<sup>1</sup> Kausar Parveen, *Politics of Pakistan: Role of Opposition 1947-58* (Karachi: Oxford University Press, 2013), 2.

<sup>2</sup> David Crystal, *The Cambridge Encyclopedia* (Cambridge: Cambridge University Press, 2003), 470.

<sup>3</sup> David Robertson, *A Dictionary of Modern Politics* (London: Europa Publication, 2002), 293.

<sup>4</sup> Robert Dahl, *Political Opposition in Western Democracies* (New Haven: Yale University Press, 1966), 96-97.

this research, therefore, opposition means the political parties in Pakistan which had occupied opposition benches in Parliament from 2008 to 2018 and had offered alternative policies against the policies of the ruling parties.

The present study focuses on the Parliamentary opposition in politics of Pakistan from 2008 to 2018. In this study, the role of different opposition parties in parliament have been analyzed in the two consecutive democratic governments of Pakistan People's Party (PPP) from 2008 to 2013 and Pakistan Muslim League Nawaz (PML-N) from 2013 to 2018. As from 2008 onward, the first democratic government of Pakistan has completed its tenure in 2013, and the second government has completed its tenure in May 2018. This study seeks to understand the role of opposition in the democratic process in Pakistan. It identifies role of opposition in legislation making and constitutional amendments. Besides, the role of parliamentary opposition in various elections for different slots in National Assembly (NA) and Senate has also been critically analyzed.

Two types of legislation i.e. ordinary bills and financial bills have been studied to evaluate the role of different opposition parties. The researcher analyzes the contribution of the opposition benches in these bills. However, it was challenging task to consider all the bills passed from the parliament. Therefore, twelve ordinary bills and five finance bills from each democratic government have been studied and analyzed to ascertain the role of opposition parties in the parliament. Most of these bills were presented by the treasury benches, however, opposition has also contributed in these bills. The opposition parties have not only proposed several amendments but also made reservations on various clauses of the bill. In the finance bills, opposition parties have moved cut motions against the policies of the government. Cut motions are the tools through which opposition benches disapproved the government policies or show

grievances on its policies. In addition, opposition has proposed suggestion to amend the several clauses of the finance bills. It has also raised objection on several proposals of the treasury benches in their speeches on the floor of the parliament, and emphasized on the government to change the policies for the best interest for the people of Pakistan.

Constitutional amendments are also a significant function of the parliament. Government brings changes to the constitution according to the changing circumstances of the country. As these amendments require two-third majority in the lower house as well as in the upper house, therefore, opposition plays critical role in bringing these constitutional amendments. Due to multi-party system in Pakistan, it is difficult for any single party to win two-third seats in the parliament. Hence, the importance of opposition benches increased in passing the constitutional amendments from the parliament. The research analyzes the role of opposition benches in the constitutional amendments adopted from 2008 to 2018.

Besides, parliamentary parties participated in the elections for different slots in the premises of the parliament. The elections are conducted for the posts of Prime Minister, Speaker and Deputy Speaker in the National Assembly and Chairman and Deputy Chairman in Senate of Pakistan. In addition, in the election for the President of Pakistan both the houses with provincial assemblies of the four provinces participated. Parliamentary opposition has pivotal role in these elections. It contests for various slots in the parliament against the candidates of the treasury benches. The opposition participation in these elections shows its existence in the parliament, and a message to the government that someone is there to make accountable the treasury benches. Therefore, the study analyzes the role of opposition benches in the elections for the various positions in the parliament.

The period 2008-18 is significant because for the first time in the history of Pakistan two democratic governments have completed their tenures and transferred power to another democratic government. From 2008 to 2013, PPP was in government and PML-N was the major opposition party with Jamiat Ulama-i-Islam (JUI-F) and some regional parties. Whereas PML remained in opposition from 2008 to April 2011 in PPP's government, however, joined the treasury benches in 2011. Muttahida Qaumi Movement (MQM) were also changing its position from opposition benches to treasury benches and vice versa. In PML-N's government (2013-18) the major opposition parties were PPP, Pakistan Tehreek-e-Insaf (PTI), Jamat-i-Islami (JI), Awaami National Party (ANP), Muttahida Qaumi Movement (MQM) and some regional parties. The research critically analyzes the role of opposition benches in legislation-making, constitutional amendments and elections for different posts in the parliament. It also explores that how much the opposition in parliament was successful by offering alternate policies to the government from 2008 to 2018.

## **2. Statement of The Problem**

Political parties in opposition have a recognized role in a political system of a country. In every single democratic government, the opposition parties are not only beneficial but also essential. In Pakistan, the opposition political parties in parliament have very prominent role in the democratic process. The opposition in parliament plays vital role not only in legislation but also in constitutional amendments. The era (2008-18) which is selected for research is very significant for various important legislation and constitutional amendments. This study critically analyzes the role of the opposition in legislation-making and constitutional amendments from 2008 to 2018. It further studies the approaches of the opposition towards different elections in Parliament.

### **3. Research Questions**

1. What was the role of parliamentary opposition in legislation-making in Parliament of Pakistan from 2008 to 2018?
2. How did the opposition political parties in Parliament (2008-18) play their role in the constitutional amendments?
3. What was the role of parliamentary opposition in the elections for different slots in the Parliament from 2008 to 2018?

### **4. Research Objectives**

1. To assess the role of opposition in legislation making.
2. To evaluate the response of opposition on different constitutional amendments.
3. To analyze the role of opposition in elections for various position in the Parliament.

### **5. Significance of The Study**

Pakistan is progressing towards a stable democratic country; therefore, the subject is very significant and it has multidimensional implications in the process of democratization of Pakistan. There is very less research work available on the politics of opposition in Pakistan, and no research work is conducted on the politics of opposition in Pakistan during the period 2008-18. This research study would develop the role of opposition and recognize it as fundamental part of the political system in Pakistan. This research is also significant to promote the culture of acceptance, dissent, building agreement and reconciling diverse point of views. The period which has been selected for research is important because it was the first time that two

democratic governments have completed their tenures and transferred power to another democratic government in Pakistan.

This research would help not only every government but also media's personnel to ascertain the role of different political parties either in opposition or in government. It would also help students and scholar of political science to find out how the political parties change their stance when they change their benches from opposition to treasury. The research focuses only on the parliamentary political parties that are well-organized and institutionalized bodies of opposition in a society. In addition, it highlights the significance of disagreement and critique, and the pursuance of reconciliation, forbearance and broad-mindedness in the political culture of a country. Accordingly, this research would be fruitful in developing a democratic culture in Pakistani society.

## **6. Review of The Literature**

The report *Performance of 13<sup>th</sup> National Assembly (2008-13)* (2014) published by Free and Fair Election Network (FAFEN) depicts the opposition has traditionally remained vocal throughout Pakistan's democratic history and the 13th National Assembly (2008-13) was no exception, with the major opposition PML-N's active participation in debates and discussions. On-floor criticism is often political point-scoring. However, the opposition used question hour to make the government address their queries. In the 13th National Assembly private members presented 189 bills in the NA, of which 135 sought modification in the already enacted laws. The opposition party PML-N introduced 53 (28%) of private members' bills. These introduced bills were not passed. In the five years of the 13th National Assembly, 530 resolutions were moved of which 85 (16%) were adopted by the House. The main opposition party PML-N raised 317 (60%) of these resolutions, of which (5%) were adopted. These resolutions focused on

women rights, missing persons in Baluchistan, employment generation, and blasphemy among others. However, it does not provide any analysis about the role of opposition benches in constitutional amendments, legislations and in elections for different slots in parliament. It says nothing that what alternative policies were moved by the opposition parties.

The paper “*Political Rhetoric; Slogan Politics in Pakistan and Role of Parliament*” by Muhammad Shafiq and others analyzes political rhetoric; slogan politics and role of parliament in Pakistan especially focusing on the first one year of PML-N’s government. In this context, political parties and their leaders’ popular statements particularly in print media containing rhetoric and slogans to resolve two important issues i.e. electoral reforms and energy crisis has been examined. Political parties’ initiatives in the form of calling attention notices, questions, resolutions, bills, motions and point of orders in the parliament have also been assessed followed by recommendations. The paper highlights that politicians generally use rhetoric and slogan politics instead of using parliament to satisfy the public on various issues. Findings of the study shows that even leadership of PML-N, ruling political party at center as well as opposition parties including PPPP and PTI are using slogans and rhetoric in their politics to deal with the key issues i.e. electoral reforms and energy crisis. They use streets politics and media to inspire masses. By doing this act, politicians are not even undermining the institute of parliament but also ignoring its importance in democratic system.

Rizwan, Muhammad and others seek to examine in the paper “*Reconciliation of Pakistan People's Party: A Conduit to Sustainable Democracy in Pakistan*” the work done by People party and its coalition partners in their government to strengthen the democratic culture of Pakistan while focusing on reconciliation policy. They argue that

the two major parties of Pakistan i.e. PPP and PML-N, have signed the Charter of Democracy (CoD) for the restoration of parliamentary democracy, insurance of provincial autonomy, independence of judiciary and formation of free Election Commission (ECP). The purpose was to make stable the political situation of Pakistan and free it from the intervention of non-democratic forces. This paper discusses to some extent the role of opposition in stabilizing the norms of democracy in the country. However, it does not contain the contribution of opposition parties in different legislations in parliament.

*The Role of the Opposition in Knesset* (2013) by Tuttnauer is a book discusses the role of opposition in Israel's parliament. This study examines the status of the parliamentary opposition in Israel, its abilities and limitations, comparing it with oppositions in 20 established democracies throughout the world. Two unique features characterize this study: from a local point of view, it is the first study in over 30 years to examine Israel's parliamentary opposition; furthermore, from an academic standpoint, it is among the first to assess oppositions by conducting a quantitative comparison of numerous countries. One finding of the comparison indicated that parliamentary democracies are generally divided into two types: the first consists of regimes in which the opposition is large and united but has little influence on the government, while the second comprises those whose small and divisive opposition is compensated by participating in significant decision making and legislation. The main point of the theoretical foundations, findings, and recommendations of this study is that a weak opposition does not necessarily mean a strong government. In fact, a large and cohesive opposition goes hand in hand with a strong and stable government. On the other hand, when the opposition is weak the government can allow itself to be less sensitive and accountable to the public.

*The Role of Opposition in Nigerian Politics* by Wahab O. Egbewole and Muhtar A. Etudaiye states that opposition oversee all segments of the government, provides alternative ideas and articulate the policies of the party on every policy decision of the ruling party. The authors argue that the opposition must not be for opposition sake and it must be devoid of violence and must be within the globally accepted standard. The only duty of an opposition party need is to provide an alternative view and this must properly dissected, articulated and effectively communicated to the general public. This paper further states that government has duty to keep open the channel of expression and to consider the contrasting views before public policies are determined. However, this paper does not analyze the role of opposition in legislation and different elections held in the parliament.

The article “*Government Bulldozes Controversial Election Bill 2017 through National Assembly*<sup>5</sup>” published in DAWN newspaper states that the Election Bill 2017 was passed by NA amid the opposition of legislators from different political parties. According to the bill, those politicians who are made ineligible by the higher courts for public office could lead a political party. The opposition benches were strongly against the inclusion of this particular clause in the bill. While debating on the bill, the opposition member Shah Mehmood Qureshi of PTI claimed that this clause has only been induced to keep the disqualified Nawaz Sharif as president of PML-N. The opposition political parties have proposed 105 amendments to the Election Bill 2017, however, only 44 amendments were accepted by the House and the others were rejected. All the opposition parties have protested against the bill, and also maintained

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<sup>5</sup> Muhammad Bilal, “Government bulldozes controversial Election Bill 2017 through National Assembly,” DAWN, October 02, 2017, <https://www.dawn.com/news/1361268> (accessed February 28, 2018)

to challenge the bill in the Supreme Court as it is against the spirit of the constitution of Pakistan.

The editorial “*Role of Opposition*” in DAWN newspaper states that the role of opposition in Panama case may harm the democratic culture of the country. All the political parties should wait for the decision of Supreme Court and should abstain from street agitation. The author is of the view that the reckless elements among the opposition that do not care much for democracy. The attempts of the opposition to spread rumors regarding the forward bloc in PML (N) could have grave consequences for the democratic order. However, this article revolves around Panama case and the role of opposition in it. It does not discuss the role of opposition in parliament.

Saeed Shafqat deals in his paper “*Democracy in Pakistan: Value Change and Challenges of Institution Building*” 1998, Pakistan’s experimentation with parliamentary democracy (particularly from 1985 to 1998) are mixed. Several contradictory trends are noteworthy. First, political leaders continue to reveal lack of commitment to the principles of democracy and, above all, have found it difficult to develop the National Assembly as the primary forum for national debate, dialogue and legislation. To make parliamentary democracy succeed, the parliamentarians need to strengthen the parliament. Confidence in electoral competition has to be matched by parliamentary performance. The challenge for the parliamentarians is to enhance the legislative and consensus building capacity of the NA. He asserted that not only government but also opposition have the responsibility to contribute in the process of legislation-making. Nonetheless, his main focus in the paper theoretical aspect of parliamentary democracy. He does not discuss what in actual the opposition benches performed in the parliament.

Safdar Mahmood's *Pakistan Political Roots and Development 1947-1999* (2010) deals with historical development of political culture in Pakistan since its inception. It not only analyzed the main political events but also political leaders and institutions. It also discusses the significant role of the opposition alliance in the shape of Pakistan National Alliance (PNA) against the manipulation of the general elections of 1977. The book further explains how Pakistan Muslim League (PML) was divided into various factions over the issue to support a military dictator or not. In short, Safdar Mahmood discusses all the elements whether internal or external, which have greatly affected the political culture of Pakistan. He also examines the role of opposition parties in various political phases of the country. However, the role of the opposition has not been discussed in detail. It neither emphasizes on the contribution of opposition benches in constitutional development nor focuses its role in legislation-making in Pakistan. It also ignores the elections for various slot in the parliament of the country.

A book *Constitutional and Political History of Pakistan* (2010) by Hamid Khan has critically analyzed Pakistan's constitutional development from 1947 to 2010. It offers a detailed description and analysis of all the constitutions promulgated in Pakistan since its inception. Besides, it provides all the related documents of the constitutional making process in the country. Constitutional and political developments have been elucidated with reference to socio-politico situation of Pakistan that has strong impacts on these developments. In short, this book not only provides the work of legislators but also the influence of military and civil bureaucracy in the enactment and implementation of the three constitutions of Pakistan. It also discusses to some extent the role of opposition in politics of Pakistan but only to 2008. It does not analyze the role of opposition from 2008 onwards. Besides, it does not provide any analysis about the role of opposition benches in constitutional amendments, legislations and in elections for different slots

in parliament. It does not offer that what alternative policies were moved by the opposition parties.

*Pakistan: A New History* (2012) a book by Ian Talbot provides a depiction of Pakistan's geography, people and society. It states the failures of democracy in the initial years of Pakistan's independence. Then the book discusses the era of Ayub, Zulfiqar Ali Bhutto and General Zia and the constitutional and political development in these eras. The author discusses about the democracy and authoritarianism from 1989 to 1997, and also the Centre and provinces relations during this period. Similarly, a detail description about the era Perviaz Musharraf and Asif Ali Zardari has been provided. The author also depicts about the judicial activism and the constitutional political development in Pakistan from 1997 to 2008. However, he neither discusses the role of opposition in Pakistani parliament from 2008 onwards nor it provides an analysis of the policies put forwarded by the opposition benches.

Doctor Baz Muhammad, *Constitution Making in Pakistan 1947-1985* (1995), highlights the constitutional history of Pakistan along with a short introduction of the political leaders who played role in the formation of the constitutions. It brings to surface the amendments which were introduced by Zia but what was the role of the leaders of opposition in the assemblies over the introduction of the amendments has not been discussed in detailed. The few sentences of the speeches of few opposition leaders has been given which are insufficient.

*Democracy and Authoritarianism in South Asia: A Comparative Historical Perspective* (1995) written by Ayesha Jalal, is the comparative study of three South Asian i.e. Pakistan, Bangladesh and India. It includes 06 chapters which underline various regimes of these South Asian countries and their advantages and disadvantages.

Regarding Pakistan, She analyzes the political culture and development of Pakistan but to a limited extent. She deals with the government of General Zia-ul-Haq and the general elections conducted in 1985. The book argues about the manipulation of the elections by the General Zia's cronies. Besides, it also analyzes the role castes, ethnicity and religion in the elections of Pakistan. Notwithstanding, it does not analyze the role of opposition in general and particularly from 2008 onwards. Besides, it does not provide any analysis about the role of opposition benches in constitutional amendments, legislations and in elections for different slots in parliament. It does not offer that what alternative policies were moved by the opposition parties

Kausar Parveen has discussed the politics of opposition from 1947 to 1958 in her book "*The Politics of Pakistan – Role of the Opposition 1947 -1958*" (2013). This book is related to the initial days of the creation of Pakistan. It was the first research work on the opposition in Pakistan but only consisted of nine years. She discusses the emergence of opposition in the initial days of Pakistan and its major determinants. She also elaborates the role of opposition in constitution making and political development. However, her study only focuses on the initial ten years of the history of Pakistan.

Noor ul Haq deals with different aspects of governance in Pakistan since 1947 in his research paper "*Democracy in Pakistan Governance and Democracy in Pakistan: Weaknesses, Strengths and Prospects*". He discusses the initial problem in constitution-making of Pakistan. In addition elaborates the challenges to governance in Pakistan like terrorism, corruption, nepotism etc. The external and internal threats to the security of the country turned it into a security state. Weak political leadership created space for civil-military bureaucracy. This led to the cut-off periods in democratic governance, which was derailed thrice in 1958, 1977 and 1999. However, he is of the opinion that at present, the country is partially developed, the middle class is growing and civil

society is assertive; a vibrant media has come up, and majority of the population is literate. He emphasized on the role of media and civil societies in creating awareness about the demarcating norms in the masses. He concludes that it is the political leadership which can ensure permanence to democratic governance.

## **7. Research Methodology**

### **a. Conceptual Framework**

Parliamentary opposition is an essential element of the Western democratic system. There are two benches i.e. treasury and opposition benches in most of the parliaments across the world. Like treasury benches, opposition benches have an acknowledge role in the politics of the country. In a political system, therefore, the opposition parties are not only valuable but also indispensable. The purpose of opposition benches in parliament is to examine the policies of government. It not only objected but also underscores those policies which are unconstitutional and against the well-being of the common people. Moreover, it proposed its own policies against the policies of the government to prove its sitting in the parliament is not wastage of time. In short, the opposition benches observe mistakes, propose changes, raise questions and influence public opinion.<sup>6</sup>

Classical authors have usually attributed more emphasis to one specific kind of political opposition, namely the parliamentary opposition, which was presented by Ionescu and de Madariaga themselves as the “most advanced and institutionalized form of political conflict”.<sup>7</sup> According to Schapiro, opposition should be defined as “an organized political group, or groups, of which the aim is to oust the government in power and to

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<sup>6</sup> Paeveen, *The Politics of Pakistan: Role of Opposition 1947-1958*, 12.

<sup>7</sup> Ghita Ionescu and Isabel de Madariaga, *Opposition: Past and Present of a Political Institution* (London: Watts, 1968), 72.

replace it by one of its own choosing".<sup>8</sup> In this perspective, political opposition has most often been limited to one specific arena in the classical literature: the parliament; to one specific actor: the minority parties with one supposed major goal: taking power.

The classical literature has entailed a very normative dimension when discussing the roles or "functions" of opposition. This literature provided two different forms of opposition- 'normal' opposition on the one hand and 'deviant' opposition on the other hand. The deviant opposition is called disloyal or anti-system, that is supposed to be more disruptive and not very positive in democratic regimes. Similarly, Kircheimer first distinguished three different types of opposition: "classic" or "loyal" opposition, offering alternative to the chosen policies while recognizing the government the right to govern and the constitutional system in place; principled opposition, opposing both the policies of the government and constitutional requirements of the political system; and finally, "political competition" where the minority group competes with the incumbent for power but cease to present alternative goals and objectives from that of the government.<sup>9</sup>

During the same period, G. Sartori also differentiated the normal opposition from its deviant form. According to him, "a 'real opposition' presupposes consent on fundamental that is consent on the community and regime level". It opposes "the government, not the political system as such" and acts quietly and constructively, by opposing but not obstructing.<sup>10</sup> Alongside this "constitutional opposition", he identified

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<sup>8</sup> Leonard Schapiro, *Government and Opposition* (Cambridge: Cambridge University Press, 1966), 5-6.

<sup>9</sup> Ludger Helms, *Parliamentary Opposition in New and Old Democracies* (London: Routledge, 2009), 229.

<sup>10</sup> Giovanni Sartori, "Opposition and Control Problems and Prospects," *An International Journal of Comparative Politics* 1, no.2 (January 1966): 151.

another type of opposition: the anti-system opposition, which challenges the very legitimacy of the regime as it is.

In Pakistan, the parliamentary opposition was classic or loyal opposition in the period under research. It has recognized the government right to govern and the constitutional system in place. It has also offered alternative policies against the policies of the government. However due to multi-party system, there are other variables which affect the role of opposition in different legislative functions and elections in parliament. The numbers of both the government and opposition in each house of the parliament have prominent role in making any piece of legislation. The stronger the government, the easier to pass legislation. On the other hand, the stronger the opposition, the easier to incorporate alternatives in the bills. Similarly, the attitude of the treasury benches towards the opposition benches can affect the process of legislation and results of elections for different slots in parliament. In addition, the content of the bills has also substantial impact on the role of opposition. If the content of the bills is not in terms with ideology of the opposition benches then it will impact the process of legislation. However, it also depends upon the numbers of opposition benches and unity among the opposition parties. The stronger and united opposition compels the government to accept their alternatives and change the content of the bills. Similarly, ideologies of different opposition parties would influence the process of legislation. The bills which contradict the ideology of the opposition benches result in hampering the process of legislation. Moreover, different ideologies of political parties make division among the opposition benches, which in turn affect the process of legislation.

This research analyzes the role of parliamentary opposition in legislation making, constitutional amendments and the elections held in parliament of Pakistan for different slots. It analyzes the alternative policies put forward by the opposition benches in

constitutional amendments, ordinary legislation and financial legislation (annual federal budget). Besides, it also examines the role of opposition in various elections in parliament by nominating candidates against the candidates of the treasury benches.

### **b. Research Design**

This study has carried out under qualitative research design. It is an analytical research which evaluate the already available facts and information for finding out the role of opposition in the Parliament of Pakistan from 2008 to 2018. However, to provide authenticity to this research, structured interviews of different parliamentarians, who were members of the parliament in research period, have also been conducted. It is noteworthy that after struggle of five to six months only five interviews were conducted from different parliamentarians.

### **c. Data Collection**

Data was collected from primary as well as secondary sources. Primary data sources comprise of debates of the opposition as well as treasury benches in National Assembly and Senate of Pakistan from 2008 to 2018. In addition, structured interviews of parliamentarians of different political parties have also conducted for the collection of data. There are only five interviews conducted from the political parties which have representation in the parliament. The criteria for selection of participants was that they remained Member of Parliament in the period under research. To bring diversity in the interviews, questions were asked not only about the attitude and role of opposition but also of government.

The secondary sources mainly include newspapers and to some extent books and journal have also been consulted. Three prominent newspaper of Pakistan Dawn, The Express Tribune and The Nation have accessed for data collection.

#### **d. Ethics of Research**

All the ethical principles of research have followed in collection and analysis of data. It is important that procedures for interviews are laid out in writing, and are clearly explained to interviewees before interviews proceed. Any recorded contribution, in written form, on tape etc., or in notes taken from the interview by the interviewer have been used with the permission of interviewees. Simultaneously, the names of interviewees are mentioned by the consent of them.

#### **e. Identifying the Relevant Sources**

As the sources are limited, researcher has concentrated mostly on the primary sources which relevant to the study. Data has collected from different published official documents such as the Constitution, bills and acts of parliament from 2008 to 2018 and proceeding of the Parliament i-e Upper House and Lower House. Many pamphlets, articles and reports published by the Parliament and newspapers would be consulted to strengthen the research.

#### **f. Data Analysis**

Descriptive-analytical method is adopted for the analysis of data. Most of the data was consist of the debates made by parliamentarians in the Parliament, which is available in documented form in the Library of Parliament as well on the website of the Parliament of Pakistan. However these debates are in rough form. It was, therefore, arrange in order and categorized according to the research questions. After arrangement and categorization, the data was thoroughly read, and the important and relevant areas to our research were highlighted. The important areas in the data were again read to understand the explicit meaning of the text. In this way, the input of the opposition were

comprehensively investigated to answer the research questions. For the reliability of the data, secondary sources, prominent newspapers of Pakistan, were also examined to provide more authenticity to the research. Furthermore, interviews data was transcribed, and also synthesized with the other data.

#### **g. Limitation of the Research**

The data of the research is limited mainly to debates in the National Assembly and Senate, articles and news published in different newspapers and interviews conducted by the researchers himself. Because there has no relevant data available in books and research papers. Nonetheless, some books and research papers have consulted for the literature review and theoretical frame work.

### **8. Research Outlines**

The research comprises of eight chapters.

The initial chapter introduces the topic, literature review, research methodology and theoretical framework.

The second chapter discusses the role of opposition benches in the constitutional amendments in PPP's government from 2008 to 2013. Three constitutional amendments (18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup>) adopted in PPP's government have been critically analyzed.

The third chapter provides opposition's role in ordinary legislation enacted in PPP's government from 2008 to 2013. Fourteen laws has been selected in which the opposition has contributed and those law has analyzed to point out the role of opposition benches.

The fourth chapter analyzes role of opposition in constitutional amendments in PML-N's government from 2013 to 2018. Five constitutional amendments (21<sup>st</sup>, 22<sup>nd</sup>, 23<sup>rd</sup>, 24<sup>th</sup> and 25<sup>th</sup>) adopted in PML-N's government have been critically studied to observe the role of parliamentary opposition.

The fifth chapter offers analysis of the role of opposition in the ordinary laws adopted in PML-N's government.

The sixth chapter analyzes the role of parliamentary opposition in the annual fiscal policies of the two governments of PPP and PML-N from 2008 to 2018. The chapter has separated into two parts. The first part provides the annual finance bills passed in PPP's government from 2008 to 2013 and role of opposition parties in these have been critically analyzed. The second part offers analysis about the role of opposition in finance bills in PML-N's government from 2013-18. In each government five finance bills or federal budget have been selected and the role of opposition parties in these bills have critically analyzed.

The seventh chapter discusses the role of opposition benches in all the elections for different slots held in parliament of Pakistan. The elections for the slots of Prime Minister, President, Speaker and Deputy Speaker of National Assembly and Chairman and Deputy Chairman of Senate conducted in two governments from 2008 to 2018 have been studied.

The chapter provides conclusion of the whole research work, recommendations and also pointed out future research work in the Parliament.

## **CHAPTER- 1**

### **ROLE OF OPPOSITION BENCHES IN CONSTITUTIONAL AMENDMENTS IN PPP GOVERNMENT (2008-2013)**

#### **1.1- Introduction**

In 2008 general elections, Pakistan People Party (PPP) emerged as major political party. It formed a coalition government with Pakistan Muslim League Nawaz (PML-N) and Awami National Party (ANP), however, PML (N) left the coalition government after five months and became major opposition party. Other major opposition parties were Muttahida Qaumi Movement (MQM), Jamiat Ulama-e-Islam Fazal Rehman group (JUI-F) and Pakistan Muslim League (PML-Q). Nonetheless, MQM frequently changes its position from opposition benches to treasury benches and vice versa. Similarly, PML-Q also joined the government in April, 2011. Chaudhry Nisar Ali Khan of PML-N was the opposition leader during this government. PPP government from 2008 to 2013 had performed significant legislative functions in its tenure. The most vital was eighteenth constitutional amendment which has rejuvenate the 1973 constitution. Likewise, nineteenth and twentieth amendment were also remarkable political development of PPP's government. However, opposition parties have very prominent role in these constitutional development. They have presented alternatives to the government for making these constitutional amendments. This chapter analyzes the role of parliamentary opposition in the 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> constitutional amendments.

#### **1.2- Eighteenth Constitutional Amendment**

The Constitution (Eighteenth Amendment) Act, 2010 is one of the major amendment act passed by the Parliament in 2010. It has amended 102 articles of the Constitution of

1973. It was bought forth to the Parliament after a long consultation of the Parliamentary Committee of Constitution Reforms (PCCR) in 2010. The PCCR was comprised of twenty-six members of all the major political parties of Pakistan. The amendment was signed by the then President Asif Ali Zardari on 19<sup>th</sup> April, 2010, and was enforced on the next day.

The 18<sup>th</sup> amendment is fundamental and significant change in the political sphere of Pakistan. It has reinstated the true spirit of 1973 constitution. It has made the President only ceremonial head of the state. Erstwhile, the decisions of President have significant effect on the stability of the country.<sup>11</sup> The power given to him by 8<sup>th</sup> and 17<sup>th</sup> amendment has been reduced. These amendments had infused much power in the hands of the President. Before 18<sup>th</sup> amendment, he could dissolve national assembly any time he wants. However, through 18<sup>th</sup> amendment this power has been taken away from him. In addition, 18<sup>th</sup> amendment has also stop the direct intervention of military in the parliamentary democracy of the country. Similarly, provincial autonomy has been a persistent desire of nationalist parties, which was given to them by the means of 18<sup>th</sup> amendment. The Concurrent Legislative List (CLL) was abolished from the constitution of 1973.<sup>12</sup> From there on the powers in the concurrent list has been the prerogative of provincial authorities. Amendments have also made to Federal Legislative List-I and Federal Legislative List-II. Furthermore, the Sixth and Seventh Schedules have also eliminated from 1973 Constitution.

The Eighteenth amendment has also set new rules for the selection of judges of the Supreme Court. Earlier, the President would made decision for the selection of care-

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<sup>11</sup> Rizwan, Muhammad. "Revitalization of Parliamentary Democracy in Pakistan under 18th Amendment." *Journal of Humanities and Social Science (IOSR-JHSS)* 19, no. 2 (2014): 59-60.

<sup>12</sup> Khan, Zafarullah. "Post 18th Constitutional Amendment: Federal-Provincial Roles and Responsibilities." *Research Digest* 2, no. II (2015): 63.

taker government, now it is the responsibility of national and provincial assemblies to make the decisions in this regard. In the same way, the process of the selection of Chief Election Commissioner has also been changed. In a nut shell, 102 articles in the constitution have been amendment. It was a hallmark in the constitutional history of Pakistan. This historical amendment is not only the contribution of the then government but also opposition has significant role.

The eighteenth amendment in the Constitution of Pakistan was not struggle of the then government only but the opposition has also played a significant role in the working and passing of this amendment. After the introduction of The Constitution (Eighteenth Amendment) Act, 2010, Ahsan Iqbal from major opposition party PML-N told the House that it is not only a constitutional amendment but a declaration of the people of Pakistan against the undemocratic forces. He said that the Parliament is clearing the 1973 constitution from the amendments of the dictators. He named the 18<sup>th</sup> constitutional amendment as new social contract, and symbol of political consensus in Pakistan. Ahsan Iqbal emphasized that the institutions would accept this amendment with as spirit as it is going to be passed by this Parliament. He extended that it is the beginning of the new era of Parliamentary supremacy. If someone tries to create a conflict among the institutions through this amendment, we will stand against those people and institutions. He has also paid tribute to Nawaz Shareef, while being in opposition, he still completed his promises regarding parliamentary supremacy.

The most important role of the eighteenth amendment is that it has enhanced provincial autonomy. Farooq Sattar, parliamentary leader of MQM, stated that eighteenth amendment is the first step towards provincial autonomy, however it is not complete

provincial autonomy.<sup>13</sup> Until complete provincial autonomy transferred to the provinces, federation will be considered weak.<sup>14</sup> He also suggested to establish a body named “Inter-provincial Executive Council”, and all the matters related to national highways, communication, ports and corporation will be assigned to this body.<sup>15</sup> He also opined that real provincial autonomy is fiscal autonomy, therefore, sale tax on goods and central excise duty should be transferred to the provinces.<sup>16</sup> Similarly, law and order is a provincial subject, so all the provincial IGP, DIGs, CCPOs, SSPs and ASPs should be appointed by provincial government and not the central government.<sup>17</sup> He also emphasized that article 157 (power), 158 (gas) and 159 (telecast and broadcast) of the 1973 constitution are provincial subject, therefore, should be implemented in letter and spirit.<sup>18</sup> However, these changes suggested by MQM were not made part of the eighteenth constitutional amendment.

Haider Abbas Rizvi of MQM told the house that the provincial autonomy suggested in the eighteenth amendment is not complete provincial autonomy. He demanded that not only complete provincial autonomy should be given to provinces but also fiscal autonomy. He also added that “value added tax (VAT)/sale tax” should also be returned to the provinces through eighteenth amendment.<sup>19</sup> He expressed gratitude to the parliamentary committee that their demand for making an “Inter-provincial Executive Council” has accepted that would solve conflicts between the federation and provinces, which would also possesses executive authority as well.<sup>20</sup> Abdul Qadir Baloch of PML

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<sup>13</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 21<sup>st</sup> sess., 2010, Vol. XXI, no. 1-4: 104.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid. 107.

<sup>16</sup> Ibid. 111.

<sup>17</sup> Ibid. 119.

<sup>18</sup> Ibid. 120

<sup>19</sup> Ibid. 217-219

<sup>20</sup> Ibid. 220-221

(N) said that the autonomy that will be given to the provinces through eighteenth amendment is not as important for Baluchistan as for other three provinces. He said that we (people of Baluchistan) have two subjects which are coast and resources. However, its control has not been given to us. He extended the case of Baluchistan was not presented fairly in the parliamentary committee for the eighteenth constitutional amendment.<sup>21</sup>

Sardar Bahadur Ahmed Khan of PML expressed that unless proper mechanism has not been developed the power assigned to the provinces in the eighteenth amendment would made disturbances. In his view a proper mechanism for equal distribution of resources should be devised in the provinces to avoid confusion.<sup>22</sup> Balochistan National Party proposed that in the light of agreement between Quaid-i-Azam and Khan of Qallat only four department- defense, currency, communication and foreign affairs- should be remained with the Centre and all other departments should be transferred to the provinces.<sup>23</sup> This amendment was rejected by the committee, however, it has recorded in the note of reiteration. JUI (F) was also of the opinion that only the above four departments would remain with the center, otherwise provincial autonomy would be incomplete.<sup>24</sup> However, much of the alternatives from opposition benches were not considered by the government.

The other significant role of 18<sup>th</sup> amendment is that it has change the name of North West Frontier Province (NWFP) to Khyber Pakhtunkhwa (KP). The opposition was divided on the issue of changing name of NWFP. PML has made strong reservation over it, however, other opposition parties have supported it. Sardar Shahjehan Yousaf

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<sup>21</sup> Ibid. 153-154

<sup>22</sup> Ibid. 195-195

<sup>23</sup> Parliamentary Committee on Constitutional Reforms, The Report on the Constitution (Eighteenth) Amendment Bill, 87.

<sup>24</sup> Ibid. 91

of PML proposed amendment in clause 3 of the bill, for the word “Khyber Pakhtunkhwa” the word “Sarhad” should be alternated.<sup>25</sup> Kashmla Tariq of the same party also proposed amendment in clause 3 that for word “North West Frontier” the word “Khyber Pakhtunkhwa” shall be omitted.<sup>26</sup> However, both amendment were opposed by Mian Raza Rabbani, adviser to Prime Minister and chairman of Parliamentary Committee for the eighteenth amendment.<sup>27</sup> PML alleged that a deal was held between the government coalition partner ANP and major opposition party PML (N) on the name of NWFP, all other parties were not take into confidence on this significant matter. Therefore, our party opposes the name of Khyber Pakhtunkhwa as it does not represent the aspiration of all the people of the then NWFP.<sup>28</sup> Engineer Amir Muqam of PML also laid claim in the national assembly that the name of “NWFP” has changed without consensus in the parliamentary committee.<sup>29</sup> Muhammad Israr Tareen of PML proposed that no name should be given to the provinces on the basis of a language. Notwithstanding, if it were made then a referendum should be held in all the provinces for making new names of the provinces according to the wishes of the different language people.<sup>30</sup> Farooq Sattar of MQM supported the new name of NWFP, however, said that I am against the prefix “Khyber” with word “Pakhtunkhwa.”<sup>31</sup>

Mian Raza Rabbani rejected the claim of Amir Muqam that name of NWFP has changed with compromise. He stated that all the changes were brought about through consensus. It is true that there was difference of opinion regarding the name of NWFP, however, it was solved through understanding, and consensus were developed in the

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<sup>25</sup> Ibid. 246

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid. 29

<sup>29</sup> Ibid. 251

<sup>30</sup> Ibid. 199-200

<sup>31</sup> Ibid. 125

committee.<sup>32</sup> He added that the word “Pakhtunkhwa” was passed through a resolution from the provincial assembly of NWFP in the past, and the parliamentary committee has given respect to that resolution.<sup>33</sup> Regarding referendum on the name of NWFP, he said when there is already present a resolution of the provincial assembly of the said province, then there is no need for referendum. He asserted that referendum is tool of dictators through which they extend their rule. He asked from the assembly whether there were referendums when the names of other provinces were given.<sup>34</sup> Clause 3 of the bill, which changed the name of NWFP to Khyber Pakhtunkhwa, was passed from the national assembly with 264 votes in its favour and 20 votes against it.<sup>35</sup>

In the Upper House (Senate), Sardar Jamal Khan Leghari of PML moved an amendment for Article 1 which states “in the Constitution of Islamic Republic of Pakistan herein after referred to as the Constitution Article 1, in Clause 2 for paragraph, the following be substituted namely: (a) The Provinces Balochistan, Sarhad, the Punjab, South Punjab and Sindh.”<sup>36</sup> He not only proposed name of Sarhad for the province of NWFP but also demanded new province of South Punjab in his amendment. Similarly, Senator Muhammad Ali Durrani also suggested “Sarhad” as the new name of NWFP in his amendment.<sup>37</sup> Senator Saleem Saifullah and Senator Semeen Siddiqui of PML suggested “Sarhad” for the new name of NWFP, and also demanded the creation of new province “Hazara”. Saleem Saifullah said that I am afraid that Pashtun would be divided by changing the name of NWFP to Khyber Pakhtunkhwa, therefore, the word “Sarhad” is suitable for NWFP.<sup>38</sup> Opposition leader in Senate, Senator Waseem Sajjad

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<sup>32</sup> Ibid. 260-262

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid. 262.

<sup>36</sup> The Senate of Pakistan Debates, 8<sup>th</sup> Parliamentary year, 60<sup>th</sup> sess., 2010, Vol. IV, no. 07: 14.

<sup>37</sup> Ibid. 17.

<sup>38</sup> Ibid. 25.

states that we have no objection to change the name of NWFP, however the new name should be acceptable to all the people of NWFP. He added that NWFP is multi-lingual and multi-cultural province, therefore, the new name of NWFP should be acceptable to all the ethnicities of the province.<sup>39</sup> However, all the amendments were opposed by the government as it was decided in the parliamentary committee. Moreover, major opposition party PML (N) was also agreed on the name of Khyber Pakhtunkhwa.

In this amendment bill, opposition has presented alternative policies regarding changing of procedure of making new provinces. Farooq Sattar of MQM from opposition benches states that the procedure of parliament should be made simple, for this purpose article 251 of the constitution should be amended. Instead of two third majority only simple majority should be required from the concerned provincial assemblies to make new provinces.<sup>40</sup> Riaz Hussain Pirzada of PML also proposed that procedure of making new province should be made simple, as it is very cumbersome. He said that it is time to make constitutional arrangements for new provinces, and decide that new provinces would be made in next five to six years.<sup>41</sup> Sardar Bahadur Ahmed Khan of PML also proposed that procedure of making new administrative unit should be simple. He said that no such complex procedure is found in the civilized world.<sup>42</sup> Mian Raza Rabbani from treasury benches stated that for changing the boundaries of the provinces a resolution with two third majority shall be passed from the provincial assembly of the particular province.<sup>43</sup> Consequently, this demand of the opposition was rejected.

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<sup>39</sup> Ibid. 30-31.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid. 165-166.

<sup>42</sup> Ibid. 194.

<sup>43</sup> Ibid. 262.

Similarly, some of the opposition members have raised voice in the house for making *Seraiki* province. Marvi Memon of PML proposed that *Seraiki* people voice should be heard by making *Seraiki* province perhaps through referendum. Senators Sardar Jamal Khan Leghari proposed the creation of South Punjab Province in his amendment.<sup>44</sup> He states the Southern part of the Punjab province was deprived of developmental funds. He claim that only 1.5 percent of the total fund of Punjab was allocated to southern belt last year which was very inappropriate.<sup>45</sup> He extended that Punjab province should be divided purely on administration basis in Northern and Southern Punjab. It would bring significant impact on life of the people of southern Punjab.<sup>46</sup> Senator Muhammad Ali Durrani of PML also proposed the making of *Seraiki* and Bahawalpur provinces in his amendment.<sup>47</sup> However, this amendment was opposed by the government by arguing that it is the change of territorial limit of the province, and under Article 239 provides that a prior resolution from the Provincial Assembly would be passed with a two third majority.

Article 17(4) which is related to elections in political parties was removed by the government through 18<sup>th</sup> amendment. Most of the opposition parties have strongly criticize the government for removing of article 17(4). Ms Kashmala Tariq proposed amendment in the bill that article 17(4)<sup>48</sup> should not be removed from the constitution. She asserted that the removal of article 17(4) would promote dictatorship in the political parties. The election process in the political parties should be given constitutional protection through the amendment put forwarded by her.<sup>49</sup> The governmental and major

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<sup>44</sup> Ibid. 14.

<sup>45</sup> Ibid. 15.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid. 17.

<sup>48</sup> Article 17(4): Every political party shall, subject to law, hold intra-party elections to elect its office-bearers and party leaders.

<sup>49</sup> The Senate of Pakistan Debates, 8<sup>th</sup> Parliamentary year, 60<sup>th</sup> sess., 2010, Vol. IV, no. 07: 264-267.

oppositional parities opposed this amendment. Raza Rabbani said that this article was inserted by a military dictator in the constitution to control the political parties. It is a tool through which political parties would be pressurized in the future.<sup>50</sup> He also said that the said provision is already present in the section 11 of the Political Parties Act. Notwithstanding, article 17 and its sub-section 1, 2 and 3 were not removed, which were also introduced by military dictator. Although, two veteran and seasoned politicians from PML (N) have supported this amendment from Kashmala Tariq.

Muhammad Israr Tareen of PML claimed that abolishment of article 17(4) in the eighteenth amendment would lead to dictatorship in the political parties. He requested to include this article in the constitution for the sake of democracy within political parties.<sup>51</sup> Zafar Baig Bitani an independent member of National Assembly from FATA also underscored the importance of article 17(4), and demanded that it should be the part of the constitution.<sup>52</sup> Haider Abbas Rizvi of MQM said that article 17(4) has been abolished from the constitution through eighteenth amendment, therefore, it is our demand that it should be re-included in the constitution.<sup>53</sup>

While discussion on the Eighteenth amendment in the Upper House, Senator Saleem Saifullah of PML debated that Article 17(4) should be part of the constitution as it could prosperous democracy in the political parties. Senator Javed Ali Shah states that it is the double standard of the major political parties which argues for democracy in the country but do not want to implement democracy in their parties.<sup>54</sup> Similarly, Senator Nelofar Bakhtiyar emphasis that Article 17(4) should be re-included in the constitution,

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<sup>50</sup> Ibid. 267-268.

<sup>51</sup> Ibid. 200-201.

<sup>52</sup> Ibid. 209.

<sup>53</sup> Ibid. 227.

<sup>54</sup> Ibid. 54.

and all the democratic forces should support us on this issue.<sup>55</sup> Senator Ishaq Dar of PML (N) said that if all the parties are agreed so we have no objection to re-include Article 17(4) in the constitution, he extended that we are ready to reinstate Article 17(4) through 19<sup>th</sup> amendment.<sup>56</sup>

Senator Raza Rabbani from government side opposed the amendment by arguing that this article was introduced by a military dictator and its words and terminologies are very vague. He added that

“For example in clause 2 there were addition of the words ‘public order’. Now, what is public order, how is to be defined. So, it is a very vague and wide term. Likewise, there was another clause in this, which said, ‘sectarianism parochialism will not be promoted by any political party and they will not raise militias’. Raising militias is already prohibited under the constitution under Article 235 or 236.”<sup>57</sup>

He said that the whole language of the Article 17(4) was made in such a way through which any political party, which did not accept the authority of the government of the day, would be shackle from the ankles.<sup>58</sup> This amendment put by the opposition was rejected by the Senate as 71 vote casted against it and only 21 vote casted in favor of it.<sup>59</sup> Opposition leader in Senate Wasim Sajjad said that if there were only four more votes of conscience in this House, this amendment would not be rejected.<sup>60</sup>

Similarly, the abolishing of concurrent list from the constitution was strongly disapproved by PML from the opposition benches. Senator S M Zafar noted that taking

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<sup>55</sup> Ibid. 55.

<sup>56</sup> Ibid. 60.

<sup>57</sup> Ibid. 62.

<sup>58</sup> Ibid. 63.

<sup>59</sup> Ibid. 68.

<sup>60</sup> Ibid.

out of concurrent list would create more problems. It would result in conflict between the federation and provinces in the issues related to pollution, drug etc. Similarly, the abolishing of concurrent list would over load the Council of Common Interest (CCI). He recommended that the essential items should remain in concurrent list, complete exclusion of concurrent list would inappropriate and danger.<sup>61</sup>

Kashmala Tariq from the opposition benches moved an amendment that sub-clause (3) of the clause 101 shall be excluded.<sup>62</sup> She said in her statement that the removal of concurrent list would create disharmony among the provinces. It would put an end to uniformity among the provinces as well as between the provinces and federation. She was of the opinion that provincial autonomy should be given to the provinces, although, concurrent list should be remained. She argued that it would result in different laws in different provinces which could triggered many problems in the country.<sup>63</sup> However, her proposed amendment was rejected by the house.

Raza Rabbani from government bench told the house that there is contradiction between the arguments and amendment moved by the respected member. In the amendment she talks about the strong federation, however, her's argument is about the confederation. He added that to avoid disharmony among the provinces article 142, 143 and 144 of the constitution have also been amended through this bill accordingly.<sup>64</sup>

Some of the opposition parties have also put suggestion to introduce FATA reforms in the eighteenth constitutional amendment bill. MQM leader Farooq Sattar told the house that article 256 and 257 need an amendment. There should be only one law across

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<sup>61</sup> Parliamentary Committee on Constitutional Reforms, The Report on the Constitution (Eighteenth) Amendment Bill, 27-28.

<sup>62</sup> Debates, 3<sup>rd</sup> Parliamentary year, 21<sup>st</sup> sess., 2010, Vol. XXI, no. 1-4: 313.

<sup>63</sup> Ibid. 314-317.

<sup>64</sup> Ibid. 318-319.

Pakistan, for this reason the parliament should revisit Frontier Crimes Regulations (FCR). FATA reforms, as announced by the President on 14<sup>th</sup> of August 2009, should be implemented.<sup>65</sup> He said that it is pre-requisite for the elimination of extremism, fanaticism and terrorism.<sup>66</sup> Zafar Baig Bitani an independent member of National Assembly from FATA proposed that at least the High court jurisdiction should be extended to the FATA, if all the fundamental rights would not reinstated.<sup>67</sup> Marvi Memon of PML said that FCR should also be eradicated through this amendment.<sup>68</sup> Nonetheless, this alternative legislation was not taken into account by the treasury benches.

On Article 45, some of the opposition members have suggested that this article should be deleted from the Constitution of Pakistan. Sahibzada Fazal Karim of PML (N) demanded that powers of the president under article 45<sup>69</sup> should also be abolished. He said that under 295C Pakistan Penal Code (PPC), president has no power to pardon a criminal punished by the Supreme Court, notwithstanding, article 45 of the constitution has given him this power.<sup>70</sup> An independent member of national assembly Movlana Azmatullah also was of the opinion to eliminate the power of the President under article 45 of the constitution.<sup>71</sup> Jama-i-Islami senator, Professor Khursheed also moved an amendment for the elimination of article 45. In his note of reiteration, he recorded that article 45 should be deleted or the proviso “provided that the President would not exercise this power in case of punishments awarded under the *Hudood* or *Qisas*” should

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<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid. 208.

<sup>68</sup> Ibid. 237.

<sup>69</sup> Article 45 of the 1973 Pakistani Constitution, pertaining to President's power to grant pardon etc, states: "The President shall have power to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority.

<sup>70</sup> Debates, 3<sup>rd</sup> Parliamentary year, 21<sup>st</sup> sess., 2010, Vol. XXI, no. 1-4: 175-178.

<sup>71</sup> Ibid. 179.

be added to Article 45. However, government has not considered this amendment from the opposition benches.

Furthermore, Ms Kashmala Tariq has suggested two amendment to clause 8 and 16 of the bill to amend article 25 and 51 respectively. The amendments articulated that 30 percent seats should be reserved for women in the parliament via article 25<sup>72</sup>, and every political party should allocate 10 percent tickets on general seats for the women via article 51.<sup>73</sup> These amendments were rejected by the house on the reason that they are not appropriate in the said articles. Raza Rabbani told the house that article 25 is related to fundamental rights which says equality of the citizens. The amendment of Ms Kashmala Tariq was about seats quota which is against the spirit of the article 25, hence, not appropriate.<sup>74</sup> In the same way, article 51 is about the composition of the National Assembly and deals with reserved seats. However, allocation of party tickets is related with internal party matters, hence, the amendment is not suitable.<sup>75</sup>

MQM leaders Farooq Sattar and Haider Abbas Rizvi proposed that a clause D should be added to article 37, which says “a person or a citizen of any country is innocent unless he is proved guilty.” They were of the opinion that it would solve the problem of missing person across the country.<sup>76</sup> Farooq Sattar also proposed an amendment in article 51 of the constitution to increase the number of NA seats.<sup>77</sup> Marvi Memon of PML proposed that all parts of Pakistan should be given equal representation in armed forces, therefore, demanded amendment in article 39 of the constitution.<sup>78</sup> She also suggested that article 89 of the constitution should be deleted to stop the practice of

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<sup>72</sup> Ibid. 270-272.

<sup>73</sup> Ibid. 276.

<sup>74</sup> Ibid. 272.

<sup>75</sup> Ibid. 280.

<sup>76</sup> Ibid. 117.

<sup>77</sup> Ibid. 126.

<sup>78</sup> Ibid. 232-233.

issuing ordinances which is against the spirit of parliamentary democracy.<sup>79</sup> Like most of the amendment put forwarded by opposition, these were also rejected by the government.

The data shows that the treasury and opposition benches had cooperated with each other. The stance of both the benches had been balanced in the 18<sup>th</sup> amendment especially of the major opposition party PML-N. Besides, almost all the parliamentarian parties were the member of committee established for the enactment of the 18<sup>th</sup> constitutional amendment. However, some of the proposal of the smaller opposition parties were ignored not only by the ruling party but also by the major opposition party PML-N. Both the ruling party and major opposition party had compromised to adjust the demand of one another. Ameer Haider Khan Hoti<sup>80</sup> told that PML-N was agreed on 18<sup>th</sup> amendment on the condition to remove the constitutional barrier which stop any Pakistani citizens to become prime minister for third time.<sup>81</sup> On the other hand, ANP's demand was provincial autonomy, therefore, a compromise was made between ANP and PML-N to support each other stance. As this is one example and attestation by a parliamentarian that the stances and opinions of the treasury and opposition benches were accommodated in the 18<sup>th</sup> amendment. It implies that opposition had significant role in the making and passing of the historical constitutional amendment.

### **1.3- Nineteenth Constitutional Amendment Bill**

Nineteenth amendment was introduced in order to revise the process for the selection of judges in the superior courts. Earlier, the procedure was set in the eighteenth amendment by the Parliament of Pakistan. However, the Supreme Court of Pakistan

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<sup>79</sup> Ibid. 234.

<sup>80</sup> Ameer Haider Khan Hoti is the parliamentary leader and central senior vice president of ANP. He was also chief minister of KP province from 2008 to 2103.

<sup>81</sup> MNA Ameer Haider Khan Hoti, interviewed by M. Adil, Islamabad, May 15, 2020.

told the Parliament that change the criteria for the appointment of judges formulated in eighteenth amendment.<sup>82</sup> The Supreme Court emphasized that the chief justice would final say in the selection of the superior courts judges.<sup>83</sup> For this reason, the Parliamentary Committee on Constitutional Reforms has accepted the decision of the Supreme Court to introduce the nineteenth amendment in the 1973's Constitution of Pakistan.

The Parliamentary Committee on Constitutional Reforms has unanimously approved the nineteenth constitutional amendment bill as directed by the Supreme Court of Pakistan. The committee has suggested amendments in articles 81, 175, 182, 213 and 246. Under the nineteenth amendment, the number of Judicial Commission's members have increased to four (4). The commission would include three serving and one retired judge and federal minister of law, attorney general and member of Pakistan Bar Council.<sup>84</sup> It further says that the member of Bar Council must have fifteen years of experience to be appointed as member of Judicial Council.<sup>85</sup> The Chief Justice (CJ) of SC of the country would proposed suggestions for the selection of judges in the superior courts after the deliberations with the members of the Judicial Commission. This amendment clears that the judicial commission would not send again the proposal of an individual who was one time overruled by the parliamentary committee. However, the committee would provide sound reason for the rejection.<sup>86</sup> Similarly, number of the parliamentary committee's members which would appoint the Chief Election

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<sup>82</sup> Zia Khan, "Judges' appointment: Constitution to be amended again," *The Express Tribune*, November 24, 2010. <https://tribune.com.pk/story/81034/judges-appointment-constitution-to-be-amended-again>

<sup>83</sup> Ibid.

<sup>84</sup> Unanimous approval: Senate adopts 19<sup>th</sup> amendment, *The Express Tribune*, December 31, 2010. <https://tribune.com.pk/story/96829/19th-amendment-in-senate-for-approval>

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

Commissioner (CEC) have also raised to twelve. The bill also suggests that when NA is suspended the committee's members would be appointed only from the Upper House.

The nineteenth amendment was presented in the National Assembly by Mian Raza Rabbani, and was passed by two-third majority in the national assembly. From the opposition benches, it was opposed only by a female law-maker Kashmala Tariq from PML (Q). She was of the opinion that this amendment should also include an easy procedure for creating new provinces.<sup>87</sup> However, there was no amendment presented from the opposition benches on the floor of the national assembly. One of the key opposition party PML (N) welcome the new amendment in the constitution. Ahsan Iqbal from PML (N) told the House that the judges appointment procedure mentioned in the nineteenth amendment is a milestone in the constitutional history of Pakistan.<sup>88</sup> He argued that three principles has been laid down for judicial appointment in this amendment which are merit, transparency and institutional procedure, therefore, I congratulate the house for making such a historical amendment.<sup>89</sup> Dr. Abdul Qadir Khanzada from MQM congratulated the house for making nineteenth amendment, nevertheless, he suggested that provinces should be given financial autonomy and all the taxes included GST should be collected by the provinces.<sup>90</sup> Other opposition member, Sheikh Waqas Akram from PML (Q) made some reservation on the amendment. He said that the amendment should also address the issue of drug registration, the issue of curriculum in provinces and making of new provinces like Hazara province and Sariki province.<sup>91</sup> Nevertheless, all the opposition parties voted in favour of nineteenth amendment, some members from opposition benches made

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<sup>87</sup> Debates, 3<sup>rd</sup> Parliamentary year, 27<sup>th</sup> sess., 2010, Vol. XXVII, no. 03: 50-51.

<sup>88</sup> Ibid. 44-45.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid. 46-47.

<sup>91</sup> Ibid. 45.

reservation on the amendment. They were of the opinion that much other things should also be addressed by this amendment.

In Senate of Pakistan, the nineteenth constitutional amendment bill was also presented by Mian Raza Rabbani, special assistant to prime minister on constitutional reforms. The bill was unanimously passed by the Senate.<sup>92</sup> Although there were two amendments put forwarded from the opposition benches, which were rejected by the government benches.<sup>93</sup> The two senators from opposition benches, Hafiz Rasheed and Idress Safi suggested an amendment in 246 clause of the draft law attempting to merge the twenty-five (25) villages of the two districts-Charsadda and Peshawar- in the Mohmand agency of ex-FATA. Therefore, Senator Hafiz Rasheed Ahmed from ex-FATA, did not support clause (2) of nineteenth (19<sup>th</sup>) constitutional amendment bill for the purpose to record his protest.<sup>94</sup> PPP's Senator Raza Rabbani rejected the amendment by arguing that the villages are already annexed in the two districts i.e. Peshawar and Charsadda, hence, the villages would not be made part of ex-FATA.<sup>95</sup> He also argued that the amendment from the honorable member is irrelevant here because it would change the demography of a specific province as it requires a separate procedure which is not possible in the nineteenth amendment.<sup>96</sup>

Another amendment from opposition benches was made by Senator Haroon Khan, which stated that clause-47 of Part-I of Federal Legislative List Schedule-4 should be amended, and tax should also be imposed on agriculture income.<sup>97</sup> He was of the opinion that people of Pakistan accused parliamentarians for paying 2 or 3 or 4 thousand

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<sup>92</sup> "Unanimously." *The Express Tribune*.

<sup>93</sup> *Ibid.*

<sup>94</sup> The Senate of Pakistan Debates, 8<sup>th</sup> Parliamentary year, 67<sup>th</sup> sess., 2010, Vol XI, no. 1: 96-97

<sup>95</sup> *Ibid.* 97-98.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.* p 99-100

tax because most of the parliamentarians are land owners, and they have intentionally exempted agriculture income from tax. Therefore, tax should also be imposed on agriculture income.<sup>98</sup> However, Raza Rabbani rejected the amendment by arguing that after eighteenth amendment it is a provincial subject, it is out of scope of this Parliament.<sup>99</sup> Chairman Senate Farooq Naek pronounced that both amendments were irrelevant and out of the ambit of nineteenth constitutional amendment bill.<sup>100</sup>

Opposition leader in the Senate, Wasim Sajjad remarks that Parliament has shown maturity by accepting the proposals of Supreme Court of Pakistan and introducing the 19<sup>th</sup> constitutional amendment bill. These all suggestions are in the national interest of Pakistan, therefore in other important matters like economy, law and order etc. parliament should also show such type of maturity. He proposed that education is an important issue which required to be dealt on federal as well as provincial level, therefore, the constitution should provide consistency in order to offer unity to the system. He emphasized that the government should consider all these suggestions for a democratic and prosperous Pakistan.<sup>101</sup> Senator Ishaq Dar of PML (N) from opposition benches appreciated the role of Raza Rabbani as chairman of the Parliamentary Committee on Constitutional Reforms that he had supervised all the issues quite well and his conduct was above party politics. He argued that nineteenth amendment is an excellent development in the constitutional history of Pakistan. In principle, it has institutionalized the process of appointment of judges in the superior courts. Similarly, this amendment has also cleared the ambiguity in the selection of the Chief Election Commissioner. It has cleared that if the National Assembly is dissolved then the

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<sup>98</sup> Ibid.

<sup>99</sup> "Unanimously." *The Express Tribune*.

<sup>100</sup> Ibid.

<sup>101</sup> The Senate of Pakistan Debates, 8<sup>th</sup> Parliamentary year, 67<sup>th</sup> sess., 2010, Vol. XI, no. 1: 47-51.

members of Senate will comprise the Parliamentary Committee which would appoint the Chief Election Commissioner.<sup>102</sup>

Moulana Ghafoor Haideri of JUI from opposition benches proposed that curriculum development should be the subject matter of the center. It should be included in the amendment that curriculum for all the provinces will be developed at the federal level. He extended that if there would not have been a uniform curriculum across the country then problems would be arisen for the students in the future.<sup>103</sup> However, it is noteworthy that there was no amendment placed by the JUI in this regard. In general, Moulana Ghaffor Haideri appreciated the role of Mian Raza Rabbani, and affirmed that his party would support all the legislation which could strengthen independent judiciary in Pakistan.<sup>104</sup>

Another member from opposition benches, Senator Fouzia Fakharuzaman of PML (Q) argued that it was promised to us that all the drawbacks of eighteenth amendment would be redressed through nineteenth amendment. However, those promises were not fulfilled. The issue of article 17(4) which is related to intra-party election has not been included in this amendment. Similarly, the issue of uniform syllabus or curriculum, health policy and drug registration should be dealt at federal level are also not addressed in the said amendment. She also expressed disappointment that the issue of making new provinces especially Hazara and Bahawalpur are also not included in the nineteenth amendment.<sup>105</sup> She has made strong reservation that the discussed important issues should also be included in the nineteenth amendment, notwithstanding, PML (Q) voted

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<sup>102</sup> Ibid. 54-57.

<sup>103</sup> Ibid. 58-59.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid. 60-61.

in favour of this amendment. It should also be noted that no such amendments have moved in written from PML (Q) on the floor of the Parliament.

Senator Syed Tahir Hussain MAshhadi of MQM from opposition benches expressed his reservation over nineteenth amendment that “the expectations, dreams and aspirations of the people of Pakistan have not been done, that should be done as quickly as possible, especially, this agriculture tax.”<sup>106</sup> He told the House that the land lords of Pakistan do not pay taxes because they have been protected by the Constitution of Pakistan. Therefore, it should be amended and levy should be imposed on agriculture income.<sup>107</sup> However, he maintained that he and his party MQM would support the 19<sup>th</sup> constitutional amendment bill in the House. Senator Professor Khursheed Ahmad of Jamat-i-Islami emphasis on the role of parliament in the appointment of judiciary across the world. He quote the example of Italy, France, Germany and Holland that the parliament of these countries regularly elect the judiciary.<sup>108</sup> Similarly, in USA, Senate has the authority to approve the name of judges for superior judiciary, and it has also the power to impeach the judges on reasonable grounds.<sup>109</sup> He called the nineteenth amendment a historical development in the constitutional history as it provides principle for the appointment of superior judiciary in which both the parliament and judiciary will have role.<sup>110</sup> Furthermore, Senator Humayun Khan of PML proposed that the heads of other autonomous bodies, state owned enterprises, Steel Mills, PIA and other important institutions should also be appointed through parliamentary

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<sup>106</sup> Ibid. 62.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid. 67.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid. 68.

committee. He said that it will not only strengthen our institutions but also eradicate corruption in the institutions.<sup>111</sup>

#### **1.4- Twentieth Constitutional Amendment Bill**

The Parliament of Pakistan has passed the twentieth amendment with two-third majority. This amendment is also a milestone in the constitutional history of Pakistan. The twentieth amendment has established a procedure for installing a caretaking government and to conduct free and fair elections in the country.<sup>112</sup> It has also constituted a free and fair Election Commission. Through this amendment, the power of Election commission of Pakistan (ECP) has so much increased that it has no comparison across the world.<sup>113</sup> There will be four members of ECP from each province who will be selected for five years, and they can be removed only by following the removal procedure of the judges of the High Court of Pakistan.<sup>114</sup> Therefore, it has minimized the government's power in selection and deduction of its members. It also gives a say to the members of opposition benches in the selection of CEC, however, he must be ratified by ECP's members.<sup>115</sup>

The new method envisaged for the appointment of caretaker government in this amendment is that prime minister and opposition leader will discuss the matter. However, when the Prime Minister (PM) and opposition leader in the NA failed to build an agreement within three (3) days, then the matter will be forwarded to an eight-member parliamentary committee to decide the issue. Nonetheless, if the committee

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<sup>111</sup> Ibid. 78-79.

<sup>112</sup> “20<sup>th</sup> Amendment,” *The Nation*, February 15, 2012, <https://nation.com.pk/17-Feb-2012/20th-amendment>.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> Muhammad Rizwan, and others. “Democratic Milestone in Pakistan: A Serener Transition of Command from PPP to PML-N.” *Journal of Humanities and Social Science* 19, no. 9 (2014): 18.

also failed to build consensus, then twentieth amendment empowered the ECP to select the care-taker government.<sup>116</sup> The eight-member committee will include four member from government side and four members from the opposition side. Moreover, if the committee also does not approve the caretaker government, then the ECP will decide the names and put forward it to the president.<sup>117</sup> The same procedure will be followed in the provinces. This amendment also permits political parties to add supplementary names in the lists for parliamentary seats held in reserve for women and minorities.

Before passing the twentieth constitutional amendment bill, there were several meetings held to create a consensus between the members of government and opposition. During these meetings, several deadlocks were held between PPP- major government party- and PML (N) - major opposition party- on the matter of caretaking government.<sup>118</sup> The PML (N) wanted a guarantee of free and fair election commission and a neutral caretaker government to back up the 20<sup>th</sup> amendment bill.<sup>119</sup> Chaudhry Nisar Ali Khan, the opposition leader, with other opposition member met with the members of major government party PPP, however, they failed to reach a consensus in several meetings.<sup>120</sup> After meetings for three regular days, PPP and PML (N) reached a consensus to establish a committee to pick a caretakers for organizing the general elections.<sup>121</sup> The Express Tribune reported that the some of PML-N's members confirmed the favor of the twentieth (20<sup>th</sup>) amendment because the government has

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<sup>116</sup> Ibid. 19.

<sup>117</sup> “20<sup>th</sup> Amendment,” *The Nation*.

<sup>118</sup> Zia Khan, “20<sup>th</sup> Amendment talks: Government, opposition resolve to keep military away from polls,” *The Express Tribune*, February 10, 2012, <https://tribune.com.pk/story/334321/20th-amendment-talks-govt-opposition-resolve-to-keep-military-away-from-polls/>.

<sup>119</sup> Raja Asghar, “Deadlocks in talks on 20<sup>th</sup> amendment.” *Dawn*, February 07, 2012, <https://www.dawn.com/news/693642/deadlock-in-talks-on-20th-amendment>.

<sup>120</sup> Ibid.

<sup>121</sup> Zia Khan and Abdul Manan, “20<sup>th</sup> Amendment: ‘Make or break’ day today in talks,” *The Express Tribune*, February 09, 2012, <https://tribune.com.pk/story/333794/20th-amendment-make-or-break-day-today-in-talks/>.

included the clause of “consensus” instead of “consultation” between the treasury and opposition benches for the appointment of care-taker government.<sup>122</sup> Furthermore, major opposition party PML (N) had also reservation over the then sitting chief Election Commissioner.<sup>123</sup> They were of the opinion that new election commissioner would be appointed to conduct free and fair general elections. The government also acknowledged the demand of the opposition that general elections would be held under new chief election commissioner.<sup>124</sup> Similarly, the demand of the opposition to extend the duration of members and Chief Elections Commissioner of ECP from four to five years was also approved by the treasury benches.<sup>125</sup> Therefore, it is implied that most of the pre-conditions of the opposition were accepted by PPP government to pass the twentieth constitutional amendment bill.

The Twentieth (20<sup>th</sup>) Constitutional (Amendment) bill was tabled by the Law minister, Moula Bakhsh Chandio on the floor of the NA. Opposition leader, Chaudhry Nisar protested that opposition was not consulted on the presentation of the draft bill in the NA.<sup>126</sup> He criticizes the government for such move of a constitutional amendment bill in the assembly, by arguing that it is not the matter of interest of any political party, however, it is democratic process which will be recorded in the history.<sup>127</sup> He further elaborated the subject matter of the twentieth constitutional amendment bill that JUI, PPP (sherpa) and all other parties of opposition as well as government and its allies had long consultation on this amendment bill. Therefore, both the opposition and

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<sup>122</sup> Ibid.

<sup>123</sup> “20<sup>th</sup> amendment: PML (N), PPP agree terms for new Chief Election Commissioner,” *The Express Tribune*, February 07, 2012, <https://tribune.com.pk/story/332988/20th-amendment-pml-n-ppp-agree-terms-for-new-chief-election-commissioner>.

<sup>124</sup> Ibid.

<sup>125</sup> Asghar, “Deadlocks.”

<sup>126</sup> Debates, 4<sup>th</sup> Parliamentary year, 39<sup>th</sup> sess., 2012, Vol. XXXIX, no. 10: 4-5.

<sup>127</sup> Ibid.

government had arrived to address four main broad issues in this bill.<sup>128</sup> The first and foremost demand was of an independent Election Commission on which consensus was developed between the opposition and the government. Similarly, the issue of the selection of new CEC, caretaker government and validation of twenty eight newly elected parliamentarian were also settled down between the treasury and opposition benches.<sup>129</sup> He also congratulated the parliament for solving the different matters in this bill with sagaciously and unanimously. The twentieth constitutional amendment bill was passed unanimously in the NA, 247 voted in favor of it and none against it. It is noteworthy, that from opposition side there was only speech of the opposition leader.

The PM Yousaf Raza Gillani in his congratulation speech stated that 20<sup>th</sup> amendment has made the democracy stronger than ever before. It gives a loud and clear message to the nation that politician could settle down issues of national importance above party politics when they sit together. He thanked Raza Rabbani (PPP), Ishaq Dar (PML-N), Zahid Hamid (PML-N), Khursheed Shah (PPP), Naveed Qamar (PPP) and especially leader of the opposition for making consensus on this historical constitutional amendment.<sup>130</sup>

The twentieth constitutional amendment bill was not much discussed in the national assembly, as there were many meetings held outside the parliament between the opposition and government benches. The consensus was developed among the parliamentarians, hence, the bill was passed unanimously in the National Assembly.

The twentieth constitutional amendment bill was laid before the Senate by House's leader Senator Syed Nayyer Bukhari. As the bill placed for discussion, Professor

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<sup>128</sup> Ibid. 9.

<sup>129</sup> Ibid. 9-12.

<sup>130</sup> Ibid. 22-23.

Khursheed of Jamat-i-Islami from opposition benches objected on the content of the bill. He has put forwarded an amendment in the bill. According to his amendment, when national assembly is dissolved its members become ordinary citizens, so how an ordinary citizen would be a member of a parliamentary committee which would elect caretaker government. It is, therefore, necessary that parliamentary committee's member who would select the caretaker government should be appointed from the Senate.<sup>131</sup> Moreover, if the parliamentary committee do not take decision in three days then the matter of caretaker government should be forwarded to Supreme Court of Pakistan, where Chief Justice in consultation with four senior judges resolve the matter. Likewise, in provincial assemblies, if the Chief Minister and Leader of the Opposition do not decide the caretaker government then the matter should be forwarded to Chief Justice of High Court, who shall decide the caretaker government in consultation with three senior judges of High Court.<sup>132</sup> He disapproved the government decision that caretaker government would be selected by the ECP by arguing that last resort in not ECP but Superior Courts of Pakistan.

Raza Rabbani from treasury benches responded to Professor Khursheed's amendment by saying that in "strict sense" it is not a Parliamentary Committee, it is only a "Committee", and so it is not a violation if the departing members of the national assembly become its members. He also said that "omission of the word "Parliamentary" is deliberate in terms of Article 224(A)."<sup>133</sup> Raza Rabbani also responded that Supreme Court is the court of final arbitration and the court of final appeal. He explained that

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<sup>131</sup> The Senate of Pakistan Debates, 9<sup>th</sup> Parliamentary year, 78<sup>th</sup> sess., 2012, Vol. II, no. 02: 50-53.

<sup>132</sup> Ibid.

<sup>133</sup> Ibid. 53-56.

“If the Judges of the Supreme Court have to nominate someone and that person becomes the Prime Minister. Tomorrow, Mr. Chairman there is a writ which is filed against that Prime Minister that he has acted unlawfully or he has acted in the abuse of his powers, that writ will go before the Supreme Court and how do you expect the Supreme Court to sit in judgment against its own nominee. So, I think we are creating a situation whereby we are putting institutions into awkward position.”<sup>134</sup>

Consequently, the house has not accepted Professor Khursheed’s amendment. The motion of the house was negative over the amendment, so it was ruled out.

Senator Haroon Khan from opposition benches also moved an amendment on the floor of the Senate. According to his amendment that there is limitation of days in every stage of the process of appointment of caretaker government, however, there is no limitation of the days on the President when advice will be sent to him. Therefore, President should also be bound to declare the decision within two days. However, Senator Haroon Khan withdrew his amendment for the sake of consensus.<sup>135</sup> Mian Raza Rabbani thanked Senator Haroon for withdrawing his amendment, and also cleared that according to Article 48 of the Constitution, any advice sent by Prime Minister to the President has to be given effect in prescribed time, and if the effect is not given in case of the expiration of the prescribed time then it would be deemed that the advice has been given effect to.<sup>136</sup>

Opposition leader in the Upper House, Moulana Ghafoor Haideri states that it is inappropriate to give such powers to election commission. There is no such example in

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<sup>134</sup> Ibid.

<sup>135</sup> Ibid. 45-46.

<sup>136</sup> Ibid. 47.

the world that election commission would decide the name of caretaker prime minister.<sup>137</sup> Nonetheless, there was no amendment presented in this regard from the leader of opposition. He and his party also supported the government on the twentieth constitutional amendment bill. It is noteworthy that not only some of the opposition parties but also some coalition partners of the government also raised objections on empowering of ECP. ANP, PML and BNP-Awami demanded the establishment of committee for making the interim arrangement and asked to include the senators in the committee.<sup>138</sup> The government allies also maintained that the parliamentary committee to be established in coordination of the senate chairman and the National Assembly speaker. However, leaders of PPP succeeded to persuade not only the government partners but also the opposition. It is reported that government has assured them that it will introduce twenty-first amendment if required, for the fulfillment of the proposals and recommendations given by the opposition and allies.<sup>139</sup> Nonetheless, there was no such amendment introduced by PPP government to address the issues of the allies and opposition in twentieth amendment bill as was promised.

The twentieth constitutional amendment bill was passed by the Senate with two-third majority. Only two votes were polled against the amendment by the member of Jamat-i-Islami Professor Khursheed and Professor Ibrahim from the opposition benches. They have strong reservations on the bill and moved amendment in the bill, however, rejected. Seventy-four members in the Senate voted in favor of the 20<sup>th</sup> amendment bill. Prime Minister Yousaf Raza Gillani congratulated the house for making a remarkable amendment to the Constitution. He thanked the opposition parties for cooperation with

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<sup>137</sup> Ibid. 29-30.

<sup>138</sup> Sumera Khan, "Consensus reached: 20<sup>th</sup> amendment bill passes as obstinate Senate relents," *The Express Tribune*, February 21, 2012. <https://tribune.com.pk/story/339517/consensus-reached-20th-amendment-bill-passes-as-obstinate-senate-relents/>.

<sup>139</sup> Ibid.

the government in this historical development.<sup>140</sup> Further, he said that this amendment will develop trust of the people in the conduct of ECP, and no one will boycott the election in future.<sup>141</sup> While signing the bill, the then President Asif Ali Zardari said that this bill will guarantee an independent elections in the country.<sup>142</sup>

### **1.5- Conclusion**

To conclude, opposition in Parliament of Pakistan has played substantial role in making 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> constitutional amendments. All the opposition parties have contributed their part. Although, they have cooperated with the government by passing these constitutional amendments from the Parliament, they have also put forwarded different alternative amendments in these constitutional amendments. Similarly, they debated in the Parliament on these amendment and also made strong reservation on some clauses. However, most of the amendments from the opposition was rejected by the government. It is also noteworthy that major opposition party PML-N and major government party PPP have made deal outside the parliament on different clauses of these amendments, especially eighteenth amendment. So, the government was confident to pass these amendments from the Parliament; therefore, the ruling coalition has rejected different alternatives of the minor opposition parties like MQM, PML, Jamat-i-Islami and JUI. However, it is notable, not only PML-N, which was major opposition party, but also the minor opposition parties had voted in favor of these constitutional amendments. It implies that the opposition has constructive and cooperative role during PPP's government (2008-2013). It also concludes that the opposition satisfied the limits set by the classical authors for a parliamentary opposition.

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<sup>140</sup> The Senate of Pakistan Debates, 9<sup>th</sup> Parliamentary year, 78<sup>th</sup> sess., 2012, Vol. II, no.02: 64-65.

<sup>141</sup> Khan, "Consensus."

<sup>142</sup> "Zardari signs 20<sup>th</sup> Constitutional Amendment bill," *DAWN*, February 28, 2012, <https://www.dawn.com/news/698903>.

As they have not made such obstructions to stop government from its primary function of making legislation, however they have influence the process of legislation.

## **CHAPTER- 2**

### **ROLE OF OPPOSITION IN LEGISLATION IN PPP'S GOVERNMENT (2008-2013)**

#### **2.1- Introduction**

PPP government (2008-2013) had passed 116 government and 18 private member's bills out of which 94 became law in its tenure from both the houses of the parliament. In these bills about 80 percent were sponsored by the treasury benches. Most of the bills passed from both the houses without any debate and amendments from the opposition benches. On some important bills, however, the opposition benches had not only raised objections but also proposed amendments. For the purpose to critically analyze the role of opposition parties in legislation, 14 bills have been chosen for the research. The selected bills are related to security, women's rights, political parties and education; these bills have also significant impact on the masses of Pakistan. The bills which are selected for this research are not only debated in the parliament but vigorously debated on different TV channels by the opposition and treasury benches. It is also worth mentioning that in the selected bills, opposition had proposed alternative policies against the government policies, nonetheless, it had also cooperated with treasury benches to pass these important legislation for the best interest of the country. In this chapter, the role of opposition in ordinary legislation has critically analyzed. The major opposition was PML-N during PPP government. The other opposition parties included JUI-F and PML, however, PML joined treasury benches in 2011. In addition, JI was only existed in the upper house of the parliament in PPP's government.

## **2.2- The Criminal Law (Amendment) Bill, 2009**

Minister of State for Law and Justice Mr. Muhammad Afzal Sandhu presented the Criminal Law (Amendment) Bill in the National Assembly. The purpose of the bill was to further amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898. The Criminal Law (Amendment) Bill amends both the Pakistan Penal Code and the Code of Criminal Procedure, increasing the punishment for the crime up to three years prison and a fine up to Rs 500,000 from one year and unspecified fine already provided in the PPC for a vague “insult (to) the modesty of a woman”.<sup>143</sup> This amendment was termed to provide safety to women in public and work environment. It would also help create new ways for women to pursue their livelihood with dignity.

After the bill presented, Anusha Rehman of PML-N from opposition benches appreciated the bill. She said that it would give women the right to live their lives more independently. Moreover, it would also help to decrease harassment in public and private places. She also emphasized that the Interior Ministry should be directed to amend the police rules in this regard. The lawmaker said that the clauses of this bill elaborate the violation of modesty of women which would provide protection to women. Haider Abbas Rizvi of MQM from opposition benches told the house that the implementation of the bill should be focused.<sup>144</sup> He said that this bill would be improved if our suggestions were considered in the Standing Committee.

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<sup>143</sup> Raja Asghar, “Higher Punishment for women’s harassment approved,” *Dawn*, November 05, 2009, <https://www.dawn.com/news/500815>

<sup>144</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 17<sup>th</sup> sess., 2009, Vol. XVII, no. 3: 257.

Riaz Hussain Pirzada of PML-N from opposition benches while expressing his reservations over the power given to women through this bill said that the same could be misused in future.<sup>145</sup> He observed that some of the organizations might not give jobs to women just due to the clauses of the bill. Likewise, some other members from the both treasury and opposition benches had also voiced fears about the possibility of misuse of the new law, particularly in rural areas.<sup>146</sup>

In the Senate, some of the clauses of the Criminal Law (Amendment) bill, 2009 were also opposed by the religious parties, especially the JI and JUI-F. Professor Ibrahim of the JI objected that although a specific section is increased in PPC to define the term “violate” and “modesty”, these terms are still ambiguous.<sup>147</sup> He elucidated that it would enable any woman to put any type of allegation on her male boss. For example, a woman would accuse her boss that he whistled me, and the authority will fine him of half million rupees.

Similarly, Moulana Gul Naseeb Khan of the JUI-F from opposition benches also objected on the bill that no doubt the atrocities of the males would be punished through this bill, however, what if these atrocities are done by women.<sup>148</sup> He said that there is no punishment suggested for women in the bill. Therefore, it should be made balanced.

Professor Sajid Mir from opposition benches also made reservation over the contents of the bill. He said that if male is found guilty of sexual harassment, so he should be given punishment, similarly for women the same codes of Islam should also be followed.<sup>149</sup>

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<sup>145</sup> Ibid. 262.

<sup>146</sup> Asghar, “Higher.”

<sup>147</sup> The Senate of Pakistan Debates, 7<sup>th</sup> Parliamentary year, 177<sup>th</sup> sess., 2010, Vol. I, no. 07: 60.

<sup>148</sup> Ibid. 61.

<sup>149</sup> The Senate of Pakistan Debates, 7<sup>th</sup> Parliamentary year, 177<sup>th</sup> sess., 2010, Vol. I, no. 08: 90.

Moulana Ghafoor Haideri of the JUI-F from opposition benches said that this bill is against the Quran and the Constitution.<sup>150</sup> Similarly, it is also against the Islamic culture and norms of Pakistani society. Therefore, he proposed that this bill should be sent to the Islamic Ideological Council for recommendation in the light of Quran and Sunnah.

Professor Ibrahim of JI moved an amendment in the bill in collaboration with Moulana Sheernai, Moulana Gul Naseeb Khan, Moulana Ghafoor Haideri, Ghulam Ali, Moulana Abdur Rasheed and Dr. Khalid Soomro.<sup>151</sup> The amendment said that women should fulfill the orders of *Shariah* while going outside from their homes. However, this amendment was rejected by the government.

Senator Najma Hameed of PML-N lauded the bill that it would provide protection to women.<sup>152</sup> She argued that women could not do jobs at night shift in industries as they do not feel protected. If this bill passes, it would help women to work at any shift in different industries.

Senator Tahir Hussain Mushhadi of MQM from opposition benches told the House that in the bill instead of the word “women” the “person” is written.<sup>153</sup> He explained that person means both male and female, so sexual harassment of both male and female is already mentioned in the bill. Consequently, the objections of some members about the bill were imbalanced and invalid. He said that the protection was not demanded by the daughters and sisters of industrialists but the common females in the society. Therefore, this bill should be passed from the House.

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<sup>150</sup> Ibid. 98.

<sup>151</sup> Ibid. 116.

<sup>152</sup> Ibid. 95.

<sup>153</sup> Ibid. 96-97.

Hasil Bezenjo of BNP remarks that still feudal mentality is dominated in our society.<sup>154</sup>

Women are considered inferior in our society. He asserted that the remarks passed by some senators on this bill are pathetic. This bill should be accepted in letter and spirit and would be passed from the House.

Hence, the opposition parties were divided over the bill. The religious parties in the Senate were against this bill. However, some other opposition parties were in favor of the bill. They fully supported the bill without any changes. Consequently, the alternatives presented by some opposition members were not taken into account by the government. The bill was passed without the amendments suggested by the opposition.

### **2.3- The National Command Authority Bill, 2009**

Ms. Mehreen Anwar Raja of PPP from treasury benches moved the Bill for the establishment of National Command Authority. Most the clauses of this bill were opposed by the opposition members, especially PML-N. Ayaz Amir of PML-N said, although, we are talking of parliamentary supremacy, the power is given to president instead of prime minister in this bill.<sup>155</sup> Therefore, he moved an amendment which states (a) in para (3), for the word "President" the words "Prime Minister" shall be substituted. (b) in sub-clause (4) for the words "Prime Minister" the words "Minister for Defence" shall be substituted; and, (c) in sub-clause (5), paragraph (b) shall be omitted and the preceding paragraphs will be re-numbered accordingly. However, this amendment was rejected by the treasury bench.

Similarly, another amendment in clause 5 (see addendum) of the bill was moved by Zahid Hamid of PML-N from the opposition benches. In clause 5, as moved by the

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<sup>154</sup> Ibid. 88.

<sup>155</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 18<sup>th</sup> sess., 2010, Vol. XVIII, no. 14: 1808.

Minister of State for Defence, the last sentence was the words: The DG shall be a serving Lieutenant General who may continue after retirement for completion of the assigned projects, needs to be deleted as there was no reason why the DG should be a serving Lieutenant General.<sup>156</sup> He can very well be a serving officer of one of the other armed forces, and even more importantly he can also be a civilian. It should be the discretion of the Chairman, who is the PM, to appoint a suitable person as DG on the recommendations of the Chairman Joint Chiefs of Staff Committee. However, the amendment was rejected by the government. While explaining the amendment, Zahid Hamid told the House that we are suggesting the particular DG who is to be appointed by the Chairman, the Prime Minister, on the recommendation of the Chairman of the Joint Chiefs of {Staff Committee, should be any member of the Armed Forces whether he is serving or retired or even a suitable civilian, for example somebody from the Pakistan Atomic Energy Commission. Now, why should it be limited to a serving lieutenant General only and that too the one who had continued for completion of assigned projects. This does not make any sense and the learned honorable Minister of State for Law has not explained why they are rejecting the proposal.

Ayaz Amir of PML-N said that it is a sensible proposal due to the fact that there is neither win nor defeat of any political party.<sup>157</sup> Anusha Rehman of PML-N told the House that a viable option is coming from the opposition benches and also some members from the treasury benches supported it.<sup>158</sup> Therefore, the government should consider it. However, this amendment was not adopted by the House.

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<sup>156</sup> Ibid. 1815.

<sup>157</sup> Ibid. 1816.

<sup>158</sup> Ibid. 1817.

Dr. Attiya Inayat Ullah of the PML from opposition benches moved amendment in clause 7 of the bill. She moved an amendment which states “paragraph (s), shall be added at the end, to place before the National Assembly and the Senate each year in the month of January, a certificate of assurance and compliance by the Authority regarding the safety, security and management of Pakistan's nuclear assets as contained in this section.”<sup>159</sup> While explaining the amendment, she said that that this Bill is one of the finest representations of democracy due to the fact that we are establishing a civilian defense command authority to protect control and develop our nuclear assets. We are coming with four predictive proposals in which we are making a connection between the STD, the command authority which was being established in this parliament. She further stated that Defense Forces of Pakistan will be very satisfied to see that the parliament is taking responsibility. This is a very penchant voice which can defend our nuclear assets from this House against those who are our enemies and wish to roll back our nuclear programme or wish to compromise our assets. Notwithstanding, this amendment was also rejected by the treasury benches. All the amendments from the opposition benches were not considered by the government. The bill was passed with simple majority by the NA.

In the Upper House, “The National Command Authority Bill” was presented by Senator Syed Nayyer Hussain Bokhari from treasury benches. The opposition leader in Senate Waseem Sajjad explained to the House that we are not opposing the bill as it is related to country's security and it should be legislated as early as possible.<sup>160</sup> It is necessary that the weapons of Pakistan should be under proper control. Senator Sameen Siddiqui pointed out that as the bill relates to research, development and production of the

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<sup>159</sup> Ibid. 1821.

<sup>160</sup> The Senate of Pakistan Debates, 7<sup>th</sup> Parliamentary year, 178<sup>th</sup> sess., 2010, Vol. 2, no.13: 55.

nuclear and space technology, however Minister of Science and Technology is not the member.<sup>161</sup> This is a valid point raised by the opposition member. The Minister of Science and Technology should have the member of the said committee. How it is possible that Minister of Science and Technology would not be a member of such a committee which is related with technology.

Professor Khursheed Ahmad of JI proposed an amendment in clause 3 of this bill which stated that apart from other members, the opposition leaders of the National Assembly and Senate should also be its member.<sup>162</sup> He moved another amendment in the last sentence of clause 5 that “the Director General shall be serving Lieutenant General or equivalent from other services who may continue after retirement for completion of the assigned projects.” He also proposed amendment in clause 7 that two issues of non-proliferation and terrorism are included in this which are irrelevant and do not come in the ambit of the National Command Authority. Therefore, these two issues should be deleted from this bill. Furthermore, Professor Khursheed Ahmad moved an amendment in clause 13 of the bill that a judge should also be its member from the respective province or federal capital. However, the treasury benches rejected all the amendments proposed from the opposition benches.

It is pertinent to mention that in Senate from the opposition only the JI had moved several amendments in the bill, and no other party of opposition had presented their alternatives. However, in the National Assembly, both PML-N and PML have proposed different alternatives to the government. Nonetheless, the government has not only rejected the proposed alternatives of the opposition in the National Assembly but also in the Senate.

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<sup>161</sup> Ibid. 56.

<sup>162</sup> Ibid. 62

## 2.4- The Prevention of Domestic Violence Bill, 2009

Ms Yasmeen Rehman from treasury benches moved the bill in the NA. The purpose of the draft bill was to make provisions for the protection of women, children and family.

The bill sought to prevent violence against any person with a network of protection committees and protection officers and prompt criminal trials for suspected abusers.

The bill has also defined the domestic violence: all acts of gender-based or physical or psychological abuse committed against women, children or other vulnerable persons, with whom the accused had a domestic relationship.<sup>163</sup> Under this bill, any aggrieved person can file a petition to the court of the country, which shall fix the first date of hearing within seven days of receiving a complaint. The petition should be "disposed of within a period of 90 days and any adjournment given during the hearing of the petition be granted for reasons to be recorded in writing by the court," said the bill which has also made it binding on the court "to fix the next date of hearing of the case within a period not exceeding 30 days."<sup>164</sup>

In the National Assembly, when the bill was moved, S.A. Iqbal Qadri of MQM from the opposition benches had moved several amendments in the bill which were adopted by the treasury benches. According to Iqbal Qadri amendment, Clause 3 is contrary to Clause 1 whereas the Clause 1 said that this act will be called 'Domestic Violation (Prevention and Protection Act 2009)', with extent to the whole of Pakistan and sub clause 3 said that it shall come into force at once.<sup>165</sup> When clause-1 of the bill comes into force, there will be no occasion for giving any power to the Federal Government to defer the bill. When the honorable Minister said that it is very important bill, it means

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<sup>163</sup> The Prevention of Domestic Violence Bill, 2<sup>nd</sup> Parliamentary year, 15<sup>th</sup> sess., 2009, Vol. XV, no.2: 2

<sup>164</sup> Ibid.

<sup>165</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary Year, 15<sup>th</sup> sess., 2009, Vol. XV, no. 2: 184.

that it must come with immediate effect. As far as the monitoring is concerned, under Article 203 of the Constitution, the monitoring power lies with the honorable High Courts. The section of monitoring and oversight cannot be given to any court or any other authority. Therefore, these clauses may kindly be omitted from the Act.

Similarly, another amendment in clause 5 was moved by Iqbal Qadri, which said, "for purpose of trial under this at, the Court shall follow the procedure specified in Chapter XX of the Code".<sup>166</sup> In this Act, the office is trial able by the judicial magistrate. It has not been mentioned that which magistrate will exercise the jurisdiction. Therefore, the amendment was necessary to make the sentence clear that in whose jurisdiction the offence has been committed and who should exercise the jurisdiction. So this may kindly be added as a Clause 5. Moreover another amendment was moved which was related to typographical mistake in clause 16 of the bill.<sup>167</sup> All the amendments were accepted by the government. Ms Yasmeen Rehman appreciated the amendments from the opposition benches and said that our government agenda is based on the policy of reconciliation,<sup>168</sup> therefore, amendments are accepted.

However, it is interesting that this bill did not pass from the Senate in stipulated time of three months. The next step for this was to pass the bill and place it before the president for his signature to become law. But before it could happen the mood was changed. The Council of Islamic Ideology fired the first shot. It issued a statement criticizing the bill on the ground that it "would fan unending family feuds and push up divorce rates".<sup>169</sup> The Council of Islamic Ideology (CII) was of the opinion that the

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<sup>166</sup> Ibid. 185-186.

<sup>167</sup> Ibid. 188.

<sup>168</sup> Ibid. 189.

<sup>169</sup> "Mystery of the women's bills," *Dawn*, November 25, 2009,  
<https://www.dawn.com/news/842916/mystery-of-the-women-s-bills>

draft law was based on discrimination; it permitted the police force to disrupt the sacredness of the homes.<sup>170</sup>

In February 2012, this bill was again introduced in the Senate by Senator Nelofar Bakhtiyar as Domestic Violence (Prevention and Protection) Act 2012. But the jurisdiction of the bill was made limited to Islamabad Capital Territory (ICT) only. Nelofar Bakhtiyar said that besides children and women, the bill also ensures protection to the adopted, employed and domestic associates of a household.<sup>171</sup> She claimed that consensus has been developed on the bill among the members from both the treasury and opposition benches including Leader of the House. Nayyar Bokhari, Tahir Hussain Mushadi of MQM, Haji Adeel of ANP, PML-N's Raja ZafarulHaq and PML's Chaudhry Shujaat Hussain had fully backed the bill.<sup>172</sup> The members thumped their desks when Khalid Soomro of the JUI-F also announced his support to the bill.<sup>173</sup> It may be recalled that earlier it was due to the opposition of the JUI-F Senator Maulana Mohammad Khan Sherani the government deferred the bill in the Senate and later allowed it to lapse. The bill was passed unanimously by the senate without any amendment on the floor of the House. The National Assembly had passed the bill in 2009 but it could be passed in Senate within the stipulated 90 days, which is the legal requirement of the Constitution. Now, according to the rules of business this bill can be passed only in the joint sitting of the Parliament.

However, the bill when moved in the join sitting of the Parliament (April 2012), the government once again deferred the bill due to the reservations of some the opposition

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<sup>170</sup>Razeshta Sethna, " Victims of abuse," *Dawn*, August 21, 2010, <https://www.dawn.com/news/555040>

<sup>171</sup> The Senate of Pakistan Debates, 9<sup>th</sup> Parliamentary year, 198<sup>th</sup> sess., 2012, Vol. II, no. 02: 7.

<sup>172</sup> *Ibid.*

<sup>173</sup> *Ibid.* 10.

parties also comprising of a government ally JUI-F.<sup>174</sup> The Chief of JUI-F Moulana Fazle Rehaman told the House that religious parties are well-informed about the rights of women, however, PPP's government is promoting Western culture on the excuse of protection.<sup>175</sup> Therefore, it would not be tolerated in an Islamic country. He suggested that the matter should be sent to CII. Expressing concerns over some clauses in the bill, PML-N's lawmakers Mehtab Abbasi and Saad Rafiq suggested to government to change some clauses.<sup>176</sup> Notwithstanding, PML-N did not oppose this bill neither in Senate nor in National Assembly, when it was previously presented in the NA in 2009 and in Senate 2012. Parliamentary leader of MQM, Haider Abbas Rizvi said that the law should be enacted without delay while urging the chair to give its ruling for passage of the bill.<sup>177</sup> But Raza Rabbani of PPP informed the House that the bill could not be referred to the CII under the law.<sup>178</sup> Unfortunately, this bill was again deferred for unknown time.

## 2.5- The Representation of the People (Amendment) Bill, 2008

The Representation of the People (Amendment) Bill, 2008 was moved by the Minister for Parliamentary Affairs Zaheeruddin Babar Awan. The bill was passed unanimously without any alternatives from the opposition benches. However, when the bill passed, leader of the opposition Chaudhry Nisar Ali Khan expressed his views that opposition is not making any hurdles in making legislations.<sup>179</sup> But this is not the procedure to

<sup>174</sup> Zahid Gishkori, 'Opposition forces government to defer women domestic violence bill,' *The Express Tribune*, April 06, 2012, <https://tribune.com.pk/story/360560/opposition-forces-government-to-defer-women-domestic-violence-bill/>

<sup>175</sup> The National Assembly Debates, 5<sup>th</sup> Parliamentary year, 12<sup>th</sup> Joint Sitting, 2012, Vol. XII, no. 5: 27-28

<sup>176</sup> Ibid. 28-29

<sup>177</sup> Ibid. 31.

<sup>178</sup> Ibid. 34.

<sup>179</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 15<sup>th</sup> sess., 2009, Vol. XV, no. 4: 574-575.

relax the rules for pity legislation and passed it without any debate. This is not a democratic way to pass a bill, he observed. He extended that it is the violation of all the principles of legislation. In future, we would not allowed such relaxation of rules.

In the Upper House, this bill was presented by the Minister of State for Law Afzal Sandhu. The opposition leader in Senate, Waseem Sajjad said the bill deals with the Representation of People Act and with the election petitions.<sup>180</sup> It is filed with the purpose that no adjournment shall be given. It further said that if there is delay, then its trial would take place on day-to-day basis and no adjournment shall be given to any party for more than seven days and that too on payment of cost as the tribunal may determine. This seems to put almost everybody in trouble due to the fact that elections dispute can arise every time. He said that I would request to honorable members to oppose this bill as it is a very dangerous legislation.

From the treasury benches, Minister of State for Law responded that it is in a particular situation whatever this amendment is being brought, “I myself have gone through the experience not once, but more than once, that after the elections, I filed the petition and the petition was not decided till the further elections came.”<sup>181</sup> Now this bill says that “however if election petition is not decided within a period of four months further adjournment sought by any party shall be given only on payment of special cost of rupees ten thousand per adjournment. If the Tribunal itself wants to adjourn the proceedings, it shall record reasons for the adjournment. It is also being provided that appeal shall be decided by the Supreme Court within thirty days.” He said that this is just to circumvent the situation where the election petitions are decided. In this context, my honorable friend who is a very experienced counsel, he must see to this that

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<sup>180</sup> The Senate of Pakistan Debates, 7<sup>th</sup> Parliamentary year, 176<sup>th</sup> sess., 2009, Vol. VII, no. 10: 29-30.

<sup>181</sup> Ibid. 31.

ultimately once we have to decide it, that the election petition which comes and the decisions have to be taken by the tribunals, those should come to an end.

However, other opposition parties in the Senate PML-N, NP and Jammat-i-Islami fully supported the bill. It is also to be noted that no amendment in written was presented from the opposition leader in the House. Moreover, no amendment was put forwarded from the opposition benches. The bill was also passed from the Upper House with majority.

## **2.6- The Pakistan Institute of Fashion Design Bill, 2009**

The Pakistan Institute of Fashion Design bill, 2009 was presented in the National Assembly by the Minister of Commerce Makhdoom Muhammad Amin Faheem to establish the Institute of Fashion Design. From the opposition benches, Ms. Shireen Arshad khan of PML-N moved an amendment to insert new Clause 5A in Clause 5.

The proposed clause read as

5A. Quota for technical women. 20 percent quota will be reserved for poor women who are not educated but have technical background such as knitting, sewing, embroidery works especially those of remote areas, South Punjab, I think it is a misprint about Khyber Pakhtoonkhawa also Sir, FATA, Sindh, Interior and Baluchistan. The institute shall exempt fee of women admitted under sub section one and the institute shall award technical certificate to such women who successfully complete the course.<sup>182</sup>

She explained that to include the women of remote area in these institutions, it would not only help in the eradication of poverty of that particular area but also these institutes

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<sup>182</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 26<sup>th</sup> sess., 2010, Vol. XXVI, no. 4: 382.

will not be limited to only upper class. This amendment will provide an opportunity to the poor women of under-developed areas. However, Minister of Parliamentary Affairs Zaheer udin Babar Awan requested her to withdraw her amendment.<sup>183</sup> He assured her that this falls within the framing of the rules that what sort of persons should be accommodated where and if the honourable member wants it. So this should be brought over here in the rules that we can make all these changes and what kind of a person with what qualifications should be accommodated. Minister of Commerce Makhdoom Muhammad Amin Faheem also assured her that this amendment will be included in the rules, therefore, withdraw the amendments.<sup>184</sup> Nonetheless, Ms. Shireen Arshad khan emphasized on her amendments and did not withdraw. The proposed amendment was put to house, and consequently rejected. This was the only amendment from the opposition benches in the bill.

The bill was passed from the National Assembly with majority, and without any alternative and debate from the opposition in the House. In the Upper House, this bill was presented by the leader of the House Syed Nayyer Hussain Bokhari and was passed with majority.<sup>185</sup> No amendments and alternatives have been moved from the opposition benches. Similarly, no debate was held from the opposition side on the bill.

## **2.7- The Code of Criminal Procedure (Amendment) Bill, 2010**

The bill was moved by Minister for Petroleum and Natural Resources Naveed Qamar on the floor of the National Assembly. The purpose of the bill was to further amend the Code of Criminal Procedure, 1898. As the bill moved, Zahid Hamid of PML-N from opposition benches stated that “I am not opposing the bill, however, there are certain

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<sup>183</sup> Ibid.

<sup>184</sup> Ibid. 383.

<sup>185</sup> The Senate of Pakistan Debates, 9<sup>th</sup> Parliamentary year, 189<sup>th</sup> sess., 2011, Vol. II, no. 8: 60.

mistakes in this bill which need to be corrected, and the speaker may exercise his power under rule 261 to correct these mistakes.<sup>186</sup> He described that this bill seeks to restore the position statutory bail. And as originally presented in the Assembly, there was no condition and automatically the bail was to be granted by the court, also in the case appellate court under section 426 of the CrPC, and also under trial under 497 CrPC. He said that the only condition that we had mentioned in the Standing Committee which has been accepted and incorporated in the bill was that this statutory bail should not be granted to a previously convicted offender for an offence punishable with death or imprisonment of life or to a person who in the opinion of the court is a hardened, desperate or dangerous criminal or is accused of terrorism punishable with death or imprisonment of life. And also we have imposed a condition that if there is a delay in the trial or in the hearing of the appeal, this should not have been due to any action on the part of the appellant or the accused.

However, Zahid Hamid noted, that at Clause 2 para 1A the wording should be used as was approved by the committee.<sup>187</sup> The original words were “except where it is of the opinion”, however, the words incorporated in the bill are “Appellate court shall expect” instead of “except”. Similarly, the word “the” is left in the sentence “where it is of the opinion”, so these are the only corrections that may be correct under rule 261, and we have no objection to the passing of the bill, Zahid Hamid observed. Hence, this was the only objection made by the opposition on the floor of the National Assembly. This bill was passed from the house without any debate from the opposition.

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<sup>186</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 27<sup>th</sup> sess., 2010, Vol. XXVII, no. 4: 52-54

<sup>187</sup> Ibid.

## **2.8- The Earthquake Reconstruction and Rehabilitation Authority Bill, 2010**

In the National Assembly, Nawabzada Ghazanfar Ali Gul from the treasury benches laid down “The Earthquake Reconstruction and Rehabilitation Authority Bill, 2010” for the establishment of Earthquake Reconstruction and Rehabilitation Authority (ERRA).

There was only one amendment from the major opposition party PML-N related to language of the bill. Zahid Hamid of PML-N said that there is certain standard of legislation which must be maintained.<sup>188</sup> He remarks about the language of this legislation that I would not say poor language but language that could certainly be improved. Zahid Hamid proposed amendment in Clause 10 of the bill, relate to language of the clause. He suggested that Clause 10 should be reworded to read that “The Federal government shall appoint the Chairman of the Authority in accordance with such qualifications and procedure, for such period and on such terms and condition as may be determined by the Council.”<sup>189</sup>

However, Zahid Hamid withdraw his amendment after ensuring from the Advisor concerned that in future such mistakes would not be happened. This bill was passed with majority in the National Assembly without any amendments from the opposition benches. Similarly, in the Upper House this bill was passed unanimously without any debate and amendments from the opposition benches.

## **2.9- The Protection against Harassment of Women at the Work Place Bill, 2010**

The Protection against Harassment of Women at the Work place Bill was presented by Zaheeruddin Babar of PPP from treasury benches in the National Assembly to make

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<sup>188</sup> The National Assembly Debates, 3<sup>rd</sup> Parliamentary year, 28<sup>th</sup> sess., 2011, Vol. XXVIII, no. 8: 56.

<sup>189</sup> Ibid. 57.

provisions for the protection against harassment of women at the workplace. The bill's objective, according to a statement of objects and reasons accompanying it, "is to create a safe working environment which is free of sexual harassment, abuse and intimidation" with a view to enable higher productivity and better quality of life at work.<sup>190</sup> The house adopted six amendments to the draft already approved by an 18-member house standing committee, including two making the bill's protection available also to male employees of both government and private organizations, all of which were moved by the PML member Atiya Inayatullah, although they were originally tabled by the JUI member Mufti Mohammad Ajmal, who could not move them because of his absence.<sup>191</sup>

Dr. Atiya Inayat Ullah from PML proposed in the Clause 2, in paragraph (e), in between the terms "women" and "who", the terms "or man", should be placed.<sup>192</sup> She suggest further amendment in the proposed bill that in clause 4, in sub-clause (1); (a) the term in between the word "a" and "complaint", coming in the starting should be replaced by the term "written"; also (b) in paragraph (a), between the terms "communicate" and "to", the term and comma "formal written receipt of which will be given", should be placed.<sup>193</sup> Law Minister, Justice and Parliamentary Affairs, Dr. Zabeeruddin Babar Awan accepted her amendments.<sup>194</sup> Therefore, the amendment was adopted by the house. Further, Dr. AtiyaInayatullah suggested that in clause 5, in sub-clause (2), among the terms "Act" and "and", the comma and terms be placed ", to get the complainant or the accused medically examined by a qualified doctor" should be substituted. She also proposed the amendment in Clause 6 in sub-clause (1), that among

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<sup>190</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 18<sup>th</sup> sess., 2010, Vol. XVIII, no.9: 1137.

<sup>191</sup> "Bill against harassment of women approved by NA," *Dawn*, January 22, 2010, <https://www.dawn.com/news/856079>.

<sup>192</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 18<sup>th</sup> sess., 2010, Vol. XVIII, no.9: 1137

<sup>193</sup> Ibid. 1138.

<sup>194</sup> Ibid.

the terms "of and "communication", the term should be substituted by "written".<sup>195</sup> Government benches did not oppose, therefore, the amendment was passed by the House.

Dr. AttiyaInayatullah proposed another amendment in the proposed bill in Clause 8, sub-clause (2), (a) among the terms "a" and "shown cause" the term should be substituted by "written" also (b) in between the terms "Accused" and "shall", the terms should be substituted by "after the receipt of written".<sup>196</sup> She also suggests the amendment in the proposed bill that between the terms "HARASSMENT" and "AT", the term "AND MEN" should be added. Law Minister supported the amendment, therefore, the amendment was adopted by the house. She also proposed that (a) the extended title, in between the terms "women" and at, the term "and men" should be placed. (b) In the preface, at the second paragraph in between the terms "of and "women" the term "men" should be placed; also (c). at clause 1, in sub-clause (1), in between the terms "of and "women", the term "men and" should be placed.<sup>197</sup> However, Law Minister opposed the amendment and suggested that the current nomenclature is easier to understand.<sup>198</sup> He recommended that respected member should withdraw this amendment. Hence, Dr. Attiya Inayatullah withdraw her last amendment. Consequently, the bill on 'The Protection against Harassment of the Women at the Work place Bill, 2010' was passed unanimously from the national assembly.

Molvi Asmtuallh an independent candidate opposed the bill and recited the verse of the Holy Quran, explained the term "Rijaal" that means superiority of men over the women, however, the bill shows the superiority of women over the men.<sup>199</sup> He further said that

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<sup>195</sup> Ibid.

<sup>196</sup> Ibid. 1141.

<sup>197</sup> Ibid. 1145.

<sup>198</sup> Ibid. 1146.

<sup>199</sup> Ibid. 1156.

if the bill has been passed without the amendments then you would antagonize Almighty Allah and invited the wrath of Allah. He claim that this is the product of years of campaign of woman activists and non-governmental and rights organizations. He did not vote and walkout from the House.

## **2.10- The Oil and Gas Regulatory Authority (Amendment) Bill, 2010**

The Oil and Gas Regulatory Authority (Amendment) Bill, 2010 was moved in the National Assembly from the treasury benches by Nawabzada Ghazanfar Ali Gull to further amend the Oil and Gas Regulatory Authority Ordinance, 2002. However, this bill was opposed from the opposition benches by Zahid Hamid and Parvaiz Malik of PML-N. They were of the view that the existing provision in the law is that the Chairman shall be an eminent professional of known integrity and competence with a minimum of twenty years of related experience in Law, Business, Engineering, Finance, Accounting, Economics or Petroleum Technology.<sup>200</sup> Eight disciplines have been mentioned in the existing law from which an eminent<sup>1</sup> professional of known integrity and competence with a minimum of twenty years' experience can be chosen. What this bill seeks to do is to add to these eight disciplines two other disciplines of Public Administration and Management. Now, it is clear that Public Administration or Management are extremely general disciplines virtually any executive with 20 years' experience would be able to be appointed to this post. What is happening through this amendment is that the doors are being opened to appointment of journalists, not technocrat journalists. Anybody with 20 years' experience of public administration or management could be appointed. Therefore, there is no reason to add these two

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<sup>200</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 26<sup>th</sup> sess., 2010, Vol. XXVI, no.3: 234-235

additional disciplines through this Bill.<sup>201</sup> They suggested that this bill would be withdrawn. They also did not move their amendment. Zahid Hamid emphasized that count shall be made on this bill. However, 75 members voted in favor of the bill and 50 were against.<sup>202</sup> Consequently, the bill was passed from the National Assembly with simple majority.

In the Senate this bill was also introduced by Nawabzada Ghazanfar Ali Gull. Ishaq Dar of PML-N from the opposition benches told the house that the fine and penalties imposed by these regulatory bodies go to their own account and do not deposit in public treasury.<sup>203</sup> He said that it was committed by the government seven months before that they will change this policy and these fines and penalties will go to the Federal Account. However, it is not introduced in this bill. He proposed that the words “fines and other penalties imposed and collected by the authority as” of Clause 18, sub-clause 2(b) should be deleted. He also asked the government to move another amendment next week for this purpose, so we will not oppose this bill. In this regard, Leader of the House Syed Nayyer Hussain Bokhari of PPP assured the opposition that the government will move next amendment in this OGRA Act for this purpose.<sup>204</sup> However, no such amendment was moved during PPP government (2008-13). Although, this bill was passed from the Senate with majority.

## **2.11- The Pakistan Academy of Letters Bill, 2012**

Minister of National Heritage and Integration, Ms. Samina Khalid Ghurki, moved The Pakistan Academy of Letters Bill, 2010 to establish Pakistan Academy of Letters. From opposition benches Zahid Hamid member of PML-N proposed an amendment in Clause

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<sup>201</sup> Ibid.

<sup>202</sup> Ibid. 239.

<sup>203</sup> The Senate of Pakistan Debates, 8<sup>th</sup> Parliamentary year, 188<sup>th</sup> sess., 2011, Vol. I, no. 01: 89-90.

<sup>204</sup> Ibid. 94.

4, in sub-clause (1), in paragraph (e), the words “to be nominated by the Provincial Government concerned”, shall be added at the end; and (ii) Sub-clause (4), shall be omitted.<sup>205</sup> While explaining his amendments, Zahid Hamid said that the paragraph (e) of Sub-Clause (1) includes that the representative of the Provinces as members of Board of Governors of this Academy would be nominated by the designation. However, it is not appropriate; they should be nominated by the respective provincial governments. He also thanked government for the approval of this amendment. Likewise, in sub-clause (4), it is said that the Federal Government may rationalize the composition of the Board in notified order from time to time, which is a meaningless clause, therefore, not requires in the bill. The amendment from the opposition was taken into account by the government and the bill was passed with majority from the National Assembly.

In the Senate, the bill was laid down by Minister for Law and Justice Farooq Naek. From the opposition benches Senator Syed Muzaffar Hussain Shah of PML-F objected on section 4 of the bill which is related to composition of Board of Governors. He said that all members of Board of Governor are bureaucrats, no single elected representative neither from the Parliament nor the four provincial assemblies.<sup>206</sup> Similarly, no writers association, no cultural association have been called upon to nominate anybody upon these boards at all. He said that this a simple ritualistic bureaucratic representation which would not promote the cause of Pakistani literature. However, there was no written amendment moved on the floor of the House. Therefore, these suggestions from opposition benches were not taken into account. However, the bill was passed unanimously by the Senate.

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<sup>205</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 47<sup>th</sup> sess., 2012, Vol. XLVII, no.1: 36-37

<sup>206</sup> The Senate of Pakistan Debates, 10<sup>th</sup> Parliamentary year, 210<sup>th</sup> sess., 2013, Vol. II. no. 02: 40-41.

## **2.12- The Investigation for Fair Trial Bill, 2012**

Minister for law Farooq Naek moved “The Investigation for Fair Trial Bill, 2012, in the NA. The draft bill provides to gather evidences for fair investigation via up-to-date techniques and devices. It aims to stop the crimes and to regulate the authorities of the security and intelligence agencies. Besides to increase the effectiveness of the operations of these agencies.

Zahid Hamid of PML-N from opposition benches supported the basic objectives of the bill, however, PML-N and other opposition parties proposed several amendments.<sup>207</sup> He stated that In Sub-Clause (1) of Clause 2, in the paragraph (c), the term use “It shall also apply to” should be omitted.<sup>208</sup> Mr. Farooq Naek did not oppose the omission. Anusha Rehman Khan member of PML-N proposed some amendment in Clause 3,<sup>209</sup> firstly, at paragraph

- (a) the term ‘applicant’ signifies the Police, Bureau of Intelligence, and the Inter-Services Intelligence, should be substituted accordingly;
- (b) The Second, amendment required at paragraph (c), next to the term “officer” and earlier the term “working”, the terms and commas “not below the grade of BPS-20 or equivalent, who is” should be placed accordingly;
- (c) Thirdly, at the paragraph (e), aimed at the term “Sessions” with the term “High” should be replaced;

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<sup>207</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 48<sup>th</sup> sess., 2012, Vol. XLVIII, no. 9: 17.

<sup>208</sup> Ibid. 36.

<sup>209</sup> Ibid. 37.

(d) Fourthly in sub-paragraph (1) of paragraph (g), at the entry (i) the term “bugging” should be omitted.

(e) Paragraph (h), ‘Judge’ means a “Judge of the High Court”, it should be replaced at fifth accordingly, at sixth next to the paragraph (h), the subsequent new clause (i) should be inserted and the entire following paragraphs reordered consequently that ‘Minister’ means the Federal Minister for Interior”. She further emphasized consideration of the house that at the time the government moved the bill, 15 agencies have been authorized for the citizens surveillance and trapping like concealed action should be conducted. This is our request that do no empower more than three agencies in this regard. The law minister Farooq Naek opposed the proposed amendment of Clause (3) of paragraph (a), whereas accepted all the other proposed amendment presented by Ms. Anusha Rehman. He further discussed that if we empower the 3 agencies but the rest of the agencies are also working against terrorists, so we should also empower those agencies to eliminate terrorism from the country.

Sardar Mehtab Ahmed Khan suggested to reduce the FIA, because it is a civilian Agency and the Intelligence Bureau is already there with the other intelligence agencies.<sup>210</sup> The treasury bench has accepted this suggestion and removed FIA from the bill. Zafar Baig Bhuttni opposed the Bill that this is a cruel Bill, if you are intercepting the S.M.S, Email and Mobile Phone then it became the ancient time where spouses could not talk. Increasing power of those agencies whose reputation are not already good.<sup>211</sup> Zahid Hamid requested to Law Minister that kindly remove the term “Director General”.<sup>212</sup> It will indicate that ‘applicant’ which identifies the

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<sup>210</sup> Ibid. 42.

<sup>211</sup> Ibid. 43.

<sup>212</sup> Ibid. 44.

“Inter-Services Intelligence, the three Services Intelligence Agencies, Intelligence Bureau and Police”. This suggestion was accepted by the Law Minister.

Ch. Muhammad Barjees Tahir proposed the amendment in clause-4, in sub-clause (1); (i) the brackets and figures (1) should be omitted.(ii) next to the term “officer” and earlier to the term “duly”, the terms “not below the grade of BPS-20 or equivalent” should be placed. Secondly, (b) Sub-clause (2) should be omitted.<sup>213</sup> Mr. Farooq Hamid Naek, Law Minister accepted the proposed amendment. Accordingly, the amendment was adopted by the House. Similarly, Sadar Ayaz Sadiq, member of PML-N, proposed the amendment in Clause-6 that; (a) In the title, for the term “superior” the term “Minister” should be replaced; (b) For the term “before his superior” the term should be replaced by “though the Head of the department to the Minister”.<sup>214</sup> All these proposed amendments were accepted by the government and adopted.

Anusha Rehman Khan Advocate proposed more amendment in the bill for Clause-7 that the Minister should assess the report with supportive evidences and by the written order might be declined the authorization pursued or grant authorization totally of the Party.<sup>215</sup> No request that should be based on the Judge excluded the prior written approval from the Minister.” Law Minister, Farooq Naek, accepted the proposed amendment. Anusha Rehman Khan added some more discussion that the all powers that was controlled by bureaucracies and agencies, however, this amendment empowered the ministerial and political leadership, therefore, no action should be taken without any inspection.

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<sup>213</sup> Ibid. 45.

<sup>214</sup> Ibid. 47.

<sup>215</sup> Ibid. 48.

Engineer Khurram Dastgir Khan, member of PML-N proposed the amendment that affidavit or any other signed or stated letter contents in any application, from the authorized officer that should be correct, accurate, to the best of his knowledge.<sup>216</sup> Whereas the “warrant” should be for legal investigating which is planned to assess crime location or to gather the evidence but it should neither be abused by inhibit or mediate the privacy of the citizen. The particular of all warrants got earlier in respect of the person in contradiction of whom, the warrant is short.

Zahid Hamid continued the discussion on the amendment related to affidavit that the change needed is, the affidavit which is authorized by the officer, and the document which he presented for legal work in the court is accurate according to best of his information and acceptance that is associated and sets the appropriate moral pressure on him.<sup>217</sup> It was significant addition in the Clause by opposition benches. The proposed amendment accepted by the Law Minister Farooq Naek.

Raja Muhammad Asad Khan the member of PML-N suggested amendment clause 14; (a) the term “six months”, should be substituted by the words “60 days”. (b) for the proviso, the subsequent should be replaced accordingly; “provided that it may be re-issued after the said, period by the Judge upon the request of the authorized officer of the applicant, if, after examining the gist of the intelligence and evidence collected by the applicant thus far, he is satisfied that as a consequence of the issuance of warrant, suitable progress is being made and there is sound justification for reassurance of warrant for another period not exceeding 60 days. Thereafter the same considerations shall apply for every request for reissue of warrant for further period not exceeding

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<sup>216</sup> Ibid. 50.

<sup>217</sup> Ibid.

60 days at a time.”<sup>218</sup> Minister of Law responded to this amendment that proviso to Clause 14, as suggested by the Opposition, should be amended, but as far as the word “sixty days” is concerned, it is already there as reported by the Standing Committee.

Anusha Rehman Khan from opposition benches proposed amendment in Clause 16 of the bill that the Judge shall authorize take-over of equipment only where the material or statement of the authorized officer discloses a substantial threat or possibility of an attempt to commit a scheduled offence.<sup>219</sup> Similarly, Chaudhry Mahmood Bashir Virk of PML-N suggested amendment in Clause 18 that “Indemnity for service provider: Access granted by the service provider in accordance with this law shall not be called in question under any law by any person who may have been prejudiced by such access.”<sup>220</sup> While explaining his amendment he said that this is a big flaw, if any person who gives false testimony, who gives false information, who causes a false accusation, that could not be prosecuted. The indemnity is given that whether the person might be performed black or white, or became the cause of any atrocities. Moreover, Naseer Bhutta member of PML-N, proposed amendment in serial no. 17 of Clause 20 for the word “for a sum up to ten million rupees or be liable for a punishment upto two years” the words “with fine up to ten million rupees” shall be substituted.<sup>221</sup> All the amendments in Clause 16, 18 and 20 of the bill from the opposition benches were accepted and incorporated in the bill.

Khurram Dastgir Khan of PML-N suggested an amendment in Clause 22 that which stated that before the evidence is handed over to the Investigating Officer, the authorized officer shall certify that it has been collected strictly in accordance with

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<sup>218</sup> Ibid. 56.

<sup>219</sup> Ibid. 60.

<sup>220</sup> Ibid. 61.

<sup>221</sup> Ibid. 62.

the warrant and has not been tampered with or altered in any manner whatsoever.<sup>222</sup>

This amendment was accepted and adopted by the treasury benches. Naseer Bhutta from opposition benches suggested an amendment in sub-clause (2) of Clause 23 “Nothing contained in sub-section (1) shall debar the admissibility of evidence collected or received, prior to the coming into force of this Act, under the provisions of any other law for the time being in force.”<sup>223</sup> Likewise, the amendment was adopted by the House as it was supported by Farooq Naek, the Law Minister.

Furthermore, Anusha Rehman Khan of PML-N proposed another amendment to substitute Clause 26 of this bill.<sup>224</sup> The amendment said that any person performing any functions under this Act who fails to secure complete secrecy of the process or makes any disclosure which may compromise future capabilities of intelligence gathering shall, in addition to any other punishment to which he may be liable under applicable law and rules, be punishable with imprisonment of upto five years or with fine of upto ten million rupees or with both. This was also accepted by the Law Minister and adopted by the House.

Mr. S.A. Iqbal Qadri member of MQM suggested an amendment in clause 27 that the word ‘Secretary Ministry’ may be replaced with the term ‘Minister’.<sup>225</sup> This was also accepted by the government.

Members of PML-N from opposition benches proposed a new clause to incorporate in the bill. The new clause says that (1) in case the applicant is not satisfied with the declining of the request for the issuance of the warrant of surveillance or interception, it may prefer a representation to the Chief Justice of the High Court concerned, for

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<sup>222</sup> Ibid. 63.

<sup>223</sup> Ibid. 64.

<sup>224</sup> Ibid. 65.

<sup>225</sup> Ibid. 68.

constitution of a Division Bench of two Judges for hearing in chambers.<sup>226</sup> (2) The Division Bench to whom the representation is entrusted may either set aside the decision of the Judge and issue the warrant or uphold the view taken by the Judge. (3) Nothing in this Act shall bar the applicant to approach the Judge again for of warrant in respect of the same person on the basis of fresh grounds or new material. This amendment was accepted and adopted by the government. It was numbered as Clause 28, and the original Clause 28 was re-numbered as Clause 29.

Anusha Rehman Khan moved an amendment in Clause-29 complaints against misuse of warrant.<sup>227</sup> The amendment says; (a) In sub-clause (2) for the words “complained officer” the words “the officer against whom the complaint was filed” shall be substituted. (b) For sub-clause (3) the following shall be substituted. (c). A person aggrieved by decision of a Judge under sub-section (2) may file a representation to the Chief Justice of the High Court concerned within thirty days for constitution of a division bench for hearing and deciding the representation in chambers.

Zahid Hamid of PML-N also suggested an amendment to substitute Clause 35 of the bill.<sup>228</sup> The amendment was that unauthorized surveillance or interception: Any person who carries out any surveillance or interception except in accordance with the provisions of this Act shall in addition to any other punishment to which he may be liable under any other law for the time being in force be punishable with imprisonment for up to three years and shall also be liable to fine. Similarly, Anusha Rahman Khan proposed another amendment to substitute clause 39, which says that if any difficulty arises in giving effect to any provision of the Act, for a period of one year from its

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<sup>226</sup> Ibid. 71.

<sup>227</sup> Ibid. 73.

<sup>228</sup> Ibid. 75

coming into force, the Federal Government may, by order not inconsistent with the provisions of the Act, remove the difficulty.<sup>229</sup> All the amendments from the members of PML-N were acknowledged by the treasury benches and adopted by the House.

Mr. Zahid Hamid proposed another important amendment in sub-clause 3 of Clause 1, which says that after the word “once”, the words “and shall automatically stand repealed one year after coming into force’ shall be added.<sup>230</sup> While explaining this amendment, he told the House that at the same time, we need to carefully ensure that the fundamental rights of the citizens of Pakistan are not infringed, we need to ensure that these powers that are being conferred for the first time on these agencies, are not misused. We have attempted to, by the various amendments that we have made, we have attempted to put in the safeguards that are necessary in this law. At the same time, we think that after the period of one year has lapsed from the time that this Act comes into force, the then Government should review the entire law, the operation of the law, the working of the various agencies whether the powers that have been conferred, or have been utilized properly, whether there has been some tangible benefits, in the form of a detection or terrorist activities prior to occurrence and in the form of actual convictions of terrorists that are apprehended. Therefore, we think that one year tenure of this Act should be proper in the first instance. The then government can review the entire operation of the law after one year and then decide about its extension.

However, Farooq Naek, Minister of Law opposed this proposed amendment. The minister responded that the very purpose of framing the law and passing the law would be defeated if there is a sunset clause of one year because the process of doing all

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<sup>229</sup> Ibid. 78.

<sup>230</sup> Ibid. 84-85.

those things by the agencies for doing surveillance and interception and obtaining warrant from the High Court and then oversight committee and then looking after by the Ministry of Interior, therefore, much time would be consume and one year is too short a time. So, he did not accept this amendment, and consequently the amendment from opposition benches was also rejected by the House.

Consequently, “The Investigation for Fair Trial Bill, 2012” was passed from the Assembly with majority. This was a long debated bill in the National Assembly and more than thirty amendments were contributed by the opposition especially PML-N. The government had also accepted almost all the amendments positively. Chaudhary Nisar Ali Khan, Leader of the opposition in National Assembly, appreciated the government for accepting the amendments of opposition jovially; this is called Parliamentary democracy, he observed.<sup>231</sup> He also said that this not an ideal bill because it is a very sensitive area where we have made legislation. He expressed that as a political worker I am not satisfied with this bill, because without this legislation some agencies monitored not only criminals but also innocent people. Similarly, not only the members of opposition but also sitting Prime Minister had been monitored by these agencies. However, on this occasion Prime Minister Raja Pervaiz Ashraf, congratulated the whole House on the passing the bill with great passion. He said that today in Parliament all the members participated with great zeal and national spirit, therefore, this bill was passed from the House. He also appreciated the contribution of the opposition in the bill. He extended that this would give a message to the terrorists that all the nation is united against the terrorism.

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<sup>231</sup> Ibid. 86

## 2.13- The Validation Bill, 2012

Mr. Farooq H. Naek, Law minister, moved the Validation Bill, 2012, to authenticate the acts, commands and the relevant measures etc. completed, established and allotted from the date 26-04-2012 to the date 19-06-2012 along the mentioned date. The purpose of the bill was to validate all the acts and orders made and issued from April 26, 2012 to June 19, 2012 Yousaf Raza Gillani. As he was convicted on 26 April 2012 and disqualified by Supreme Court on 19 June 2012. There was outrage on the opposition benches over a bill providing a ‘blanket cover’ for actions taken by former premier Yousaf Raza Gilani.

Saira Afzal Tarar from opposition benches opposed the bill and discussed the previous committee references date that was 25<sup>th</sup> of September. In this committee, the two members of PML-N including me and Anosha Rehman Khan opposed this Validation Bill.<sup>232</sup> She told the House, if you checked the Proceeding of committee and minutes of discussion, we repeatedly argued that “blanket protection” should not be given in such manner. Zahid Hamid of PML-N also raised objection on the blanket validation of the act. He argued about the question of validity of the decisions made and acts or actions performed and done by the respondent as Prime Minister of Pakistan on and from 26<sup>th</sup> April, 2012 to the date of his conviction till 19<sup>th</sup> June 2012”.<sup>233</sup> This is the period which is mentioned in the Bill. In this behalf it is to be noted that in the case of Asma Jillani VS Government of Punjab, as well as in Sindh High Court Bar Association’s case, the Supreme Court has declined to protect such actions, which were not in accordance with Constitution and the law. In the instant case the respondent having been convicted and

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<sup>232</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 47<sup>th</sup> sess., 2012, Vol. XLVII, no. 6: 34.

<sup>233</sup> Ibid. 35-36.

stood disqualified from being a member of the National Assembly, and became a stranger to the House but he continued to hold the office of the Prime Minister, contrary to the Constitution and the law. Therefore, all the decisions made and the acts or actions performed or done by him during that period had no Constitutional validity. Engineer Khurram Dastgir of PML-N also regretted the passage of the bill, saying “future generations will see this legislation as blind validation.<sup>234</sup> We are autonomous in the work of the legislature, but we could not tolerate any illegal action to be legalized by the words contained in this part of the legislation.

In response, Law Minister Farooq H Naek, the mover of the bill, said that the court order was retrospective in action and Gilani was officiating as prime minister during that particular period, therefore, this legislation was necessary.<sup>235</sup> Naek also pointed out that the opposition had not raised a hue and cry over a similar provision in the Trade Organisation Bill, 2012, which also asked for blanket cover and which was passed moments earlier. Pakistan People’s Party (PPP) MNA Abdul Ghafoor Chaudhry rescued the law minister and said that the court had not disqualified Gilani on April 26 and had sent the matter to the NA Speaker. Therefore, Gillani performed his duties till the final order on June 19. Consequently, the motion was adopted and the bill was passed despite the disagreement of the opposition benches.

## **2.14- The *Shaheed Zulfikar Bhutto Medical University (PIMS) Islamabad Bill, 2013***

Mr. Nazar Muhammad Gondal member of PPP presented the bill “The *Shaheed Zulfikar Bhutto Medical University (PIMS) Islamabad Bill*” 2013 to establish *Shaheed Zulfiqar Ali Bhutto Medical University*, Islamabad. However, Zahid Hamid from

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<sup>234</sup> Ibid. 38.

<sup>235</sup> Ibid. 40.

opposition benches objected on the Clause 4 of the bill that the government is extending the purview of the University.<sup>236</sup> He argued that Clause 4 says the University may admit to its privileges, under prescribed conditions and with the consent of such university and approval of the Government, the colleges of medical and health sciences, within the territorial limits of another university, whether inside or outside Pakistan. He objected that it is no legal, therefore, the bill should be deferred at least until tomorrow. However, government opposed the proposed suggestion of the opposition by arguing that the University may admit its privileges under prescribed condition and with the consent of such university. The bill was passed from the National Assembly with majority of votes.

When this bill was laid down in the Senate, opposition parties had made strong reservation over this bill. Senator Raja Zafar-ul-Haq of PML-N was of view that PPP's government should launch a university, however, the suggested university would not be worked as a regulator.<sup>237</sup> He alleged that this bill is brought for some of the members of parliament who manage various medical colleges and the registration of those medical colleges are cancelled by University of Health Sciences due to lack of faculty and hospital facility. Now, they want to establish the said medical university as a regulator; the purpose is to affiliate their medical collages through this university. PML-N senator extended that if PPP is interested to constitute another regulator for medical collages, then Pakistan Medical and Dental Council (PMDC) should be abolished.

JUI-F's senator Talha Mehmood argued that a dentist could not be appointed as Vice Chancellor (VC) of any medical university, however, it is unfortunate that a dentist Dr.

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<sup>236</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 50<sup>th</sup> sess., 2013 Vol. L, no. 18: 21.

<sup>237</sup> The Senate of Pakistan Debates, '10<sup>th</sup> Parliamentary year, 211<sup>th</sup> sess., 2013, Vol. III, no. 13: 51-52.

Riaz has not only been appointed as director of PIMS but also to be appointed as VC of the Zulfikar Bhutto Medical University Islamabad.<sup>238</sup> Senator Tahir Hussain Mushhadi of MQM objected over the name of the proposed university. He alleged that government is removing the name of Quaid-e-Azam, as the faculty of medicine of Quaid-e-Azam University will be transferred to Shaheed Zaukfiqar Bhutto Medical University.<sup>239</sup> Nonetheless, with strong reservation from the opposition benches, the bill was also passed from the Upper House.

## **2.15- The Anti-terrorism (second Amendment), Bill, 2013**

The Anti-terrorism (Second Amendment) Bill, 2013 was presented by Law Minister Farooq Naek in the NA. Zahid Hamid of PML (N) from the opposition benches said that his party are proposing 13 or 14 amendments in order to make this bill more operative.<sup>240</sup> He criticized the government for presenting this important bill in the National Assembly just a day or two before the last session. He stated that in this Bill the government is making some fundamental departures from normal jurisprudence, for example, for the first time the bill provides for preventive detention of persons on suspicion. Therefore, we are proposing an extremely important amendment the present definition of terrorism in the Act is extremely void.

The other radical departure is allowing phone taping. Zahid Hamid was of the opinion that this House has already passed unanimously the Fair Trail Act, hence, there is no need to provide for any other forms of interception of such communication as is being proposed in the present law.<sup>241</sup> Therefore, they (PML N) proposed that the provisions

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<sup>238</sup> Ibid. 53.

<sup>239</sup> Ibid. 55.

<sup>240</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 50<sup>th</sup> sess., 2013 Vol. L, no. 18: 31-32

<sup>241</sup> Ibid. 34.

in this Bill relating to interception of such communication be omitted. Then it is being proposed here that all courts including the Supreme Court and the High Court should not have the power to grant bail. Therefore, it is also opposed and must be dropped.

Mr. Zahid Hamid of PML (N) proposed amendment in clause 2, and suggest that in paragraph (a), the words “and preparing” should be omitted and in sub-paragraph (i), between the word “public” and “property”, the words “or private” should be inserted.<sup>242</sup>

Minister for Law Mr. Farooq H. Naek Accept the amendment of the opposition. Minister for Law, Justice and Parliamentary Affairs Farooq H. Naek said that I have accepted all those amendments and I accept them whole heartedly.<sup>243</sup> Now, there is no conflict in this matter.

Dr. AttiyaInayatullah from PML (Q) suggested amendments in clause 2 as, in paragraph (a) between the words “sectors” and “business” the words “media persons”, should be inserted.<sup>244</sup> Minister for Law Mr. Farooq H. Naek did not oppose the amendment. Therefore, the amendments were accepted by the House.

Madam Anosha Rahman Khan Advocate from PML(N) suggested that Clause-6 should be deleted as in this circumstance, the current clause is view to postulate the quantify the amount.<sup>245</sup> She discussed that in clause 11ee (2) sub clause (a) where there is a detail about the “surety” or “bond” is for that individual whose title has been mention in accordance with the 4<sup>th</sup> schedule constructed on terrorism or founded on this sort of uncertainties. Approval have been given that you may go to the DPO and there is a precise amount, you might be release by submitting “surety” or “bond”. But in accordance to the projected amendments, the amount has been limited to in the range

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<sup>242</sup> Ibid. 37.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid. 38.

<sup>245</sup> Ibid. 42.

of five hundred thousand rupees. She proposed that amount should not be fixed. It should be left freely, either it may be five hundred thousand or one million or ten million or may be less than that. It would not be better to restrict the amount. Therefore, ignore it and retain existing 11ee. Minister for Law and Justice did not oppose the suggestion and adopted the amendments by the opposition benches.

Zahid Hamid from PML-N said in clause 7, in the proposed new section 11EEE,- (a) (i) for the projected sub-section (1), the subsequent should be replaced, namely: “(1) The Government may, for the duration not more than thirty days and after recording the explanations, issue order for the protective detention of any individual who has been concerned in any offence under this Act concerning to national safety and sectarianism or contrary to a realistic complaint has been made or reliable data has been acknowledged, or a reasonable suspicion exists of his having been so concerned, for the purposes of investigation: Provide that the Anti-terrorism Court may, for reasons to be noted, grant extension in the duration of detention up to thirty days at a time, but the total duration of detention should not exceed ninety days.” (ii) in sub-section (2), for the word “Sub-Inspector” happening twice, the words “Superintendent of Police” should be replaced; (iii) in sub-section (3), the subsequent should be merged at the termination,- “of his detention, and before the presiding officer of the court if an when any extension in the period of detention is requested.” (iv) in sub-section (4), for the word “Sub-Inspector”, the words “Superintendent of Police” should be replaced; and (b) in the proposed new section 11EEEE, in sub-section (1), for the word “Sub-Inspector”, the words “Superintendent of Police” should be replaced.<sup>246</sup> Similarly,

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<sup>246</sup> Ibid. 43-44

Zahid Hamid proposed that in clause 8, in paragraph (b), in the explanation for the word “Inspector”, the words “Superintendent of Police” should be replaced.

Mr. Zahid Hamid from PML (N) further suggested that in clause 9, in the proposed new sub-section (7), after the words and comma “may be”, and before the word “file”, the words “or within such prolonged the duration as the court may, for reasons to be noted, allow” should be placed.<sup>247</sup> He further suggested about next clause of the bill as clause 10,- (a) after paragraph (a) the subsequently new paragraph should be placed, namely and the paragraph (b) should be re-numbered as paragraph (c)- “after the word “method” and before the word “which”, the words “or means of communication” should be placed; (b) in paragraph (b), in the proposed addition after the word “activities”, the word “or” should be placed.<sup>248</sup> He proposed that whereby powers are kind of interception of calls, this august House previously approved the Fair Trial Bill. Therefore, what they (PML-N) are recommending about this clause be omitted. Therefore, I seek the indulgence of yourself that this is to be voted out. Minister for Law, Justice and Parliamentary Affairs Mr. Farooq H. Naek did not oppose his all amendments and were incorporated in the bill.

Mr. Zahid Hamid raised that according to clause 14, in paragraph (a) the proposed sub-section(1), (a) the term “Sub-Inspector” should be replaced by the term “Inspector” also (b) the term “ninety” that occur two times, should be replaced to the term “thirty”.<sup>249</sup> He proposed in clause 16, sub-section (5), in clause (b), next to the term “crime” and earlier from the full stop, the comma and the terms “including surveillance of the person

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<sup>247</sup> Ibid. 50

<sup>248</sup> Ibid.

<sup>249</sup> Ibid. 53.

granted bail to monitor his activities and requiring him to report to the concerned police station as specified intervals as determined by the Court” should be placed.<sup>250</sup>

Zahid Hamid further recommend the amendments in the bill as mentioned in the clause 18, in the proposed new section 21EE, (a) in sub-section (1) next to the term “writing” and earlier to the comma, the term should be replaced by “on the request of the Joint Investigation Team” (b) in paragraph (d), for the term “Require” the subsequent should be replaced as “With the permission of the Anti-Terrorism Court, require”.<sup>251</sup> He further recommended the amendment in the Clause 21 should be omitted. Therefore, Clause 21 is omitted. He further suggested that the section 27 (a) sub-sections (2) and (3) should be omitted. At that point he raised that in Clause 25, in the proposed new section 35, next to the term “Government” and earlier to the term “may”, the words “or a Provincial Government” should be placed.

It was interesting that all the amendments proposed by the opposition in this bill were adopted by government. According to then current law and order situation, the bill was significant, therefore, government has adopted the policy of reconciliation and accepted all the alternatives of the opposition whole heartedly. Opposition has also cooperated with the treasury benches to pass this important legislation. Nonetheless, this bill was passed from the Senate unanimously without any amendment and debate from the opposition.

## **2.16- Conclusion**

To sum up, the role of opposition is to make the treasury benches accountable and point out the legislation which is against the interest of the people and country. Besides, to

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<sup>250</sup> Ibid. 56.

<sup>251</sup> Ibid. 57.

proposed alternative policies against the government policies and proved its existence in the parliament for the welfare of the country. In PPP's government (2008-13), opposition benches have actively performed in legislation-making in parliament. It has not only criticized different contents of the various bills which are against the interest of the people but has also suggested numerous amendments to change the policy of the government. The major opposition party PML-N was most active in challenging the policies of the government. The other opposition parties had also contributed in process of legislation-making and put forwarded alternative policies in the different bills. Opposition parties had also cooperated with the government by passing the important bills, although, they had reservation over some contents of the bills. The government response was also balanced to the proposals of the opposition benches. Almost fifty percent of the opposition's reservation had been addressed and its policies were adopted. It has been implied that opposition benches especially PML-N performed active role in the process of legislation-making. The opposition benches objected, proposed and cooperated with the treasury benches during PPP and its allied government from 2008 to 2013.

## CHAPTER- 3

### **CONSTITUTIONAL AMENDMENTS BILLS IN PML-N GOVERNMENT 2013-2018: ROLE OF PARLIAMENTARY OPPOSITION**

#### **3.1- Introduction**

The general election of 2013 was a historic movement, as for the first time in history of Pakistan one democratic government has completed its tenure and smoothly transferred its power to another democratic government. PML-N was emerged as the majority party in the elections. It has formed not only federal government but also in Punjab and co-government in Baluchistan provinces. In the National Assembly (NA), PML-N had secured 190 seats out of 342, therefore, dominated the House. Similarly, PPP, PTI and MQM had won 47, 31 and 24 seats respectively and were the major opposition parties. JUI-F, which was the government ally with PML-N, had secured only 13 seats in the NA. Head of PML-N Nawaz Sharif became the Prime Minister and Leader of the House and Khursheed Shah of PPP became the opposition leader in the NA.

PML-N government had passed five constitutional amendments bills from the parliament in its tenure. It was a significant contribution in the constitutional history of Pakistan. However, passing of these bills were not possible without the cooperation of the opposition parties. PML-N had a strong position in the NA while Senate was dominated by the opposition parties, especially PPP. It was impossible for PML-N to pass the bill with two-third majority from the Senate without the support of the opposition. Therefore, this chapter is dealing with role and contribution of the parliamentary opposition parties in the constitutional amendment of the bills of PML-N government in the parliament. The role of the opposition parties in the 21<sup>st</sup>, 22<sup>nd</sup>, 23<sup>rd</sup>, 24<sup>th</sup> and 25<sup>th</sup> constitutional amendment bills are critically analyzed in the understudy

chapter. It is pertinent to mention here that in Senate PML-N had less number of seats than that of PPP.

### **3.2- Twenty-First Amendment Bill**

The twenty-first amendment was presented in the National Assembly by Pervaiz Rasheed from treasury benches. The purpose of the amendment was to set up special military courts to speed up the trials of militants. It was not opposed by any member present inside the house. However, lawmakers from Pakistan Tehreek-e-Insaf, Jamaat-e-Islami, Jamiat Ulema-e-Islam-Fazl and Sheikh Rasheed abstained from voting. This amendment would stay on the books for two years, allowing special courts to try anyone accused of terrorism offences.

Khursheed Shah, opposition leader in NA, initiated the debate in the bill as per tradition. He told the house that in the past PPP was not in the support of the military courts, however, now Pakistan's situation is different and it is suffering from worse law and order condition.<sup>252</sup> In this situation, he added, the protection of the people of Pakistan is the priority not only of the government but also of the opposition. He argued that the menace of terrorism could be defeated only with harmony among institutions of the country. He was of the opinion that the draft constitutional amendment was hostile towards those people who execute suicide attacks on ex-leader of JI Qazi Hussain Ahmad (late) and leader of JUI-F Molana Fazal-ur-Rehman.

The JI from opposition benches and the JUI-F (government allies) objected on some contents of the bill which citing groups “using religion and a sect” in describing terrorists to be punished by the proposed military courts, seeing the wording

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<sup>252</sup> Debates, 2<sup>nd</sup> Parliamentary year, 17<sup>th</sup> sess., 2015, Vol. XVII, no. 05: 5-6.

discriminatory against religious groups and madressahs.<sup>253</sup> They wanted to delete such words which pointing towards particular religious groups. However, Interior Minister Chaudhry Nisar Ali Khan responded that it would neither be something frightening nor kangaroo courts.<sup>254</sup> He said that these military courts would honour conventions on human rights. The government attempted to convince Jamaat-e-Islami (JI) and Jamiat Ulema-i-Islam-F (JUI-F) to agree with the constitutional amendment, however, both the parties abstained from voting.<sup>255</sup>

The major issue which may cause serious concerns for Islamist parties is related to part 'F' which says "act to over-awe the state or any section of the public or sect or religious minority". Sectarian terrorist organizations like Lashkar-e-Jhangvi and Tehreek-e-Taliban Pakistan (which is also sectarian because many of terrorist attacks against Shia community in Pakistan) appear to have had close relationship with Islamist parties of Deobandi school of thought.<sup>256</sup> Farhan Zahid said that the Islamist parties simply do not want to support this bill which may hang over them like the sword of Damocles<sup>257</sup>. He argued that most of the leadership of Islamist terrorist organizations emanated from the Islamist parties and many of them maintained relationship with Islamist parties' leaders to communicate with the government and law enforcement agencies.

The Islamist parties' leadership has at times called the fallen Pakistani Taliban leaders such as Hakeemullah Mehsud as martyrs in their statements. Many high profile Islamist

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<sup>253</sup> Debates, 2<sup>nd</sup> Parliamentary year, 17<sup>th</sup> sess., 2015, Vol. XVII, no. 04: 34.

<sup>254</sup> Ibid. 39.

<sup>255</sup> "NA passes 21st Amendment, Army Act Amendment unopposed," *The News*, January 06, 2015.

<https://www.thenews.com.pk/latest/147-na-passes-21st-amendment-army-act-amendment-unopposed>

<sup>256</sup> Farhan Zahid, "The 21<sup>st</sup> Amendment Act of Pakistan: A Matter of Serious Concern for Islamist Parties in Pakistan," *Centre for Research and Security Studies*, February 14, 2016, [https://www.researchgate.net/publication/294426868\\_The\\_21st\\_Amendment\\_Act\\_of\\_Pakistan\\_A\\_Matter\\_of\\_Serious\\_Concern\\_for\\_Islamist\\_Parties\\_in\\_Pakistan](https://www.researchgate.net/publication/294426868_The_21st_Amendment_Act_of_Pakistan_A_Matter_of_Serious_Concern_for_Islamist_Parties_in_Pakistan)

<sup>257</sup>The Greek courtier to Dionysius the Elder who (according to legend) was condemned to sit under a naked sword that was suspended by a hair in order to demonstrate to him that being a king was not the happy state Damocles had said it was (4th century BC)

terrorist leaders and high value Al-Qaeda targets have been arrested from the homes of JI leaders, one most sighted example is of Khalid Shaikh Mohammad, the mastermind of 9/11 attacks was arrested in 2003 from the house of JI's Rawalpindi chapter leader Farzana Qudoos.

Besides KSM's arrest, scores of other Al-Qaeda leaders were arrested from the residence of JI members from Karachi, Lahore, Mardan, Faisalabad and Quetta. The clause "provide or receive funding from any foreign or local source for the illegal activities" may create plenty of problems for Islamist parties in future.<sup>258</sup> Therefore, they boycotted from this particular session of the National Assembly.

Although, major opposition party of PPP, voted in support of the constitutional amendment in the NA, some of PPP's legislators were unhappy with this decision. The verdict of PPP top slot leaders to support the treasury benches in the twenty-first amendment which has established military courts in the country was strongly criticized in the meeting of the parliamentarian of the party.<sup>259</sup> Dawn reported that no one was happy with the position of PPP's leader on draft amendment bill. Senator Raza Rabbani, a prominent figure of PPP labelled the bill as "death day" for country's parliament.<sup>260</sup> Another veteran politician and leader of PPP claimed, party has achieved success in incorporating a significant clause of political supervision over the military courts.<sup>261</sup> He addressed the law-makers of PPP that the government has guaranteed us the proposed law would not be operated against political workers. He extended, it was the struggle of the party (PPP) that the proposed law would be operational for two (2) years only.

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<sup>258</sup> Ibid.

<sup>259</sup> "PPP lawmakers unhappy over leadership's decision on military courts," *Dawn*, January 06, 2015, <https://www.dawn.com/news/1155195/PPP-lawmakers-unhappy-over-leadership-s-decision-on-military-courts>

<sup>260</sup> Ibid.

<sup>261</sup> Ibid.

Similarly, he added, it was because of PPP's efforts that the law would remain effective only for a limited period of two years. However, it was Asif Ali Zardari, PPP's Co-Chairman, who played significant role in passing this amendment bill.<sup>262</sup> He endorsed the amendment to establish military courts by modifying the 1973's Constitution and concluded the discussion on the issue.

PTI's MNA Shafqat Mehmood favored the formation of the military courts to clean country from the scourge of terrorism but did not in support of any modification in the constitution.<sup>263</sup> He said that his party wanted modification only in the Pakistan Army Act because my party is of the opinion that the desired target would be attained through that way. However, having seen a broad agreement among all political parties over the bill for changes in the constitution, "we were left with no choice but to stand with everybody else".

It is noteworthy to mention that PTI's Chairman, Imran Khan had left the country for London early that morning much before the commencement of the National Assembly session.<sup>264</sup> However, the legislators of PTI abstain from voting in the NA on this bill. Another opposition party MQM had strongly supported this bill.

The MQM leader in the NA told the House that it is an important bill for the eradication of the menace of terrorism from the country.<sup>265</sup> He also asked those who are opposing this bill that "you are either with us or against us". Consequently, the twenty-first Constitutional Amendment Bill was passed with 247 votes (14 more than the required

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<sup>262</sup>Khawar Ghuman, "Military courts: Zardari helps bring about consensus," *Dawn*, January 03, 2015, <https://www.dawn.com/news/1154802>

<sup>263</sup> Debates, 2<sup>nd</sup> Parliamentary year, 17<sup>th</sup> sess., 2015, Vol. XVII, no. 04: 79

<sup>264</sup> "Two bills tabled in NA for changes to Constitution, Army Act," *The NEWS*, January 04, 2015, <https://www.thenews.com.pk/print/10118-two-bills-tabled-in-na-for-changes-to-constitution-army-act>

<sup>265</sup> Debates, 2<sup>nd</sup> Parliamentary year, 17<sup>th</sup> sess., 2015, Vol. XVII, no. 04: 119-120

two-third majority in the NA). Despite, three opposition parties: PTI, JI, and one government ally JUI-F abstained from voting.

In the Upper House, this bill was also moved by Senator Pervaiz Rasheed of PML-N. The bill was also passed with two-third majority from the Senate. It is to be noted that the government party PML-N did not have the majority in Senate. It was PPP who passed this bill from the Upper House. PPP which effectively controlled the Senate with 41 out of 104 seats did not block passage of the amendment in the upper house.<sup>266</sup> While speaking after the passage of the bill in the Senate, Main Raza Rabbani declared this day as shameful day, however vote is the trust of the party which I fulfilled.<sup>267</sup>

Another Senator from opposition benches Afrasiyab Khattak of the ANP told the House that it is a difficult decision for the parties like ANP to agree on the establishment of military courts.<sup>268</sup> “We have always opposed the military regimes.” He argued that our leaders Bacha Khan and Wali Khan had faced military courts. However, now our country is in state of war and such measures are pre-requisite for maintaining peace and order. He further argued that the military courts established through 21<sup>st</sup> amendment are different from the past military courts. Because, in the past, the military courts were established by the military dictators, now the Parliament is establishing these courts through a proper legislation. All the senators of ANP voted in favour of the 21<sup>st</sup> amendment in the Senate.

Senator Syed Muzaffar Hussain Shah of PML-F supported the bill in the Senate. He said during the entire political history of the country, “we have not witnessed a demonstration of such unity as we have seen in the last 15 to 20 days”.<sup>269</sup> Political

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<sup>266</sup>Ghumman, “Military.”

<sup>267</sup> The Senate of Pakistan Debates, Twelfth Parliamentary year, 109<sup>th</sup> sess., 2015, Vol. X, no. 12. 17.

<sup>268</sup> Ibid. 23.

<sup>269</sup> Ibid. 29.

parties from diverse ideologies has come up on the same platform for one reason to protect the “Chadar and Chardewari” of each and every citizens of the country which is often violated. The guaranteed security and responsibility of the independent state of Pakistan to its citizens is slowly eroded. The country is passing through the state of insurgency and terrorism while its territorial integrity is threatened. However, we have not seen consensus and unity since long time in the country.

Leader of the Opposition, Senator Aitzaz Ahsan of Pakistan People's Party informed the House that indeed it was one of the most difficult days to speak on the floor of the House.<sup>270</sup> I am familiar about the sentiments of my party members sitting around and behind me as well as about the difficult decision they have to make. Primarily, PPP didn't want to opt for military courts in the country. But due to a range of brutalities committed against the innocent people, it has to opt for the decision. Senator Aitzaz Ahsan said when the proposal of establishing military courts was presented, first of all, I thought out a different perspective as to limit the scope of the military courts, to “narrow it as far as possible narrow the definition to a certain kind of terrorists, the Peshawar-mode, the Quetta-mode, the meena bazar-mode, the Wahga Border-mode, that certain type of terrorists alone and none other accused of terror would go to a military court. I think in redefining the word “terror”, we have succeeded, the Government and the Opposition, in narrowing the definition of the terrorists.”

Likewise, he said the other amendment of the party in explanation was approved which was incorporated that in this clause as the term “sect” means the sect of religion and does not include any religious or political party regulated under the Political Parties Order, 2002. Similarly, the third concern of PPP was meant that the civil authority must

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<sup>270</sup> Ibid. 33-35.

not abdicate to the Army. Therefore, it was made sure that no person accused of an offence following under sub-clause 3 or 4 shall be prosecuted without the prior sanction of the Federal Government. However, in the scheme of Court Martial, the Commanding Officer has the authority to determine the cases for presenting it before the Military Courts.

In an interview with the Tahir Hussain Mashadi<sup>271</sup> a question was asked about that why opposition benches supported 21<sup>st</sup> and 23 amendment, otherwise, it would not passed from the Senate as opposition was in majority in upper house. MQM Tahir Mashadi responded, it was a big battle between opposition and treasury benches which fought behind the doors.<sup>272</sup> At the end all the parties agreed, however, I (Tahir Mashadi) was the only one who resisted the bill. Tahir Mashadi told, I was of the opinion that it would be used against the innocent people. However, a federal minister and a federal secretary promised that it would not be used against any innocent person. On the other hand, majority of members already agreed with the amendment so it became our compulsion to support the 21<sup>st</sup> amendment and 23<sup>rd</sup> amendment. He explained, one of the reason that opposition supported the bill because it was related with military. As military has significant influence in the politics of Pakistan. The other reasons were the pressure of United States and the situation of terrorism in Pakistan. He argued, therefore, in larger interest of Pakistan the opposition benches also supported 21<sup>st</sup> and 23<sup>rd</sup>.

MNA Ameer Haider Khan Hoti of ANP argued that the support of 21<sup>st</sup> and 23<sup>rd</sup> amendment was critical movement for ANP, however, at that time there was no other way to punish the perpetrators of the Army Public School (APS) martyrs.<sup>273</sup> In addition,

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<sup>271</sup> Tahir Hussain Mashadi was Senator of MQM from 2012 to 2018.

<sup>272</sup> Tahir Hussain Mashadi, interviewed by M. Adil, Islamabad, August 18, 2020.

<sup>273</sup> MNA Ameer Haider Khan Hoti, interviewed by M. Adil, Islamabad, May 15, 2020.

a national consensus was developed on the military courts and ANP did not want to disturb that national consensus. Regarding 21<sup>st</sup> and 23<sup>rd</sup> amendment, Mushtaq Ahmad told that both major parties of Pakistan PML-N and PPP always supported each other either in government or in opposition.<sup>274</sup> He extended that both parties are internally same, they have no difference.

Therefore, once it was ensured that the government has agreed with the concerns of PPP, afterwards, the party had voted for setting up of the military courts in the country. On supporting the bill, the then Prime Minister Nawaz Sharif thanked all the parties while assuring the opposition that the government has to decide that which case is needed to be referred to the military courts.<sup>275</sup> Therefore, all parties were taken on board during the decision-making process. The PM said that this bill would prove instrumental in fight against the menace of terrorism.

### **3.3- Twenty-Second Amendment Bill**

Zahid Hamid, Law minister, presented the twenty-second amendment bill in the NA, suggesting changes in nine articles included 81, 213, 215, 216, 217, 218, 219, 221 and 222 of the 1973's Constitution. It reviewed eligibility criteria for the appointment of Chief Election Commissioner (CEC) and the ECP's members.<sup>276</sup> It has open the way for civil bureaucrats and technocrats to appoint as CEC of the ECP. Before the 22<sup>nd</sup> amendment, only the judges of SC and HC would be appointed to the office of CEC.

The proposed amendments also changed the condition of the upper age limit. It reads as "No person shall be appointed [Chief Election] Commissioner, unless he has been a judge of the Supreme Court or has been a senior civil servant or is a technocrat and is

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<sup>274</sup> Senator Mushtaq Ahmad, interviewed by M. Adil, Islamabad, June 27, 2020.

<sup>275</sup> Ibid. 37-39.

<sup>276</sup> Debates, 3<sup>rd</sup> Parliamentary year, 32<sup>nd</sup> sess., 2016, Vol. XXXII, no. 09: 57.

not more than 68-years of age.”<sup>277</sup> There was no debate from opposition benches on this bill on the floor of the National Assembly. Besides, no amendment was introduced from any opposition party. Hence, the NA safely passed the twenty-second constitutional amendment.

Finance Minister Ishaq Dar told the House that this bill is presented in consultation with all parliamentary parties.<sup>278</sup> He also thanked the members of NA for showing tremendous spirit in passing this amendment bill unanimously. The Federal Law Minister Zahid Hamid called it a historical day that the NA has passed 22<sup>nd</sup> constitutional amendment bill with the consent of all the parliamentary political parties.<sup>279</sup> He added that the proposals of all the parliamentary parties have been considered in this bill.

In Senate, this bill was also presented by Zahid Hamid to further modify the Constitution of 1973. However, members of the opposition benches as well some members from treasury benches were unhappy from the government for giving them little time to assess the draft bill.<sup>280</sup> From opposition benches, Senator Mohsin Shah Leghari of PTI argued that neither preliminary report is presented before the House nor any discussion is held on the bill.<sup>281</sup> He also said that the bill was drafted poorly, if there would be discussion on this bill, it will be an improved draft. He accused the government for ignoring the Senate in such important matters. Therefore, he opposed this bill. Another PTI senator Azam Khan Swati told the House that it would leave a scar on the face of the sacred book which is called the Constitution of Pakistan.

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<sup>277</sup> Twenty-Second Amendment Constitution of Pakistan, 1973.

<sup>278</sup> Debates, 3<sup>rd</sup> Parliamentary year, 32<sup>nd</sup> sess., 2016, Vol. XXXII, no. 09: 67-68.

<sup>279</sup> Ibid. 66.

<sup>280</sup> Amir Wasim, “Senate passes 22<sup>nd</sup> constitution amendment bill,” *Dawn*, June 03, 2016, <https://www.dawn.com/news/1262405>.

<sup>281</sup> The Senate of Pakistan Debates, 14<sup>th</sup> Parliamentary year, 249<sup>th</sup> sess., 2016, Vol. VII, no. 01: 92.

However, I would not oppose just to facilitate the Government to accomplish its mission.<sup>282</sup>

Leader of the opposition in Senate, Aitezaz Ahsan had also criticized the poor drafting of the bill. He contended that the word “servant” is interchangeable with the word “staff”.<sup>283</sup> Similarly, inconsistency has been created between Articles and Constitution, like in article 121 or 260 the word “servant” has been used now using the word “staff” would create inconsistency in the constitution. He also made objections on the upper age limit and the inclusion of the word BPS-22 in the constitution. He argued that if in future the BPS-22 word has been changed because of the change in the rule, so how would you amend the constitution. However, they concluded to support the draft bill “under compulsion” because the ECP’s members were retiring in the coming month.

Senator Ilyas Bilour of ANP criticized the timing of the bill. He said that it should be brought earlier for more discussion.<sup>284</sup> The ANP’s Shahi Syed staged a walkout from the house in protest, saying that he would not vote for the bill because it has so many mistakes.<sup>285</sup> However, he later returned to the house and even voted for the bill alongside other members of his party. Senator Farhatullah Baber of PPP said, “I am bound by the party directives to not oppose the bill”.<sup>286</sup> However, there are many flaws in this bill. He argued that the government has made the commitment that they would address the language mistakes of the bill. The MQM Senator Col. (R) Syed Tahir Hussain Mashhadi told the House that Muttahida Qaumi Movement has a lot of reservations although we are support this bill as it is related to the functioning of

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<sup>282</sup> Ibid. 95.

<sup>283</sup> Ibid. 93-94.

<sup>284</sup> Ibid. 95.

<sup>285</sup> Ibid. 110.

<sup>286</sup> Ibid. 98.

Election Commission.<sup>287</sup> He extended that the wording of the bill is not up to the standard of constitutional drafting and it needs more improvement. He said “hurried legislation” is always considered “bad legislation”. He further said that I must murder my conscience and fulfill the Constitutional requirement as I am bound by my party discipline.

Moreover, several amendments were put forwarded by Senator Mohsin Khan Leghari of PTI from opposition benches which were rejected by the government. In Clause 2 of the bill, he moved an amendment that instead of “Officers and servant” the word “staff” shall be used. Similarly, he proposed that in Clause 4 of the Bill, in the proposed paragraph, one should be substituted with (a) no person shall be appointed Commissioner, unless he has been a Judge of the Supreme Court of Pakistan or has been in the service of Pakistan for a period not less than 25 years or is a technocrat and is not more than 68 years of age at the time of the appointment. (b) The proposed explanation 1 shall be omitted and explanation 2 shall be renumbered as explanation and for the words “including a record of achievements at the national or international level”, the words “including a record of demonstrated and tangible record of achievements at the national or international level” shall be substituted. In the proposed paragraph (ii) for the proposed amendment, in Clause (2-A) a new proviso 2-AA should be inserted which says that in case there is no consensus between the Prime Minister and the Leader of the Opposition, each shall forward separate lists to the Parliamentary Committee for consideration which may confirm any one name.<sup>288</sup>

Likewise Mohsin Khan Leghari suggested another amendment in Clause 5 of the bill which says (a) for the proposed substitution of the proviso to clause (1), of Article 215,

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<sup>287</sup> Ibid. 105-106.

<sup>288</sup> Ibid. 129-130.

new clauses (1A), (1B) and (1C) shall be substituted, namely: (1A) Two of the members shall retire after the expiration of first two and a half years and two shall retire after the expiration of the next two and half years. (1B) the term of office of a member appointment to fill a casual vacancy shall be the un-expired term of the office of the member whose vacancy he has filled. (1C) The Commission shall, for the first term of office of members, draw a lot as to which two members shall retire after the first two and a half years. And Clause (1C) shall be omitted after the first draw. (b) In Article 215, in clause (1), for the colon occurring at the end a full stop shall be substituted. (ii) in paragraph (ii), the proposed clause (4) shall be substituted with (a) The Prime Minister in consultation with the Leader of the Opposition shall forward a list of three names within ten working days from the date of occurrence of the vacancy, failing which, both the Prime Minister and the Leader of the Opposition shall forward three names each to the Parliamentary Committee within the next two days; (b) If either the Prime Minister or the Leader of the Opposition fail to forward the requisite names to the Parliamentary Committee within the timeline, the Parliamentary Committee shall only consider the names forwarded by either of the two; and (c) The Parliamentary Committee shall recommend the name to the President within fourteen days from the date of receipt of reference from the Prime Minister or the Leader of the Opposition, whichever is earlier.<sup>289</sup>

Explaining his amendments, Senator Mohsin Khan Leghari said that these amendments would improve the drafting of the bill. Furthermore, one sunset clause has added to remove the extra burden of words from the Constitution. He said that the other purpose of the amendments is to provide a time line for all the people involved in selection of

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<sup>289</sup> Ibid. 133-135.

the chairman and members of the ECP.<sup>290</sup> However, these amendments were rejected by the treasury benches.

Law Minister Zahid Hamid told the House that it is good that there should be no provisos in the drafting. But we could not accept the amendments of honorable senator as the bill was agreed by different political parties in the parliamentary committee. He elaborated that all that has been suggested is to just change the number from proviso and make it into a sub-Clause, the substance is not changed.<sup>291</sup>

To conclude, in National Assembly, all the opposition parties did not present any amendments in the bill. Similarly, no debate was held from the opposition benches on the bill. Hence, the bill was passed very smoothly in the NA. However, in the Upper House opposition has not only made a hot debate on the bill but also presented different amendments. The Opposition has strongly criticized the government for the timing of the bill. They argued that a very short time has given for debate on the bill. They also disparaged the language of the bill that it has a very poor drafting. However, majority of the opposition voted in favor of the bill and did not make any hurdles for the government in passing this twenty-second constitutional amendment bill despite the fact that the opposition had maximum numbers in the Senate. Some of the members of opposition expressed their concerns that though they were against some clauses of the bill, but they were bounded from the party to support this bill. It shows that the opposition has very cooperative role in this constitutional amendment.

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<sup>290</sup> Ibid. 135.

<sup>291</sup> Ibid. 136.

### **3.4- Twenty-Third Amendment Bill**

Twenty-third amendment bill 2017 was introduced by the Law Minister Zahid Hamid on the floor of the NA. The purpose of this amendment bill was to reestablish the military courts for another two years. The military courts were earlier established through twenty-first amendment with sunset clause of two years. Therefore, the government had revived the military courts through this twenty-third amendment bill. It is interesting that the bill was opposed by two government allies' parties PkMAP and JUI-F, and only one independent MNA from opposition benches in the National Assembly. However, all the other parties from opposition benches supported the bill.

On the floor of the House, several amendments were presented from the opposition benches in the bill. Members of JI Sahibzada Tariqullah, Sahibzada Muhammad Yaqoob, Sher Akber and Ms Ayesha Syed proposed amendments in sub-clause (iii) and (iv) of Clause 2 of the bill. They wanted to omit the words "misusing the name of religion or sect" from sub-clause (ii) and from sub-clause (iv) the words (a) "misusing the name of religion or sect" (b) the "Explanation" should be removed.<sup>292</sup> While explaining the amendment, Sahibzada Tariqullah told the House that religion has no concern with terrorism.<sup>293</sup> And we all accepted this, then why we are connecting religion with terrorism. It is to be noted that the same amendment was also proposed by the government ally JUI-F. However, these amendments were opposed by PML-N. Similarly, these amendments were also rejected by the House.

Another amendment from opposition benches was put forwarded by an independent MNA Jamsheed Dasti. He proposed that cases of blasphemy should also be tried in the

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<sup>292</sup> Debates, 4<sup>th</sup> Parliamentary year, 40<sup>th</sup> sess., 2017, Vol. XL, no.12: 49-50.

<sup>293</sup> Ibid. 51.

military courts.<sup>294</sup> He also proposed to make financial terrorism a part of the bill. Furthermore, Iqbal Qadri of MQM also proposed an amendment in Clause 2 of the bill which says that the word “using” should be substituted with the word “misusing”.<sup>295</sup> Nonetheless, these amendments were also rejected by the government.

Haji Ghulam Ahmad Bilour of ANP has supported the bill, notwithstanding he said that only the establishment of military courts is not a solution, the elimination of the mindset of terrorists is pre-requisite for eradication of the menace of terrorism from the country.<sup>296</sup> He informed the House that terrorism would only end when the mindset of terrorist is changed.

Similarly, another opposition party, PTI has also supported and voted the bill in the National Assembly. According to The Express Tribune, a senior PTI leader who wanted not to be named has said that PTI’s stance on the issue is clear. Therefore, it is decided by the party that it would not show up at PPP’s multiparty conference. “We decided to support military courts in the national interest. We have no reason to support PPP’s stance, especially when it has failed to attract the support of all other political parties.”<sup>297</sup>

PPP, as the major opposition party, wanted the mandate of military courts to be specific to religious extremism only. And it was due to the fact that if military courts do not operate under a specific mandate, PPP feared that the cases involving political violence [by its members in Karachi] could be referred to the courts.<sup>298</sup> Dr Nafisa Shah of PPP

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<sup>294</sup> Ibid. 50.

<sup>295</sup> Ibid.

<sup>296</sup> Ibid. 7.

<sup>297</sup> Sardar Sikander, “Govt unlikely to consider PPP’s proposals on military courts,” *The Express Tribune*, March 08, 2017, <https://tribune.com.pk/story/1349023/military-courts-govt-unlikely-consider-ppps-proposals/>

<sup>298</sup> Qadeer Tanoli, “Military courts revival wins NA nod,” *The Express Tribune*, March 21, 2017, <https://tribune.com.pk/story/1361855/na-approves-amendment-reestablish-military-courts/>

said the revival of the military courts would affect the jurisdiction of the judiciary.<sup>299</sup>

Likewise, other than that it would also negate the fundamental rights of the citizens.

She said that by establishing the military courts, we are also abating the civilian supremacy.

Although, PPP as a major opposition party did not propose any amendment on the floor of the House, rather it demanded several amendments in this bill outside the Parliament.

Several meetings were held between PPP and PML-N to build consensus on the bill.

One of the concerns regarding the military court trials was actually the mystery in terms of no one knows who the convicts are, what charges have been brought against them, or what the accused defense is against the allegations levelled.<sup>300</sup>

According to Express Tribune, Pakistan People's Party had suggested seven proposals in the constitutional amendment bill: (a) military courts should be presided over by one sessions judge or additional sessions judge along with a military officer; (b) the sessions/additional sessions judge will be nominated by the chief justice concerned of the relevant high court; (c) military courts should be extended for a period of one year starting from the date of approval of the new constitutional amendment; (d) cases will be subject to judicial review under Article 199 of the Constitution; (e) once a review is filed the high court concerned must decide the case within 60 days; (f) an accused to be produced within 24 hours before the court concerned where the prosecution should provide grounds of arrest to seek his/her remand; (g) the accused shall have the right to

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<sup>299</sup> Debates, 4<sup>th</sup> Parliamentary year, 40<sup>th</sup> sess., 2017, Vol. XL, no.12: 17.

<sup>300</sup> "National Assembly votes overwhelmingly in favor of military courts." *Dawn*, March 21, 2017, <https://www.dawn.com/news/1321945/national-assembly-votes-overwhelmingly-in-favour-of-military-courts>.

engage counsel of their choice and the provisions of Qanoon-e-Shahadat 1984 should also apply in all such cases.<sup>301</sup>

However, the biggest opposition party, PPP in both houses of the parliament has succeeded in making four new clauses. These ensured that the terror accused would be presented for remand within 24 hours along with a charge sheet; that he/she has the right to hire a private counsel and that the law of evidence is applicable on him/her.<sup>302</sup> It showed that the government and major opposition party PPP both have cooperative role in making this legislation. Not only PPP has accepted the proposed legislation of PML-N but also PML-N has approved several suggestions of opposition parties.

In the Senate, the twenty-third constitutional amendment bill was also introduced by Law Minister Zahid Hamid of PML-N on 22<sup>nd</sup> March 2017. However, it is interesting that the government did not gather support of the required senators; the bill was deferred till 28 March 2017. The government asserted that it required two votes to pass the bill, although, The Free and Fair Election Network enumerated 46 members in the proceeding.<sup>303</sup> It is noteworthy to mention that the amendment required 69 votes to pass out of 104 members of the Senate. The bill was opposed by two nationalist parties from Baluchistan, PkMAP which was government ally and BNP-Mengal which was from the opposition benches.<sup>304</sup> Another government ally JUI-F left the House when its proposed amendment in the bill was rejected. The JUI-F suggested a similar amendment as was presented in the NA by JI to omit the word "religion" and "sect" from the Clause 2 of the bill. Likewise, it was also rejected by the Upper House over voice vote.

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<sup>301</sup> Irfan Ghuri, "PPP seeks civilian judges, shorter military court tenure," *The Express Tribune*, March 07, 2017, <https://tribune.com.pk/story/1348069-ppp-seeks-civilian-judges-shorter-military-court-tenure/>.

<sup>302</sup> Tanoli, "Military."

<sup>303</sup> Irfan Ghuri, "Govt left red-faced as Senate defers voting till March 28," *The Express Tribune*, March 22, 2017, <https://tribune.com.pk/story/1362498/senate-approves-pakistan-army-act/>.

<sup>304</sup> The Senate of Pakistan Debates, 14<sup>th</sup> Parliamentary year, 260<sup>th</sup> sess., 2017, Vol. III, no. 13: 34-35

Jehanzeb Jamaldini of the BNP-M from the opposition benches said that it is the opinion of his party to make strong the democratic institutions instead of dependence on military courts.<sup>305</sup> He asked from the House that should we dependent on military all round our lives. He extended that our party would not support the idea of military courts. He proposed that this power should be given to democratic institutions. Senator Farhatullah Babar of Pakistan People's Party termed it as the flawed condition imposed on lawmakers. He said that it means that either the lawmaker has to follow the directions of party heads regarding a constitutional amendment or they would face disqualification. It makes manifestation of the fact that around a dozen of individuals have been given the powers to amend the Constitution. He argued that it is very grievous matter that power revolves around the party's leaders. Ironically, this power was given to party's leader in the 18<sup>th</sup> amendment during PPP's government and Farhatullah Baber was part of that government.

On 28<sup>th</sup> March 2017, this constitutional amendment bill was again laid down on the floor of the Senate. Senator Sehar Kamran of PPP also expressed her grief over that we have no option but to support this bill.<sup>306</sup> She argued that if no reform was introduced in the last two years, so what wonders would be happened in the coming two years. She said that the parliament is defeated today. Similarly, Muhammad Atiq Sheikh of MQM felt that it is disgraceful that for second time this amendment is introduced in the constitution.<sup>307</sup> He said, although, we are supporting this bill, our heart and mind are against this amendment. He requested the government to introduce judicial reforms at least in next two years. Another MQM Senator Barrister Saif asserted that political parties should concentrate on their own inspection rather complaining about the

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<sup>305</sup> Ibid. 8-9.

<sup>306</sup> The Senate of Pakistan Debates, 14<sup>th</sup> Parliamentary year, 260<sup>th</sup> sess., 2017, Vol. III, no. 14: 6-7

<sup>307</sup> Ibid. 10.

army.<sup>308</sup> He was of the opinion that in the last two years, the government was unsuccessful to develop the judiciary's ability and hence the army should not be criticized. Senator Mohsin Aziz of PTI viewed that due to extra-ordinary situation we are supporting this bill.<sup>309</sup> However, if the government had implemented the National Action Plan (NAP), it would not introduce this amendment bill. Consequently, the bill was passed with two-third majority from the Senate without any amendment from opposition benches on the floor of the Senate. Several opposition members have expressed their reservations over the bill, nonetheless, they voted in favour of the bill due to party policy. All the opposition parties supported the twenty-third constitutional amendment bill except BNP-Mengal. Its senator remained absent from the session and did not vote. The only party which had given vote against the bill was government ally PkMAP.

### **3.5- Twenty-Fourth Constitutional Amendment Bill**

Twenty-Fourth Constitutional Amendment Bill, 2017 was tabled by the Law Minister Zahid Hamid on the floor of the NA. The purpose of this bill was to make new delimitation of the constituencies for the general elections of 2018 on account of the provisional results of 2017 census.<sup>310</sup> Due to this amendment, Punjab would lose some seats as its population has decreased to 52 percent from 56 percent in 2017 census.<sup>311</sup> In return, the seats of Balochistan and Khyber Pakhtunkhwa would be increased, whereas the Sindh's seats would remain unchanged. It is worth mentioning that PPP had sought the amendment to be approved by the CCI before it is passed by the National

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<sup>308</sup> Ibid.

<sup>309</sup> Ibid. 11.

<sup>310</sup> 24<sup>th</sup> Constitutional Amendment 1973 Constitution

<sup>311</sup> Inamullah Khattak, "National Assembly passes bill to enable fresh delimitation of constituencies," *Dawn*, November 16, 2017, <https://www.dawn.com/news/1370900>.

Assembly and the Senate<sup>312</sup>, due to the fact that the government did not have the required two-thirds majority in the 104-member Senate.

Similarly, another opposition party MQM had objections on the census outcomes in the province of Sindh. PPP insisted that the bill would be approved from Council of Common Interest (CCI) before presenting in NA and Senate.<sup>313</sup> It also demanded that a third party assessment would be held of one percent of the population blocks to remove the errors from 2017 census.

On PPP's demand, government had called the meeting of CCI on 14<sup>th</sup> November 2017 to consider the reservations of the major opposition party. In the meeting, only the Sindh CM Syed Murad Ali Shah of PPP conveyed objections over the result of the 2017 census, however, other Chief Ministers were satisfied from the provisional results of the census.<sup>314</sup>

The Sindh CM demanded that three percent blocks of population would be audited by third-party to verify the results of census. But the other members of the Council did not accept the proposal. However, the CCI agreed to conduct one percent audit of the population block.<sup>315</sup> Therefore, PPP and MQM agreed to support the twenty-fourth constitutional amendment bill in the Parliament. Senator Farhatullah Babar of PPP told media that they would support the bill because they do not want to delay the general elections of 2018.<sup>316</sup> The CCI meeting had succeeded in breaking the deadlock for fresh delimitation of constituencies. The Sindh had agreed for holding elections on the basis

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<sup>312</sup> Ibid.

<sup>313</sup> Ibid.

<sup>314</sup> Amir Wasim, "CCI breaks deadlock on delimitation," *Dawn*, November 14, 2017, <https://www.dawn.com/news/1370333>

<sup>315</sup> Ibid.

<sup>316</sup> Ibid.

of provisional census data while following the federal government that a third-party audit of certain population blocks would be conducted.

In National Assembly, the 24<sup>th</sup> amendment bill was introduced on 16 March 2017 by the government to further amend the Constitution of 1973. As the session started one of the opposition parties, the MQM was not agreed to support the bill because of its reservations over the census. The MQM demanded that five percent of census block would be audited instead of one percent as decided earlier at CCI meeting.<sup>317</sup> Speaker Ayaz Sadiq had arranged a meeting in his chamber to address the reservations of MQM with other opposition parties PPP and PTI.<sup>318</sup> PM Shahid Khaqan Abbasi was also called for the meeting. The PM assured MQM that the census issue would be once more referred to CCI for accepting the MQM's demand that a third-party audit of 05 percent population blocks would be conducted. After the assurance of PM, the MQM has decided to support the bill. In addition, after session became in progress and the Law Minister read the "Statement of Objects and Reasons" of the constitutional amendment bill, Dr. Arif Alvi of PTI objected on "Statement" that it does not include the word "PTI" only PPP and MQM are mentioned in it.<sup>319</sup> Therefore, on his demand, the draft was further amended and all the parties were mentioned in "Statement of Objects and Reasons" of the bill.

Dr. Arif Alvi from opposition benches also proposed an amendment in Clause 2 of the bill which says (i) in paragraph (b), in the proposed proviso to clause (5), after the words "the next general election" the word "only" shall be inserted; and (ii) after the words "the Federal Government" the words "within two weeks of the passage of this Act"

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<sup>317</sup> Amir Wasim, "National Assembly legislation paves way for timely elections," *Dawn*, November 17, 2017, <https://www.dawn.com/news/1371018>

<sup>318</sup> *Ibid.*

<sup>319</sup> Debates, 5<sup>th</sup> Parliamentary year, 49<sup>th</sup> sess., 2017, Vol XLIX, no. 1: 43.

shall be added.<sup>320</sup> While explaining his amendment, he said that the word “only” is necessary for assurance that the provisional data of census 2017 would not be used other elections except 2018.<sup>321</sup> Similarly, the time limitation is also necessary for the Federal government to publish the census data. Zahid Hamid from treasury benches responded that the word “only” would create confusion in the future, as the proviso said “provided that for purposes of the next general elections to be held in 2018 and by-elections related”.<sup>322</sup> If the word “only” added to this proviso it means that it would apply to next general election only and not to by-election which would create confusion. Furthermore, he assured the opposition member that the census data would be published before two weeks. Therefore, he requested to PTI MNA to withdraw the amendment. After the assurance of the government, Dr. Arif Alvi has withdrawn his amendment.

Another amendment from the opposition benches was proposed by an independent MNA Jamshed Dasti. He suggested that the numeral of seats of the assemblies should not be altered in the absence of the absolute data of the census published by the Pakistan Bureau of Statistics (PBS).<sup>323</sup> He extended that this may be challenged in the superior courts. However, this amendment was rejected by the Law Minister and consequently did not adopt by the House.

Dr. Nafeesa Shah of PPP also suggested an amendment in the seats allocation. The amendment said that FATA general seats 12 should be substituted with 10, and the 02 seats should be allocated to women of FATA. Similarly, in Federal Capital, general seats 03 should be brought down to 2, and the 01 seat should be allocated to women of the Federal Capital.<sup>324</sup> However, this amendment was not carried forward by the

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<sup>320</sup> Ibid. 52.

<sup>321</sup> Ibid. 54.

<sup>322</sup> Ibid. 56.

<sup>323</sup> Ibid. 48.

<sup>324</sup> Ibid. 57.

speaker as it was not presented in written to the Speaker of NA, therefore, it was not considered by the government. Hence, the twenty-fourth constitutional amendment bill was passed from the NA with 242 votes in its favour out of 342. All the parties supported the bill except one independent MNA Jamshed Dasti who voted against the bill. Although, this constitutional amendment bill passed effortlessly from the NA, in Senate, it required a strong lobbying from the government to pass the bill.

After passing from the NA, the twenty-fourth constitutional amendment bill became controversial before presenting in the Senate. PPP's parliamentary leader in the Senate, Taj Haider, clearly expressed that PPP would not assist the government in passing the 24th amendment bill in the Senate without accepting its proposal of the 05 percent census blocks audit on a third party.<sup>325</sup> He lamented that the government is not fulfilling its promise in this regard, as PM Shahid Khaqan had informed Sindh CM Murad Ali Shah that the government is not agreed with PPP's proposal. Though, this demand was accepted by PM in the session of NA on 16 March 2017 when the 24<sup>th</sup> amendment bill was introduced.

Similarly, at CCI meeting, the entire participants agreed to conduct audit of one percent census blocks on a third party. However, The Express Tribune reported that PPP want to make a secret deal with PML (N) for grabbing some seats in the next Senate elections from South Punjab in return of supporting the bill.<sup>326</sup> It also said that Asif Ali Zardari, Co-chairman of PPP needed a strong guarantee from the government that his sister Faryal Talpur would be the next Chairperson of the Senate. However, government

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<sup>325</sup> Amir Wasim, "Senate meets today as standoff over delimitation bill persists," *Dawn*, December 11, 2017, <https://www.dawn.com/news/1375911>

<sup>326</sup> Sardar Sikande, "Delimitation bill: Government in intense lobbying for two-third majority in Senate," *The Express Tribune*, December 10, 2017, <https://tribune.com.pk/story/1580410/1-delimitation-bill-govt-intense-lobbying-two-thirds-majority-senate/>

refused of any deal with PPP or any other political party.<sup>327</sup> It argued that the 24th amendment bill is in the national interest to avoid any delay in general elections. It is to be noted that PPP was the major party in the Senate comprised of 25 senators without Senate Chairman Mian Raza Rabbani. PPP opposition of the bill had made hard for the government to pass the bill.

For this reason, the Senate was unable to pass this delimitation of constituencies' bill. The bill was placed on the floor of the Senate on 17<sup>th</sup> and 20<sup>th</sup> November 2017, however, deferred due to the absentees of many senators. Therefore, the government failed to secure the required numbers of senators to pass the bill. It was not only PPP's senator who remained absent from the session but also some senator of PTI and MQM remained absent.<sup>328</sup> Consequently, the government had started a powerful campaign to address the reservation of the opposition benches.

The President of PML-N Nawaz Sharif had given the task to Prime Minister Shahid Khaqan Abbasi for convincing the mainstream political parties to approve as early as possible the constitutional amendment bill on delimitation of constituencies for holding in time general elections.<sup>329</sup> For this purpose, the PM Abbasi first approached PPP leadership for winning their support to pass the legislation. Similarly, he also talked to Opposition leader Syed Khursheed Shah while expressing his desire to meet Asif Ali Zardari and Bilawal Bhutto. Likewise, the PM Shahid Khaqan Abbasi had also chaired a meeting of all parliamentary parties in this regard in which the parliamentary parties were represented by their senators. It was this meeting which had a breakthrough in

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<sup>327</sup> Ibid.

<sup>328</sup> Wasim, "Senate."

<sup>329</sup> Sardar Sinkander, "Delimitation bill: Abbasi Tasked with wooing opposition," *The Express Tribune*, November 08, 2017, <https://tribune.com.pk/story/1552662/1-delimitation-bill-abbasi-tasked-wooing-opposition/>

bringing consensus in the mainstream parliamentary parties on delimitation of electoral constituencies under the provisional results of the population census.<sup>330</sup>

The participants decided about 24<sup>th</sup> Constitutional Amendment Bill 2017 for fresh delimitation of electoral constituencies which was introduced in Senate on Dec 19 and had passed the same day. Leader of the Opposition in the Senate Aitzaz Ahsan said that all parties have been agreed to vote for the bill in the Senate.<sup>331</sup> He said it has also been agreed that the re-audit would be conducted within 30 days by demographers and the PM Abbasi would monitor it himself.

After the success of the government in persuading the opposition to support the twenty-fourth constitutional amendment bill 2017, it was moved in the Upper House by Minister for Parliamentary Affairs Sheikh Aftab. All the parties except one senator of PML voted in favour of the bill.<sup>332</sup> This important bill secured 84 votes in its favour and one vote was against it. The only Senator was Kamil Ali Agha who voted against this bill. However, neither debate was held nor amendment was proposed from the opposition benches. As most of the demands were accepted by the government in the meetings held outside the Parliament. Leader of the House Raja Zafar-ul-Haq told the House that the amendment is in the continuation of democracy.<sup>333</sup> He argued the passing of constituencies' delimitation bill was not possible without the support of opposition parties. He thanked the opposition parties for supporting and contributing in the bill.

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<sup>330</sup> "Breakthrough as parties reach consensus on delimitation bill," *DAWN*, December 16, 2017, <https://www.dawn.com/news/1376942>

<sup>331</sup> *Ibid.*

<sup>332</sup> The Senate of Pakistan Debates, 15<sup>th</sup> Parliamentary year, 271<sup>st</sup> sess., 2017, Vol. XIV, no. 07: 90

<sup>333</sup> *Ibid.* 95.

### **3.6- Twenty-Fifth Constitutional Amendment Bill**

Twenty-Fifth Constitutional Amendment Bill also called KP-FATA merger bill provides amendment in Article 1 of the Constitution which delineates Pakistan's territory and declares FATA as a single physical entity beside other four provinces. Now, this amendment has abolished the separate entity of FATA and merged it with KP.<sup>334</sup> This bill has also amended Articles 51 and 59, which is related to number of seats allotted to every province in NA and provincial assemblies. Moreover, the number of seats of the Senate has reduced to 96 from 104 as FATA separate representation has been ended. Similarly, this bill has changed Article 246 to manifest has been the unification of tribal areas with their respective provinces whereas Article 247 has been abolished.

However, it is worth mentioning that before the introduction of 25<sup>th</sup> amendment bill, the government had formed FATA Reforms Committee, and on the recommendation of this committee KP-FATA merger bill was introduced in the Parliament. On Nov 8, 2015, the prime minister announced the formation of a Fata Reforms Committee headed by his adviser on foreign affairs Sartaj Aziz.<sup>335</sup> The other members of the committee were Minister for SAFRON Lt-Gen (r) Abdul Qadir Baloch as secretary, KP Governor Sardar Mehtab Khan Abbasi, National Security Adviser Lt-Gen (r) Naseer Khan Janjua and the government's top legal expert, MNA Zahid Hamid. The FATA reforms were also on the agenda of National Action Plan<sup>336</sup> (NAP). According to paragraph 12, there

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<sup>334</sup> Twenty-fifth Constitutional Amendment Bill, 2018

<sup>335</sup> Khalid Aziz, "FATA Reforms: An Opportunity," *DAWN*, November 30, 2015, <https://www.dawn.com/news/1223246>

<sup>336</sup> National Action Plan (Pakistan): The National Action Plan is an action plan that was established by the Government of Pakistan in January 2015 to crack down on terrorism and to supplement the ongoing anti-terrorist offensive in Federally Administered Tribal Areas.

will be administrative and development reforms in Fata resulting in the early return of IDPs.

The Committee had visited all the agencies of the FATA and met with elders of different agencies. After a detailed survey, the committee was of the view that FATA should be merged with KP, also submitted different recommendations in this regard. The recommendations of the committee pave way for the twenty-fifth constitutional amendment bill.

It is interesting that the opposition parties had also built pressure on the government to introduce FATA reforms and merged it with KP. In this regard, the opposition parties had staged several protests to pressurize the government. On 20<sup>th</sup> July 2017, several opposition parties had recorded protests in front of Governor's House Peshawar.<sup>337</sup> In the protests, all the major opposition parties PPP, PTI, ANP, QWP and JI participated with student's organizations and civil societies. They threatened the government that if their demand were not accepted, they would continue the protest. Similarly, on 10<sup>th</sup> October 2017, more than ten hundreds people from FATA and KP gathered in D-Chowk to demonstrate against federal government; they demanded the government to introduce reforms in FATA and merged it with KP.<sup>338</sup> Similarly, in the protests, different opposition parties including PPP, PTI, ANP, QWP and JI and FATA parliamentarians have participated. Notwithstanding, the only two parliamentarian parties which opposed the merger of FATA were JUI-F and PkMAP, they were also allies of PML-N government.

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<sup>337</sup> "Tribals stage sit-in against in KP-FATA merger," *DAWN*, July 20, 2017. <https://www.dawn.com/news/1346454>

<sup>338</sup> Asim Yasin. "Thousands converge on D-Chowk seeking Fata's merger with KP," *The NWES*, October 10, 2017, <https://www.thenews.com.pk/print/235867-Thousands-converge-on-D-Chowk-seeking-Fatas-merger-with-KP>

*Moulana* Fazal-ur-Rahman, Head of JUI-F while talking to media said that they were against the government decision to amalgamate FATA with KP as it has no benefit for the people of FATA in the longer run.<sup>339</sup> He argued that the JUI-F would resist every decision that is against the aspiration of the people of FATA. PkMAP was of the opinion that FATA has its own independent status and it should be remained.

Chaudhry Bashir Virk Minister for Law and Justice moved the 25<sup>th</sup> Constitutional amendment bill that was warmly backed up by not only the major ruling party but also by the opposition parties.<sup>340</sup> However, JUI-F and PkMAP, the two partners in PML-N government and one member of NA from FATA were against the bill. They walked out from the session in protest during the voting on the bill. The twenty-fourth constitutional amendment bill, 2017 was passed with 229 votes in its support and only one vote was against it. The constitutional amendment required two-thirds votes of the House or 228 members, and the government succeeded in arranging it with strong support of opposition benches.

PTI Chairman Imran Khan from opposition benches congratulated the House on the passing of this historical amendment bill, and argued that time would show the importance of the exemplary decision.<sup>341</sup> He proposed that a committee should regularly meet and consider the problems that may be confronted in implementation of 25<sup>th</sup> constitutional amendment. He extended that the tribal people had no voice despite being citizens of Pakistan. However, through this amendment, their grudges would be addressed to a great deal. He informed the House that the implementation of this law would take time due to lack of proper infrastructure in the FATA.

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<sup>339</sup> "Opposition parties want FATA merger before next polls," *DAWN*, March 03, 2017, <https://www.dawn.com/news/1318097>

<sup>340</sup> Debates, 5<sup>th</sup> Parliamentary year, 56<sup>th</sup> sess., 2018, Vol. LVI, no. 18: 94.

<sup>341</sup> *Ibid.* 101.

PPP leader Naveed Qamar also from opposition benches argued that the eradication of colonial legacy from the FATA is a positive step towards its development.<sup>342</sup> It has not only satisfied the aspiration of the people of FATA but also the masses across Pakistan. He expressed gratitude to all the political parties to act with unity, adding that in spite of differences, almost all the parties supported this bill. He argued this is not only the amendment bill of KP-FATA merger but it has almost abolished the misunderstanding between the people of FATA and everyone else in the country.

Representing MQM in NA, Dr. Farooq Sattar from the opposition benches debated that MQM is of the opinion that FATA should be a separate province.<sup>343</sup> However, for the sake of national interest and political unity, we are supporting this bill. He suggested that 19 more provinces should be made on administrative basis including Karachi. He was of the view that referendum should be held in FATA for making it separate province before its amalgamation in KP because it would be difficult after the merger.

The PkMAP's Abdul Qahar Wadan while underscoring his party's statement told the House that from the very first day they have termed this bill controversial. He was of the opinion that desire of the people of FATA has been ignored as it is their right to decide their own destiny. He said that they desire for their own province, chief minister, public service commission etc. Jamal Uddin of JUI-F termed the day as "Black Day" because the Parliament has abolished the word "FATA" from the Constitution of Pakistan.<sup>344</sup> He claimed that the decision to merge FATA with KP is the agenda of foreign enemies of Pakistan. He said that PML-N and PTI always cursing each others, however, now they have united to exploit the rights of tribal people.

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<sup>342</sup> Ibid. 114.

<sup>343</sup> Ibid. 119

<sup>344</sup> Ibid. 124.

Furthermore, an independent MNA from the opposition benches argued both JUI-F and PkMAP were against the merger because after passing this bill they would not get any funds in the name of FATA.<sup>345</sup> He alleged that they have divided the tribal people for their political gains however the Parliament has exposed their true faces. He argued that the nation would badly defeat those in the next elections who are opposing the merger of FATA. The only member from the opposition benches who voted against the bill was Dawar Kundi. He proposed that FATA should be made a separate province instead of merging it with KP.<sup>346</sup> He said that this amendment bill is not only against the Constitution but also the federation. He suggested that instead of making more administrative units, we are eliminating the other units therefore, this amendment bill should not be passed.

Before the twenty-fifth constitutional amendment bill was moved in Upper House, Leader of the Opposition Sherry Rehman of PPP acknowledged the constitutional right of those who are against the bill.<sup>347</sup> She told the House that it was Zulfikar Ali Bhutto, the founder of PPP who established a committee for mainstreaming of FATA in 1970s. Similarly, ex-prime minister and ex-chairperson of PPP Benazir Bhutto went to Supreme Court on this issue. Therefore, the major opposition party, PPP is the strong supporter of the FATA merger with KP.

Senator Usman Kakar of PkMAP from treasury benches named today and yesterday as black day since KP-FATA merger bill was passed by the NA and Senate.<sup>348</sup> He repented that previously the tribal area was exploited as a hub for the terrorists during the war in Afghanistan, despite the fact that tribal people hated terrorism. Likewise, Moulana

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<sup>345</sup> Ibid. 127.

<sup>346</sup> Ibid. 132.

<sup>347</sup> The Senate of Pakistan Debates, 16<sup>th</sup> Parliamentary year, 278<sup>th</sup> sess., 2018, Vol. VII, no. 02: 34.

<sup>348</sup> Ibid. 19.

Ghaffor Haideri of JUI-F also from treasury benches criticized PML-N government for changing the status of FATA while ignoring the aspiration of the tribal people.<sup>349</sup> He argued that JUI-F viewed FATA as a separate entity therefore; its distinct status should remain intact. No decision without the consent of the people of FATA should be imposed on them. In protest, the senators of JUI-F walked out from the Senate. Furthermore, *Ameer* JI Senator Siraj-ul-Haq from opposition benches emphasized that the amalgamation of FATA with KP would not only make KP province stronger but also increase the number of seats in the Parliament. He also denounced the Frontier Crimes Regulations (FCR)<sup>350</sup> that it was a black law imposed by the British colonizers. Voting in favour of the bill, MQM Senator Barrister Saif said that certain articles have been circumvented.<sup>351</sup> He argued that actually the creation of new provinces and administrative units in the country is needed in terms of better management of the affairs. And it is due to the fact that big provinces had time and again failed to address the public concerns. PTI parliamentary leader in the Senate Muhammad Azam Swati said, “We succeeded as we passed the bill, but you miserably failed in your motives,” he said while referring to the JUI-F Senator Maulana Ghafoor Haideri for criticizing the bill.

Senator Raza Rabbani said that actually the initiative for FATA Reforms bill has not taken by the parliament on its own.<sup>352</sup> He said that the former President Asif Ali Zardari was prevented from the reforms by “certain forces” who actually did not want to merge the areas with Khyber Pakhtunkhwa. However, he said, when the intentions of those

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<sup>349</sup> Ibid. 37.

<sup>350</sup>The Frontier Crimes Regulations were a special set of laws of British India, and later in Pakistan which were applicable to the Federally Administered Tribal Areas. They were enacted by the British ruler in the nineteenth century and remained in effect in Pakistan until 2018.

<sup>351</sup> Ibid. 30.

<sup>352</sup> Ibid. 25.

forces were changed, the parliament follows suit. He, however, said that despite several attempts of the Parliament, the merger had not been made possible. But reforms were launched after the corps commanders' conference and the National Security Council meeting. He said that indeed it is very unfortunate for the parliament that it could not act on Fata reforms on its own but on from the outside influence it did. Likewise, Senator Rabbani also opposed the rising calls for creation of new provinces on the administrative grounds while clarifying that provinces have their unique ethnicities, cultures, languages and histories. Therefore, "A province cannot be made until these ingredients are present."

### **3.7- Conclusion**

To sum up, parliamentary opposition parties have significant role in all the constitutional amendments in PML-N government especially in 25th constitutional amendment or KP-FATA merger bill, which was the efforts of all the opposition parties; although, two important allies of the government was against this bill. Opposition parties had built so much pressure on the government that despite the opposition of government allies, the bill had been introduced and passed by PML-N government. MQM was the only opposition party which had reservation over the KP-FATA merger bill, even though, they supported the bill in larger interest of the nation. However, the opposition parties have strong reservations over 21<sup>st</sup> and 23<sup>rd</sup> constitutional amendment bill. Several meetings were held between the opposition and government to develop consensus over this bill. However, PPP, the major opposition party had succeeded to insert new clauses to the bill of their choice. PPP had proposed seven new clauses in which only four clauses were accepted by the government. It was important that PPP had maximum seats in the Senate and without the approval of PPP the government could not pass this bill from the Upper House. Other opposition parties

PTI, MQM, and ANP had supported the bill without any condition. Some of the members of these parties even the members of PPP have strong reservations over this amendment but supported the bill due to party pressure. In the National Assembly, JI and MQM have also proposed amendments in the bill but rejected by the government. The government has also overruled the amendments of even their allies in the government. Similarly on 22<sup>nd</sup> amendment bill, opposition has strongly criticized the government for the timing of the bill. They argued that a very short time has given for debate on the bill. They also disparaged the language of the bill that it has a very poor drafting. However, majority of the opposition voted in favor of the bill and did not make any hurdles for the government in passage of the twenty-second constitutional amendment bill.

Furthermore, it was in 24<sup>th</sup> amendment bill in which the opposition parties, especially the major opposition party PPP had proposed different demands to support the bill. They have given a tough time to the treasury benches, especially in the Senate in passing this 24<sup>th</sup> amendment bill. As the government was unable to pass the bill from Senate, in the NA session, the MQM accepted its demand from the government to conduct audit of five percent census block from a third party, and then support the constitutional amendment bill. After passage of the bill from NA, however, the government felt reluctant to fulfill its promise. Therefore, the opposition parties did not attend several sessions of the Senate and the government has failed several times to pass the bill from Upper House. The opposition, especially PPP was stick to its demand of conducting audit from a third party of selected population blocks to remove the errors from 2017 census. Consequently, the government compelled and agreed with the demand of the opposition to pass the bill. The opposition reservations were genuine as there were several reservations over the 2017 census. It showed that the opposition parties had

active role in the constitutional amendments. They proposed alternative policies in this constitutional amendment and did not make any concrete hardships for the government. Overall the role of parliamentary opposition parties was friendly and cooperative. They not only proposed alternative policies but also backed up all the amendments. Opposition parties had majority in the Upper House but they assisted the government in different extra-ordinary situation.

It is pertinent to mention that without the assistance of the opposition the government could not pass any constitutional amendments, as it required two-third majority and the government did not possess the require majority in the Senate. Hence, the opposition was friendly and cooperative as it did not make any obstacle in the way of government to pass these constitutional amendments.

## **CHAPTER- 4**

### **LEGISLATION IN PML-N GOVERNMENT, 2013-2018: ROLE OF PARLIAMENTARY OPPOSITION**

#### **4.1- Introduction**

In the wake of general elections 2018, PML-N emerged as clear majority party in the National Assembly of Pakistan with 190 seats out of 342. Meanwhile, PPP, PTI and MQM emerged as major opposition parties by securing 47, 31 and 24 seats respectively. As Pakistan has multi-party system, therefore, besides these four parties other 15 parties also succeeded to find way to the Parliament in the general elections 2013. Although, PML-N could form government without the support of any other party, it included JUI-F, PkMAP and NP in making government. The other 15 parties set on the opposition benches. Therefore, the opposition comprised of different political parties with different ideologies. In this chapter, the role and contribution of the opposition parties has been analyzed in different legislation from 2013 to 2018. In PML-N government, parliament had significantly performed in making legislation. It had passed 205 bills- 182 government and 23 private member's bills- from the NA, out of which 157 became laws. However in the legislation process, opposition parties have played very effective role especially in Senate. While PML-N had strong numbers in the NA, Senate was dominated by the opposition. It was a difficult task for the government to pass any bill from the Upper House without the support of the opposition parties. In order to analyze the role of opposition in PML-N government, several important bills have been studied in this chapter.

#### **4.2- The Anti-terrorism (Amendment) Bill, 2014**

The Anti-terrorism (Amendment) Bill, 2014 was moved in the NA by Zahid Hamid of PML-N, Minister for Science and Technology. The bill purpose was to remove the reservation of international organizations especially FATF which made rules for Anti Money Laundering and Counter Financing of Terrorism (CFT). This bill amended the Anti-Terrorism Act (1997) to stop money to terrorist groups via money-laundering. It also empowered the security forces to kill at sight those who do not follow the orders.

Most of the amendments in the bill were moved by the treasury benches which were adopted by the House, however, some of the amendments were proposed by the opposition benches. Like, in Clause 3 “including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions” was added after the word “foreign”.

This was proposed by PTI’s MNA Dr. Arfi Alvi from the opposition benches.<sup>353</sup>

Similarly, the insertion of a new section 11CC was moved by Zahid Hamid of PML-N, he explained that it was the demand of the opposition.<sup>354</sup> Section 11CC says that the Federal Government shall constitute a Proscription Review Committee, comprising three Government officers, including a representative of the Ministry of Law and Justice, with the Chairman of the Committee being a person not below the rank of a Joint Secretary to the Federal Government, to decide, within thirty days, review applications filed under section 11C and 11EE. Moreover, in Clause 8 sub-section (2) (see addendum) the word “wilfully” was substituted with the word “recklessly” by the demand of the opposition parties PPP, PTI and MQM.<sup>355</sup>

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<sup>353</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 8<sup>th</sup> sess., 2014, Vol. VII, no. 8: 96.

<sup>354</sup> Ibid. 99.

<sup>355</sup> Ibid. 102.

Another opposition party JI also proposed two amendments in the bill, however, rejected by the government. Sahizada Tariqullah of JI proposed that new proviso should be added in Clause 3 and the proposed section 11B. The proviso says that provided before the listing and organization or person as proscribed or organization in the First Schedule on an ex-post basis, and organization or individual whatever the case may be, must be heard and should be given full opportunity to satisfy the Government regarding allegations leveled upon that organization of an individual.<sup>356</sup> Sher Akbar Khan of JI also tabled an amendment in Clause 3, the words “and the High Court has power to decide the matter with cause against the person or Government” should be added at the end of paragraph 3.<sup>357</sup> However, both the proposed amendments of JI were rejected by the treasury benches. It is also important that other major opposition parties did not emphasized on the proposed alternatives of their co-bencher. Basically, JI is a religious party while the other opposition parties are based liberal ideologies. So, this difference of opinion in the opposition parties was based on their different ideologies.

Before presenting the bill in the Senate, it was discussed in the Senate Standing Committee on Interior Affairs and Narcotics. In the Standing Committee meeting, more parties were of the view that security agencies would exploit the powers given to them in this bill.<sup>358</sup> Senator Talha Mehmood of JUI-F chaired the meeting and argued both the treasury and opposition benches should choose an intermediate way for the passage of the bill and made sure that the law-enforcement agencies do not misuse the power given to them. The member of opposition benches Senator Tahir Mashhadi of MQM proclaimed that the law would be practice against political worker because the law-

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<sup>356</sup> Ibid. 96.

<sup>357</sup> Ibid. 101.

<sup>358</sup> Peer Muhammad, “Anti-terrorism bill: Disagreement over anti-terrorism bill amendments persists,” *The Express Tribune*, April 02, 2014, <https://tribune.com.pk/story/690220/anti-terrorism-bill-disagreement-over-anti-terrorism-bill-amendments-persists/>

enforcement agencies are already using the current law against political parties.<sup>359</sup> He extended to give much power to the security agencies of the country, like to imprison someone for 3 months would be unfortunate. Moreover, Sardar Ali the Senator of PPP also from opposition benches lambasted that the government is trying to make this law only for the people of Karachi as it looked like that it would be used against the workers of those political parties which are stronger in Karachi.

The Senate Standing Committee on Interior had made three amendments in the bill, including one that order to open fire on suspects should be given by a police officer of Grade-17 or above or equivalent to the rank in case of armed forces or civil armed forces or by a duty magistrate.<sup>360</sup> The committee other amendment is that any detained person under this law shall be provided facility of medical check-up. The third amendment is that where an investigation officer dishonestly and falsely involves, implicates or arrests a person shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. The Senate had incorporated all the amendments in the bill.

Before passing the Anti-Terrorism (Amendment) Bill, 2014, Leader of the Opposition in the Senate Aitzaz Ahsan argued that the opposition benches are allowing the passage of the bill because they are completing the 90-day period.<sup>361</sup> He extended “We are doing this on the assurance of the government that it would introduce amendments in this bill soon to address the reservations of the opposition benches.” Federal Minister for Science and Technology Zahid Hamid promised that the government would incorporate amendments which were promised with opposition benches.<sup>362</sup>

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<sup>359</sup> Ibid.

<sup>360</sup> Imran Mukhtar, “Rare consensus in the Senate as five bills passed,” *The Nation*, June 05, 2014, <https://nation.com.pk/05-Jun-2014/rare-consensus-in-senate-as-five-bills-passed?version=amp>

<sup>361</sup> The Senate of Pakistan Debates, 12<sup>th</sup> Parliamentary year, 105<sup>th</sup> sess., 2014, Vol. VI, no. 02: 7.

<sup>362</sup> Ibid. 8.

Muzaffar Hussain Shah of PML-Functional raised an objection on the language of the Anti-Terrorism (Amendment) Bill relating to counterterrorism financing regime.<sup>363</sup> He claimed that it seemed that the Senate committee has approved the bill in hurry. Zahid Hamid from treasury benches responded that these terms had been comprehensively explained in the law after he had read out a clause of the bill.<sup>364</sup> However, the bill was passed unanimously by the Upper House.

By concluding, the opposition has very much cooperated with the government, especially in Senate. In Senate the opposition has more seats than the government. As this was demand of FATF to remove certain deficiencies from the laws concerned. Also, if Senate did not pass the bill, it would have complete its time of 90 days which would then presented in joint session of the parliament. In this regard, the opposition parties have strongly supported the government in the national interest of the country, although, opposition has strong reservation over the bill. The government has shown some flexibility by incorporating several amendments of the opposition not only in national assembly but also in Standing Committee of Senate. It is appropriate that the opposition benches has made to some extent soft the harsh clauses of the bill.

#### **4.3- The Seed (Amendment) Bill, 2014**

The Seed Amendment Bill, 2014 was tabled by Rajab Ali Khan Baloch on the floor of the NA. The bill was passed without any debate and any amendment from the opposition benches. The bill provided that illegal hybrid and quasi-hybrid seeds should be forbidden in the country. If anyone found involved in the business of these seeds would be punished with recommended imprisonment as well as fine.<sup>365</sup> The bill also suggested the establishment of a committee that had the power of authorization of seed companies in Pakistan. Besides, the company would re-registered itself after

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<sup>363</sup> Ibid. 9.

<sup>364</sup> Ibid. 11.

<sup>365</sup> The Seed (Amendment) Bill 2014

assessment of their one year operation in the country. Fundamentally, the bill was made to develop the prevailing law, hence, to make it compatible in the contemporary seed industry and Pakistan's responsibilities committed with World Trade Organization.<sup>366</sup> The main aim was to establish more place for private companies, and to abolish the monopoly of the companies run by the government.

Before passing from the Senate, the bill was referred to Standing Committee of National Food Security in Senate. In the Standing Committee the bill was opposed by Senator Mohsin Khan Leghari by arguing that allowing genetically modified (GM) seeds into the country while ignoring the enactment of rules and procedures for the importation of the seeds would harm the agriculture's industry.<sup>367</sup> He told the house the concerned ministry should assure that the seeds imported to Pakistan did not possess any disease and appropriate for the environment of the country. He argued the bills was passed from the NA in hurriedness whereas ignoring the implications these seeds into our own country. He was of the view that NA could not debate the bill because it was a provincial assemblies' authority to enact such laws. As after 18<sup>th</sup> amendment it is the authority of the provinces to enact such laws, or any provincial assembly shall pass resolution in this regard then the Parliament could pass such legislation. However, a civil servant without showing his identity with Dawn newspaper claimed that PML-N's government had misled the Standing Committee of Senate about the passing of the resolutions of all the four provinces under article 144 of the 1973's constitution.<sup>368</sup> He extended that due to this reason the federal government was allowed to make changes in the law. Therefore, the bill was passed by the Senate Standing Committee.

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<sup>366</sup> Muhammad Afzal, "Rule for seed business," *Dawn*, April 27, 2015, <https://www.dawn.com/news/1178360>

<sup>367</sup> "Senate body approves controversial bill on importing GM crops seed," *Dawn*, June 11, 2015, <https://www.dawn.com/news/1187523>

<sup>368</sup> Ibid.

However, the bill was not present for debate in the Senate due to controversy that agriculture is a provincial subject and center could not legislate on this. It was obvious that the NA also could not pass the bill because of the lack of resolutions from the assemblies of Punjab, KP, Sindh and Baluchistan.<sup>369</sup> Besides, without the relevant resolutions from provincial assemblies, it would have created legal barriers for the federal government; in addition, civil societies and other activists had also opposed this legislation. Fifty non-governmental organizations (NGOs) from all over Pakistan had advised the Senate not to pass this bill which the NA had silently passed previous month.<sup>370</sup> The NGOs claimed that the suggestions of vital shareholders i.e. farmers, were ignored in preparing the Seed bill, and was safely passed from the NA in the absence of a proper debate. They argued the law would increase the dependency of farmers on multi-national companies, which would ultimately harm the progress and development of the country. Similarly, Dr. Wizarat<sup>371</sup> had also serious objections on the changes in the Seed Act of 1976. She believed that the passage of this bill would fill the market with genetically modified seeds that would resultantly not only harm the farmers but also common people.<sup>372</sup> Consequently, the bill was not even presented for debate in the Upper House. Although, there was no active opposition from the opposition benches, the government understood the grave aftermaths of the bill.

#### **4.4- Pakistan Protection Bill, 2014**

The Pakistan Protection Bill, 2014 was moved by Minister of Science and Technology Zahid Hamid of PML-N on the floor of the NA. As the bill was tabled, the opposition

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<sup>369</sup> Azra Talat Sayedd, "Dilemma of the amended seed act," *Dawn*, July 13, 2015, <https://www.dawn.com/news/1194012>

<sup>370</sup> Faiza Ilyas, "50 NGOs urges Senate to block bill on seeds," *Dawn*, April 05, 2015, <https://www.dawn.com/news/1173928>

<sup>371</sup> Director research and HOD economics at the Institute of Business Management, Karachi.

<sup>372</sup> Haneen Rafi, "Senate's passing of seed law to flood market with harmful GM's food," *Dawn*, July 31, 2015, <https://www.dawn.com/news/1197501/newspaper/column>

leader criticized the government for not taking the opposition in confidence. Opposition leader Khursheed Shah warned the government that without developing consensus between the opposition and treasury benches and moving the bill in the NA would be contradictory to parliamentary practices, therefore, it would be difficult for the government to pass the bill in the Senate as there opposition were in majority.<sup>373</sup> He also criticized the different clauses of the bill that it empowers the law enforcement agencies to kill anyone in good faith, so what does the word “good faith” means. Similarly, through this bill the law enforcement agencies could enter any house without any warrant. He also rejected the clause which empowers the law enforcement agencies to captivate anyone for 90 days on suspicion without informing his family.

In the meantime, PTI's MNA Shah Mehmood Qureshi told the house the bill was approved by the standing committee while ignoring the reservation of the opposition benches.<sup>374</sup> Shireen Mazari of PTI from opposition benches argued that PML-N government should proclaimed ‘civilian dictatorship’ in the country because it was making an authoritarian decisions.<sup>375</sup> Farooq Sattar of MQM termed the bill as black law and said that it is an unconstitutional behavior of the government.<sup>376</sup> He feared it would be exploited against the political workers. He further argued that the government is confused as on one hand it has started dialogue with terrorist outfits and freed some of their members and on the other hand it is enacting this type of legislation. He, therefore, asked against whom the law would be used. Another member from opposition benches, Aftab Sherpao, parliamentary leader of QWP also termed the law more dangerous than FCR.<sup>377</sup> He informed the house it would have the same fate like

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<sup>373</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 10<sup>th</sup> sess., 2014, Vol. X, no. 10: 66-68.

<sup>374</sup> Ibid. 69.

<sup>375</sup> Ibid. 90.

<sup>376</sup> Ibid. 72.

<sup>377</sup> Ibid. 81.

Antiterrorism Act of 1997 which was also passed by PML-N's government, and was called extra-constitutional by SC of Pakistan.

Qadir Baloch, a state minister from treasury benches, responded on the reservation of the opposition benches that government want to safeguard the life and property of the country's citizens which require shielding law.<sup>378</sup> He argued that the condition of law and order has been deteriorating since 1999, however, the last two governments did not make any such law to protect the country and its people. He said it is unfortunate that terrorism has killed more than forty thousand people in Pakistan and the members of previous governments are still against the enactment of a protective law. However, members of opposition benches continued their protest, some parliamentarian even ripped the copies of the law.

At the same time, the treasury benches rejected all the proposal made by the opposition benches. The bill was passed by the government with majority, however, the opposition walkout from the House in protest. Although, the bill was passed from the NA, it was impossible for the government to pass it in the Upper House. Because the opposition parties had more seat than the government. Besides government ally JUI-F had also opposed the bill. Consequently, the government agreed to establish a committee which would include members from treasury as well as opposition benches to address the reservation of the opposition parties over the bill.

Due to strong position of the opposition parties in the Senate, the government compelled to accept the proposed alternatives in the bill from the opposition benches. According to the proposed alternatives of the opposition benches, the law should stay

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<sup>378</sup> Ibid. 84-85.

promulgated for the term of 2 years rather 3 years.<sup>379</sup> Similarly, the explanation of ‘enemy alien’ had changed which defines belligerent whose identification could not be determined. The custody time period had also decreased from ninety to sixty days for a suspected person and also remand would not more than fifteen days and the orders would be given by a magistrate only. It had also proposed by the opposition benches that if an individual was killed from the firing of law enforcement agencies would be investigated by a judicial committee.<sup>380</sup> The members of judicial committee would be selected by the federal government. Before, this proposal from the opposition benches, the bill included an inquiry commission which would be formed by relevant security agency.

Moreover, the opposition recommended that the order of firing on a suspected person would be permitted only on the basis of authentic evidences that the individual could cause a damage.<sup>381</sup> Tahir Mashadi of MQM suggested that less than scale 15 police officer would not give shoot orders on a suspicious individual.<sup>382</sup> However, the amendment was related to only police officer and no modification occurred in the same clause related to armed forces. Besides, the judicial supervision of all the cases was also the proposed policy of the opposition benches as it was not included in the draft bill approved by the NA.

The Pakistan Protection Bill, 2014 would reverted back to NA when passed from the Senate. As different new amendments had been incorporated in the bill by the opposition parties. Therefore, Zahid Hamid of PML-N from treasury benches tabled the

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<sup>379</sup> Azam Khan, “New Legislation: Senate panel approves Protection of Pakistan Bill,” *The Express Tribune*, June 26, 2014, <https://tribune.com.pk/story/727313/new-legislation-senate-panel-approves-protection-of-pakistan-bill/>

<sup>380</sup> Saba Imtiaz, “Analysis: Another repressive law,” *Dawn*, July 03, 2014, <https://www.dawn.com/news/1116722>

<sup>381</sup> Ibid.

<sup>382</sup> Azam Khan, “New Legislation.”

bill in the Upper House in place of Interior Minister Chaudhry Nisar Ali Khan. The Minister told that due to military operation in North Waziristan, the enactment of the law was very significant.<sup>383</sup> The law sought to increase the authority of the security agencies to contain the acts of terrorists in the country. From the opposition benches, Raza Rabbani of PPP confessed that the law was very severe, however, opposition benches assisted the treasury benches in the passage of the bill owing to the deteriorating condition of law and order in Pakistan.<sup>384</sup> Consequently, the Pakistan Protection bill was passed unanimously from the Senate.

Moreover, the bill was again introduced the NA for approval. This time all the opposition parties supported the bill except JI. Shah Mehmood Qureshi of PTI from opposition benches argued that PTI had strong reservation over the bill, nevertheless, they always stood in support of the law enforcement agencies.<sup>385</sup> Farooq Sattar of MQM argued that the law was indispensable for the protection of our homeland.<sup>386</sup> He contended MQM was of the opinion that harsh law would require to eradicate terrorism from the country. He also told the house that opposition parties had reservation over the law, however, most of the reservations did away with while passing the bill from the Upper House.

The only party from opposition benches who was against the bill was JI including government ally JUI-F. They termed the bill as black law. Both the parties were of the opinion that the law would greatly influenced the life of the common people and would limit theirs freedom in the country. The law has also given unrestricted authority to law

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<sup>383</sup> The Senate of Pakistan Debates, 12<sup>th</sup> Parliamentary year, 106<sup>th</sup> sess., 2014, Vol VII, no. 1: 33.

<sup>384</sup> Ibid. 34.

<sup>385</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 13<sup>th</sup> sess., 2014, Vol. XIII, no. 1: 22.

<sup>386</sup> Ibid. 27-28.

enforcement agencies. However, the bill was passed with majority by NA with the support of the opposition benches.

#### **4.5- The National University of Medical Sciences Bill, 2015**

The National University of Medical Sciences Bill, 2015 was moved in the NA by Khwaja Muhammad Asif to establish The National University of Medical Sciences (NUMS). The university would regulate the army medical collages and hospitals. Syed Naveed Qamar of PPP objected over the bill that it had been introduced in very haste on the first day of the session.<sup>387</sup> On this Khwaja Asif responded that it is not a controversial issue but just the establishment of a university.<sup>388</sup> Dr. Shireen Mazari of PTI from opposition benches objected on the indemnity given to university authority in Clause 31 which says that suit, prosecution and legal proceeding should be held against the university authority.<sup>389</sup> She argued that no such example is found across the world, therefore, such broad indemnity should not be given. Nonetheless, no amendment was moved on the floor of the House by PTI in this regard. Another member from opposition benches, an independent MNA Ghazi Gulab Jamal from ex-FATA suggested that one member from NA should be also be the member of Board of Governor or Syndicate of this university which should be selected by the speaker of the House.<sup>390</sup> However, the objection of PTI's MNA and suggestion of an independent MNA were ignored by the government. The bill was passed with majority by NA without any amendment from the opposition benches.

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<sup>387</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 24<sup>th</sup> sess., 2015, Vol. XXVI, no. 1: 63.

<sup>388</sup> Ibid. 63.

<sup>389</sup> Ibid. 82.

<sup>390</sup> Ibid. 83.

Before passing from the Senate, the bill was sent to the Defense Committee of the Senate. In the Committee only Senator Farhatullah Baber of PPP objected on the bill and proposed that it should be made compulsory for NUMS to adopt Pakistan Medical and Dental Council (PMDC) rules and regulations.<sup>391</sup> He added that the criteria set by the PMDC for students, teachers and courses should be also be followed by the NUMS. However, Farhatullah Baber's suggestion was rejected by the government on the basis that it would delay the law because the bill would then send back to the NA.

In the Senate, the bill was also moved by the Defense Minister Khwaja Muhammad Asif. In Senate, it was also opposed by Senator Farhatullah Baber from opposition benches. Besides the above objection, he also objected on the authority of Pro-chancellor of the university which would be Chief of Army Staff.<sup>392</sup> He argued that unlimited power has been assigned to him which should be reduced. Senator Baaz Muhammad Khan of ANP from opposition benches also supported the suggestion of Farhatullah Baber that the university should be worked under PMDC.<sup>393</sup> Senator Jehanzeb Jamaldeni of BNP (M) also endorsed the objection raised by PPP.<sup>394</sup>

On the objections of several members of opposition, the Defense Minister responded the university would make arrangements for the members of PMDC to visit and verify the courses, faculty and academic standard of the university. It would be made with the permission of Board of Governors (BoG) of the university.<sup>395</sup> He extended that among the members of Board of Governors of this university, one member be nominated by President of PMDC. He requested the opposition to support the bill at this time and

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<sup>391</sup> Mateen Haider, "Senate Committee passes NUMS bill," *Dawn*, September 28, 2015., <https://www.dawn.com/news/1209514>

<sup>392</sup> The Senate of Pakistan Debates, 13<sup>th</sup> Parliamentary year, 120<sup>th</sup> sess., 2015, Vol. XI, no. 5: 63.

<sup>393</sup> Ibid. 65.

<sup>394</sup> Ibid. 66.

<sup>395</sup> Ibid. 79.

assured them if they did not satisfy so they may bring a private member bill to make strong the role of PMDC in this university, the government would support that bill. On the assurance of the Defense Minister, PPP and other opposition parties supported the bill and also withdrawn their amendments. However, other opposition party PTI and PML supported the bill without any condition. They were of the view that PMDC is itself a corrupt institute, therefore, it not necessary that this university should also be regulated by PMDC. Consequently, the bill was passed unanimously by the Senate. The opposition has given tough time to government in the Senate in passing this bill, however, on the assurance of the government it supported the bill. Both the opposition and government have developed a positive attitude towards each other and cooperated in passing this important piece of legislation.

#### **4.6- The Pakistan International Airlines Corporation (Conversion) Bill, 2016**

The Pakistan International Airlines Corporation (Conversion) Bill, 2016 was moved by Sheikh Aftab in the National Assembly on 21<sup>st</sup> January 2016. The bill was passed with majority, however, all the opposition parties except MQM walkout from the session when the bill was moved.<sup>396</sup> Opposition parties had strong reservation over the bill, they alleged that government was privatizing the only airline (PIA) of the country and would fire most of the employees. In response to opposition stance, the Minister for Privatization Muhammad Zubair said that government was not selling Pakistan International Airline (PIA) then it was incomprehension to term the bill as privatization of PIA.<sup>397</sup> He argued that the government is selling specific shares of it and that practice was observed all over the world. He informed the House that PML-N's government has

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<sup>396</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 28<sup>th</sup> sess., 2016, Vol. XXVIII, no. 15: 147.

<sup>397</sup> Ibid. 121-123.

planned to call such private companies which have outstanding experience of management and financially strong so that to modernize PIA and make it more attractive across the world. The minister further argued that political parties always emphasizes on merit, nonetheless, they are now avoiding merit in the matters related to PIA.

However, when this bill was presented in the Senate, the opposition leader Aitzaz Ahsan opposed the bill.<sup>398</sup> Consequently, it was rejected by the Upper House, because the government had not the majority in the House. Opposition had overwhelming majority in the Senate, therefore, it was impossible to pass the bill without the support of all opposition parties.

Subsequently, the treasury benches accepted to establish a ten-member multi-party committee, including members from NA as well as Senate who would proposed suggestions for modification in the law.<sup>399</sup> The committee comprised of both the government and opposition parties including PML-N, NP, JUI-F, PPP, PTI and MQM. In the committee meeting, the minister for privatization guaranteed its members that neither administration nor any shares of PIA would be given to any private companies.<sup>400</sup> The government also gave assurance to the members of opposition benches that no worker of PIA would be fired from its post. In response, the members of opposition parties, mostly from PPP and PTI, proposed that this assurance from treasury benches should be included in the draft copy of the bill. The government accepted the suggestion of the opposition benches and additionally proposed that the government would also form a parliamentary committee to supervise the activities of

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<sup>398</sup> The Senate of Pakistan Debates, 13<sup>th</sup> Parliamentary year, 126<sup>th</sup> sess., 2016, Vol. IV, no. 05: 107-108.

<sup>399</sup> Khawar Ghuman, "Opposition forces govt to defer PIA bill," *Dawn*, March 23, 2016, <https://www.dawn.com/news/1247407/opposition-forces-govt-to-defer-pia-bill>

<sup>400</sup> Amir Wasim, "Govt, opposition inch closer to accord on PIA," *Dawn*, March 30, 2016, <https://www.dawn.com/news/1248793/govt-opposition-inch-closer-to-accord-on-pia>

PIA when the bill would be passed from the parliament. As both the treasury and opposition benches agreed on the contents of the bill, the bill would then be presented in the joint sitting of the Parliament. According to rule 154 (7) of the Rules of Procedure and Conduct of Business in the National Assembly, when the bill is rejected or not passed by the Senate in 90 days it will be referred to the joint sitting of Parliament.<sup>401</sup>

Zahid Hamid of PML-N, minister for Law, presented the Pakistan International Airlines Corporation (Conversion) Bill, 2016 in the joint sitting of the NA and Senate. The objects and reasons of the draft bill declared that PIA has been suffering from continuous losses which are making difficult for exchequer to afford it. Besides, the national airline has not been providing the facilities to the masses of the country as provided by the law. It further declared that the conversion would allow the government to rejuvenate PIA and build a safe and compatible aviation division in the country.

After presenting the bill in the NA, opposition leader Khursheed Shah, prompted the treasury benches of the promises they made in the committee meeting, to draw back the show-causes and to nullify the FIRs and letter of dismissal against the workers of PIA.<sup>402</sup> Senator Aitzaz Ahsan of PPP also told the treasury benches that the cases which are related to administration the government would draw back those in writing to the head of PIA.<sup>403</sup> Therefore, the Finance Minister Ishaq Dar of PML-N accepted the demand of the opposition and gave a written commitment. Consequently, the bill was passed unanimously by the joint sitting of the parliament.

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<sup>401</sup> National Assembly of Pakistan, *Rules of Procedure and Conduct of Business in the National Assembly*, 2007: 56.

<sup>402</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 7<sup>th</sup> joint sess., 2016, Vol. VII, no. 3: 17.

<sup>403</sup> Ibid. 41.

Although, there was no amendment presented in the joint sitting of the parliament from the opposition benches, they succeeded to incorporate their alternative proposals in the bill in the dialogues with the government in the committee meeting. The treasury benches accepted the opposition proposal that the administration of PIA would be run by the central government and it could not be capable to allot forty-nine percent shares to any private company. Similarly, a new sub clause (4) was added to Clause-4 of the bill which states “members on Board of Directors and others perks and prerogatives of the shareowners should be proportional to the percentage of their shares in PIA.”<sup>404</sup>

Senator Saeed Ghani of PPP while talking to Dawn newspaper labelled the PIA conversion bill a success for the opposition benches in the parliament.<sup>405</sup> He contended that the opposition benches succeeded in obstructing the government primary strategy to privatize the PIA. He added that it was the opposition parties who included the clauses regarding the protection of the rights of the workers of PIA in the bill. Hence, it is concluded that the opposition parties in the parliament has significant contribution in this bill. They succeeded to compel the government to accept their alternatives in the bill. This was become possible because most of opposition parties were united against the government, especially major opposition parties PPP and PTI.

#### **4.7- The Acid and Burn Crime Bill, 2017**

The Acid and Burn Crime Bill 2017, was moved by Marvi Memon of PML-N and the house passed several amendments in it which were moved by PPP's Naveed Qamar from opposition benches. According to 'statement of objects' of the bill, acid throwing and burn crimes are increasing every year and hundreds of women and children fall

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<sup>404</sup> Ibid. 58.

<sup>405</sup> Amir Wasim, "Bill to turn PIA into company adopted," *Dawn*, April 12, 2016, <https://www.dawn.com/news/1251544>

victim to them with no possibility of justice and support. The bill proposes that whoever commits or attempts to commit an offence of acid or burn attack and the act results in death of any person shall be awarded life imprisonment. Whoever intentionally causes hurt by acid and burn attack shall be punished with rigorous imprisonment for not more than seven years. The bill specifically criminalizes acid and burn related violence by providing fair and speedy trial of such heinous offences.<sup>406</sup> The House also adopted all the amendments moved by PPP member Syed Naveed Qamar.

PPP Naveed Qamar from opposition benches proposed amendment in Clause 6 of the bill which says (a) in paragraph (i), the words “capital punishment” shall be substituted with the words “life imprisonment”, (b) in paragraph (ii), the words “for not less than 7 years” shall be substituted with the words “for not more than 7 years.”<sup>407</sup> As per amendments, whoever commits or attempts to commit an offence of acid or burn attack and act resulted in death of any person shall be awarded life imprisonment. It also says that whoever intentionally causing hurt by acid and burn attack shall be punished with rigorous imprisonment for not more than seven years. The amendment was not opposed by the government, therefore, the House had also adopted the amendment. Similarly, in Clause 8 of the bill, Syed Naveed Qamar moved an amendment which says the words “criminal law” shall be substituted with the words “criminal procedure court”<sup>408</sup>. It says “court” over here, it is “code”. He also moved another amendment in clause 11, the words “shall be under legal duty to inform concerned law enforcing agencies or nearest police station and shall also maintain a record in the hospital relating to the antecedents of the said victim” shall be substituted with the words “shall inform the nearest police

<sup>406</sup> Muhammad Anis, “NA passes 10 bills including ‘Acid and Burn Crime Bill 2017,’ *The NEWS*. May 9, 2018, <https://www.thenews.com.pk/print/314537-na-passes-10-bills-including-acid-and-burn-crime-bill-2017>

<sup>407</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 56<sup>th</sup> sess., 2018, Vol. LVI, no. 6: 38.

<sup>408</sup> *Ibid.* 41.

station or concerned law enforcing agencies and shall also maintain a record in the hospital relating to the antecedents of the said victim, which may include photographic evidence". Moreover, he proposed that clause 14 of the bill should be replace with "investigation under this Act must be completed by a Police Officer in charge of investigation not below the rank of Inspector/SHO within 30 days of the registration of the FIR."<sup>409</sup> In original it was 14 days.

Consequently, all the amendments proposed by Naveed Qamar from the opposition benches was adopted by the treasury benches. Federal Minister Marvi Memon thanked the opposition benches for supporting the important bill. However, this important legislation did not pass from the Senate.

#### **4.8- The National Commission on the Rights of Child Bill, 2017**

The National Commission on the Rights of Child Bill 2016 was laid down on the floor of the House by the Minister of Human Rights Kamran Michael. The proposed commission would be empowered to examine and propose legislation on child rights, ensure the implementation of child rights laws, look into child rights violations and recommend the relevant authorities to initiate proceedings. It would also examine factors responsible for violence, abuse, exploitation and trafficking of children, and will encourage research and maintain a database with regards to children's issues. It would also hold dialogues on child rights, examine international instructions and recommendations and advise the federal government on signing and ratifying international treaties.

However, as the bill tabled, Nawab Yousaf Talpur of PPP from opposition benches argued that the age specified in the bill for a child is 14 years which is appropriate, it

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<sup>409</sup> Ibid. 46.

should be 16 years.<sup>410</sup> Shireen Mazari of PTI also said that the minimum age of criminal responsibility should be 12 to 16 years and 12 to 14 years as drafted in the bill.<sup>411</sup> She added that the bill include only child labour but did not mention domestic labour, therefore it should be reconsidered. Similarly, the other opposition parties ANP, MQM and JI also criticized the age limit in the bill; they also argued that minimum age limit should be 16 years.

MQM's S.M. Iqbal Qadri from opposition benches indicated that the Parliament has no authority to pass this bill without a resolution of any province in this regard.<sup>412</sup> He asked the minister to guide the House in this regard. From the treasury benches, Zahid Hamid of PML-N responded that the Objects and Reasons of the bill provides that the Commission has been established under international conventions and agreement, for that reason Schedule IV of the Constitution cover this legislation.<sup>413</sup> He argued that item no. 32 in Federal Legislative List maintained international treaties, convention and agreements, similarly item no. 03 provides implementing of treaties and agreements. Consequently, parliament has the authority to enact legislation in this regard. Therefore, the bill was passed by the NA with majority. Although, suggestions of the opposition were not considered by the government, the opposition parties supported the bill.

In the Senate, the bill was moved by the Minister for Law and Justice Zahid Hamid from the treasury benches. Senator Muhammad Mohsin Leghari of PTI from the opposition benches asserted that two minors amendment were made in the Human Rights Committee.<sup>414</sup> The original bill maintained one child as member in the

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<sup>410</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 39<sup>th</sup> sess., 2017, Vol. XXXIX, no. 5: 50.

<sup>411</sup> Ibid.

<sup>412</sup> Ibid. 56.

<sup>413</sup> Ibid. 57-58.

<sup>414</sup> The Senate of Pakistan Debates, 15<sup>th</sup> Parliamentary year, 262<sup>nd</sup> sess., 2017, Vol. V, no. 3: 39.

Commission, however, we proposed that two child one boy and one girl should be the member of the Commission. Besides, time of six months has been fixed in which the Commission should enact its rules, because an Act has been passed and its rules are not made for many years, he observed. The bill was passed with majority by the Senate with the amendments from Human Rights Committee. Therefore, the bill should be send back to NA for approval again.

Consequently, the bill was again introduces in the NA for approval by Mumtaz Ahmad Tarar of PML-N. As the bill was laid down, Shireen Mazari of PTI from the opposition benches claimed that that according to international treaty the commission should be independent, however, the commission establishing through this amendment is not independent.<sup>415</sup> She added, therefore, it is not acceptable to us. Nafeesa Shah of PPP also agreed with the observation made by Shireen Mazari that this commission is not independent. She argued that the chairperson of an independent commission is appointed by the parliament like National Commission on Status of Women and Human Rights Commission, however, the chairperson of the National Commission of the Rights of Child would be appointed by government.<sup>416</sup> She also criticized the age limit for the child in the bill. From the treasury benches, Zahid Hamid of PML-N responded that this bill had been passed from the NA and went to Senate, however, the Upper House passed the bill with minor amendments, so it is re-tabled in the NA.<sup>417</sup> He added that the members did not present new amendments in the bill. Hence, “The National Commission on the Rights of Child Bill, 2017” was adopted by the House and passed

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<sup>415</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 46<sup>th</sup> sess., 2017, Vol. XLVI, no. 3: 41-42.

<sup>416</sup> Ibid. 42-43.

<sup>417</sup> Ibid. 44-45.

it with majority. The suggestion proposed by the opposition benches were not taken into account.

#### **4.9- The *Benami* Transactions (Prohibition) Bill, 2016**

The *Benami* Transaction (Prohibition) Bill, 2016 was tabled by Rana Muhammad Afzal Khan of PML-N. This Bill basically deals with the problems of tax evasion and black money especially in the real estate sector. Basically, the idea was to put an end to *benami* transactions, prohibit all persons from entering into such transactions. In fact, it seeks to ensure that if any person enters into a *benami* transaction in order to evade tax or avoid payment to creditors, the ultimate beneficial owner and persons who abet or induce any person to undertake such transaction, shall suffer imprisonment.

When the bill laid down Sahibzada Tariqullah argued that why this bill would not enforce at once.<sup>418</sup> As the bill include that “it shall come into force on such date as the federal government may be, notification in official gazette”. He added that it should be at once impose. PTI’s member Shireen Mazari from opposition benches also asked that why the flexibility has given in this bill.<sup>419</sup> Zahid Hamid from treasury benches responded that it would be imposed very quickly, however, the clause incorporated just to give flexibility to the government.<sup>420</sup> He maintained that such type of clauses are present in several other bills also. The bill was passed with majority by the NA. The government did not consider the suggestion of the opposition benches. Nonetheless, in the committee meeting, Asad Umar of PTI proposed that the bill must contain current

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<sup>418</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 36<sup>th</sup> sess., 2016, Vol. XXXVI, no. 1: 62

<sup>419</sup> Ibid. 64.

<sup>420</sup> Ibid.

*benami* assets also.<sup>421</sup> It was accepted to modify the language and maintain that such type of assets would also be dealt as crime in the bill.

In the Senate, the bill was moved by Zahid Hamid of PML-N. Before, presenting in the Senate, the bill was discussed in the Standing Committee on Finance and Revenue of Senate where more than twelve changes were proposed in the bill. Senator Aitzaz Ahsan, opposition leader in the Senate, proposed amendment that the law would be enforced at once after the bill passed. Earlier, there was no clause in relation with the enforcement of the bill. Senator Muhammad Mohsin Khan Leghar of PTI told the House that we recommended 14 amendments in the bill.<sup>422</sup> Seven of them relate to the substitution of the headings of the caption of different clauses because they were using the term “etc.” which we thought were very vague. I think it is not in practice anymore globally to be using these vague terms. So, the word “etc.” has been removed from them. The Committee also recommended insertion of a new clause 62 in the Bill which relates to granting reward to the whistle blower.<sup>423</sup> In clause 32, the Committee enhanced the age limit of the Chairperson and the Members of Tribunal from sixty two to sixty five years so that more diversified and experienced people can be put on that board.

The opposition leader in Senate Aitzaz Ahsan proposed a suggestion in sub clause-3 of Clause-1 of the draft law that it should be enforce as the bill would passed.<sup>424</sup> This proposal from the opposition leader was accepted through voting in the Senate as eighteen votes casted in its favor and 16 votes against it. One of PML-N Senator, from treasury benches, Salahudin Tirmizi abstained from the voting. The act of Salahudin

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<sup>421</sup> Kalbe Ali, “NA committee clears draft bill prohibiting *benami* transaction,” *Dawn*, August 17, 2016, <https://www.dawn.com/news/1277977>

<sup>422</sup> The Senate of Pakistan Debates, 14<sup>th</sup> Parliamentary year, 258<sup>th</sup> sess., 2017, Vol. 1, no. 7: 133.

<sup>423</sup> *Ibid.*

<sup>424</sup> *Ibid.* 146.

Tirmizi was hailed by the opposition benches. PPP's Farhatullah Babar acclaimed the act and bravery Salahudin Tirmizi and saluted his choice for not voting on the clause.<sup>425</sup> The amendment by the opposition leader was proposed by different opposition member in the NA, however, the government did not consider it. As in the Senate the opposition has majority, therefore, they succeeded to incorporate its own alternatives to the bill. Consequently, the bill was passed unanimously by the Senate. However, the bill would be send back to NA for re-approval as there are several amendments incorporated in the bill. Hence, the bill was again presented in the NA and passed with majority by the support of opposition parties.

To sum up, the role of opposition in Senate were strong because the opposition had more seats than the treasury benches. The government accepted most of the amendments of the opposition in the Upper House. However, ignore most of the suggestions of the opposition benches in the NA as the government had the required number to pass any legislation with simple majority.

#### **4.10- Prevention of Electronic Crimes Bill, 2016**

Prevention of Electronic Crimes Bill was moved by Minister for IT Anusha Rehman of PML-N from treasury benches. The bill has empowered the government to create or entitle a security agency to investigate the crimes enacted in the bill. The bill provided that all the crimes in this law except offences related to cyber terrorism and child abuses are non-cognizable, bail-able and compoundable.<sup>426</sup> Some important sections of the law are 17 and 18 which say that political critique and expression while making analysis, commentary, blogs and cartoons and memes would all be dealt as crime. Section (19)

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<sup>425</sup> Ibid. 165.

<sup>426</sup> Prevention of Electronic Crimes Bill 2016

of the bill provides that an individual who tests system security would be consider a criminal. Whereas section (20) says that indecent or unethical communications on social media websites like Facebook, Twitter etc. would treated as crimes. However, the word “obscene” and “immoral” have not been defined in the bill, which would resultantly empowered the security agencies to associates any of these crimes with a suspected person. Besides, section (21) of the bill observes that emailing and messaging prior the consent of the recipient would also be considered a crime.

The opposition parties in parliament have challenged most of the clauses in the draft law and proposed several alternative suggestions in the bill. Dr. Azra Fazal Pulejo propose that in Clause 3 of the bill words “with imprisonment for a term which may extend to three months or” should be deleted.<sup>427</sup> Similarly, in several other clauses Dr. Azra Fazal and Shazia Marri of PPP from opposition benches proposed that the clauses related with imprisonment should be deleted. They argued that the bill says that this punishment would be given to children above 13 years of age, so it also includes children of age 14, 15 and 16 which is very inappropriate.<sup>428</sup> Secondly, she argued that mostly our public is uneducated they do not know about the implications of misusing the internet, therefore, imprisonment is very severe punishment for them. However, these amendment related to abolishment of imprisonment from the bill were opposed by the treasury benches; Anusha Rehman responded that the age limit has now been increased to 14 years and punishment would be remained in the bill.<sup>429</sup> She extended that without punishment the bill has no benefit. She added that if someone creates hatred or inflicted loss upon someone so he/she should be punished. PPP MNA Shazia Marri

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<sup>427</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 34<sup>th</sup> sess., 2016, Vol. XXXIV, no. 9: 82.

<sup>428</sup> Ibid.

<sup>429</sup> Ibid. 83

continued to oppose the criminalization of ‘spamming’ under Clause 21 of the bill.<sup>430</sup>

The clause declares “sending messages without the recipient’s permission” a criminal act. She argued that three months imprisonment for sending a simple text is too harsh.

PTI’s Dr. Arif Alvi also suggested that the word “intentionally” should be substituted with the words “mala fide intent” in the bill, as several clauses included this word.<sup>431</sup>

The treasury benches accepted these amendments, nonetheless, replaced the word “intentionally” with “dishonest intention” in all the related clauses. Dr Arif Alvi of PTI questioned the word “decency” and “morality” and said that these are ambiguous terms, therefore, should be well-defined. However, Anusha Rehman from treasury benches responded that these terms have been extract from the 1973’s constitution. Moreover, he proposed that the words “take a photograph or make a video of any person and displays or distributes it without his consent in a manner that harms a person” should be deleted from Clause 21 of the bill.<sup>432</sup> He explained this is very normal in society and it would create problems for a common man. On this Anusha Rehman answered that the word “harm” is clearly defined in all the Penal codes, therefore, she opposed the amendment and subsequently rejected by the House.<sup>433</sup>

Syed Ali Raza Abidi of MQM proposed that the word “accused” in Clause 9 of the bill is very ambiguous and need to be changed.<sup>434</sup> He added that here (in Pakistan) everyone faces different allegation, therefore, the word “accused” may be wrongly interpreted in the future and may be used for political victimization. Therefore, he proposed that clause 9 should be substituted with the following lines;

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<sup>430</sup> Ibid. 85

<sup>431</sup> Ibid. 83.

<sup>432</sup> Ibid. 110.

<sup>433</sup> Ibid. 111.

<sup>434</sup> Ibid. 91-92.

“whoever with intent (now dishonest intent) prepares or disseminates information, through any information system or device to: (a) incite an act of terrorism, (b) glorify an offence or the person convicted of a crime and support terrorism or activities of proscribed organizations, or (c) advance religious, ethnic or sectarian hatred shall be punished with imprisonment for a term which may extend to five years or with fine up to ten million Rupees or with both. Explanation: “Glorification” includes depiction of any form of praise or celebration in a desirable manner.”

However, the amendment was opposed by Anusha Rehman while arguing that the original clause of the bill would help to stop people from glorifying any offence. Consequently, the amendment was rejected by the House. In Clause 34, Iqbal Qadri of MQM proposed that “the central government should establish a Committee comprise of 5 members out of which two members should be from the Authority, one member should be IT expert, and one member should be from Human Rights Ministry to supervise actions of the Authority.”<sup>435</sup> He explained that clause 34 has given vast power to the Authority, therefore, a committee is necessary to oversee the activities of the Authority. It would also stop the Authority from misusing of its arbitrary power. Likewise, this amendment was also opposed by the IT Minister and consequently rejected by the House.

The bill was passed with majority by National Assembly. Although, opposition parties have supported the bill, they were not totally satisfied from the bill. Some of the objections raised by the opposition were addressed by the treasury benches but not all. The opposition also proposed several alternatives to government to incorporate in the bill, some of which were accepted by the government and some were rejected. After passing from the NA, the bill must be passed from the Senate to become a law.

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<sup>435</sup> Ibid. 133-134.

In the Senate, the bill was also tabled by the IT Minister Anusha Rehman Advocate. However, the Standing Committee on IT had suggested forty-seven amendments in the draft bill.<sup>436</sup> The aim of the committee's suggestions were to increase the protection of the common people and to make them safe from the misapplication of the draft law. The most important amendment from the opposition benches which states that no information would be collected from Internet Service Providers [ISPs] prior the approval of the special court, which would be formed on the orders of High Courts.<sup>437</sup> In addition, no security agency would have the power to start investigation a cyber-crime prior the permission of the courts.

One of the other amendment of opposition says that information related with cyber-crime or activity would only be provided to security agencies of another countries on the approval of the courts.<sup>438</sup> It would be also compulsory on the foreign agencies to preserve confidentiality of the information and to utilize it only for the aim for which it has been taken. The opposition parties further suggested an amendment that the offender under this law would appeal in High Court in thirty days after the sentence. Moreover, a proposal also suggested that the business and usage of illegal SIMs would be punished 3 years imprison and up-to five lakh rupees fine, similarly, the business and usage of temper mobiles would also be punished 3 years imprison and up-to ten lakh rupees fine.

On the floor of the Senate, Senator Usman Kakar of PkMAP from opposition benches proposed that the word “ethnic” should be replaced with the word “racial” in Clause

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<sup>436</sup> Maryam Usman, “Senate unanimously approves cybercrime bill with amendments,” *The Express tribune*, July 29, 2016, <https://tribune.com.pk/story/1151861/senate-unanimously-approves-cybercrime-bill-amendments/>

<sup>437</sup> Peer Muhammad, “Senate panel okays cybercrime law with amendments,” *The Express tribune*, July 26, 2016, <https://tribune.com.pk/story/1149909/senate-panel-okays-cybercrime-law-amendments/>

<sup>438</sup> Raza Khan, “Senate unanimously adopts controversial cybercrime bill,” *Dawn*, July 29, 2016, <https://www.dawn.com/news/1274022>

10-A of the bill, which was accepted by the IT Minister Anusha Rehman and consequently adopted by the House.<sup>439</sup> Senator Shibli Faraz of PTI moved an amendment in clause 19-A, sub-clause (1), clause (c), after the words “explicit conduct”, the word “or” should be added and a new clause “(d) discloses the identity of the minor” should be inserted.<sup>440</sup> He also proposed that after sub-section (4) a new sub-section (5) should be inserted which says that “an appeal against the decision of the authority in review shall lie before the High Court within thirty days of the order of the Authority in review.”<sup>441</sup> Both the amendments of Shibli Faraz was not opposed by the government and were incorporated in the bill. Similarly, he also proposed a new sub-clause 49 (a) in Clause 49 which states that “the agency designated or established under Section 26 of the Act shall submit a half yearly report to both Houses of the Parliament for consideration by the relevant Committee in camera, in respect of its activities, without disclosing identity information, in a manner as prescribed under this Act”.<sup>442</sup> However, Zahid Hamid of PML-N responded from treasury benches that “half yearly” report is not appropriate, therefore, the report should be annually submitted to the Houses.<sup>443</sup>

On the other hand, leader of the opposition Aitzaz Ahsan emphasized that half yearly report should be suitable and should be incorporated in the bill.<sup>444</sup> Consequently, leader of the House Raja ZafauHaq of PML-N agreed with amendment proposed by the opposition benches, therefore, adopted by the House. It is noteworthy that all the amendments of the opposition in the Senate was accepted by the government. More than 50 amendments were proposed and were adopted by the House. Both the

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<sup>439</sup> The Senate of Pakistan Debates, 14<sup>th</sup> Parliamentary year, 250<sup>th</sup> sess., 2016, Vol. VIII, no. 10: 91.

<sup>440</sup> Ibid. 92.

<sup>441</sup> Ibid. 95-96.

<sup>442</sup> Ibid. 98.

<sup>443</sup> Ibid.

<sup>444</sup> Ibid. 99.

government and opposition cooperated with each other, hence, the bill was unanimously by the Upper House. As, Senate has passed the bill with several amendments, the bill would be send back to Lower House for re-considering the amendments adopted Upper House.

The Prevention of Electronic Crimes Bill was again laid down on the floor of the NA for approval. Although, most of the amendments of the opposition parties were incorporated in the bill not only in the previous session of the NA but also of Senate, they made strong reservation over the bill this time. PPP's parliamentary leader Syed Naveed Qamar said that there were certain objectionable clauses in the bill which would affect innocent persons.<sup>445</sup> Starting the debate, he said it was a draconian law, which is violation of fundamental rights. PPP leader said it was incomprehensible as on the one hand the government talks about the child rights while on the other hand it takes such steps. He warned "None of us will be spared if this law is used in undemocratic way."<sup>446</sup> He extended that PPP would not support this bill. PTI's Shah Mehmood Qureshi said that although there was a need of this bill but government should revisit it thoroughly.<sup>447</sup> He added "Government should pass this bill with the support of opposition." MQM's Ali Raza Abidi said there were many loopholes in the bill and certain sections of it were totally unacceptable.<sup>448</sup> He also objected on the incorporation of only 8 out of 51 amendments to the bill passed by the Senate. He was of the opinion "youth will be the prime victim of the new law as it is not necessary that the public will have the knowhow about ethics and laws of social media." He further claimed that the bill would criminalized and demoralized the population of Pakistan.

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<sup>445</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 34<sup>th</sup> sess., 2016, Vol. XXXIV, no. 8: 51.

<sup>446</sup> Ibid. 63.

<sup>447</sup> Ibid. 67.

<sup>448</sup> Ibid. 66.

But Minister for Information Technology Anusha Rehman said, “This bill will not bar any political parties to hold public meetings.”<sup>449</sup> Defending the legislation, she said that over three dozen amendments of opposition parties had already been incorporated. “Are members opposing this bill on somebody’s whims?” she asked, adding that objectionable pictures of young girls are being upload on the Internet which needed to be checked. She further said that parliament had removed certain reservation of different segments of the society on this law after taking them on board and through public hearings. Consequently, the bill was passed by House amid strong objections of the opposition parties.

#### **4.11- The Election Bill, 2017**

The Election Bill 2017 was tabled by Minister of Law and Justice Zahid Hamid of PML-N from treasury benches. It is worth mentioning that a Parliamentary Committee was established to draft a bill for the elections reforms in Pakistan on 25<sup>th</sup> July 2014.<sup>450</sup> The committee comprised of 33 members of all the political parties- government as well as opposition- from the Parliament. Ishaq Dar of PML-N elected as chairman of the committee in its first meeting.<sup>451</sup> After a deliberate meetings for almost three years, the committee prepared a draft which was presented in the NA as “The Election Bill 2017”. The draft bill has introduced a simple application form is called “nomination form”. It would be used for entire seats by the contenders. The bill has also increased fees for the candidates of NA, PA and Senate to twenty-thousand rupees, the purpose is to deter the unserious candidates. Simultaneously, the expenses limitation has also increased to forty-lakh rupees for NA seat, twenty-lakh rupees for PA seat and fifteen-

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<sup>449</sup> Ibid. 55-56.

<sup>450</sup> National Assembly of Pakistan, The Report of the Parliamentary Committee on Electoral Reforms on the Election Bill, 2017. 3

<sup>451</sup> Ibid. 5

lakh rupees for the seat of Senate. A candidate would incur the expenses limit by the election bill 2017. The bill has also provides that if in any constituency the turnout of women votes are less than ten percent, ECP would have the power to declare the result of election in that particular constituency invalid. This specific clause is included for the encouragement of women to participate in the process of election.

It is also noteworthy that some of the major political parties from opposition have expressed their reservation that some of their alternatives were not addressed by the Parliamentary Committee on Electoral Reforms. PTI noted that its suggestions regarding the appointment of the members of ECP, appointment of caretaker government and bio-metric identification were not taken into account. PTI has proposed that the members of ECP should be selected by a Parliamentary Committee which includes 50 percent members from the government and 50 percent from the opposition political parties fairly divided accordingly to their parliamentary strength.<sup>452</sup> It also proposed that in the selection of caretaker government at federal and provincial level both the leader of the House and leader of the Opposition should have no role. It would be decided by a committee which comprises of the 50 percent members from the government and 50 percent from the opposition political parties proportionately distributed according to their numbers in the National and Provincial assemblies. Similarly, PTI also suggested that an authentic voter list with pictures should be provided to the candidates to avoid the difference between the lists outside with the candidates and the one inside with the Returning Officer (RO). Moreover, PTI emphasized that the trial use of bio-metric machine in the by-elections should be conducted before the general elections of 2018. However, all these alternative proposals from PTI were not considered by the government. So, for the purpose of record, PTI

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<sup>452</sup> Ibid. 201-202.

has recorded its observation in the note of reiteration in the Report of the Parliamentary Committee on Electoral Reforms.

PPP, one of major opposition party, also noted that several proposed amendments were not addressed by the government in the committee meetings. PPP proposed that voting would be conducted through electronic voting machine, and voters should be provided transport facility on the polling day.<sup>453</sup> Similarly, it also suggested that overseas Pakistani should be facilitated by Pakistan Missions abroad to vote in the elections. Likewise, these alternatives were also not considered by the treasury benches. MQM, another opposition party suggested that in Clause 61 the amount of money for election on national and provincial seat should be reduced from thirty thousand and twenty thousand rupees to ten thousand and five thousand rupees respectively.<sup>454</sup> Simultaneously, it also recommended that in Clause 132 the election expenses of a candidate to two million from four million rupees for a national seat and from two million to one million rupees for a provincial seat. However, it was also rejected by the government.

JI, also from opposition benches proposed that the ECP should not null and void any elections in any constituency on the basis of low turnout of women votes, although, those people who try to stop women from casting their votes should be punished according to the law.<sup>455</sup> JI suggested that the clause related to 10 percent casted votes of women in any constituency should be omitted. It also proposed that in Clause 132 the election expenses for a senate seat should be reduced to one lakh from 1.5 million rupees, for a national seat to one million rupees from four million rupees and for a

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<sup>453</sup> Ibid. 217.

<sup>454</sup> Ibid. 205.

<sup>455</sup> Ibid. 215-216.

provincial seat to five lakh from two million rupees. Moreover, it also suggested that mechanism should be developed for voting of overseas Pakistani, and it should be implement in general elections of 2018. Likewise, the alternatives of other opposition parties these proposal were also not considered by the government. However, much of the proposal of the opposition parties were incorporated in the bill in one way or the other.

While table the bill on the floor of the NA, Zahid Hamid revealed that one hundred and five (105) alternative proposal have been suggested out of which forty-four (44) have approved.<sup>456</sup> He told the house that the draft bill is the hard work of all the political parties which were included in the parliamentary committee, therefore, the credit for the Election bill, 2017 is going to not only the government but also the opposition parties. From opposition benches, Shazia Marri of PPP suggested that watermarks' ballot papers would be practiced in the coming elections, which would help in the reduction of conflicts and disagreements on the results of elections. She also of the view that the clause which is blocking the dual nationals to contest elections should be abolished.<sup>457</sup> Dr Arif Alvi of PTI also from opposition benches called for the reformation of the ECP prior the coming general elections.<sup>458</sup> He also demanded that impartial elections biometric verification system is very necessary, for that reason the government should brought in the biometric system. He extended that it is unfortunate the government failed to initiate plan for the participation of overseas Pakistanis in the election process.

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<sup>456</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 44<sup>th</sup> sess., 2017, Vol. XLIV, no. 10: 99

<sup>457</sup> Ibid. 122.

<sup>458</sup> Ibid. 143.

Dr Farooq Sattar parliamentary leader of MQM pronounced the law as “too little, too late”.<sup>459</sup> He opined, although, some of the core issues have been resolved in the bill, various fundamental matters have remained untouched. As, the middle class is still unable to contest the elections due to strong impact of money on the process of elections in the country. He contended that role of money in the elections should be abolished. MQM’s leader further argued section (212) of the draft law may be exploited for settling political scores. ANP’s Ghulam Bilour too called for the introduction of biometric system in the elections.<sup>460</sup> He argued that even the election should be postponed up to one year for this purpose.

Furthermore, the opposition parties in NA also moved several amendments in the Election bill 2017. Sahibzada Tariqullah of JI from opposition benches proposed in Clause 2 of the bill the loan defaulter should be included since 1947 to date instead of “on or after 31<sup>st</sup> December 1985”.<sup>461</sup> However, this proposal was rejected by the House. Syeda Aysha of JI suggested a new sub-clause (7) in Clause 50 should be added which says that the responsibility of the transparent elections should be on the staff on the Election Day which includes Presiding Officer (PO), Returning Officer (RO) and the other staff, and the PO should be responsible for the rigging in election and should be severely punished.<sup>462</sup> Likewise, it was also opposed by the House. JI moved an amendment to abolish the condition of ten percent women votes to be polled in every constituency, however, another opposition party PPP proposed that it should be twenty percent.<sup>463</sup> Both the alternatives were rejected by the treasury benches. It shows the division among opposition parties on the basis of their ideologies.

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<sup>459</sup> Ibid. 166.

<sup>460</sup> Ibid. 190.

<sup>461</sup> Ibid. 18.

<sup>462</sup> Ibid. 73.

<sup>463</sup> Ibid. 27.

Syed Naveed Qamar of PPP further proposed that in clause 90, in sub clause (13), in second line after the words “singed” the words “and stamped” shall be inserted.<sup>464</sup> He explained that the due to the addition of “stamp” the result would be authenticate. The amendment was accepted by the government and incorporated in the bill. He also proposed that the in paragraph (a) sub-paragraph (vi) of Clause 170 (see addendum) should be deleted.<sup>465</sup> Similarly, JI’s MNA Aisha Syed proposed that in paragraph (a) sub-paragraph (iii) and (iv) and in paragraph (c) sub-paragraph (i) should be deleted.<sup>466</sup> However, all these amendments from the opposition benches were rejected by the treasury benches.

Iqbal Qadri of MQM proposed a new sub-clause (2) in clause 71 that picture of the candidates and the name as well as Picture of symbol may also be oriented in the Ballot Paper with their consent. However, the insertion of this new sub-clause was opposed by the government. He also proposed that in clause 211, sub-clause (2) shall be omitted.<sup>467</sup> Moreover, he proposed that after clause 211, a new clause 211-A should be added which says that a Political party contesting a general election shall not incur more than rupees fifty million on its election campaign from the date of notification of the Election Programme till the polling day. However, these amendments were also rejected by the government.

PTI’s MNA Shafqat Mahmood moved an amendment in Clause 3 sub-clause (2), after the words ‘decision of the Commission, the words “the quorum whereof shall be three” should be added. He pin point the quorum should be pre-requisite for any decision of

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<sup>464</sup> Ibid. 102.

<sup>465</sup> Ibid. 154.

<sup>466</sup> Ibid. 154.

<sup>467</sup> Ibid. 177.

the commission.<sup>468</sup> Minister of Law Zahid Hamid responded that it is an unnecessary amendment as it is the discretion of Chief Election Commissioner to form benches of three or more.<sup>469</sup> Therefore, the amendment was rejected. In Clause 10, he proposed that in situations of contempt of the orders of the Commission the matter may be referred to the Supreme Court for action.<sup>470</sup> In the original draft the Commission has the power of a High Court to give punishment in such cases. Shafqat Mahmood explained that the ECP is an administrative body to conduct elections in the country not a High Court to order punishments.<sup>471</sup> The amendment was opposed by the Law Minister and consequently rejected by the House. In Clause 14, Shafqat Mahmood from opposition benches also proposed that the Commission should include the post-election review in its next annual report under section 16 and publish it on its website.<sup>472</sup> It was accepted by the government and incorporated in the bill. Furthermore, in Clause 27 (see addendum) sub-clause (4), PTI proposed an amendment that after the words 'shall remain valid' the words 'for five years after the publication of this Act or less if' shall be inserted.<sup>473</sup> Nonetheless, it was opposed by the treasury benches and not included in the bill.

Similarly, PTI's MNA Shafqat Mahmood proposed a new clause after Clause 49 which says that the Commission should establish rules for eligibility, selection and appointment of officers as required for duties described in this Chapter.<sup>474</sup> Minister for Law assured the opposition member that ECP would make rules and regulations in this regard, therefore, withdraw the amendment.<sup>475</sup> But, the amendment was emphasized by

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<sup>468</sup> Ibid. 19.

<sup>469</sup> Ibid. 19.

<sup>470</sup> Ibid. 33.

<sup>471</sup> Ibid. 33.

<sup>472</sup> Ibid. 41.

<sup>473</sup> Ibid. 47.

<sup>474</sup> Ibid. 64.

<sup>475</sup> Ibid. 65.

Shafqat Mahmood and not withdrawn, so rejected by the treasury benches. Another alternatives was proposed by PTI member that in clause 51, sub-clause (1) and (3), after the words “semi-autonomous bodies controlled by any government” the words “or members of the Armed Forces,” should be added.<sup>476</sup> This amendment was not only opposed by the government but also one of the major opposition party PPP. Notwithstanding, several amendments of the opposition were accepted by the government and were incorporated in the bill. As PTI proposed in clause 73, sub-clause (1), after the words “before commencement of the poll”, the words “or during the polling hours” should be added. It also suggested that in clause 79, sub-clause (2), after the words “copies of” the words “the final” shall be inserted. Similarly, it moved an amendment that in clause 83, in sub-clause (2), after the words “the Senate” the words “or a local government” shall be inserted. Likewise, in clause 84, in sub-clause (1), before the words “National Identity Card”, the word “original” shall be added.

The Election Bill 2017 was moved by Federal Minister for Law and Justice Zahid Hamid on the floor of the Senate. In clause 2 of the bill, Saleem Zia of PML-N from treasury benches moved an amendment to change the definition of Senate. This amendment was opposed by PTI’s Senator Azam Swati from opposition benches. The definition of “asset” proposed by treasury benches was that “asset means any property owned or held by a candidate or a member.”<sup>477</sup> However, Azam Swati was of the opinion that “asset means any property held by or belonging to a candidate or a member whether directly or indirectly held by his *“bainmidar.”*<sup>478</sup> This definition was also endorsed by the leader of the opposition Aizaz Ahsan of PPP. Consequently, the government’s proposed amendment was put before the House, 39 members supported

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<sup>476</sup> Ibid. 67.

<sup>477</sup> The Senate of Pakistan Debates, 15<sup>th</sup> Parliamentary year, 267<sup>th</sup> sess., 2017, Vol. X, no. 10: 36.

<sup>478</sup> Ibid.

the amendment was 37 members were against it.<sup>479</sup> Therefore, the definition proposed by the government was incorporated in the bill. In Clause 22, Mohsin Leghari of PTI suggested that the Commission should also publish the proposed amendments and modifications on in the official gazette and on its website.<sup>480</sup> He also proposed that in Clause 47 (1) (see addendum) after the words “National Assembly”, the words “and Provincial Assembly” should be added.<sup>481</sup> He also suggested that in Clause 72, sub-clause (3) should be replaced with “on receiving a notice of retirement under Sub-Section (1) the Returning Officer shall, if he is satisfied that the signature on the notice is that of the candidate, because a copy of the notice to be affixed at the conspicuous place in his office.”<sup>482</sup> These amendments were accepted by the government and inserted in the bill. Several other suggestions of PTI were incorporated in the bill, like in clause 3, 5, 6, 14, 200, 208, 212, therefore, these amendments were withdrawn by PTI.

In Clause 203, leader of the opposition tabled an amendment which stated that any person ineligible to hold office as an MNA is ineligible to hold the position of head of a political party.<sup>483</sup> The amendment would have prevented ousted premier Nawaz Sharif from becoming president of PML-N once again — a post which he was declared ineligible for after disqualification from public office. Thirty seven members of the house voted in favour of Ahsan's amendment, whereas 38 voted against it. This vital amendment of the opposition was defeated by only one vote. It is noteworthy that two senators of PTI were absent from this important session. To sum up, opposition has actively participated in the bill and proposed several alternative to the government.

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<sup>479</sup> Ibid. 38.

<sup>480</sup> Ibid. 44.

<sup>481</sup> Ibid. 50.

<sup>482</sup> Ibid. 62.

<sup>483</sup> Ibid. 65.

Most of which were accepted by the government, however, other were rejected. In the Lower House, most of the alternatives were rejected as the government has strong numbers in the House. On the other hand, in the Upper House the opposition succeeded to incorporate most of the amendments in the bill, as opposition has satisfied number in the Senate. It shows that opposition has positive contribution in the bill, and government also showed flexibility to facilitate the opposition benches except in some cases.

Nonetheless, this bill was again tabled in the NA for further amendment to rectify the changes made in the Form (A) for a candidate in the Election Bill, 2017. In amendment Form (A), the letters “I solemnly swear” was changed with the words “I declare” which had raised the issue about the faith of a candidate in inevitability of the prophethood of Hazrat Muhammad (PBUH).<sup>484</sup> In addition, it was enacted that non-Muslims contestants would not use this form.

When the debate started, ex-prime minister Zafrullah Jamali from opposition benches alleged that Zahid Hamid of PML-N was responsible for the modification in *Khatm-e-Nabuwat* (finality of prophethood) laws.<sup>485</sup> Shah Mehmood of PTI also questioned the government to identify guilty person for the irresponsible act.<sup>486</sup> However, Zahid Hamid the minister of law, from treasury benches responded that he and his whole family were true believers and accepted Hazrat Muhammad (PBUH) as the last messenger of Allah.<sup>487</sup> As Zahid Hamid was law minister and he had large contribution in most the bills in PML-N government, therefore, most of section also the opposition

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<sup>484</sup> Riazul Haq, “Khatm-e-Nabuwat oath: Govt to rectify ‘mistake’ in Election Bill,” *The Express Tribune*, October 4, 2017. <https://tribune.com.pk/story/1522711/govt-amend-election-bill-2017-bring-back-khatm-e-nabuwat-oath/>

<sup>485</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 47<sup>th</sup> sess., 2017, Vol. XLVII, no. 1: 8.

<sup>486</sup> *Ibid.* 11.

<sup>487</sup> *Ibid.* 15.

parties in Pakistan assumed that he was responsible for this act. Otherwise, all the parliamentary parties were included in the committee which was formed for the enactment of the election bill, 2017.

Nonetheless, the *Khatm-e-Nabuwat* testimony has been reinstated to its previous version in both languages of Urdu and English.<sup>488</sup> Similarly, sections (7-B) and (7-C) of the Conduct of General Elections Order, 2002 have also been reinstated to their previous versions through the bill. Section (7-B) says that the position of Ahmedis would be same as provided by the 1973's Constitution of the country, whereas section (7-C) deals with the belief of registered voters on the finality prophethood of Hazrat Muhammad (PBUH). Similarly, the bill was also passed by the Upper House to restore the original clauses of *Khatm-i-Nabuwat*. All the opposition also supported this amendment bill in the Senate without any alternative.

#### **4.12- The Transgender Persons (Protection of Rights) Bill, 2018**

The Transgender Persons (Protection of Rights) Bill 2018 was moved by Senator Dr. Karim Khwaja of PPP from opposition benches on the floor of the Senate. The bill would enable transgender person to be acknowledged as they identify themselves and enrolled with public offices as transgender. Transgender persons would be able to register to obtain a driver's license and passport. They will have the option to get their gender changed in National Database and Registration Authority (NADRA) records. According to the bill, kidnapping, abducting or inducing a transgender person to have illicit intercourse shall be punished with life imprisonment and fine. Depriving a transgender person from inheriting property shall be punished with 5-year to 10-year imprisonment or with a fine of Rs1 million or both. The bill was passed by the Senate

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<sup>488</sup> Haq, "Khatm-e-Nabuwat."

unanimously without any debate and amendment from the opposition benches.<sup>489</sup> It is noteworthy that this bill was also tabled by the major opposition party PPP in Parliament. This bill would be now passed by the NA to become a law.

In the NA, the bill moved by Syed Naveed Qamar of PPP from the opposition benches. Prior to the voting on the bill, MNA Naeema Kishwer of JUI-F argued that the bill contained primary mistakes which should be corrected.<sup>490</sup> She, therefore, demanded that the bill would be sent to the concerned Standing Committee for more assessment and consideration. Besides, she tabled a motion to send the bill to Council of Islamic Ideology (CII) for further consultation. However, it was overruled by the treasury benches as well as opposition benches except JI. Naeema Kishwer objected that the draft law permitted emasculation which is contrary to injunctions of Islam. She proposed that the government should constitute a medical board which would identify whether an individual is transgender or not. However, from the opposition benches it was opposed only by JI's MNA Aisha Syed who also endorsed the objection raised by JUI's MNA Naeema Kishwar.<sup>491</sup> She was also of the opinion that the bill should be referred to the Standing Committee for further discussions. Nonetheless, these objections and suggestions from the religio-political parties were rejected not only by treasury benches but also by the other opposition parties. Hence, the bill was passed with majority by the NA with the contribution of both the opposition and treasury benches.

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<sup>489</sup> The Senate of Pakistan Debates, 15<sup>th</sup> Parliamentary year, 274<sup>th</sup> sess., 2018, Vol. III, no. 03: 20.

<sup>490</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 56<sup>th</sup> sess., 2018, Vol. LVI, no. 6: 14-15

<sup>491</sup> Ibid. 19.

#### **4.13- The *Shaheed Zulfikar Bhutto University, Islamabad (Amendment) Bill, 2018***

The *Shaheed Zulfikar Bhutto University, Islamabad (Amendment) Bill, 2017* was moved by the Tariq Chaudhary, Minister of Capital Administration and Development Division (CADD) in the National Assembly. The purpose of the bill was to separate PIMS hospital from the university. It is worth mentioning that during PPP led government, parliament had passed the *Shaheed Zulfikar Ali Bhutto Medical University, Islamabad Bill 2013* despite criticism and protest by the then opposition consisting of PML-N and MQM. Therefore, now the bill was severely opposed by the major opposition party PPP.

Azra Pechuho of PPP, from opposition benches, argued health services and provisions are develop due to attachment of hospital and university.<sup>492</sup> She contended, therefore, they should be remained together. PPP's Naveed Qamar was of the opinion that the bill should be referred to the relevant Standing Committee for deliberation.<sup>493</sup> He argued it should not be bulldozed despite the reservation of the major opposition party. He told the house that it would also harm the future of most of the employees of the university. In response, Tariq Chaudhry from treasury benches informed the house that the bill was approved by the Standing Committee, however, it was unknown that why the report of the Standing Committee was not sent to the NA.<sup>494</sup> However, other opposition parties supported the bill. Asad Umar of PTI from opposition benches termed the bill worthy and expressed unhappiness over the delay of the bill.<sup>495</sup> Similarly, Sahibzada Tariqullah of JI also supported the bill that that the condition of PIMS hospital has been fading

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<sup>492</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 48<sup>th</sup> sess., 2018, Vol. XLVIII, no. 3: 29

<sup>493</sup> Ibid. 32.

<sup>494</sup> Ibid. 41.

<sup>495</sup> Ibid. 33.

since the university was established.<sup>496</sup> Consequently, the bill was with simple majority from the NA. The opposition parties did not support their co-bencher and major opposition party PPP.

The bill was also tabled by Taiq Fazal Chaudhary on the floor of the Senate. Meanwhile, leader of the opposition in the Senate Aitzaz Ahsan of PPP said that we would not oppose the bill if the minister concerned gives us assurance that the land and property of the university would not be transferred to PIMS.<sup>497</sup> Therefore, the Minister of CADD Tariq Chaudhry assured the senators of major opposition party PPP that land would be allotted to the university in Chak Shahzad Islamabad in the coming three months, as it is not possible to allot land in the sector area of Islamabad.<sup>498</sup> Consequently, PPP agreed to pass the bill on the assurance of the minister. It is to be noted, it was difficult to pass the draft bill from the Senate without the support of PPP. It has most seats in the Upper House. However, the other opposition parties PTI, JI, ANP and PML had supported the bill without any conditions. Although, PPP had supported this bill in the Senate, it had opposed the bill in the NA. PPP has shown flexibility in its stance in the Upper House by supporting the bill with one condition to not transfer the land and property of the university despite its strong numbers in Senate. It was also accepted by the treasury benches.

By analyzing the role of opposition benches in legislation as a whole was significant. The opposition and treasury benches had cooperated with each other and accommodated the opinion of one another in legislation-making. Tahir Mashadi claim it was opposition who gave courage to the treasury benches to listen also the opposite

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<sup>496</sup> Ibid. 38.

<sup>497</sup> The Senate of Pakistan Debates, 15<sup>th</sup> Parliamentary year, 272<sup>nd</sup> sess., 2018, Vol. XV, no. 03: 33.

<sup>498</sup> Ibid. 35.

opinion.<sup>499</sup> In the period 2008 to 2018, opposition benches had not only understand their point of view to treasury benches but also consider their point of view of the government. Therefore, a consensus was developed on the important legislation between the opposition and treasury benches. He recorded when the bills of national interest would be place on the floor of the Houses, opposition and treasury benches were sit together and discussed the content of the bills. Consequently, the point of view of both the opposition and government would be considered in the bill and a good legislation would be enacted. He also pointed out that many members of parliament did not understand theirs functions. They behaved like local councilors to control SHO or SP in their constituencies. He extended that most members even did not read the constitution in their whole tenure for only one time. Senator He was of the view that in the period from 2008 to 2018, opposition benches had performed tremendous functions. All the good legislations were the contribution of opposition benches. He emphasized that Senate perform better than NA because the members of NA were most of the time inexperienced. They did many mistakes like spellings mistake, sentence structure, punctuation errors etc. which was corrected by the members Senate. He argued it was due to the opposition benches (2008 to 2018) that tradition of political consensus developed in the parliament of Pakistan.

Senator Mushtaq Ahmad of JI told the opposition in PML-N government had raised the issue of inflation, voiced against the conditions of IMF and worked for true democracy in Pakistan.<sup>500</sup> However, one opposition party would take script from non-democratic forces and would act upon the script instead of the stance of joint opposition. He said that in law-making process, opposition and government had cooperated with each other.

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<sup>499</sup> Tahir Hussain Mashadi, interviewed by M. Adil, Islamabad, August 18, 2020.

<sup>500</sup> Senator Mushtaq Ahmad, interviewed by M. Adil, Islamabad, June 27, 2020.

Most of the bills passed from the parliament with mutual understanding of the opposition and treasury benches. He was of the opinion that opposition parties are divided among themselves because of the ideologies. Each party works in parliament according to its own ideology, therefore, the disunity among opposition benches is natural. However, Aysha Syed ex MNA of JI argued that not only ideology but also other reasons responsible for disunity among the opposition benches. When asked why the major opposition did not support the stance of JI in various bills. Aysha Syed responded that one of the reason of not supporting JI stance was the pointed out the corruption of PPP's leaders in EOBI by her.<sup>501</sup> As she was the member of the Standing Committee for Overseas Pakistani and Human Resource Development, so she had detected the corruption of several leaders of PPP. She explained that there were other reason also when one opposition party did not support the other, however, the said case was also one reason. She extended that PPP, the major opposition party, always supported the government instead of the opposition benches. In Pakistan Protection Bill (PPC 2014) government had bulldozed the opposition benches. Only JI and JUI had opposed the bill other opposition parties had supported the government. Major opposition parties had friendly relation with government, she added. Similar, situation was also in 21<sup>st</sup> and 23<sup>rd</sup> constitutional amendment

Saleem-ur-Rehman<sup>502</sup> of PTI claimed that from 2008 to 2018 the two major parties PML-N and PPP were helping hand of each other and did nothing for the welfare of the common people.<sup>503</sup> He further argued that the policies which they supported in opposition benches, they did not enact those policies while sitting on the treasury

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<sup>501</sup> Ex-MNA Aysha Syed, interviewed by M. Adil, Islamabad, June 29, 2020.

<sup>502</sup> Saleem-ur-Rehman hails from Swat, KP and the current member of National Assembly from PTI. He was also member of NA from 2013 to 2018.

<sup>503</sup> MNA Saleem-ur-Rehman, interviewed by M. Adil, Islamabad, April 06, 2020.

benches. He was also of the opinion that from 2013 to 2018, PTI performed a real role on the opposition benches. All the parties except PTI have same interest, therefore, they supported each other. These parties supported government to approve mega projects in their constituencies. PPP had always played a role of friendly opposition in PML-N's government. He claimed that both PPP and PML-N have same interest that is why both are working for their own interest instead of the country. PML-N government did not support any alternative of PTI, as PTI chief Imran Khan directly target the leadership of PML-N. However, this claim of PTI was rejected by the opposition members. As, Amir Haider Khan Hoti told that all the opposition parties were most of time united on important national issues except PTI in the government of PML-N (2013-18).<sup>504</sup> He argued PTI's behavior was not according to democratic norms. Its only demand was to oust Nawaz Sharif's government.

#### **4.14- Conclusion**

To sum up the arguments, it is concluded that both the opposition and government have cooperated with each other on different important legislation instead of their differences in opinion. One of the important point is that opposition was strong in the Upper House, on the other hand, government was strong in numbers in the Lower House. Therefore, the government has passed several legislation without any concrete barrier in the NA, but faced hardships to pass some vital bills from the Senate. Similarly, government has ignored several amendments of the opposition in different bills in the Lower House, however, accepted most of those amendments in the Upper House. The reason for this is clear that government was not able to enact any law in the Senate without the support of the opposition. Meanwhile, the opposition parties were also divided on different

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<sup>504</sup> MNA Ameer Haider Khan Hoti, interviewed by M. Adil, Islamabad, May 15, 2020.

legislation according to their own ideologies. In several legislation, JI one of the religio-political party has strong reservation especially anti-terrorism legislation but not supported by other opposition parties. Similarly, PPP has proposed several alternatives in different bills but also not supported by their co-benchers, for example in the “The Shaheed Zulfiqar Ali Bhutto University, Islamabad (Amendment) Bill, 2017”. It shows that the main differences in several legislations among the opposition parties were based on their ideologies. On the other hand, when opposition parties were united, they have given tough time to the government. On this way, the government was compelled to accept the alternatives of the opposition in the bills like in Pakistan Protection Bill, The Prevention of Electronic Crimes Bill and The Election Bill. However, the opposition were comprised of multi-parties with different ideologies, therefore, the division among them was already exist. This division was in the favour of the government and provided advantage to treasury benches in one way or the other. However, overall role of the opposition was cooperative and friendly. At many times, they supported the government to pass vital legislation in larger interest of the country. Simultaneously, they have also presented different alternative policies in different important legislation in larger interest of the common public especially in the bills related to security. In the Senate, as the opposition has strong numbers, therefore, it resisted those legislations which were against the fundamental human rights. Government has also played accommodative role by accepting most of amendments from the opposition benches. Hence, it can be concluded that in PML-N government (2013-18) both government and opposition dependent upon each other. Both have shown flexibility in their attitudes beyond their differences, and have collaborated in making and passing significant bills in the parliament.

## CHAPTER- 5

### ROLE OF OPPOSITION IN FINANCE BILLS IN PARLIAMENT OF PAKISTAN, 2008-2018

#### 5.1- Introduction

The finance bills presented every year in June in the National Assembly of Pakistan by the treasury benches. By tradition, opposition leader initiated the debate on the bill and then all the opposition parties as well as treasury benches participated in the debate. The opposition benches make objections, propose suggestions and move amendments in the bill. However the most important tool through which opposition parties show their criticism on the finance bill is cut motion. It is a power granted to the members of the parliament to oppose a demand proposed by the treasury benches in the finance bill. There are three types of cut motion namely Disapproval of policy cut motion, Token cut motion and Economy cut motion. Disapproval of policy cut motion is moved to reduce the amount demanded to Re. 1 which means the mover is rejecting the government policy. Token cut motion is tabled to reduce the amount demanded to Rs. 100 which means the member has grievances on the policy of the government. Economy cut motion is moved to reduce the amount of demand to a specific amount. It is to be noted that the cut motion should be submitted in the NA one day before the discussion. All these different types of cut motions are significant tools which show the activeness of the opposition.

In this chapter, the role of opposition benches in all the annual financial bills moved by the governments of PPP (2008-13) and PML-N (2013-18) is critically analyzed. The chapter is divided into two parts, the first part deals with finance bills presented in the tenure of PPP's government (2008-13) and the second part deals with finance bill

passed by PML-N government (2013-18). In all the bills, the opposition's objections, amendments and cut motions are discussed in detail in this chapter.

## **PART-I**

### **FINANCE BILLS IN PPP'S GOVERNMENT AND ROLE OF OPPOSITION**

#### **5.2- Finance Bill 2008-09**

The Finance bill 2008-09 was presented by PPP's Naveed Qamar on the floor of the National Assembly. The total disbursement of money in the budget was Rs 2010 billion. It was 29.7 percent higher than the size of the previous budget of 2007-08. The economic growth rate has been projected at 5.5 percent with the fiscal deficit as 4.7 percent of GDP. Besides, the government increased the number of Supreme Court Judges through this finance bill.

The budget debate was started by the opposition leader Chaudhary Pervaiz Elahi of PML. He stated that the opposition has set new tradition by not chanting slogans in the speech of finance minister, however, for last eighteen years in every budget bill the finance minister has been drinking about eighteen glass of water because of the pressure build by the opposition benches.<sup>505</sup> He extended that today's budget is presented in very peaceful manner and all the credit goes to the opposition benches by making such an environment. However, he criticized the finance bill that it not only negate PPP's manifesto of *roti, kaprha and makan* (clothes, bread and shelter) but also lack any vision and direction. He argued that in the bill twenty billion rupees has been reduced on wheat subsidy which would impact the poor people. He also criticized the new taxes imposed

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<sup>505</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 5<sup>th</sup> sess., 2008, Vol. V, no. 9: 948.

on the sale and purchase of new houses or plots. He told the House that one percent increase in General Sale Tax (GST) would have bad consequences for the common people.

The JUI leader Maulana Fazle Rehman told that the new budget has set within the limits of means and calamities inbred from the alleged eight-year mishandling of President Musharraf.<sup>506</sup> He expected that the path established by the incumbent government could take over these difficulties in the coming years. Ahsan Iqbal of PML-N also called the budget as the best effort in worst conditions.<sup>507</sup> Kadir Khanzada of MQM from opposition benches appreciated some of the policies of the budget bill like freezing the defence budget and increasing salaries and pensions of government servants.<sup>508</sup> However, condemn the decrease in subsidies on gas, electricity and wheat.

In the meantime, the opposition parties did not participate in voting on the financed bill 2008-09, however, they were present in the proceeding of NA.<sup>509</sup> PML members also criticized increase in the number of SC judges via finance bill and called it contrary to parliamentary procedures. Attiya Inayatullah of PML from opposition benches stated that we have reservation over the procedure of raising the number of judges.<sup>510</sup> It would not be done through finance bill as it violated the constitutional right of Senate which represented all the federating units. Another opposition member from PML, Riaz Pizada, also condemn the procedure adopted by the government to increase the number of judges in the SC. He told the house that Allah has enacted the values of justice in

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<sup>506</sup> Ibid. 964.

<sup>507</sup> Ibid. 968.

<sup>508</sup> Ibid. 970.

<sup>509</sup> Irfan Bukhari, ‘NA okay Money Bill, judges’ new strength,’ *The Nation*, June 23, 2008, <https://nation.com.pk/23-Jun-2008/na-okays-money-bill-judges-new-strength>.

<sup>510</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 5<sup>th</sup> sess., 2008, Vol. V, no. 17: 2660.

His book the Holy Quran.<sup>511</sup> PML was of the opinion that it is not against the increase in the number of judges, though, it opposed the procedure choose by the treasury benches.

Although, there was no amendment tabled by the opposition benches on the floor of the NA, 933 cut motions were moved by the opposition benches against the demands of grants for the different ministries and divisions. Out of 933 cut motions, PML 782, MQM 129, PPP-S 19 and Independent moved only 3 cut motions. PML disapproved 333 policies and showed grievances on 396 policies of the government in the finance bill. In addition, 53 economy cut motions were also tabled by PML. Similarly, MQM disapproved 77 policies and revealed grievances on 52 polices of the government. Another opposition party, PPP-S disapproved only 16 and mark grievances over only 3 policies in the finance bill. It should be noted that PPP-S had only one member in the Lower house. However, MQM and PPP-S did not move any economy cut motions in the bill. One of the independent member from the opposition benches, Moulvi Asmatullah tabled 3 cut motions in which 2 were related to disapproval of policy cut motions and 1 was token cut motion. The details of these cut motions are charted in figure 6.1 in this chapter.

### **5.3- Finance Bill 2009-10**

The NA passed finance bill with Rs. 2.9 trillion federal budget for the year 2009-10. It increased not only salaries of grade 1-16 employees up to 20 percent but also raised similar amount of pension for retired employees. However, some tough decisions had been taken in this budget for improving economy of the country. The budget had expanded tax net and withdrawn subsidies for the purpose to boost government revenue.

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<sup>511</sup> Ibid. 2662.

The opposition leader in the NA, Chaudhary Nisar Ali Khan condemned the withdrawal of subsidies on electricity and gas.<sup>512</sup> He also criticized the government for imposing new taxes on petroleum products and CNG. Sardar Ayaz Sadiq of PML-N argued, there is no difference between the Musharaff regime and PPP regime as both have same financial policies for the public.<sup>513</sup> He alleged that PPP government is the extension of the last dictator's government. He also criticized the imposition of new carbon tax by the government.

Khurram Dastagir of PML-N from opposition benches was of the opinion that the finance bill had no new thing, and dependent on remittances, foreign assistance and loans like the previous government.<sup>514</sup> He extended that the budget had ignored the poor masses and showed no sign of prosperity and development due to the incompetency of the government. Notwithstanding, he applauded the Benazir Income Support Programme (BISP), termed it inefficient for eradication of poverty.

Chaudhary Pervaiz Elahi, Parliamentary Leader of PML called the budget 2009-10 only a formality, as it did not present vision and direction of PPP's government.<sup>515</sup> He claimed the government did not achieve the targets fixed for the financial year 2008-09, and the objectives set in this budget would have the same results in the coming year. Perviaz Elahi argued that government had no plan to control the situation of poverty and inflation in the country.

Maulvi Asmatullah an independent member from opposition benches told the House that the budget is made for the elite class only and not for common people of the

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<sup>512</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 14<sup>th</sup> sess., 2009, Vol. XIV, no. 4: 362-63.

<sup>513</sup> Ibid. 402.

<sup>514</sup> Ibid. 411.

<sup>515</sup> Ibid. 279

country.<sup>516</sup> He demanded to increase the amount for developmental purposes for the province of Baluchistan, as it had been ignored in the budget 2009-10.

On the reservation of the opposition benches, Minister for Planning and Development Makhdoom Shahabuddin responded that the government had taken enough steps to control the poverty up to a maximum level in the country.<sup>517</sup> He claimed it was the timely measures of PPP's government that inflation and poverty had been reduced. Shahbaz Bhatti, Minister for Minorities, also appreciated the budget 2009-10 and argued that government should be praised for making such a balance budget in critical situation.<sup>518</sup>

However, on the reservation of the opposition, the treasury benches agreed to withdraw several taxes proposed in the finance bill 2009-10. Hence, carbon tax of Rs6 per kg on CNG, 20 paisa tax on SMS and 16 per cent General Sales Tax (GST) on newspaper printing, had withdrawn.

From treasury benches, PM Yousaf Raza Gillani and Labour Minister Khursheed Shah admired both the opposition benches for showing a political unity and passing the budget. They argued such a behavior from both benches would result in strengthening democracy in Pakistan.<sup>519</sup>

Whereas from opposition benches, PML-N chief whip Sheikh Aftab Ahmed and PML leader Riaz Hussain Pirzada from the opposition benches said the opposition collaborated in passing the finance bill 2009-10 to form new democratic traditions.

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<sup>516</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 14<sup>th</sup> sess., 2009, Vol. XIV, no. 6: 645.

<sup>517</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 14<sup>th</sup> sess., 2009, Vol. V, no. 9: 1272.

<sup>518</sup> Ibid. 1299.

<sup>519</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary year, 14<sup>th</sup> sess., 2009, Vol. V, no. 11: 1795-96

Therewithal, no amendment was tabled by the opposition benches in the finance bill. Nonetheless, 387 cut motion were moved by the opposition benches against the demands of grants for different ministries and divisions. In these cut motions, PML-N moved 184, in which 120 were disapproval of policy, 62 were token cut motion and only 2 were economy cut motions. PML tabled 88 disapproval of policy cut motions and 80 were token cut motions, however, no economy cut motion was moved from PML side. Simultaneously, a smaller opposition party PPP-S moved total 26 cut motions in which 11 were related to disapproval of policy and 15 were token cut motions. In addition, independent members from opposition benches also moved total 09 cut motions in which 01 was about disapproval of policy and 08 were related to token cut motions. Economy cut motion was neither tabled by PPP-S nor by any independent members from opposition benches. The charts of these cut motions are showed in figure 6.1 in this chapter.

#### **5.4- Finance Bill 2010-11**

Finance Bill 2010-11 was passed from the NA with total amount of 3.259 billion rupees. The budget had fixed 663 billion rupees for development programme whereas 1667 billion rupees had fixed for tax collection target for next fiscal year. Although, the projected budget deficit was Rs 700 billion for the fiscal year 2010-11.

In the finance bill, government had not only increased salaries of government servants by 50 percent of their basic pay but also provided relief to the retired government employees. Besides the bill allocated 50 billion rupees for Benazir Income Support Programme (BISP) to assist the poor people of Pakistan. Most significantly, it reduced Custom Duty on twenty nine items, however, raised general Sale Tax one percent which

did not contain food items. It also imposed Capital Gains Tax on the sale of shares in stock market.

Opposition leader in NA, Chaudhry Nisar Ali Khan, criticized the finance bill as visionless.<sup>520</sup> He blamed the government for ineffective measures to tackle main problems like energy crisis, inflation and poverty. The opposition leader showed reservation on 50 percent increase in basic of pay of government employees by arguing that the provincial governments were taken into confidence in the matter. He was of the opinion increase in salaries was good but provincial government should consult before the decision. He argued that it would increase burden on the provinces especially Punjab. As, in Punjab province, PML-N was ruling, and would face an extra burden of 42 billion rupees. For this reason, opposition leader had strong reservation on the increased in salaries of the government servants.

Before passing the bill from NA, opposition leader Chaudhry Nisar Ali Khan criticized the government for ignoring the proposals of opposition benches. He told the House that the budget should be passed unanimously like the previous budget, however, government failed to develop consensus on the finance bill.<sup>521</sup> He argued that the suggestions of almost 140 members were not taken into account. The opposition leader termed the budget one-sided and also lamented on the role of PML who did not cooperate with PML-N in opposing the amendments of the opposition.

PML-N Anusha Rehman criticized the treasury benches for not allowing discussion on the defense budget.<sup>522</sup> Ayaz Said of PML-N told that finance minister declared 10

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<sup>520</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 23<sup>rd</sup> sess., 2010, Vol. XXIII, no. 4. 258-259

<sup>521</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 23<sup>rd</sup> sess., Vol. XXIII, no. 18. 2090-2092

<sup>522</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 23<sup>rd</sup> sess., Vol. XXIII, no. 16. 1586

percent reduction in salaries of the minister, but augmented the amount of ministries to 20 percent in the finance bill 2010.<sup>523</sup> He was of the opinion that he would support the increase if the ministries worked honestly for the welfare of the people.

Dr. Attiya Anayatullah of PML also from opposition benches emphasized upon PPP to do some work for the masses of Pakistan.<sup>524</sup> She told the house the prime minister had vowed previous year to reduce his expenses by forty percent, notwithstanding, his budget had been raised from 129 million rupees to 142 million rupees. Riaz Hussain Pirzada central leader of PML informed the house that his party would support the finance bill 2010 in the larger interest of the country and democracy.<sup>525</sup>

PML-N from opposition benches had proposed six amendments in all the clauses of the finance bill 2010, except the first clauses which was related to title and commencement of date. The first amendment of PML-N proposed that in clause 2 the word "surcharge" should be substituted with word "levy" and fifty percent decreased in the rate enacted by the government on the petroleum products.<sup>526</sup> Zahid Hamid of PML-N argues that the government is imposing new taxes in the name of surcharge, therefore, the correct word "levy" should be used in the finance bill.<sup>527</sup> He also said that decrease in rate would have positive impacts on the economy and would also reduce inflation in the country.

The second amendment by PML-N proposed that the word "review" should be changed with the word "revision" and the word "review application" should be changed with the word "revision petition".<sup>528</sup> Pervaiz Malik of PML-N explained that the review would

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<sup>523</sup> Ibid. 1613.

<sup>524</sup> Ibid. 1646.

<sup>525</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 23<sup>rd</sup> sess., Vol. XXIII, no. 18. 2097.

<sup>526</sup> Ibid. 2010-2011.

<sup>527</sup> Ibid. 2012-2013.

<sup>528</sup> Ibid. 2022.

only be held by the same adjudicating officer while the revision would be held by the upper designated officer.<sup>529</sup> However, this technical mistake was corrected by the government with its own amendment, and the amendment of PML-N was opposed and rejected by the House. In this amendment PML-N also proposed that the penalty should be higher than what is proposed by the government. The treasury benches had proposed that the amount should be twice the value of the goods while the opposition benches proposed that the amount should be three times of the value of the goods.

The third amendment in clause 4 of the bill was related to abolish the discretionary grants of speaker of NA and chairman of Senate provided by the finance bill.<sup>530</sup> The fourth amendment in clause 5 of the bill suggested that the General Sale Tax (GST) should be 12 percent which the government had increased to 17 percent from 16 percent in the current finance bill.<sup>531</sup> This amendment also proposed that the merging of sale tax, excise duty and income tax into “inland revenue” should be delayed as it need more deliberations and homework. The Fifth Amendment suggested that the arbitrary power which has transfer to commissioner FBR through this bill should be remained with Board.<sup>532</sup> It also proposed that those companies which enlisted themselves with stock exchange should be given 10 percent credit which would encourage more companies to register themselves with stock exchange.

The last amendment proposed that the 10 percent excise duty imposed by the government on deep freezers should be removed and it should be added to the excise duty on cigarettes and cigars. Chaudhary Barjees Tahir of PML-N argued that deep freezers are not only used by rich class but also by middle class as it is now a

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<sup>529</sup> Ibid. 2023.

<sup>530</sup> Ibid. 2032.

<sup>531</sup> Ibid. 2045.

<sup>532</sup> Ibid. 2068.

necessity.<sup>533</sup> He argued that the excise duty should be abolished as it would made burden on the middle class. He further argued that cigarettes and cigars are luxurious items, therefore, it should be increased from 64 percent to 75 percent, and the 10 percent excise duty on deep freezers should be adjusted in these luxurious items.

However, all the amendments proposed by PML-N from opposition benches in the Finance Bill 2010-11 were opposed by the finance minister and consequently rejected by the House.

Besides, 662 cut motions were also moved by the opposition benches, out of which 396 by PML-N, 245 by PML and 21 by independent members. Out of 396 by PML-N, 148 were disapproval policy cut motions, 241 were token cut motions and only 07 were economy cut motions. In the same way, PML tabled 43 disapproval of policy cut motions, 194 and 08 token cut motions and economy cut motions respectively. Independent members from opposition benches also moved 08 disapproval of policy cut motions and 13 token cut motion whereas no economy cut motion was tabled by independent members.

It is to be noted that PML withdrawn some of its cut motions related to Interior ministry. Mian Riaz Hussain Pirzada argued according to the situation of war on terror and the sacrifices made by the security forces, therefore, PML withdraw its all cut motions related to Interior Ministry.<sup>534</sup>

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<sup>533</sup> Ibid. 2082.

<sup>534</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary year, 23<sup>rd</sup> sess.. 2010, Vol. XXIII, no. 17. 1688.

## 5.5- Finance Bill 2011-12

PPP and its coalition partners presented a budget for 2011-12 with a fiscal deficit of 2767 billion rupees deficit. It not only increased spending on defense but also of debt servicing. It proposed that the fiscal deficit would be decreased to 4 percent of the total economy's size or 851 billion rupees. However, it was an over aspirational target set by the government.

Whereas the minister for finance was proposing the finance bill, the members of opposition benches especially of PML-N assembled in front of the speaker's chair and repeated slogans against the budget and the government.<sup>535</sup> Some of the female members of PML-N also threw their bangles on the minister for finance, however, the minister did not stop the budget speech. In addition, some of the opposition members gave *Naan* to the minister as a symbolic gesture for not controlling the inflation.

PML-N was of the view that the government should provide clearly explained all the details of spending on the country's defense. This demand came from PML-N after the different military failures in the country like the US operation in Abbottabad against Osama Bin Laden, raid on Mehran base in Karachi by terrorists and attack on the army's General Headquarter GHQ by the militants. In the light of these attacks, Mehtab Ahmad Khan Abbasi of PML-N from opposition benches termed these attacks as failures of the military and demanded greater accountability of the security forces.<sup>536</sup> Similarly, Ahsan Iqbal, the information secretary of PML-N argued that allocation of such huge amount

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<sup>535</sup> Shahbaz Rana and Irfan Ghuri, "Budget 2012: A predictable budget," *The Express Tribune*, June 04, 2011, <https://tribune.com.pk/story/182133/budget-2012-a-predictable-bu>.

<sup>536</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 31<sup>st</sup> sess., 2011, Vol. XXXI, no. 13. 69.

for defense and debt servicing would stop the progress of the country.<sup>537</sup> He was of the opinion that it would pave the way for development and prosperity of Pakistan.

It is worth mentioning, when PML-N was criticizing the government for the flawed budget, its only thirty members were present out of ninety-two in the NA.<sup>538</sup> It implied the disinterest of the opposition in the finance bill as it could not stop any amount allocated for defense and debt servicing with such low numbers. It also showed that the criticism on the military's budget was only limit to speeches and no practical step had been taken to block the demands for defense purposes.

In respond to the opposition benches, Minister for Defense Chaudhry Mukhtar told the House government had provided 4 page details on defense spending in spite of one page, and in the coming year more detail would be provided to the House.<sup>539</sup> He argued only 2.24 percent had been increased in the finance bill for defense purposes while rejecting the reservation of the opposition.

The opposition benches also criticized on the allocated amount for the Cabinet and Establishment Divisions. Mehtab Abbasi of PML-N showed reservation over the allocation of 630 million rupees for the National Accountability Bureau (NAB).<sup>540</sup> He argued NAB had no function because of the lack effective accountability law in the country. He termed the NAB a toothless institution. Another PML-N member Anusha

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<sup>537</sup> Ibid. 75.

<sup>538</sup> Umer Nangiana and Qamar Zaman, "Budget Debate: 'N' demand greater military accountability," *The Express Tribune*, June 19, 2011. <https://tribune.com.pk/story/192032/budget-debate-%E2%80%98n%E2%80%99-demands-greater-military-accountability>

<sup>539</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 31<sup>st</sup> sess., 2011, Vol. XXXI, no. 13. 86-87

<sup>540</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 31<sup>st</sup> sess., 2011, Vol. XXXI, no. 15: 93.

Rehman also censored NAB by citing to an audit report which underscored misappropriation of thirty five billion rupees by its officials.<sup>541</sup>

PML-N proposed an amendment to insert new section 129A in Custom Act that the transit fee should be prescribe by the parliament not by FBR, as the government has given authority to FBR to prescribe transit fee in the finance bill 2011-12.<sup>542</sup> Finance Minister explained that it would be a wastage of time to counter parliament for small changes, therefore, the authority has given to FBR.<sup>543</sup> Consequently, the amendment was opposed by the finance minister and also rejected by the House.

PML-N Saud Majeed proposed another amendment to reduce sale tax to 10 percent instead of 16 percent,<sup>544</sup> while the government has reduced the sale tax from 17 to 16 percent in the finance bill 2011-12. Saud Majeed argued that inflation is much high and the poor could not afford it, therefore, the government should give relief to the poor masses by reducing the sale tax to 10 percent. However, this amendment was also opposed by the government and also rejected by the House.

Moreover, the opposition parties also criticized the finance bill through cut motions. Total of 474 cut motions were moved by two parties from opposition benches. PML-N and JUI-F tabled 458 and 16 cut motions respectively. PML-N's 131 cut motions were related to disapproval of policy, 305 were token cut motion and 22 were economy cut motions. Out of 16 cut motions of JUI-F, 04 were disapproval of policy, 11 were token cut motions and only 01 were economy cut motions. All the cut motions were rejected by the treasury benches.

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<sup>541</sup> Ibid. 104.

<sup>542</sup> The National Assembly of Pakistan Debates, 4<sup>th</sup> Parliamentary year, 31<sup>st</sup> sess., 20011, Vol. XXXI, no. 16: 21.

<sup>543</sup> Ibid.

<sup>544</sup> Ibid. 23.

## 5.6- Finance Bill 2012-13

PPP's minister for finance proposed the last budget the government with total outlay 3203 billion rupees. Through this bill, PPP became the first democratic government to present the fifth consecutive finance bill. The size of budget was 15.8 percent larger than the budget estimated in 2011-12. However, in this historic movement, opposition staged a strong protest in the NA.

The opposition benches chanted slogan and threw different things on the ministers while protesting against the corruption and load shedding in the country. Tehmina Daultana, a female legislator of PML-N from opposition benches threw bangles on PPP's Naveed Qamar minister for defense.<sup>545</sup> The members of the opposition benches seized the situation by not only chanted slogan but also started fight on the floor of the House.<sup>546</sup> Due to the intense protest of the opposition lawmakers the proceeding of the NA was spoiled. It created such an environment that positive debate on the finance bill was impossible.

Opposition leader in the NA was of the opinion that there was no such things in the bill which improved the life standard of the common people.<sup>547</sup> He argued that until Zardari was the President of Pakistan no budget would be presented for the welfare of the common being in the country. While talking to media, he was of the opinion that the government was flopped in resolving the critical issues of the country.

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<sup>545</sup> Rana Asghar, "NA concludes Budget debate amid uproar," *Dawn*, June 14, 2012, <https://www.dawn.com/news/726410/na-concludes-budget-debate-amid-uproar>.

<sup>546</sup> "Govt unveils budget in NA amid opposition uproar," *Dawn*, June 01, 2012, <https://www.dawn.com/news/723087/federal-cabinet-meets-over-budget-proposals>.

<sup>547</sup> Syed Danish Hussain and Maqsood Tirmizi, "Opposition sees Budget as Old wine in new bottle," *The Nation*, June 13, 2012.

Moulana Atta-ur-Rehman of JUI-F called the finance bill as “an old wine in a new bottle”.<sup>548</sup> He claimed the masses still face the problems which they had faced four years ago. The government did not resolve any problem of the people since the last four years. He also said that economic deterioration had been increasing day by day. Both the major opposition parties PML-N and JUI-F severely censored the performance of the government and rejected the finance bill 2012-13. Opposition benches boycotted from the proceeding of the NA on the finance bill and staged walk out. Besides, they did not move any cut motions or amendments in the budget.

In the parliamentary history of Pakistan, for the first time the opposition benches did not move any cut motions.<sup>549</sup> According to political scientist, the opposition’s decision to abstain from moving cut motions had provided opportunity to the treasury benches to pass the without any obstacle. Political experts viewed this decision of the opposition as contradictory to parliamentary traditions. It also implied that opposition especially PML-N failed to fulfill its pledge by giving a tough time to the treasury benches particularly in budget proceeding.

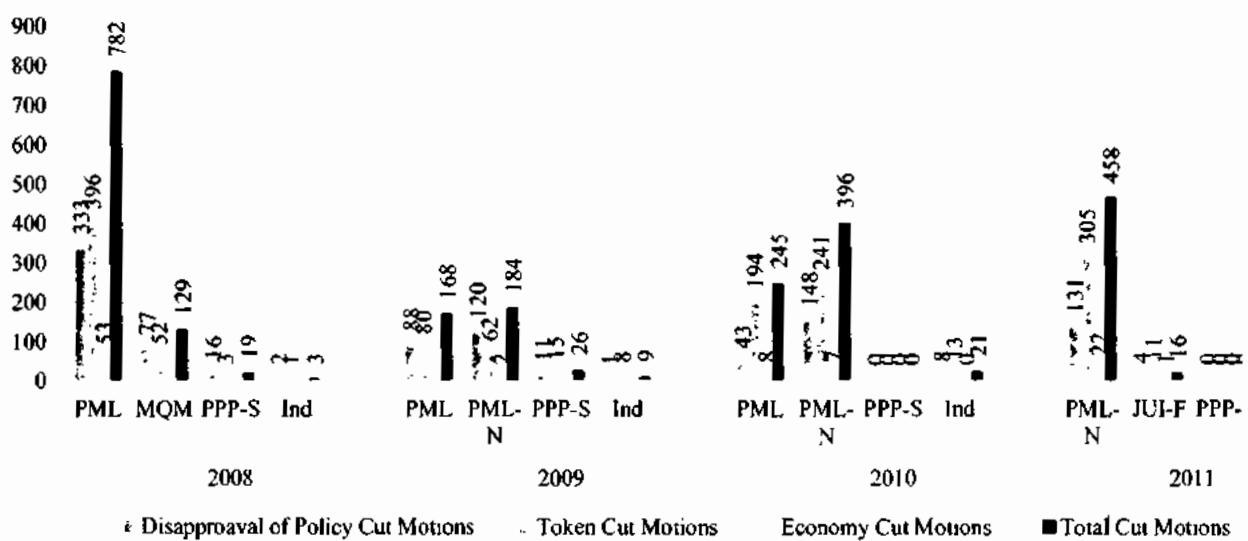
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<sup>548</sup> Ibid.

<sup>549</sup> Rana Asghar, “In passing budget, NA gives Gillani new armour.” *Dawn*, June 14, 2012, <https://www.dawn.com/news/726584/in-passing-budget-na-gives-gilani-new-armour/newspaper/column>

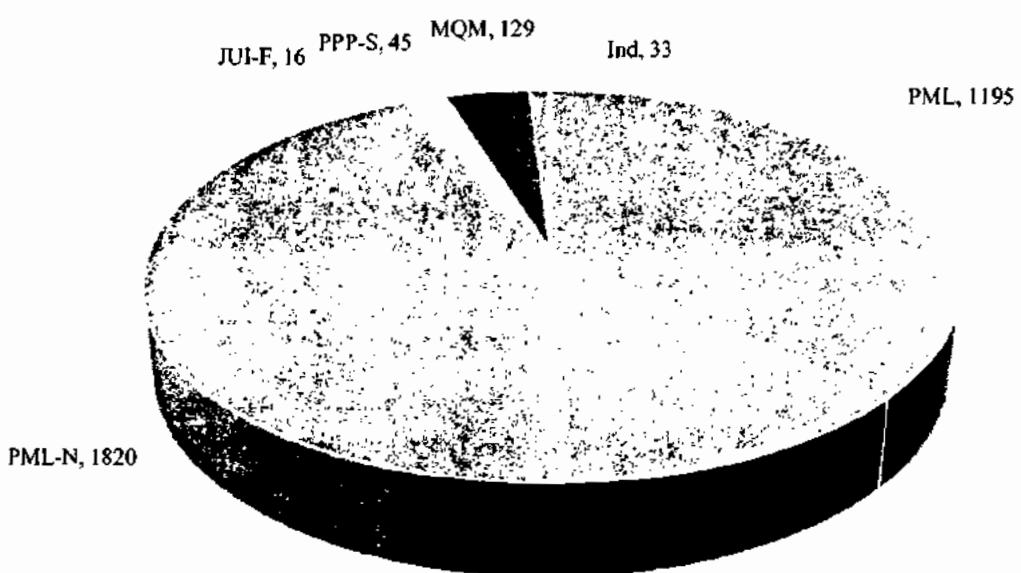
**Figure 6.1**

Year wise cut Motions by Opposition parties (2008-13)



**Figure 6.2**

Total Cut Motions (2008-13)



To sum up, opposition has played an active role in the financial bills except the last bill which was boycotted by the opposition parties. In first four years, the opposition

has not only actively participated in the debate but has also proposed alternative policies in the bills. Besides, through cut motion opposition parties have thoroughly examined policies of the government. According to cut motions, PML-N is the most active opposition in the parliament. It has moved 1820 cut motion in four finance bills of PPP's government. In addition to cut motions, PML-N has also proposed several amendments in the finance bill, however, rejected. PML, another opposition party, has also actively checked the policies of government in the first three years via cut motions. However, it joined government in the fourth year and sit on the treasury benches. It has moved 1195 cut motions in three years of its opposition but has tabled no amendment in the finance bills. Other smaller opposition parties PPP-S and JUI-F have also participated in the bills to some extent. Although, PPP-S has only one member in the NA but in the first two finance bills it moved several cut motions on the policies of the government. On the other hand JUI-F has moved some cut motion in the fourth finance bill. However in the last year of PPP's government, all the opposition parties have boycotted from the session, and have not moved any cut motion or amendments. It provided an opportunity to pass the finance bill without the examination of the opposition parties. According the data of finance bills, opposition benches have mainly focused on tax laws and increased in the salaries of the government employees. The government has also cooperated with the opposition to some extent especially on petroleum levies etc. Overall, the role of opposition in finance bills is active and positive. They have not made any concrete obstacles for the government, however, they have made objections on the contents which were against the common masses of the country.

## PART-II

### FINANCE BILLS IN PML-N'S GOVERNMENT AND ROLE OF OPPOSITION

#### 5.7- Finance Bill 2013-2014

PML-N government proposed its first Finance bill 2013-14 of 3.59 trillion rupees, comprised of 207 billion rupees in new taxes. The government employees' salaries were increased up to 10p percent. In addition, GST was raised to 17 from 16 percent by amending the Sale Tax Act 1990.

Afore starting formal debate on the finance bill, two opposition parties PTI and JI staged walkout from the House. PTI law-makers protested on the increase of GST rate by FBR before the finance bill was passed from the parliament.<sup>550</sup> Whereas JI staged walkout against the withdrawal of relief package for the masses of Malakand Division.<sup>551</sup>

Starting the debate on the finance bill, opposition leader Khursheed Shah said that the budgets had no package to redress the problems faced by the poor people of the country.<sup>552</sup> He labelled the budget as "anti-people". He extended the by only abolishing the discretionary funds would result in benefit for the country. Opposition leader argued that treasury benches increased salaries only up to 10 percent after strong protest from the opposition political parties and government servants. He furthered criticized the increase in GST. He also advised the government no to privatize any government institution because it would badly impact the poor labor of Pakistan.

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<sup>550</sup> Javid-ur-Rehman, "Brooding over bidget begins," *The Nation*, June 16, 2013, <https://nation.com.pk/16-Jun-2013/brooding-over-budget-begins>.

<sup>551</sup> Ibid.

<sup>552</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary Year, 2<sup>nd</sup> sess., 2013, Vol. II, no.2: 19-22

MQM's Farooq Sattar told the House that the finance bill had no new thing for the common people.<sup>553</sup> He recommended that GST should be a provincial subject and the federal government has no right to keep it with itself. He termed the extra tax on petroleum as 'official extortion'. In addition, he proposed 50 billion rupees reduction in defense spending to control load shedding in the country. Iqbal Qadri of MQM also criticized the amendment in tax and called it unjust and unfair.

Shah Mehmood Qurashi of PTI objected on the imposition of GST from 13<sup>th</sup> of June and termed it unconstitutional.<sup>554</sup> Shireen Mazari argued government servants and labor class had been ignored in the budget as minimum wages was not enhanced. She extended that the government concentration was on indirect taxes which was against the constitution. PTI law-maker also expressed grievances on increase in electricity tariff because all the burden would be fallen on the poor masses.

Another member from opposition benches, Shafqat Mehmood of PTI was of the opinion that government is planning to print new currency in the near future as a result inflation would be more increased in the country. He identified that government has imposed more tax on low-salaried person than high-salaried employees in the finance bill 2013-14 which was injustice to the lower-grade government's employees.

Sahizada Tariqullah of JI told the House that our party has strong reservation over the increase in GST.<sup>555</sup> He was of the view solution for all the problems of Pakistan is in the imposition of Islamic Law in the country. Moreover, he proposed 20 percent

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<sup>553</sup> Ibid. 42-44

<sup>554</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary Year, 2<sup>nd</sup> sess., 2013, Vol. II, no 5: 67

<sup>555</sup> Ibid. 83-84

increase in the salaries of government employees. Ghous Bakhsh Mehar of PML-F also emphasized on the withdrawal of GST as it results in rise of inflation.<sup>556</sup>

In short, the opposition benches main proposals to government were not to opt for the privatization of national enterprises, withdrawal the raise in GST and increase the salaries of the government employees. However, all the proposals and objections of the opposition parties in the finance bill 2013-14 were rejected by the treasury benches.

Federal Minister for Finance Ishaq Dar while responding to the opposition benches argued that 1931 Act empowered government to collect any rise in GST instantly with introduction of finance bill. Furthermore, he said that PPP's government had raised the allowances and salaries of the NA speaker and chairman senate via an amendment in finance bill 2010. Therefore, we changed that amendment as it was irrelevant and against the spirit of the constitution. The treasury benches tried to involve the opposition in other political issues like national security issue, trial of Musharaff for treason and peace process with Taliban in the limited session for budget.<sup>557</sup> The purpose was to keep away opposition parties from debating on the finance bill.

Besides, opposition benches moved two amendment in the finance bill 2013-14 which were opposed by the government. Dr. Nafisa Shah of PPP proposed an amendment in Clause 3 of the bill that the words "which are declared by the Federal Government through notification in the official Gazette, to be provincial sales tax for the purpose of input tax" should be removed.<sup>558</sup> In clause 4, Sahibzada Tariqullah of JI moved an amendment which proposed that after the word "manner" appearing at the end, the

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<sup>556</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary Year, 2<sup>nd</sup> sess., 2013, Vol. II, no 7: 33.

<sup>557</sup> Mubarak Zeb Khan, "Finance Bill 2013-14: The Accountant's Budget." *Dawn*, 27 June 2013. <https://www.dawn.com/news/1021165/finance-bill-2013-14-the-accountants-budget>

<sup>558</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary Year, 2<sup>nd</sup> sess., 2013, Vol. II, no 12: 74

words “provide details of those account holders and transactions made in their accounts that are declared as tax invaders or defaulters by the competent authority or any court of law, as directives given by the concerned competent authority or court of law”.<sup>559</sup> However, both the amendments were rejected by the treasury benches.

In addition, opposition benches also used a tool of cut motion to scrutinize the financial policies for 2013-14 of the government. Five opposition parties and independent members from opposition benches moved 770 cut motion in the finance bill in which PPP was at the top. PPP moved total 284 cut motions which included 102 disapproval policy cut motions, 176 token cut motions and only 06 economy cut motions. PTI tabled total 222 cut motion in which 79 were disapproval of policy cut motion, 138 were token cut motions and only 05 were economy cut motions. Another opposition party MQM presented total 233 cut motions comprised of 42 disapproval of policy cut motion, 188 were token cut motions and only 03 were economy cut motions. Other smaller opposition parties JI and AML moved 04 and 10 disapproval of policy cut motions and 09 and 02 token cut motions respectively. However, both parties did not move any economy cut motions. Some independent members also moved 04 disapproval of policy cut motions and 02 token cut motions. The data shows PPP had the most active participation in the bill whereas MQM had less members than PTI but performed better than it. The charts of these details are shown in the figure 6.3.

## 5.8- Finance Bill 2014-15

PML-N government passed the finance bill for 2014-15 and approved the federal budget of 4300 billion rupees. The expenditure for the fiscal year 2014-15 was calculated 3937 billion rupees which was 2 percent higher than previous years. The

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<sup>559</sup> Ibid. 97.

salaries of the government employees were increased up to 10 percent. All the tax related amendments moved by the treasury were adopted, however, the amendments proposed by the opposition benches were rejected.

Syed Khursheed Shah, opposition leader in NA, proposed the government to review the whole budget.<sup>560</sup> He told the House that government must keep the debt to GDP ratio below 60 percent but it had crossed 62 percent. Leader of opposition used harsh language for the government in his speech. He severely criticized the government plan to privatize the public entities. He informed government that opposition strongly resist on the privatization of any public entity. Opposition leader was also unhappy on the allocation 28 billion rupees for Metro Bus project. He was of the opinion that this amount should be spent on the construction Basha and other dams.

Another member from opposition benches, Asad Umar of PTI rejected the finance bill 2014-15. He argued the budget would give benefit to Indian businessmen because they would pay less tax than ours country's businessmen.<sup>561</sup> He claimed PML-N government had raised inflation up to 60 percent. He further criticized the purchasing of bulletproof vehicles of 22 crore rupees for the PM house. He emphasized that government should decrease the rates of gas and electricity and raised the wages of laborers. He added that the government had presented people-enemy budget and it had no such thing which gave welfare to the poor masses of the country.

While responding to the opposition benches, PML-N's Danyal Aziz from treasury benches argued that PPP's government had run the affairs of the government without finance minister.<sup>562</sup> He extended the privatization of some public entities was approved

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<sup>560</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary Year, 12<sup>th</sup> sess., 2014, Vol. XII, no 2: 24-25

<sup>561</sup> Ibid. 35-36.

<sup>562</sup> Ibid. 53-54.

by cabinet of PPP government. So, PPP had no right to make criticism on the privatization policies of the government. He also said that People party had made hat trick of taking loans from IMF. Danyal Aziz was of the opinion that inflation were in its highest level in the previous government. He further said PML-N government had presented a people friendly budget and would give a boost to business environment in the country.

Over all, in the budget session, there was less discussion on the finance bill and its related issues. Most of the time was spent in the issues which were irrelevant to finance bill. There was no proper debate and discussion on the issues important for public in the finance bill 2014-15.<sup>563</sup> The Nation newspaper also reported this session as “unusual budget session”.<sup>564</sup>

In the finance bill 2014-15, opposition proposed several amendments. Sher Akbar Khan of JI moved an amendment which says that the government had enacted minimum amount of custom duty on one kind of things which has been withdrawn through this finance bill, therefore, he suggested that it should not be withdrawn because it would affect the poor classes.<sup>565</sup>

In Clause 3, government has empowered the FBR to decide area or zones in which maximum rate of any brand would be imposed, on this amendment JI proposed that the determination of rate should be decide on the quantity as well as quality of the products.<sup>566</sup> JI also proposed that 5 percent tax in the electricity bills up to twenty thousand rupees should be abolished because if some has one or two thousand

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<sup>563</sup> Abrar Saeed, “Startling event dampen budget debate” *The Nation*, June 22, 2014, <https://nation.com.pk/22-Jun-2014/startling-events-dampen-budget-debate>

<sup>564</sup> Ibid.

<sup>565</sup> The National Assembly of Pakistan Debates, 2<sup>nd</sup> Parliamentary Year, 12<sup>th</sup> sess., 2014, Vol. XII, no. 14: 40.

<sup>566</sup> Ibid. 62.

electricity bill he would also pay this tax which is injustice with poor masses. Moreover, JI proposed another amendment which says that government should refund money to any individual who made a legal claim for it. Nevertheless, all these amendments in clause 3 by JI was opposed by the treasury benches.

In clause 6, JI proposed that the tax on movable and immovable property should be imposed after assessment, without assessment imposition of tax would be injustice.<sup>567</sup> Another member from opposition benches, PPP's Nafeesa Shah suggested that federal excise duty should also be imposed on the 1800cc local vehicles.<sup>568</sup> She further proposed that rural Sindh should be included in tax exemption area for five years, and the horticulture in Southern Punjab should be incentivized. Similarly, Shagufta Jumani of PPP, proposed amendment that the limit of turnover should be increased from 5 million to 100 million rupees for tax imposition.<sup>569</sup> Syed Naveed Qamar of PPP also proposed in Clause 6, in sub-clause 35 in proposed section 235 B, the words "tax on steel melters and re-rollers" should be deleted.<sup>570</sup> He also suggested that in sub-clause 37 the words "five percent" should be replaced with "two percent". However, this time, the government accepted the amendments from the opposition benches. Consequently, the House adopted all the three amendments of PPP and one amendment of JI.

In clause 8, PPP moved two amendments in which one was rejected and the other was adopted by the House. The first amendment was moved by Naveed Qamar which says that in clause 8, in sub-clause (1), the proviso should be deleted.<sup>571</sup> The second amendment in Clause 8 was proposed by Shazia Mari that in clause 8, sub-clause (3),

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<sup>567</sup> Ibid. 106.

<sup>568</sup> Ibid. 110-111.

<sup>569</sup> Ibid. 111.

<sup>570</sup> Ibid. 94-96.

<sup>571</sup> Ibid. 119.

should be deleted and the original Second Schedule as appears in the Gas Infrastructure Development Cess GIDC act should be remained.<sup>572</sup>

Besides the amendments, opposition also tabled 978 cut motions to inspect the finance bill. This year the number of cut motions were increased from the previous year. PPP was the most active opposition party and moved 468 cut motions in the finance bill 2014-15 which included 9 1 disapproval of policy cut motions, 339 token cut motions and 38 economy cut motions. PTI tabled total 242 cut motion which included 68 disapproval of policy cut motions, 151 token cut motion and 23 economy cut motions. MQM also moved 136 cut motions comprised of 09 disapproval of policy cut motion, 120 token cut motions and 07 economy cut motions. JI with only four members in NA, proposed not only amendments but also tabled 95 cut motions. JI cut motions included 25 disapproval of policy, 68 token cut motions and only 02 economy cut motions. AML with only one member in the NA tabled 12 disapproval of policy cut motions and 03 token cut motions. Similarly, independent members also 13 disapproval of policy cut motions and 09 token cut motions. Like the previous year, PPP was again the most active opposition party as it was also major opposition party. However, the role of JI and AML were appreciable because of less seats in the NA actively contributed in the NA. The charts of these details are shown in the figure 6.3.

### **5.9- Finance Bill 2015-16**

While opposition was boycotting from the budget session, the treasury benches passed hurriedly the Finance Bill 2015-16 with total amount of 4310 billion rupees. Finance Minister Ishaq Dar revealed the salient features of the bill, including removal or decrease of some taxes, increased in salaries of government servants and allocation

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<sup>572</sup> Ibid. 120.

billion rupees for farm subsidy fund. It was easy for the finance minister to pass the bill due to low attendance and continuous walkouts of the opposition benches from the session.

Opposition leader Syed Khursheed Shah started the debate on finance bill and termed it anti-people budget. He disapproved the increase in sale tax by arguing it would disturb the poor man in villages as well as in cities.<sup>573</sup> He was of the view that the budget 2014-15 was not people friendly. There was no such thing in the bill which had formulated for the welfare of the common citizens of Pakistan.

Asad Umar of PTI alleged PML-N government for making policies only for the elite class and ignoring the poor and middle class.<sup>574</sup> He also demanded that sale tax should be decreased to 15 percent, and in the next two year it should further reduced to 12.5 percent. He strongly condemn the increase of sale tax to 28 percent which would result the double increase in the rates of electricity and gas. He claimed all the targets were missed due to incompetency of the government, for this reason five mini budgets had been presented by the government in the last year. He further criticized the allocation of 139 billion rupees supplementary grants which were 65 billion rupees previous year. Besides, he proposed 15 percent increase in the salaries of government servants and the imposition of net asset tax to decrease the gap between rich and poor.

Farooq Sattar of MQM argued the finance bill had no practical solutions for the economic problems of Pakistan.<sup>575</sup> He told the house that the presentation of the budget was only a tradition as it did not propose any permanent solution to improve the economic deterioration of the country. He asked the government to decrease the rate of

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<sup>573</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary Year, 23<sup>rd</sup> sess., 2015, Vol. XXIII, no. 3: 5-6

<sup>574</sup> Ibid. 85-87.

<sup>575</sup> Ibid. 97-98.

oil, electricity, urea and gas. He also condemn the government's proposal to raise sale tax by 1 percent. He was of the opinion that sale tax should be decreased from 16 percent to 10 percent, on the contrary, it was raised to 17 percent. He maintained the 1 percent increase in sale tax meant 5 percent increase in inflation which would affect the poor class.

However, the opposition parties abstain from the remaining proceeding on the budget in the NA. The opposition leader and his co-benchers decided not to participate in the session because the treasury benches did not wait for the opposition return from a walkout and passed 50 demands for grants.<sup>576</sup> It was considered as an insult by the opposition parties. They also did not move 1500 cut motions of which they had given notice. The opposition parties also called for a nationwide protest across the country against the government's policies and observed the day as "black day".<sup>577</sup> The government tried to persuade the opposition benches for participating in the budget session. Speaker of the NA called a meeting of the parliamentary leaders of the opposition parties to change the decision of boycott and participate in the proceeding of the session. In return, the government would carry on the proceeding of NA to debate the energy crisis in the country. As the opposition had staged token walkouts on the issue of energy crisis. Nonetheless, the treasury and opposition benches did no come to an agreement. Ultimately, the opposition continued its boycott from the budget session and the government passed the Finance Bill 2015-16. Numerous amendments from PPP and JI and 1500 cut motions from the opposition parties were also not tabled due to the protest of the opposition parties.

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<sup>576</sup> Raja Asghar, "Budget rushed through NA after boycott by opposition." *Dawn*, June 24, 2015, <https://www.dawn.com/news/1190083>

<sup>577</sup> Ibid.

## 5.10- Finance Bill 2016-17

PML-N's government passed its fourth budget from the NA amounting 4400 billion rupees with changing the tax laws and raising the salaries of the parliamentarians. In addition, 261 billion rupees supplementary budget were also passed for the spending which the government had spent beyond the budget in the outgoing financial year.

The debate on the financial bill was opened by the opposition leader Khursheed Shah argued the opposition did not understand the budget whether it is pro-public, pro-labor or pro-farmer.<sup>578</sup> He stated that the economic policy of the government had no direction as it had not focused on a particular area. He reminded the finance minister of the promise to shun energy crisis in one year by constructing new dams. PML-N had also promised in its election manifesto to abolish the energy crisis from the country soon after making government. However, after coming into power, PML-N were telling that energy crisis would be overcome after 2018. Opposition leader asked the government that where were the different projects like Neelum-Jehlum hydropower and Chasma nuclear plants to fulfill the energy demand of the country.

The parliamentary leader of MQM Farooq Sattar also from opposition benches termed the finance bill anti-poor.<sup>579</sup> He argued people of Pakistan were deceived by the budget because it had nothing for the welfare of the poor people. He extended MQM had proposed many constructive suggestions for the betterment of the people, however, ignored by the treasury benches. MQM parliamentary leader was of the view that budget would not create any significant impact on the masses of Pakistan. He also

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<sup>578</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary Year, 33<sup>rd</sup> sess., 2016, Vol. XXXIII, no. 3: 11-13

<sup>579</sup> Ibid. 61-63.

rejected the government claims of economic stability by pointed out millions of non-filers of taxes. He stated that the imposition of withholding tax would result in additional burden over the masses of Pakistan, therefore, the government should withdraw this withholding tax. Besides, he proposed that levy and sale tax should also be withdrawn. Another MQM's member Salman Baloch termed the budget as "political announcement" for the election year.<sup>580</sup> He argued only tricky statistics were projected in the budget, as there was no concrete measures for the prosperity of the people.

PTI's Dawar Kundi from opposition benches labelled the budget directionless and was an expression of criminal negligence.<sup>581</sup> He asked how the government could assessed the distribution of funds to provinces when it did not know the actual figure of the population of the provinces. Another PTI's member Shehriyar Afridi also insisted on this point by questioning that how a family head formulate policies without knowing authentic figures of members of his family.<sup>582</sup> He said that it was not understandable to formulate Vision 2025 and other policies while census had not been conducted since 1998. He claimed government had failed to accomplish any of its target set in the previous finance bill.

Nonetheless, the treasury benches rejected all the amendments suggested by the opposition parties. In Clause 2 and Clause 3 of the bill, JI from opposition benches proposed a new proviso which states that such INGOs operating under a memorandum of understanding (MoUs) or an agreement with the Government of Pakistan should limit their work to natural calamity and welfare purposes and should not have type of

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<sup>580</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary Year, 33<sup>rd</sup> sess., 2016, Vol. XXXIII, no. 5: 63.

<sup>581</sup> Ibid. 74.

<sup>582</sup> Ibid. 99.

work in any meaning against national security and national economic interests.<sup>583</sup> JI want to add this sentence in Clause 2 because the government has exempted foreign companies from custom duties and sale tax in the bill. JI was of the opinion that only those companies should be exempted from tax which are not involved in such activities which is against the national interest of Pakistan. However, the amendment was opposed by the finance minister and rejected by the House.

In Clause 3, PPP proposed two amendments, the first amendment was moved by Naveed Qamar from opposition benches which states that paragraph (iii) should be deleted as it is imposing double taxation which is injustice.<sup>584</sup> Second amendment was moved by Azra Afzal of PPP which says that mineral water should not be removed from zero rate tax and stationary item should also not be taxed.<sup>585</sup> PTI, another opposition party, also moved an amendment in Clause 3, section 56B, in sub-section (2), for the word 'shall' the word 'may' should be replaced.<sup>586</sup> Dr. Arif Alvi explained that the government should have the authority to disclose the information it received in different agreement, therefore, the word 'shall' be replaced by the word 'may'.<sup>587</sup> According to section 56B in Clause 3, the information received by the government shall be confidential, and for this reason PTI want amend the said section. Furthermore, JI also proposed in Clause 3 that stationary item and mineral water should not be taxed, and the tax increased from 5 to 10 percent on poultry in the bill should be revised back.<sup>588</sup> However, the government did not consider any of these amendments, hence, these amendments were also rejected by the House.

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<sup>583</sup> The National Assembly of Pakistan Debates, 3<sup>rd</sup> Parliamentary Year, 33<sup>rd</sup> sess., 2016, Vol. XXXIII, no. 17: 97.

<sup>584</sup> Ibid. 104.

<sup>585</sup> Ibid. 106.

<sup>586</sup> Ibid. 105.

<sup>587</sup> Ibid.. 116.

<sup>588</sup> Ibid. 109.

In Clause of the bill, PTI suggested that in section (7C) section (7D), in subsection (1), after the words ‘at the rate specified’ the words ‘calculated according to their annual income’ should be added.<sup>589</sup> Dr. Alvi of PTI also suggested that movies and advertisement which are produced outside the countries should be taxed 25 percent instead of 20 percent. JI also proposed the same amendment as moved by PTI. Major opposition party also proposed that the extraction of mineral water should not be taxed, and the tax on electricity bills should be imposed on 1 lakh rupees instead of 20 thousand rupees.<sup>590</sup> Like the previous amendments, these amendments were also rejected by the government and consequently by the House.

In Clause 6 of the bill, Nikhat Shakeel of MQM proposed that every parliamentarian should be given an assistant who would help them in research and legislation making.<sup>591</sup>

In Clause 7 of the bill PPP proposed that service tax on port operator and tribunal services in port should be removed as it is provincial subject.<sup>592</sup> It also proposed that in sub-section 12 of section 19 in Federal Excise Act a new proviso should be added which states that any person should be given judicious opportunity of hearing and chance to correct the error before imposing penalty.<sup>593</sup> Dr. Arif Alvi of PTI also moved an amendment in Clause 7, section 47B, in sub-section (2), for the word ‘shall’ the word ‘may’ should be replaced.<sup>594</sup> It is the same amendment which is also proposed in Clause 3 of the bill by PTI. Nonetheless, these amendments were also opposed by the government and rejected by the House.

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<sup>589</sup> Ibid. 131.

<sup>590</sup> Ibid. 133.

<sup>591</sup> Ibid. 153.

<sup>592</sup> Ibid. 160.

<sup>593</sup> Ibid. 162.

<sup>594</sup> Ibid. 161.

In the Finance Bill 2016-17, opposition benches moved 13 amendments in several clauses of the bill, however, all were opposed by the government. In total amendments, PPP proposed 5, JI 4, PTI 3 and MQM proposed 1 amendments.

Moreover, opposition parties moved 1287 cut motions in the finance bills. PPP tabled the high numbers of cut motions. Out of 603, PPP moved 118 disapproval of policy cut motions, 422 token cut motions and 63 economy cut motions. On the second number, PTI tabled 287 cut motions which included 75 disapproval of policy cut motions, 199 token cut motions and 13 economy cut motions. MQM also tabled 204 cut motions in which 18 were disapproval of policy cut motions, 169 token cut motions and 17 economy cut motions. JI tabled 156 cut motions comprised 59 disapproval of policy cut motions, 96 token cut motions and only 01 economy cut motions. AML with only one member also moved 13 disapproval of policy cut motions and only 01 token cut motion. Independent members from the opposition benches also moved 18 disapproval of policy cut motions, 13 token cut motion and 02 economy cut motions. The charts of these details are shown in the figure 6.3.

### **5.12- Finance Bill 2017-18**

The Finance Bill 2017-18 was passed from the NA by PML-N government with total outlay of 4750 billion rupees. The house also permitted 3450 billion rupees for different ministries and divisions. However, the opposition remained absent from the session due to protest by not telecasted the speeches of the opposition members. It was the first time in the history of Pakistan that finance bill had passed without the presence of the opposition parties in whole session of the National Assembly.

The government presented the finance bill for general discussion in the NA, nonetheless, the joint opposition refused to participate in the debate on the finance bill

2017-18.<sup>595</sup> The opposition had demanded to live telecast the speeches of the opposition members on national TV which was rejected by the treasury benches. Consequently, the combined opposition parties conducted equivalent assembly in front of the Parliament. They termed the finance bill as anti-people. Some of the government seasoned members with PkMAP chief Mehmood Khan Achakzai tried to persuade the leader of opposition but he declined the proposal of the treasury benches and maintained the “mock assembly”.<sup>596</sup>

In front of parliament at mock assembly, leader of opposition severely criticized the government's proposal for the budget 2017-18. Other veteran members of opposition parties comprising PTI, MQM and JI also debated on the finance bill in the mock assembly. Khursheed Shah, the leader of opposition opened the debate, was of the opinion that minister for finance has betrayed the whole nation via budgetary proposals.<sup>597</sup> He said the grievances of the poor people are not addressed in the finance bill. Besides, the government has failed to achieve the GDP growth.

Shah Mahmood Quraishi of PTI contended that government has failed to resolve the energy crisis in the country.<sup>598</sup> He further criticized the government for not giving preference to health and education in the finance bill. Asad Umar also from PTI alleged the government for tampering the figures in the finance bill 2017-18.<sup>599</sup> He opined the level of production of electricity is reduced by comparing it with the production of the last government. He also condemn the tax on salaried persons because there is no appropriate package in return of the tax collected from the salaried class.

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<sup>595</sup> Amir Wasim, “PTV ‘black out’ prompts opposition boycott of budget debate in NA,” *Dawn*, May 30, 2017, <https://www.dawn.com/news/1336216>

<sup>596</sup> Javaid-ur-rehman, “Opps parallel session outside Parliament.” *The Nation*, June 01, 2017, <https://nation.com.pk/01-Jun-2017/opp-s-parallel-session-outside-parliament?show=756>

<sup>597</sup> *Ibid.*

<sup>598</sup> Wasim, “PTV.”

<sup>599</sup> *Ibid.*

Sahbizada Tariqullah of JI from opposition benches stated there is nothing in the budgetary proposal for the poor class of the country.<sup>600</sup> He asserted that in return of tax collection the government is not providing any proper relief to the tax payer people. Parliamentary leader of MQM Farooq Sattar scolded the treasury benches over unscheduled load shedding in Karachi.<sup>601</sup> He claimed that government has failed to monitor the K-electric for overcoming the issue of load shedding. He emphasized for the incorporation of the shadow budget prepared by MQM.

The opposition parties neither forwarded any alternative polices nor examined thoroughly the finance bill. They remained absent from such an important legislation because their speeches were not telecasted on PTV. It was unserious attitude of the opposition parties towards annual fiscal policy of the government. The opposition benches ill-performed in proposing alternative policies for bettering the budgetary proposal.<sup>602</sup> It looked like that all the opposition parties were not prepared to critically analyze the finance bill. The protest staged by the opposition did nothing only gave a safe passage to government to pass the finance bill without any amendment and objection from the opposite benches.

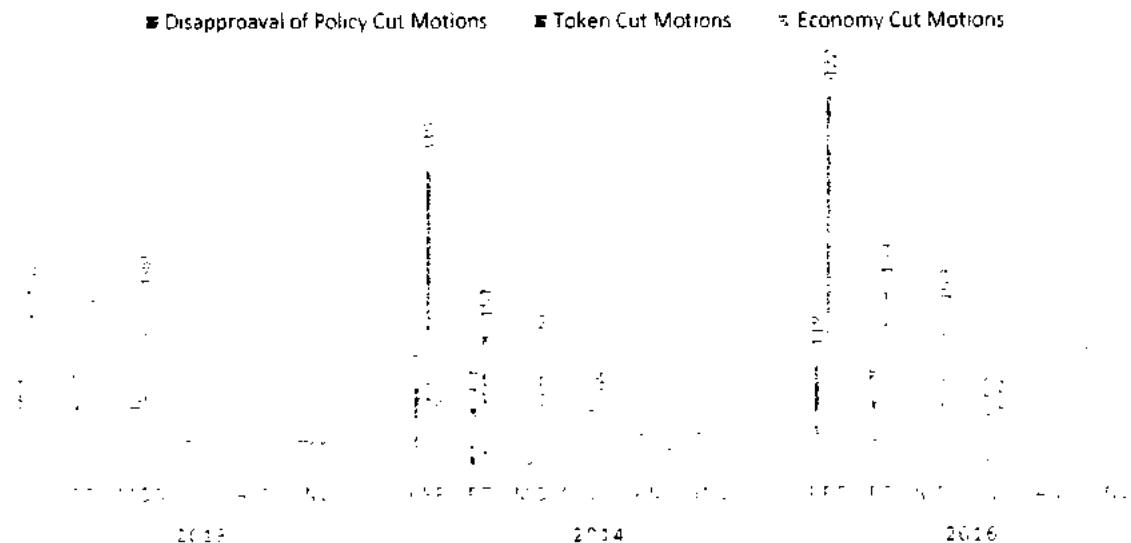
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<sup>600</sup> Javiad-ur-Rehman, "Opps."

<sup>601</sup> Ibid.

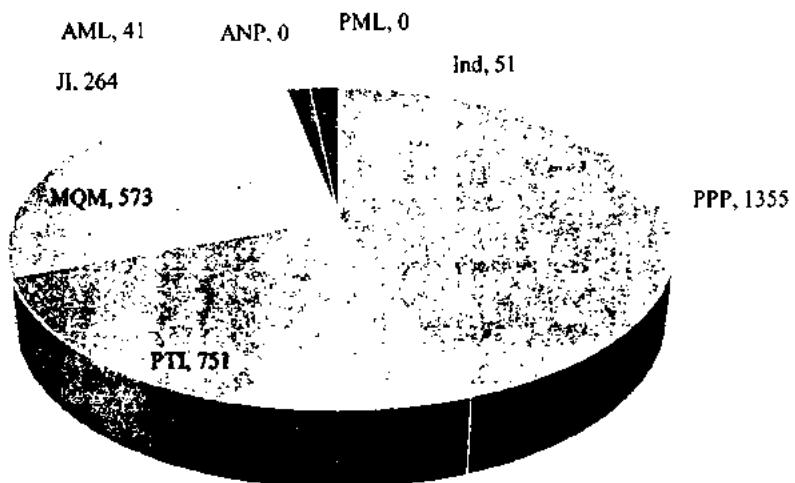
<sup>602</sup> Ikram Hoti, "Opposition looks unprepared to make 'hostile' analysis of budget," *The Express Tribune*, June 12, 2017, <https://tribune.com.pk/story/1433027/opposition-looks-unprepared-make-hostile-analysis-budget>.

**Figure 6.3**  
**TOTAL CUT MOTIONS (2013-18)**



**Table 6.4**

**Total Cut Motions (2013-18)**



The figure 6.4 shows the total amount of cut motions presented by the opposition benches against the policies of the government from 2013 to 2018. PPP as a major opposition party presented the most cut motions, in addition, it also tabled several amendments in the finance bills on the floor of the house. Hence, PPP had played the role of most active opposition party in the Parliament. PTI and MQM also actively

examined the financial policies of the government by tabling 751 and 573 cut motions in three finance bills, respectively. JI, one of the smaller opposition party, moved not only 264 cut motions but also several amendments in the finance bills. JI had only four members in the NA, however, it performed significantly well according to its numbers. AML with only one member in NA also tabled 41 cut motions to scrutinize the policies of the government. ANP and PML neither moved any cut motion nor tabled any amendment in the finance bills of PML-N government. In addition, independent members from opposition benches moved 51 cut motions to examine the policies of the government. However, in two finance bills of 2015-16 and 2017-18, the opposition benches staged protest and boycotted from the session. It neither participated in the budget debate nor tabled any cut motion or amendments in the said finance bills. The government had taken advantage from the situation and passed the bills smoothly.

However, when asked from the then opposition member of the parliament that why opposition boycotted from the important budget session. Tahir Mashadi argued that walk out in the budget session occurred when the government double crossed the opposition benches.<sup>603</sup> Double cross means when the finance minister accepts the demands of the opposition benches and do not incorporate in the bill. On the other hand Senator Mushtaq Ahmed of JI responded that budgets are always made on the wishes of IMF. It has nothing for the interest of the common people. It is only a formality to pass it from the parliament. He said that JI always emphasized to abolish foreign dependency and make our own policies irrespective of the conditions of international organizations. PTI's MNA Saleem-ur-Rehman claimed that in PML-N government, Finance Minister Ishaq Dar had designed budget only for mafias like sugar mafia, petrol

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<sup>603</sup> Tahir Hussain Mashadi, interviewed by M. Adil, Islamabad, August 18, 2020.

mafia etc. and showed fake figures in the budget.<sup>604</sup> He extended that there was nothing for the welfare of the common people in finance bill passed in PML-N's government.

### **5.13- Conclusion**

To sum up, the major opposition parties in both governments from 2008 to 2018 have not enacted any of the policy which they wanted to incorporate in different finance bills. For example, PPP has severely criticized the privatization policy of PML-N's government, however, this policy was approved by cabinet in PPP's government. Similarly, PPP has made objections on the increases in taxes and petroleum levies, it was also increased by PPP government. On the other hand, PML-N has strong reservation when PPP's government increase GST from 16 to 17 percent. At that time PML-N was of the opinion that GST should be brought down to 10 percent. However, in its own government, in the first finance bill the GST was increased from 16 to 17 percent. Simultaneously, PML-N has made strong criticism over the increase in defense budget but did not decrease the defense budget in its own government. In the same way, PTI law-makers were of the opinion that GST should be brought down to 12.5 percent. Nonetheless, after two year of government they did not act upon its own proposal. It implies that what the opposition had demanded in the finance bills from the governments, mostly those demands were ignored when the opposition parties had taken charge of the treasury benches.

In spite of all these, the opposition responsibility is not only to examine the policies of the government but also to propose alternative policies against the policies of government. The above description shows that in both the governments from 2008 to 2018 the opposition benches have performed their duties. They have pointed out the

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<sup>604</sup> MNA Saleem-ur-Rehman, interviewed by M. Adil, Islamabad, April 06, 2020.

policies of the government which are against the public aspirations and have proposed alternative policies in this regard. By comparing both the opposition benches in two governments from 2008 to 2018, they have almost same performance in the finance bills. In PPP's government, opposition benches have moved 3238 cut motions and more than 16 amendments in four finance bills. They boycotted from one budget session and did not move any cut motions or amendments. Furthermore, in PML-N's government, opposition benches have tabled 3035 cut motions and more than 20 amendments. They boycotted from two budget sessions and did not move any cut motions or amendments. In both governments, the opposition's objections are almost the same. They have made strong reservation over the increase in taxes and have emphasized on the salaries of the government servants. It is also worth mentioning that every finance bill from 2008 to 2018 is termed 'unfriendly' by the opposition benches. Each of the government has been accused for making the budget only for elite class and not for poor class by the opposition parties.

## CHAPTER- 6

### **ELECTIONS IN PARLIAMENT (2008-18) AND ROLE OF OPPOSITION**

#### **6.1- Introduction**

Parliament of Pakistan comprises of two houses i.e. Lower House and Upper House which are also known as National Assembly (NA) and Senate. After every general election, the members of NA elect speaker and deputy speaker from different candidates nominated by treasury and opposition benches. Speaker and deputy speaker are the custodian of the house and run the affairs of it. After the election of speaker and deputy speaker, NA also elect leader of the house from its members who becomes the prime minister of the country. Similarly, Senate also elects chairman and deputy chairman from its members who function like speaker and deputy speaker in the Senate. However, the tenure of chairman and deputy chairman are three years whereas the tenure of speaker and deputy speaker of NA are five years. Besides, parliament also participates in the election of president of the country with provincial assemblies. In all these elections, opposition parties have crucial role. They prove their existence by contesting against the ruling party for different slots of the parliament. Sometimes opposition parties compromise with the treasury benches but it depends upon the strength of the opposition. As, Pakistan has multiparty system and most of the time more than one party are sitting on the opposition benches. Therefore, opposition capability is conditioned with the unity of different parties against the government. If the opposition parties are united, it can give tough time to the treasury benches, nonetheless, if they are divided, government can tackle them easily.

In this chapter, role of opposition parties have been critically analyzed in different election for different slots in the parliament from 2008 to 2018. The time period 2008

to 2018 has comprised of two different democratic government i.e. from 2008 to 2013 PPP and its coalition partner rule the country while from 2013 to 2018 PML-N and its allies run the affairs of the country. It is to be noted that from 2008 to 2013, the major opposition party was PML-N, however, other opposition parties changed their position from treasury benches to opposition benches vice versa especially MQM. PML-N also remained the coalition partner of PPP in the first six month of its government. At that time, PML had played the role of major opposition party. Whereas, from 2013 to 2018, the major opposition parties were PPP, PTI and MQM. They were also collaborated by the smaller opposition parties like PML, ANP, QWP and BNP-A.

## **6.2- Election of Speaker National Assembly 2008**

Article 53 of the constitution of Pakistan requires that after general elections National Assembly shall elect from amongst its members a speaker and deputy speaker in its first meeting. In the general elections 2008, PPP emerged as majority party. It formed a coalition government with PML-N and ANP. The coalition government nominated Fehmida Miraz and Faisal Karim Kundi for the slot of speaker and deputy speaker respectively. Both the candidates belonged to PPP.<sup>605</sup>

On the other hand, the major opposition parties PML and MQM nominated Israr Tareen of PML for the post of speaker and Khushbakht Shujaat of MQM for the post of deputy speaker.<sup>606</sup> The opposition agreed to nominate joint candidates against the candidates of the government. It was appropriate signal to the coalition government that the major opposition unite against it. Sadar Israr Tareen, the joint candidate of the opposition parties told media that he did not expect miracles but satisfied to get more votes than

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<sup>605</sup> “One-to-one contest for NA speaker,” *Dawn*, March 19, 2008, <https://www.dawn.com/news/294430/one-to-one-contest-for-na-speaker>

<sup>606</sup> *Ibid.*

the number of opposition members.<sup>607</sup> However, he received only votes of his own party PML and the other opposition party MQM. The other smaller opposition parties did not support the candidates of major opposition parties PML and MQM.

The result of speaker and deputy speaker elections was that the coalition government succeeded with clear majority. Fehmida Mirza secure 249 and Faisal Karim Kundi secured 246 votes whereas the opposition candidate Israr Tareen got 70 and Khushbakht Shujaat obtained only 68 votes.<sup>608</sup>

To sum up, it was difficult to defeat the coalition government candidates, nonetheless, the major opposition parties showed unity in the speaker and deputy speaker elections by fielding a joint candidate. It was good gesture that the opposition were united against the policies of the government. Furthermore, it has been expected from the opposition to tackle the government with joint efforts.

### **6.3- Prime Minister Election 2008**

After the general election 2008, PPP emerged as largest party in the Lower House of Pakistani Parliament. However, it failed to secure one-third majority in the House, it formed coalition government with PML-N and ANP.

The coalition partner agreed that prime minister would be nominated by PPP.<sup>609</sup> PPP declared Yousaf Raza Gillani a PPP's stalwart from Punjab province. The opposition party PML also declared to contest election against the majority party by nominating Chaudhry Pervaiz Elahi its candidate. Nonetheless, PML did not bag the support of any other party. When the result was announced by the Speaker of NA, PML candidate only

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<sup>607</sup> Ibid.

<sup>608</sup> The National Assembly Debates of Pakistan, 1<sup>st</sup> Parliamentary year, 1<sup>st</sup> sess., 2008, Vol. I, no. 2: 24.

<sup>609</sup> "The new prime minister," *Dawn*, March 23, 2008, <https://www.dawn.com/news/1071026/dawn-editorial-march-23-2008>

secured 42 votes whereas it total seats in the House were fifty.<sup>610</sup> On the other hand, Yousaf Raza Gillani had bagged 264 votes elected as 18<sup>th</sup> prime minister of the country. PML did not succeed to persuade the other opposition parties for support in the election.

The then incumbent PM Yousaf Raza Gillani thanked all the parties for elected him as prime minister.<sup>611</sup> He pledged that he would be representative of all Pakistanis above the political ideologies. He extended that ruling and opposition parties would work together for the development and prosperity of Pakistan. The PML candidate Chaudhry Pervaiz Elahi congratulated the new prime minister and assured him cooperation from opposition in all matter which would be in the best interest of the country.<sup>612</sup> He argued that he and his party was aware of the prime minister's election results, however, contested the highlight the true spirit of democracy. He added if the opposition did not participate in the election it would give a message of one party rule in the country. He also assured the government that they would fully support any legislation which would be in best interest of the poor masses and the country.

To conclude, opposition parties were not in a position to give tough time in the election. Nonetheless, the major opposition party did not leave an open field for the treasury benches. It proved the existence of the opposition benches. It also showed that the opposition benches were ready to examine the policies of the government.

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<sup>610</sup> Declan Walsh, "Bhutto loyalist elected with huge majority," *The Guardian*, March 25, 2008. <https://www.theguardian.com/pakistan/2008/march/25/pakistan>

<sup>611</sup> The National Assembly Debates of Pakistan, 1<sup>st</sup> Parliamentary year, 2<sup>nd</sup> sess., 2008, Vol. II, no. 1: 6.

<sup>612</sup> Ibid. 10-11.

#### 6.4- President Election 2008

After the resignation of Pervaiz Musharraf as President of Pakistan, the election for new president of the country had been declared on the 06 September 2008. The ruling party PPP announced its co-chairman Asif Ali Zardari a candidate for post of President of Pakistan. All the allies of PPP supported Zardari candidature for the president's slot.

At the same time, opposition parties were divided to nominate a joint candidate for the post of President. PML announce its own candidate Mushahid Hussain, however, did not support by any of the opposition parties. The other major opposition party MQM announce its support in the favor of the ruling party candidate Asif Ali Zardari.<sup>613</sup> Besides, the coalition partner PML-N also linked the party's support for Mr Zardari's candidature to the reinstatement of the judges and also demanded to revoke the 17th Amendment before the presidential elections.<sup>614</sup>

PPP assured PML-N that all its conditions would be fulfilled according to the Charter of Democracy (CoD).<sup>615</sup> Raza Rabbani of PPP, one of veteran politician, told media that PPP was dedicated to the CoD, signed by Benazir Bhutto and Nawaz Sharif two years ago. He extended, however, the new president would assume power under Article 58-2(b). However, PML-N leader Nawaz Sharif announced on 25 August 2008, his disapproval with the nomination of PPP co-chair Asif Ali Zardari as the coalition's presidential candidate.<sup>616</sup> "It was agreed that there would be a nonpartisan candidate for President's office, which has been violated," Sharif said. "We therefore feel that these repeated violations have forced us to withdraw our support for the ruling coalition and

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<sup>613</sup> Amir Wasim, "President Zardar?," *Dawn*, August 24, 2008, [https://www.dawn.com/news/318068\\_president-zardari](https://www.dawn.com/news/318068_president-zardari)

<sup>614</sup> Ibid.

<sup>615</sup> Ibid.

<sup>616</sup> "Sharif withdraws Party form Pakistan ruling coalition," *CNN*, August 25, 2008, <http://edition.cnn.com/2008/WORLD/asiapcf/08/25/pakistan.politics.coalition/>

sit on the opposition benches." Sharif said his PML-N would nominate former Chief Justice Saeed-U-Zaman Siddiqui as its presidential candidate for the September 6, 2008 election.

After the nomination of PML-N own candidate, Asif Zardari was contested by two candidates from the opposition benches. The division in opposition parties had made easy for PPP's candidate to win the presidential election 2008.<sup>617</sup> In addition all the smaller opposition parties PPP-S and JUI-F announce its support for the candidate of ruling party.<sup>618</sup> MQM had already declared its support for PPP's candidate on the condition that candidate would be from Sindh province. Asif Ali Zardari was elected President of Pakistan, as Chief election commissioner Qazi Mohammad Farooq announced that "Asif Ali Zardari secured 241 votes out of the 426 valid votes polled in the parliament," In Sindh, Zardari had 62 of the 65 electoral votes while his 2 main opponents, got zero vote; in Khyber Pakhtunkhwa Zardari got 56 votes against 25 by Siddiqui and one by Hussain; in Baluchistan, 49 votes while Siddiqui and Hussain got 5 and 2 respectively.

To conclude, the opposition parties were divided and failed to nominate a joint candidates in the presidential election. PML-N and PML both have contested the election against the ruling party which has provide an easy win to PPP's candidate. Both PML-N and PML did not create consensus with smaller opposition parties, therefore, they supported the ruling party. It is also noted that the smaller parties in opposition support ruling party to fulfill its smaller interest from the government. However, PML-N has contested the election to show its supporter its dedication to the

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<sup>617</sup> Amir Wasim, "President."

<sup>618</sup> "PPP Sherpao announce support for Zardari" *Pakistan Tribune*, August 31, 2008, [https://en.wikipedia.org/wiki/2008\\_Pakistani\\_presidential\\_election#cite\\_note-17](https://en.wikipedia.org/wiki/2008_Pakistani_presidential_election#cite_note-17)

manifesto of election campaign which are to restore judiciary and revoke 17<sup>th</sup> amendment. However, the second largest party in the NA, it failed to create consensus among the other opposition parties.

### **6.5- Senate Chairman and Deputy Chairman Elections, 2009**

The Senate elections 2009 paved the way for the ruling party to emerge the largest party of the Senate. It also made possible for PPP to elect its own Senate chairman. However, PML the opposition party had also strong numbers to compete for the post. It was difficult for PPP to elect its chairman without the support of its allies and some opposition parties. For the reason, PPP announced Farooq H. Naek for the slot chairmanship of Senate, however, left the deputy chairman slot for reconciliation with other parties.<sup>619</sup> Dawn reported that Jan Muhammad Jamali from Baluchistan had been signaled to be the deputy chairman of the Senate. It implied that PPP wanted to create consensus with PML, the then second largest party in Senate.

On the other hand, PML announced its leader Chaudhry Shujaat Hussain as a candidate for the post chairmanship of the Senate.<sup>620</sup> The PML decision showed that the backdoor measures for reconciliation had been flopped. According to media sources, PPP tried to include PML in its ruling coalition and also made a deal on chairmanship of Senate.<sup>621</sup> Dawn also reported that PML had claimed the Senate chairmanship as a precondition for joining the government. PML-Q leaders viewed the nomination of Naek as a 'breach of trust' and 'dishonoring' a commitment made by PPP. Azeem claimed the

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<sup>619</sup> "Farooq Naek nominated for Senate chairmanship," *Dawn*, March 9, 2009, <https://www.dawn.com/news/956600>

<sup>620</sup> "Shujaat enters race for Senate chairman," *Dawn*, March 10, 2009, <https://www.dawn.com/news/848818>

<sup>621</sup> *Ibid.*

PML-Q had the support of several other parties, including some allies of PPP. “We will give a tough time to PPP in the election.”

Interestingly, all the other opposition parties boycotted from the election. PML-N, JI, PkMAP, and other minor parliamentary groups in the Senate rejected the elections for the chairman and deputy chairman Senate. They were of the opinion that government was trying to create conflict among the opposition parties to fail the coming long march for the restoration of judiciary.<sup>622</sup> Nonetheless, from opposition benches only PML had nominated its candidates not only for chairmanship but also for deputy chairmanship. The other opposition parties did not support the PML candidates because of the back door talks of PML with the ruling party. Besides, the major opposition party PML-N had also dogfight with PML due to political rivalry in Punjab province and secondly PML comprised of those individual which revolt against Nawaz Sharif during Mushraff regime.

Due to boycott of the other opposition parties, PML was the only party which had nominated its candidate against the ruling party. It was, therefore, impossible for PML to defeat the ruling party. For the reason, on the Election Day PML and PPP succeeded to compromise on the slots of chairman and deputy chairman. Consequently, PML president Chaudhry Shujaat Hussain withdrew his nomination leaving the field open for the ruling party. PPP’s candidate Farooq Naek was elected unopposed chairman of the Senate.<sup>623</sup> However, deputy chairman was elected Jan Muhammad Jamali of PML.

To conclude, the disinterest of the some opposition parties in the election and the dogfight between PML-N and PML paved the way for ruling party to elect its chairman

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<sup>622</sup> “Naek elected unopposed to Senate top slot,” *Dawn*, March 13, 2009, <https://www.dawn.com/news/956601>

<sup>623</sup> Ibid.

unopposed. If the opposition were united, it would have been difficult for PPP to win the election of chairman Senate.

## **6.6- Election of Prime Minister 2012**

After the disqualification of Prime Minister Yousaf Raza Gillani, the coalition government of PPP nominated Raja Perviaz Ashraf as a candidate for the slot of prime minister. The coalition partners PML, MQM and ANP have agreed that PPP would nominate a candidate for the lofty position of prime minister. The decision was taken at a meeting of coalition partners at the Presidency to decide which of the nominees who had filed their nomination papers for the prime minister's slot would be the prime candidate for the position.<sup>624</sup> On the other hand, opposition parties were divided, the major opposition party PML-N announced its own candidate Sadar Mehtab Abbasi while another opposition party JUI-F announced Moulana Fazal Rehman for the slot of premiership. However, the government and its allies and the major opposition party PML-N have tried to persuade JUI-F chief in their favour. PPP and its allies meet with Moulana Fazal Rehman to convince him to support government benches in the election of prime minister. But they failed to convince Jamiat Ulema-e-Islam (JUI-F) chief Maulana Fazlur Rehman to drop his candidacy four hours before the Parliament is due to vote for a new prime minister. The JUI-F chief has asked for more time and says he will take the decision after consulting party members.<sup>625</sup> Rehman said that it would have been better if PPP had come to him before picking a candidate. He said that a final decision will be taken after consultation with party members.

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<sup>624</sup> "New Prime Minister: Coalition partners repose faith in PPP, again," *The Express Tribune*, June 21, 2012, <https://tribune.com.pk/story/397414/prime-minister-candidates-coalition-partners-repose-faith-in-ppp-again/>

<sup>625</sup> "PPP fails to woo Maulana Fazlur Rehman," *The Express Tribune*, June 22, 2012, <https://tribune.com.pk/story/397639/ppp-fails-to-woo-maulana-fazlur-rehman>

On the other hand, the major opposition party also met with Moulana Fazal Rehman on the Election Day to persuade him for the support of PML-N candidate.<sup>626</sup> Fazl had said: “considering the political situation of the country, he wanted that both the opposition and the government should have an agreement on the candidate for the premier’s office.” “That is why I filed my nomination papers,” he added. However, Moulana Fazal Rehman withdrew his candidacy just before the election and decided to remain impartial in the election process by not casting his vote.<sup>627</sup> On the floor of NA, he argued that my purpose is to present a unanimous candidate for both the government and opposition for the post of prime minister.<sup>628</sup> He extended that it would also reduce the tension among different institutions of Pakistan, as this purpose remain futile so I am withdrawing my nomination paper. Therefore, JUI-F from the opposition benches remain abstain from voting in the election 2012 from the position of prime minister. Moreover, PML-N the major opposition party was also of the opinion to boycott the session and stage protest, but later they attend the session and participated in the election for prime minister.<sup>629</sup> However, the election won by Raja Pervaiz Ashraf the candidate of PPP and its allies by securing 211 votes.<sup>630</sup> On the other hand, PML-N the major opposition party secured only 89 votes.

Raja Pervaiz Ashraf told the house that with the cooperation of the opposition parties a transparent general elections would be his priority.<sup>631</sup> He asserted that while pursuing the policy of reconciliation I invited all the opposition parties for table talk on all the

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<sup>626</sup> “Raja Pervaiz Ashraf elected prime minister, new cabinet sworn in.” *Dawn*, June 22, 2012, <https://www.dawn.com/news/print/728608>

<sup>627</sup> Ibid.

<sup>628</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 43<sup>rd</sup> sess., 2012, Vol. XLIII, no.1: 3-4

<sup>629</sup> “Meet the new prime minister: Raja Pervaiz Ashraf,” *The Express Tribune*, June 22, 2012, <https://tribune.com.pk/story/397691/pakistans-17th-prime-minister-live-updates>

<sup>630</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 43<sup>rd</sup> sess., 2012, Vol. XLIII, no.1: 5

<sup>631</sup> Ibid. 6-7.

issues and challenges confronted by the country. Sardar Mehtab Abbasi PML-N candidate for prime minister thanked party leader Nawaz Sharif for selecting him as party candidate and maintaining democratic process by participating in the election of prime minister in the parliament.<sup>632</sup> He also criticized the newly elected prime minister for his performance as federal minister of power and electricity. Similarly, he criticized the former Prime Minister Yousaf Raza Gillani that his policies has entered the nation into dark ages. He asserted that in the previous four years government has suffered the country from its poor governance and bad management. Furthermore, PML-N chief Mian Nawaz Sharif has described the election of Raja Pervez Ashraf as Prime Minister ‘not less than a tragedy for the country.’ he questioned the government’s nominee, “why the government brings forward ill-reputed persons. I feel ashamed even of taking names of such persons.” Nawaz Sharif said the Pakistan Muslim League-Quaid (PML-Q) has always strengthened the dictatorship and that it was once again opting to support the rulers instead of strengthening democracy. Overall analysis of the opposition parties were that they have division among themselves. JUI-F did not participate in this election and withdrew its candidate in the eleventh hour. However, PML-N had countered the government by placing its candidate for premiership. But it also did not consult with other opposition parties, therefore they did not support it.

## **6.7- Senate Chairman and Deputy Chairman Election 2012**

In March 2012, Senate chairman and deputy chairman were elected unanimously by the House. As the ruling party PPP and its coalition partners had a clear cut majority and Zardari’s reconciliation policies made possible that the opposition also did not nominate

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<sup>632</sup> Ibid. 9-10.

any candidate for the slots. PPP had nominated Nayyer Hussain Bukhari and Sabir Baloch for slots of chairman and deputy chairman respectively.

PPP co-chairman and the then President of Pakistan Asif Ali Zardari called a meeting in the President House of its allies for consultation on the nomination of its candidates.<sup>633</sup> The meeting was attended by Senator Chaudhry Shujaat Hussain, Asfandyar Wali Khan, Senator Mushahid Hussain Syed, Senator Mir Israrullah Zehri, Senator Afrasiab Khattak, Senator Babar Ghauri, Senator Tahir Mashhadi and Munir Khan Orakzai. Besides, the then prime minister Yousaf Raza Gillani contacted the opposition leader in NA Chaudhry Nisar Ali Khan of PML-N to cooperate in the election.<sup>634</sup> However, opposition leader did not give him assurance to elect the ruling party candidates unopposed. He told PM that PML-N would take decision very soon in this regard. On the Election Day, after oath taking ceremony of new senators, the opposition parties conducted a meeting in which all the opposition parties agreed that as a goodwill gesture they would not nominate candidates for the posts of chairmanship and deputy chairmanship.<sup>635</sup> Accordingly, both the candidates of the ruling party Nayyar Hussain Bukhari and Sabir Baloch were elected unopposed for the slots of Senate chairman and deputy chairman.

In their congratulatory speeches, Chairman and the Deputy Chairman said the opposition has shown its goodwill gesture and called for the resolution of pressing problems of Baluchistan and missing persons on priority basis. Leader of the

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<sup>633</sup> "Coalition endorses Nayyar Bukhari. Sabir Baloch nomination for top Senate seats," *The Express tribune*, March 11, 2012, <https://tribune.com.pk/story/348363/coalition-endorses-nayyar-bukhari-sabir-baloch-nomination-for-top-senate-seats/>

<sup>634</sup> Abrar Saeed, "PPP contacts N for unopposed Senate slots election" *The Nation*, March 12, 2012, <https://nation.com.pk/12-Mar-2012/ppp-contacts-n-for-unopposed-senate-slots-electi>

<sup>635</sup> Syed Danish Hussain. "PPP bags top slot without challenge" *The Nation*, March 13, 2012, <https://nation.com.pk/13-Mar-2012/ppp-bags-top-slots-without-challenge>

Opposition in the Senate Maulana Abdul Ghafoor Haidri expressed hope that the Chairman and the Deputy Chairman will fulfill their responsibilities in an honest manner. He said the opposition has given a goodwill message to the government by not fielding their own candidates for Chairman and Deputy Chairman.

To conclude, opposition parties had cooperated with government by not nominating their candidates in the election. As PPP had already a clear majority the contesting of election would be a futile exercise for opposition parties. However, opposition parties in parliament need to show their presence by giving tough time to the government.

#### **6.8- Election of Speaker and Deputy Speaker in National Assembly 2013**

Article 53 of the constitution of Pakistan requires that after general elections National Assembly shall elect from amongst its members a speaker and deputy speaker in its first meeting. In the general election of 2013, PML (N) emerged as a major political party securing majority seats in the 342-member National Assembly. Therefore, elections for the offices of the prime minister, speaker and deputy speaker are merely be a formality since PML-N has acquired more than a simple majority in the National Assembly with a number of independents having joined it.<sup>636</sup>

After the general elections of 2013, the speaker and deputy speaker elections were held in national assembly chaired by outgoing speaker Dr. Fehmida Mirza on 3<sup>rd</sup> June 2013. The majority party PML (N) which formed government had nominated Sardar Ayaz Sadiq for speaker and Murtaza Javed Abbasi for the position of deputy speaker. PPP a major opposition party, wanted to give PML-N a chance to bring an unopposed speaker,

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<sup>636</sup> “PML-N’s Ayaz Sadiq elected speaker, Murtaza Abbasi Deputy Speaker in NA,” *Dawn*, June 03, 2013, <https://www.dawn.com/news/1015714>

deputy speaker and leader of the house.<sup>637</sup> Yousaf Talpur, PPP candidate for speaker slot, said that by and large in the whole world it is tried that the post of speaker would be elected on consensus, so the speaker could run the assembly on equivalent basis. Therefore, I obeyed the party decision and withdrawn my nomination papers.<sup>638</sup> However, their plan failed as PTI and MQM- two other major opposition parties-were not in favour of the move, forcing the former ruling party to field its own candidates for the posts.<sup>639</sup> Furthermore, the opposition parties were divided, and did not agree on a unanimous candidate. All the major opposition parties had nominated their own candidates.

PTI had nominated Shehreyar Afridi for the slot of speaker and Munazza Hassan for the post of deputy speaker, while MQM had chosen S.A. Iqbal Qadri and Kiswar Zehra for the posts of speaker and deputy speaker respectively.<sup>640</sup> The elections were held in secret ballot voted by members of the newly elected national assembly. The result were announced by the outgoing speaker Fehmida Mirza, according to which total votes polled 313 in which one vote was invalid. According to result, Sardar Ayaz Sadiq and Murtaza Javed Abbasi defeated the candidates of opposition parties PTI and MQM with huge margin for the posts of speaker and deputy speaker respectively. PTI nominee for speaker Shaharyar Afridi received 31 votes in total and nominee for deputy speaker Munazza Hassan managed 31 votes out of total 312 polled votes.<sup>641</sup> While MQM candidate for speaker S.A. Iqbal Qadri bagged 23 votes and candidate for deputy

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<sup>637</sup> "PPP withdraws nominations for NA speaker, deputy speaker," *The Express Tribune*, June 03, 2013, <https://tribune.com.pk/story/558155:ppp-withdraws-nominations-for-na-speaker-deputy-speaker/>

<sup>638</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 1<sup>st</sup> sess., 2013, Vol. I, no. 2: 8.

<sup>639</sup> "PPP withdraws." *The Express Tribune*.

<sup>640</sup> "PML-N's." *Dawn*.

<sup>641</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 1<sup>st</sup> sess., 2013, Vol. I, no. 2: 26.

speaker slot Kishwar Zehra also received 23 votes. The results not only show a clear majority of PML (N) but also tilt of most of the opposition parties towards government.

In his first speech Speaker Ayz Sadiq told the assembly that I am not the speaker of my own party (PML N) but of all the parties. He stated that he would work in cooperation with the opposition benches, and perform a positive role in the house.<sup>642</sup> In his welcome speech in honour of speaker and deputy speaker, Makhdom Ameen Faheem from opposition benches said that it is historical day, and decision of PPP is based on principles that not to make controversial the chair of speaker, therefore, withdraw its candidate in support of the majority party PML (N).<sup>643</sup> Kishwar Zehra from MQM, also candidate for the post of deputy speaker, congratulated the newly elected speaker and deputy speaker, and pledge that she and her party would support the government.<sup>644</sup> S.A. Iqbal Qadri expressed that government and opposition have separate problems, therefore, it is the responsibility of the government to provide fair opportunity to the opposition parties.<sup>645</sup> The government should listen the view point of the opposition benches. PTI's MNA Amjad Ali Khan also assured the government that his party would support the decisions of the government for best interest of the country.<sup>646</sup> He also put forwarded regards to the newly elected speaker and deputy speaker.

All the opposition parties voted in favor of the majority party PML (N) except PTI and MQM. They have voted to their own candidates. In the speaker and deputy speaker elections the opposition parties did not agree among themselves to support unanimous candidates for the slots.

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<sup>642</sup> Ibid. 28.

<sup>643</sup> Ibid. 6.

<sup>644</sup> Ibid. 53.

<sup>645</sup> Ibid. 49.

<sup>646</sup> Ibid. 68.

## 6.9- Prime Minister Election 2013

In general elections 2013, PML-N has secured simple majority and could formed government without support of any other party. It has already secure the seat of Speaker and deputy speaker in the NA. Now, it has nominate its president Mian Nawaz Sharif for the position of prime minister. From the opposition benches, PPP and PTI have also nominated their candidates Makhdom Amin Fahim and Javed Hashmi for the slot of prime minister respectively. Earlier, PPP was of the opinion to support Nawaz Sharif in the election of prime minister. However, most of the senior PPP leaders are learnt to have told President Asif Ali Zardari that it would be 'disastrous' for the party's future if it voted for PML-N president Nawaz Sharif in the election for the post of prime minister.<sup>647</sup> Moreover, PPP also wanted not to leave space for PTI as a main opposition party.<sup>648</sup>

However, other opposition parties MQM, JUI-F and PPP-S supported PML-N candidate for the post of prime minister. MQM Chief Altaf Hussain announced his support for the prime minister-elect Nawaz Sharif and his party PML-N.<sup>649</sup> He said, the decision is being taken to uphold the interest of the country. Maulana Fazlur Rehman, the JUI-F chief, assured Pakistan Muslim League-Nawaz (PML-N) delegation comprising Ahsan Iqbal, Zafar Iqbal Jhagra and Saad Rafiq that his party would vote for Sharif on Wednesday to elect him prime minister for the third time.<sup>650</sup> We are closer to PML-N ideologically. He confirmed that as a goodwill gesture we have decided to support PM-designate Nawaz Sharif in the vote of confidence. It should be noted that

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<sup>647</sup> "Fahim likely to be PPP's candidate for PM," *Dawn*, May 31, 2013, <https://www.dawn.com/news/1015026>

<sup>648</sup> Ibid.

<sup>649</sup> "MQM to support Nawaz sharif for PM slot," *The Express Tribune*, June 3, 2013, <https://tribune.com.pk/story/558204/mqm-to-support-nawaz-sharif-for-pm-slot>

<sup>650</sup> "Umer Nangiana, Goodwill gesture: JUI-F to support Nawaz Sharif," *The Express Tribune*, June 05, 2013, <https://tribune.com.pk/story/559064/goodwill-gesture-jui-f-to-support-nawaz-sharif>

at this time JUI-F has not decided to join the government. Later, it became ally in PML-N government. In its effort to get Sharif elected as a consensus candidate, PML-N approached parliamentary leaders of political parties to seek their support. Sharif otherwise enjoys the majority in assembly to form the government and get elected without any support, but it was consensus that PML-N was aiming at. Notwithstanding, PML-N did not succeed to elect its leader unanimously, as PPP and PTI contested election against Nawaz Sharif.

The election was won by PML-N leader Nawaz Sharif by a clear majority with 244 votes out 317.<sup>651</sup> As total member of NA were 342, however, on some constituencies the election were cancelled. On the other hand, PPP candidate Amin Fahim had secured 42 while PTI candidate had secured 31 votes.<sup>652</sup> He said the people's verdict had shown that democracy was the only way forward.<sup>653</sup> He said he wished that the House would stand by the mandate entrusted upon it by the people and pledged to serve the country in the best possible manner. Hashmi congratulated Sharif on his election and said today was historic day for the country.<sup>654</sup> PTI leader further said that democracy was the only way to progress and that Sharif's success was now the success of Pakistan. Hashmi said the smaller provinces were the key to Pakistan's strength and hoped that the incoming government would give more representation to these provinces. He said PTI would play the role of a strong opposition and would stand by the government wherever it thought best. Fahim said democracy had matured in Pakistan, adding that his party should be getting the credit for that as it had managed to accomplish the passage of the 18th, 19th and 20th amendments to the Constitution.<sup>655</sup> Fahim said PPP should be getting credit

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<sup>651</sup> The National Assembly of Pakistan Debates, 1<sup>st</sup> Parliamentary year, 1<sup>st</sup> sess., 2013, Vol. I, no. 3: 6

<sup>652</sup> Ibid.

<sup>653</sup> Ibid. 7-8.

<sup>654</sup> Ibid. 21-23.

<sup>655</sup> Ibid. 15-16.

for the fact that PML-N chief had succeeded in becoming prime minister for a third time. Fahim said it was heartening that power had been transferred from one democratically-elected civilian government to another and that PPP had cleansed the state of the blot of dictatorship.

To sum up, PPP and PTI both were sit on the opposition benches but did not create consensus to nominate one candidate from the opposition. Moreover, being major opposition parties, they also failed to unite the other smaller opposition parties. Therefore, all the other opposition parties support government benches in the prime minister election 2013. Although, PML-N could elect Nawaz Sharif as prime minister without the support of the opposition benches, it would be good message to the treasury benches if the opposition parties were united. It also shows that most of the opposition parties agreed to support the government without making any obstacles. The opposition behavior was also cooperative form the very first day towards the government.

## 6.10- President Election 2013

President Asif Ali Zardari completed his five year tenure in September 2013, therefore, ECP has announced election for the slot of president of Pakistan on August 06, 2013. The ruling party PML-N had nominated Mamnoon Hussain its candidate for the slot. However, as per tradition the opposition parties were divided to nominate a joint candidate for the prestigious post.

Leader of the opposition in the National Assembly, Khursheed Shah of PPP called a meeting to build consensus among the opposition parties to field a joint candidate against the ruling party.<sup>656</sup> However, he failed to convince the other major opposition

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<sup>656</sup> Peer Muhammad. "Joint presidential candidature: Khursheed Shah calls confab of opposition groupings," *The Express Tribune*, July 23, 2013, <https://tribune.com.pk/story/580651/joint-presidential-candidature-khursheed-shah-calls-confab-of-opposition-groupings/>

parties PTI and MQM. PPP succeeded in winning the support of smaller opposition parties like ANP, QWP and BNP-A. Asfandiyar Wali Khan, Chief of ANP, confirmed that they support the decision of PPP as it was the major opposition party in the Parliament.<sup>657</sup>

On 25<sup>th</sup> July 2013, a group of PPP senior leaders meet with PTI chief Imran Khan in his house but failed to agree on joint candidature in presidential race.<sup>658</sup> PPP's leader told media that soon consensus would be created among the opposition parties, however, the second largest opposition party PTI did not show any signal to withdraw its candidate. Earlier, PPP had announced Mian Raza Rabbani as its candidate whereas PTI had nominated Justice (r) Wajihuddin Siddique for the slot of the president of Pakistan. PTI chief Imran Khan told the delegation of PPP to persuade MQM for joint candidate, otherwise, it would be difficult to in fielding one candidate from the opposition benches.<sup>659</sup> PPP leadership also met with PML leader Chaudhry Shujaat Hussain to agree him on joint candidate of the opposition, nonetheless, did not reach to final consensus.<sup>660</sup> Media reported that Chaudhry Shujaat also contacted Shah Mehmood Qurashi for alliance of opposition parties in the presidential election.<sup>661</sup> He wished a unanimous candidate from the opposition benches.

Simultaneously, MQM declared its support for the ruling party candidate Mamnoon Hussain. MQM leaders told media that they formally decided to support PML-N in the presidential election after two days consultation among the seniors party leaders.<sup>662</sup>

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<sup>657</sup> Javaid-ur-Rehman, "Opp gears up for joint action in presidential race," *The Nation*, July 26, 2013. <https://nation.com.pk/26-Jul-2013/opp-gears-up-efforts-for-joint-action>

<sup>658</sup> Ibid.

<sup>659</sup> Ibid.

<sup>660</sup> Javaid-ur-Rehman, "Opp."

<sup>661</sup> Ibid.

<sup>662</sup> "Presidential elections: MQM decides to back PML-N candidate," *The Express Tribune*, July 25, 2013, <https://tribune.com.pk/story/581974/presidential-elections-mqm-decides-to-back-pml-n-candidate/>

PML-N delegation visited Nine-Zero, headquarter of MQM, requested to support the ruling party candidate.<sup>663</sup> After, the MQM's support of PML-N, it was challenging for the opposition to nominate a joint candidate. PML had also announced its separate candidates for the presidential candidature Saeed ul Hassan Mandokhail from Baluchistan. It is to be noted that without fielding a joint candidate, it would be difficult for the opposition to give a tough time to the ruling party. Khursheed Shah, leader of the opposition in the NA, already confirmed that without the unity of the opposition parties the election would be a fruitless exercise.<sup>664</sup> According to numbers in national and provincial assemblies the ruling party PML-N had a clear majority.

On July 26, 2013, PPP the major opposition party decided to boycott from the presidential election due to Supreme Court decision which had changed the date of election from 6<sup>th</sup> August to 30<sup>th</sup> July 2013.<sup>665</sup> Raza Rabbani candidate of PPP expressed apprehension over the decision of the Supreme Court. He was of the opinion that ECP is an independent body, therefore, it is not a healthy tradition to interrupt in the matters of an autonomous institute. Smaller opposition parties- PML, ANP, BNP-A and AML- also boycotted from the election over the reservation of the Supreme Court decision.<sup>666</sup> However, the other opposition parties PTI, JI and MQM participated in the election.

PTI presidential candidate Wajihuddin Siddique told the media that he had no objection over the decision of the Supreme Court.<sup>667</sup> PTI chief Imran Khan said that his party

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<sup>663</sup> Ibid.

<sup>664</sup> Javaid-ur-Rehman, "Presidential elections: No joint candidate of opposition yet," *The Nation*, July 17, 2013, <https://nation.com.pk/17-Jul-2013/no-joint-candidate-of-opposition-yet-presidential-election>

<sup>665</sup> "PPP decides to boycott presidential elections," *The Express Tribune*, July 26, 2013, <https://tribune.com.pk/story/582233/ppp-decides-to-boycott-presidential-elections/>

<sup>666</sup> "Mamnoon Hussain elected 12<sup>th</sup> President of Pakistan," *Dawn*, July 30, 2013, <https://www.dawn.com/news/1032958>

<sup>667</sup> "PPP decides." *The Express Tribune*.

would participate in the election and would not provide an open field to the ruling party.<sup>668</sup> He also expressed reservation over the decision of SC that conducting the presidential elections before the due date would result in less time to the candidate for launching campaign. A smaller opposition party JI, which was also an ally of PTI in KP government, announced its support for PTI's candidate.<sup>669</sup> The decision was after an hour of PPP's boycott from the presidential election. JI also condemned the one sided decision of PPP that it did not take the other opposition parties into confidence.

According to the official results, 432 votes were secured by Hussain. Mamnoon of the ruling party PML-N whereas 77 votes were obtained by Justice (r) Wajihuddin Ahmed, the contested candidate by the opposition parties PTI.<sup>670</sup> To sum up, the opposition had the ability to give though time to the government, however, lack of confidence and trust among the opposition parties wasted the opportunity. The two major opposition parties PPP and PTI did not build a consensus to field a joint candidate. Notwithstanding, PPP was succeeded to persuade the smaller opposition parties to follow PPP decision and boycott from the presidential election. The discussion shows that the opposition parties have lack of trust upon each other and lack of communication among each other which provided an open field to the treasury benches.

### **6.11- Senate Chairman and Deputy Chairman Election 2015**

In the Senate elections for the slots of chairman and deputy chairman, the major opposition party PPP had played its card very wisely by creating such a consensus that not only other opposition parties but also government and its allies agreed to elect PPP's

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<sup>668</sup> "Presidential elections: PTI to stay in race." *The Express Tribune*, July 27, 2013, <https://tribune.com.pk/story/582613/presidential-election-pti-to-stay-in-race/>

<sup>669</sup> "Presidential elections: JI to support PTI candidate." *The Express Tribune*, July 26, 2013, <https://tribune.com.pk/story/582256/presidential-election-ji-to-support-pti-candidate/>

<sup>670</sup> "Mamnoon Hussain." *Dawn*.

Raza Rabbani as chairman of Senate. However, an election was held on the slot of deputy chairman senate which was won by JUI-F a government ally defeating the candidate of the opposition party PTI.

Two days before the elections, PPP co-chairman Asif Ali Zardari called the meeting of all the opposition parties except PTI and JI in house in Islamabad.<sup>671</sup> All the parties included MQM, PML, ANP, BNP-A and BNP-M agreed to support Raza Rabbani for chairman's slot of senate. It was reported that Zardari negotiation power had made possible a consensus among all the opposition parties. PTI chief Imran Khan told media that Raza Rabbani was a reputable person, however, his party would not support him in the election.<sup>672</sup> He extended that PTI had principally decided to not support PML-N and PPP though whatever situation is. Nonetheless, one day after this statement, Imran Khan endorsed Raza Rabbani and termed him a good choice for the chairmanship of the Upper House.<sup>673</sup> Consequently, PTI also did not nominate a candidate for the top slot of Senate.

The cards played by Asif Zardari left no choice with PML-N but to support Raza Rabbani. The then PM and leader of PNL-N announced to back PPP's candidate for senate chairman in a lunch arranged for the leadership of different political parties.<sup>674</sup> He also given authority to the opposition parties to nominate a candidate for deputy chairmanship of Senate. It is not such simple that PML-N agreed to PPP's candidate, it had tried to secure the support of some parties for Senate chairman elections, however,

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<sup>671</sup> Irfan Ghuri, "Senate chairman slot: Zardari musters enough support for Raza Rabbani," *Dawn*, March 10, 2015, <https://tribune.com.pk/story/850681/senate-chairman-slot-zardari-musters-enough-support-for-raza-rabbani>

<sup>672</sup> Qamar Zaman, "Raza Rabbani is a reputable politician but PTI will not vote for him: Imran," *The Express Tribune*, March 10, 2015, <https://tribune.com.pk/story/850904/raza-rabbani-is-a-reputable-politician-but-pti-will-not-vote-for-him-imran>

<sup>673</sup> Abrar Saeed, "Rabbani a lock for Senate top slot," *The Nation*, March 11, 2015, <https://nation.com.pk/11-Mar-2015/rabbani-a-lock-for-senate-top-slot>

<sup>674</sup> Ibid.

failed to garner any support. Earlier, PML-N had contacted MQM for support in the election but MQM refused.<sup>675</sup> But with every passing minute, it was becoming clearer that PML-N would not be able to secure the required votes. Consequently, PML-N agreed to not contest the election for Senate chairman against the opposition candidate. Raza Rabbani, a candidate of the major opposition party PPP, was elected unopposed Senate chairman.

On the other hand, for deputy chairman slot opposition parties (except PTI and JI) and ruling parties announced Moulana Ghafoor Haideri of JUI-F a joint candidate.<sup>676</sup> PTI nominated Shibli Faraz for the slot of deputy chairman senate. JI supported the candidate of PTI in the election. After the secret voting, Ghafoor Haideri got 74 votes while Shibli Faraz secured only 16 votes. It was interesting that PTI had only six senators while JI had only one senator, however, Shibli Faraz bagged sixteen votes which means he secured nine votes extra. It was unknown that which party's senators voted him.

To sum up, PPP had played the election very tactically and did not give any chance the ruling party to maneuver the other opposition parties. Zardari, through his policy of reconciliation forced the government to support his candidate. The choice of PPP was also applauded as Raza Rabbani was respectable politician across Pakistan. He is known as man of principle and pure democratic figure in the country. For this reason PML-N did not hesitate to elect him unanimous Senate chairman.

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<sup>675</sup> "Consensus on Raza Rabbani," *The Nation*, March 11, 2015, <https://nation.com.pk/11-Mar-2015/consensus-on-raza-rabbani>

<sup>676</sup> Amir Wasim, "Rabbani, Haideri sworn in as senate chairman, deputy," *Dawn*, March 13, 2015, <https://www.dawn.com/news/1169232>

## 6.12- Speaker Election 2015

Sardar Ayaz Sadiq the speaker of NA was disqualified by an election tribunal on the petition of PTI chief Imran Khan, therefore, he was also de-seated from the chair of the speaker of the NA. However, he again won the NA seat by defeating PTI's Aleem Khan in the NA-122 by-elections. The ruling party PML-N again nominated him for the slot of the speaker.

Among the opposition parties, only PTI nominate its candidate to contest against the ruling party. PTI announced Shafqat Mahmood for the slot of the speaker. Shah Mehmood Qureshi said that other opposition parties PPP and MQM had a reconciliation policy with the government, therefore, did not nominate candidate to contest the elections.<sup>677</sup> For this reason, PTI had nominated its own candidate and would contest the elections for speaker's slot. The major opposition party PPP was disinterested in fielding its candidate against the ruling party.<sup>678</sup> Due to PPP disinterest in the speaker's election, it had abolished the chances of joint candidate from the opposition benches. Besides, PPP was not in mood to develop understanding with PTI, as its chief Imran always made harsh comments on the character of PPP's leader Asif Zardari in almost every public gatherings.<sup>679</sup> PPP leaders were of the opinion that the opposition parties could utilize the opportunity to compel the treasury benches to give assurances on a number of national important issues like reforms in ex-FATA and judiciary.<sup>680</sup>

The other opposition parties also announced their support for Ayaz Sadiq instead of their co-bencher PTI's candidate. Unprecedentedly, PML also declared its support for PML-

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<sup>677</sup> "PTI nominate Shafqat Mahmood for NA speaker slot," *Dawn*, November 5, 2015.

<https://www.dawn.com/news/1217681/pti-nominates-shafqat-mehmood-for-na-speaker-slot>

<sup>678</sup> Amir Wasim, "PPP may not field candidate for post of NA speaker," *Dawn*, October 29, 2015.

<https://www.dawn.com/news/1216113>

<sup>679</sup> *Ibid.*

<sup>680</sup> *Ibid.*

N's candidate. Its leader Pervaiz Elahi was of the view that that speaker of NA should be a non-controversial figure.<sup>681</sup> All the other opposition parties MQM, JI, ANP and QWP also announced their support for the ruling party candidates.<sup>682</sup> The obvious reason for the support of PML\_N's candidate by the opposition parties was Imran Khan's attitude towards the leaders of all political parties. It is noteworthy, that JI and QWP were also the ally of PTI in the provincial government of KP. When asked about the JI and QWP decision to vote for the ruling party, PTI's speaker candidate Shafqat Mehmood said, "I am really disappointed, particularly with the JI, because apart from sitting in government with us in KP, the party is also planning seat adjustments with us for the ongoing local government elections."<sup>683</sup> However, JI were asked for this decision, Senator Mushtaq KP provincial president of JI responded that alliance was limit to the KP province.<sup>684</sup> JI was not bound to follow the decision of PTI at the federal level. Consequently, PML-N candidate Sardar Ayaz Sadiq secured 268 votes whereas PTI's Shafqat Mehmood bagged only 31 votes.<sup>685</sup>

To sum up, all the opposition party did not support its co-bencher PTI in the election instead supported the government candidate. The main reason was the Imran Khan severely criticism on almost every political party leader. However, the major opposition PPP understanding with PML-N cannot be over-ruled. It had significant role in supporting Ayaz Sadiq for NA speaker's slot.

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<sup>681</sup> Syed Irfan Raza, "Ayaz Sadiq assured support by most parties in contest with PTI for speaker's post," *Dawn*, November 09, 2015, <https://www.dawn.com/news/1218414/ayaz-sadiq-assured-support-by-most-parties-in-contest-with-pti-for-speakers-post>

<sup>682</sup> Ibid.

<sup>683</sup> Khawar GHumman, "PTI emerges as main opposition during speaker's election," *Dawn*, November 10, 2015, <https://www.dawn.com/news/1218712>

<sup>684</sup> Senator Mushtaq, interviewed by M. Adil, Islamabad, 27 June 2020.

<sup>685</sup> "Ayaz Sadiq elected NA speaker again," *Dawn*, November 09, 2015, <https://www.dawn.com/news/print/1218504>

## 6.13- Prime Minister Election 2017

After the disqualification of Nawaz Sharif by Supreme Court in Panama case, Shahid Khaqan Abbasi of PML-N was elected as prime minister of Pakistan. In the prime minister elections, opposition parties PPP and PTI also nominated their candidates. Syed Naveed Qamar was nominated by PPP, Sheikh Rasheed of AML was nominated by PTI and Sahibzada Tariqullah was nominated by JI. However, all the candidates of the opposition were defeated with a huge margin by the ruling party candidates. Shahid Khaqan Abbasi had secured 221 votes while Syed Naveed Qamar, Sheikh Rasheed and Sahibzada Tariqullah had secured 47, 33 and 4 votes respectively.<sup>686</sup>

Before the election, opposition leader in the NA, Khursheed Shah of PPP tried to unite the opposition parties for nominating one candidates against the government. He called a meeting in this regard in his chamber of the opposition parties but failed to build consensus among the opposition parties.<sup>687</sup>

PTI put forward AML leader Sheikh Rashid's name, but could not gain the support of any other party apart from Pakistan Muslim League-Quaid.<sup>688</sup> PPP said it would not back Rashid because of PTI chief Imran Khan's criticism of Asif Ali Zardari in a speech a day earlier. Khan had accused Zardari of corruption and promised to pursue the former president in corruption cases. PPP instead back Khursheed Shah and Naveed Qamar, Muttahida Qaumi Movement chose Kishwar Zehra, while Jamaat-i-Islami (JI) suggested the name of Sahibzada Tariqullah. ANP Senator Zahid Khan told The

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<sup>686</sup> The National Assembly of Pakistan Debates, 5<sup>th</sup> Parliamentary year, 44<sup>th</sup> sess., 2017, Vol. XLIV, no. 1: 9.

<sup>687</sup> Qadeer Tanoli and Sardar Sikander, "PM's nomination process: Quest for consensus opposition candidate," *The Express Tribune*, July 31, 2017, <https://tribune.com.pk/story/1470277/pms-nomination-process-quest-consensus-opposition-candidate>

<sup>688</sup> Muhammad Bilal and Nadir Guramani, "Opposition parties fail to reach consensus on join candidate for PM office," August 1, 2017, <https://www.dawn.com/news/1348755>

Express Tribune that since the opposition seems divided on agreeing to field a joint candidate his party has decided to abstain from the process of the election.<sup>689</sup> Therefore, the opposition parties were divided and did not ready to support each other candidates because of their conflicts among themselves. Although, PML-N had a clear majority in the NA, joint candidate of the opposition parties would be a strong gesture for the government.

It was interesting that all the other opposition parties supported the government candidates. After PPP and PTI the other major opposition party was MQM which supported Shahid Khaqan Abbasi of PML-N. The parliamentary leader of MQM Farooq Sattar told the media that the party has decided to support PML-N candidates in the prime minister election.<sup>690</sup> MQM was of the opinion that the people of Karachi faced problems because of lack of power with local government, therefore, they did not support PPP- its former allies. As MQM majority seats came from Karachi, and Sindh province was ruling by PPP at the time, so MQM had strong reservation over provincial government of PPP.

PTI also tried to pursue the other opposition parties for the support of its candidate, however, failed to create consensus among the opposition parties except PML. Similarly, PPP was supported by the QWP and some independent members from the opposition benches. JI had only members and received only those four votes in the election. Another opposition party ANP did not participate in the prime minister election due to the division among the opposition parties.

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<sup>689</sup> "Qadeer Tanoli and Sardar Sikander, "PM's."

<sup>690</sup> "MQM-P throws weight behind Khaqan Abbasi for Pm seat," *The Express Tribune*, August 1, 2017, <https://tribune.com.pk/story/1471545/mqm-p-throws-weight-behind-shahid-khaqan-abbas-pm-seat/>

Consequently, the opposition were divided and were unable to build unity among themselves. By nominating four candidates from the opposition benches had showed unpleasant gesture not only to government but also to public. It gives strength to the treasury benches in policy making as it knows that the opposition is already weak and divided.

#### **6.14- Senate Chairman and Deputy Chairman Elections 2018**

The Senate elections for chairman and deputy chairman was strong blow on the face of the ruling party by the opposition parties. Although, after the election of Senate in March 2012, PML-N emerged the largest party in the Senate, it failed to win the elections of chairman and deputy chairman. It was interesting that the major opposition parties PPP and PTI did not nominate their own candidate but supported an independent candidate Sadiq Sanjrani from Baluchistan. However, the slot of deputy chairman was won by PPP candidate Saleem Mandviwalla. It is also noteworthy that it was second win of the opposition in Senate against the ruling party PML-N.

Before the elections, PML-N desired to deal with PPP by agreeing to give the slot of chairmanship to PPP.<sup>691</sup> PML-N wanted Raza Rabbani of PPP to become chairman of the Senate, however, PPP's co-chairman Asif Zardari refused to accept the offer. It was surprising that why Asif Zardari rejected such a key post of Senate, and made alliance with PTI. Some PPP's members believed that Zardari wanted to close himself with the establishment for increasing winning chances in the general elections 2018.<sup>692</sup> After the refusal of Zardari, PML-N nominate Raja Zafar-ul-Haq for chairman and Usman Khan Kakar of PkMAP for the slot of deputy chairman.

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<sup>691</sup>Fasihur Rahman Khan, "PPP accept low-key post to be pro-establishment," *The News*, March 12, 2018, <https://www.thenews.com.pk/print/291221-ppp-accepts-low-key-post-to-be-pro-establishment>

<sup>692</sup>Ibid.

The major opposition parties PPP, PTI and MQM backed an independent candidate Sadiq Sanjrani, however, PPP nominate its own candidate for the slot of deputy chairman.<sup>693</sup> PTI chief Imran Khan already cleared that his party would not support PPP's candidate for the chairmanship of Senate.<sup>694</sup> Nonetheless, PTI voted Saleem Mandviwalla PPP candidate for deputy chairman of the Senate. It was observed that some of top leadership of PTI were unhappy by giving an open field to PPP candidates. MQM was of the opinion that it would vote to Sanjrani but not the candidate of PPP. Khalid Maqbool Siddiqui told media due to PPP's government performance in Sindh province it would not vote Saleem Mandviwalla.<sup>695</sup> The smaller opposition parties ANP and JI which had one and two seats in Senate, respectively, did not supported the major opposition parties.<sup>696</sup> Both the parties voted the ruling party candidate for the slot of chairmanship. However, ANP voted PPP candidate for the post of deputy chairman because they were allies in the previous government.

In the election, many observer believed that anti-democratic forces was involved behind the alliance of the opposition parties, and also Sadiq Sanjrani was the choice of those unseen forces.<sup>697</sup> It is also a fact that Sadiq Sanjrani was very little known in the political sphere of the country. Rana Sanaullah, a veteran politician of PML-N, told that Zardari and Imran Khan are playing in the hands of establishment.<sup>698</sup> He extended that they are just puppets of the anti-democratic forces. Some sources opined that due to clash of PML-N and the military establishment, the latter did not that PML-N would run the

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<sup>693</sup> Nadir Guramani and Fahad Chaudhry, "PML-N defeated: Opposition candidates Sanjrani, Mandviwalla take Senate's top slots," *Dawn*, March 12, 2018. <https://www.dawn.com/news/1394784>

<sup>694</sup> Fasihur Rahman Khan, "PPP."

<sup>695</sup> Nadir Guramani and Fahad Chaudhry, "PML-N."

<sup>696</sup> *Ibid.*

<sup>697</sup> Asad Hashim, "Sadiq Sanjrani: Pakistan's first senate chair from Baluchistan," *Dawn*, March 13, 2018, <https://www.aljazeera.com/news/2018/03/sadiq-sanjrani-pakistan-senate-chair-balochistan-180313095112786.html>

<sup>698</sup> Javed Hussain, "Puppets exposed," *Dawn*, March 12, 2018. <https://www.dawn.com/news/1394784>

affairs of the Senate.<sup>699</sup> Hasan Askari Rizvi, a political analyst, told that the military was only one factor in Pakistani politics, it was not the only one in the opposition's calculations.<sup>700</sup> He was of the view that military in Pakistani politics plays from the sidelines and not in the middle. Similarly, all the politicians are not the puppets of the military establishment. Therefore, it is not a just opinion to make military the sole responsible for the ruling party defeat and political engineering in the country. Every political party has its own interest and for gaining those interest they change loyalty.

Tahir Mashadi was of the opinion that Pakistan is not a perfect democracy like Britain and US, therefore, opposition benches are occupied by different parties which holds different ideologies.<sup>701</sup> The opposition itself is divided among religious, secular, left, center, right etc. ideologies parties. Similarly, there is no national narrative developed in Pakistan since 1947. Every political party has its own narrative even the member of treasury benches has different narratives. He extended that Pakistan is in the state of experimenting democracy, therefore, the division among the opposition parties in elections in parliament for various slots or on the contents of different legislation is natural.

Senator Mushtaq of JI said that it is not necessary that in elections for various slots in parliament opposition benches would nominate a joint candidate.<sup>702</sup> In these elections, political parties observed the personality of the candidate and the preferences of his party either he is from the opposition benches or treasury benches. He added the smaller opposition parties especially JI look to the preferences of the major opposition party and on the basis of its preferences they support it. This stance of JI was also verified by

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<sup>699</sup> Asad Hashim, "Sadiq Sanjrani."

<sup>700</sup> Ibid.

<sup>701</sup> Ex-Senator Tahir Hussain Mashadi, interviewed by M. Adil, Islamabad, August 18, 2020.

<sup>702</sup> Senator Mushtaq Ahmad, interviewed by M. Adil, Islamabad, June 27, 2020.

another ex-MNA Aysha Syed of JI. She was of the opinion, in elections for different slot in parliament the personality of candidates and preferences of political parties also matter.<sup>703</sup> It did not matter whether he/she belongs to opposition or treasury benches. However, Ameer Haider Khan Hoti parliamentary leader of ANP in NA and ex-chief minister (2008-13) of KP province holds an opposite view. He said opposition was divided in PML-N government, therefore, different parties from opposition benches nominated candidates for various slots in the parliament.<sup>704</sup>

It was an interesting election in the history of Pakistan that staunch opposition of each other PPP and PTI support same candidates in the election. Although, both the parties were sitting on the opposition benches, they were not on the same page before this election.

### **6.15- Conclusion**

To conclude, the above discussion implies that when the opposition benches are united against the ruling party, they give a tough time to the government. The unity of the opposition parties would have significant effects on the decisions of the treasury benches. On the other hand, when the opposition parties are divided, it provides an opportunity to the treasury benches to play the game according to its own desire. One of the important conclusion from the election in parliament is that PPP especially its co-chairman Asif Ali Zardari had wisely played his card either he was in opposition or in government. As in government, PPP elected its candidate unopposed several times to top slot of the parliament. Similarly in opposition, it had also tactically tackled the government and defeated the ruling party candidates in different election for the top

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<sup>703</sup> Ex-MNA Aysha Syed, interviewed by M. Adil, Islamabad, June 29, 2020.

<sup>704</sup> MNA Ameer Haider Khan Hoti, interviewed by M. Adil, Islamabad, May 15, 2020.

post of parliament. In contrast, PML-N the major party of the country had not performed according to its strength in the elections for different position in parliament especially in the Upper House. It is also possible that PPP had adopted the policy of reconciliation almost with every party beyond theirs ideologies. PPP and PML are ideologically far away from each other, nonetheless, made alliances in several elections for top slots of parliament. Whereas PML-N and PML both have the same origin and same ideology, however, both failed to reconcile with each other. It may be possible that the personal conflict between Sharif bothers and Chaudhry brothers has significantly impacted their parties' decision. In a nutshell, in elections for key posts in parliament, opposition could make breakthrough if it were united. The opposition parties could tackle the government if only they work in collaboration and beyond ideologies and personal issues.

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

In the parliament of Pakistan, opposition benches have performed substantial role in the period 2008-18. It was the opposition parties who had maintained the norms and tradition of parliamentary democracy. The above analysis shows that the parliamentary opposition in Pakistan is classic or loyal opposition. It has recognized the government's right to govern and the constitutional system in place. Opposition benches, in both governments of PPP (2008-13) and PML-N (2013-18) had not only contributed in constitutional amendments but also in legislation-making. Besides, its role in various elections for different slots in parliament is very crucial. Like the treasury benches, it had performed its work with great enthusiasm. On the one hand, it had supported the good legislation of the government, however, it showed resistance to those legislations which were not in the interest of the people of Pakistan or against its ideologies. Similarly, it had proposed thousands alternative policies against the policies of the government.

In PPP's government (2008-13), opposition benches have played a remarkable role in constitutional amendments. It was impossible to pass the constitutional amendments from the parliament without the support of the opposition benches. Some major achievements were made possible due to the role of opposition benches like the abolishment of article 58-2B, provincial autonomy, name of Khyber Pakhtunkhwa, cancellation of the limit of two-times premiership etc. The role of opposition benches in empowering the parliament and fulfilling the demand of regional parties for provincial autonomy is unavoidable. Similarly, opposition parties have actively

participated in making the ECP an independent body and to make the process for selection of care-taker government transparent. Although, most of the alternative amendments from the smaller opposition parties were rejected by the treasury benches, they voted in the favor of all the constitutional amendments adopted by the government. It would not be wrong to say that it was the opposition benches who bolster up the government to revitalize the Constitution of 1973.

Opposition parties have also historic role in the constitutional amendments adopted in PML-N's government (2013-18). The 25<sup>th</sup> amendment or KP-FATA merger bill is the struggle of the opposition benches. This amendment introduces reforms in ex-FATA and abolishes the black law of FCR. It is worth mentioning that two coalition partners, JUI & PkMAP, of ruling PML-N were severely against the bill, however, the efforts of the opposition benches made it possible to pass the amendment from the parliament. On the other hand, 21<sup>st</sup> and 23<sup>rd</sup> amendments, which were related to the establishment of military courts and against the ideologies and manifestos of the opposition parties, were also passed with the support of the opposition benches. Even though, opposition parties had made strong reservation over these amendments, they voted in favor of these amendments. The government also accepted some alternative amendments from the opposition benches. The 21<sup>st</sup> and 23<sup>rd</sup> amendments were crucial for the improvement of the law and order situation of Pakistan and would not be passed without the support of the opposition benches. In 24<sup>th</sup> amendment, however, the opposition benches gave tough time to the treasury benches because of the reservation over the census conducted in 2017. This amendment is related to new de-limitation of constituencies in Pakistan. It is pertinent to mention that without the assistance of the opposition benches, the government could not have passed any constitutional amendments, as it required two-third majority and the government did not possess the require majority in the Senate.

Hence, the opposition was friendly and cooperative as it had not made any obstacle in the way government in passing the constitutional amendments.

In ordinary legislations during PPP'S government, opposition benches have also contributed theirs part. The major opposition party PML-N was most active in challenging the policies of the government. The other opposition parties had also contributed in process of legislation-making and put forwarded alternative policies in the different bills. Opposition parties had cooperated with the government in the passage of important bills, although, they had reservation over some contents of the bills. The opposition benches had not only criticized different contents of the various bills which were against the interest of the people but had also suggested numerous amendments to change the policy of government. Whenever the government had tried to overpower the security agencies the opposition parties had made strong protest and proposed alternatives, for example The Investigation for Fair Trial Bill, 2012, The Anti-terrorism Bill 2013 etc. The opposition was of the opinion that it would be used against the innocent people. Similarly, the Islamic-politico opposition parties had showed resistance against those bills which were contradictory to Islamic norms and traditions, for example the Prevention of Domestic Violence Bill 2009. This bill was dropped due to the opposition of religious parties especially JUI-F. The government response was also balanced to the proposals of the opposition benches. Almost fifty percent of the opposition's reservation had been addressed and its policies were adopted.

In PML-N government from 2013 to 2018, both the opposition and government had cooperated with each other on different important legislation instead of their differences in opinion. One of the important point is that opposition was strong in the Upper House, on the other hand, government was strong in numbers in the Lower House. Therefore, the government has passed several legislation without any concrete barrier in the NA,

but faced hardships to pass some vital bills from the Senate. The treasury benches had ignored several amendments of the opposition in different bills in the Lower House, however, accepted most of those amendments in the Upper House. The reason for this is clear that government was not able to enact any law without the support of the opposition. The opposition benches had strong reservation over the bills like The Pakistan Protection Bill 2014, The Prevention of Electronic Crimes Bill 2016, The Election Bill 2017 etc. and had proposed several amendments in these bills in which some were accepted by the government. The passage of these bills from the parliament were made possible by the opposition benches.

One of the conclusion from the study is that both major parties of Pakistan PML-N and PPP had enacted those legislation which they had opposed in the opposition. In opposition, PML-N has opposed the policy of giving more power to security agencies in the bills “The Investigation for Fair Trial Bill, 2012” and “The Anti-terrorism Bill 2013”. It was of the opinion that such policies would curb the fundamental human rights of the citizens. However, in its own government from 2013 to 2018, it had given much powers to law enforcement agencies especially via “Pakistan Protection Bill, 2014” and “Prevention of Electronic Crimes Bill 2015”. Similarly, through 21<sup>st</sup> and 23<sup>rd</sup> constitutional amendments which were related to military courts. It implies that when political parties are in opposition they care more about the fundamental rights of the people instead when they are in power. PPP had also the same attitude. It enacted such legislations which were opposed by PPP itself while sitting in the opposition. For instance, the policy of privatization was itself adopted by PPP in its own government, however, it strongly criticized the privatization policy of PML-N government. Likewise, 70 percent of Medical collages were approved during PPP government from 2008 to 2013. Though PPP objected on the establishment of National University of

Medical Sciences Islamabad in PML-N government. The opposition parties, when attain power, do not act upon those policies which they highlight in opposition and which people expect from them. This attitude of parliamentary political opposition is termed as “political anomaly”.

Correspondingly, such political anomaly is also observed in the finance bills passed by the parliament from 2008 to 2018. While sitting on the opposition benches, PML-N was of the opinion that GST should be brought down to 10 percent. However, in its own government, in the first finance bill, GST was increased from 16 to 17 percent. In addition, PML-N had strongly criticized the government for increase in defense budget, but it did not decrease the defense budget in its own government. Similarly in the finance bills during PML-N government, PPP severely criticized the policy of privatization. However, this policy was approved by the cabinet in PPP's government. PPP had strong reservations over the increase in taxes and petroleum levies, even though it was also increased by PPP's government itself. In the same way, in PML-N's government, PTI law-makers were of the opinion that GST should be brought down to 12.5 percent. Nonetheless, after three years of government they did not act upon its own proposal. It shows that the opposition parties did the contrary when they came in power. They do not fulfill what is expected from them by the common masses.

Having said that, opposition parties have raised objections and grievances over the finance bills passed in the period from 2008-18. The opposition benches have also proposed suggestions and moved amendments in these bill. However, the most important tool through which opposition parties show their criticism on the finance bills are cut motions. In first four years of PPP's government, the opposition not only actively participated in the debate but also proposed alternative policies in the bills. More than three thousands (3238) cut motions have been moved to examine the fiscal

policy of PPP's government by the opposition benches. The data shows that opposition has mainly focused on tax laws and the salaries of the government employees. It criticizes the imposition of new taxes and demands to increase the salaries of the government's employees. In the same way, in PML-N government from 2013 to 2018, opposition parties actively participated in the budget debate and proposed alternative policies to the government. In three finance bills of PML-N government, opposition benches had moved 3035 cut motion to scrutinize the finance bills of the government. However, in two finance bills of 2015-16 and 2017-18, the opposition benches have staged protest. They neither participated in the budget debate nor tabled any cut motion or amendments in the said finance bills.

The study shows that the numbers of the opposition and treasury benches have prominent role in making legislation. In PPP government, it was PML-N, the major opposition party, strong number in NA that compels the government to incorporate several alternative policies in the eighteenth amendment. For instance, abolishing the condition of two times premiership, adding prefix "Khyber" with Pakhtunkhwa and hundreds of other alternatives in the other important bills. Similarly in PML-N government, it has overrule many alternatives of the opposition benches especially of PPP in the lower house because of strong position of PML-N in NA. However, it has accepted most of those alternatives in the upper house due to the strong position of PPP in the Senate. For example in "Pakistan Protection Bill, 2014" and "Prevention of Electronic Crimes Bill 2015, most of the amendments were rejected by PML-N in NA, however accepted those alternatives in the Senate. Hence, the stronger the government, the least opposition has role in legislation. The stronger the opposition, the more opposition has role in making legislation.

It is also observed from the study that those bills, which have contradicted with ideologies of the opposition parties, have faced resistance from the opposition benches. However, religious parties have showed more resistance than non-religious parties. As JI, a religious party, was the only party who opposed the enactment of Pakistan Protection Bill, 2014, similarly JUI, which was an ally of government, also abstained from voting on the said bill. Similarly, the religious parties JI and JUI abstained from voting on 21<sup>st</sup> and 23<sup>rd</sup> constitutional amendment bill related to military courts. On the other hand, non-religious parties like PPP and PTI, who have also strong reservation over the above bills but they made compromises against their ideologies and voted in favor of the bill. Although, major opposition party PPP succeeded to incorporate some alternatives in these bills, it did not stop the passage of these bills from the parliament. As these parties have enough numbers in the Senate to drop these bills. In addition, JUI succeeded to drop “The Prevention of Domestic Violence Bill, (2009), (2012)” due to contradiction of the bills with Islamic principles. Thus, on ideological front, religious parties JI and JUI have shown more commitment than non-religious parties.

One of another important conclusion from the study is that division among opposition parties has crucial impact upon the passage of different bills from the parliament. It is unchallenging for the government to pass any legislation when the opposition is divided. For instance, in the “Criminal Law (Amendment) bill 2009” and “Election bill 2017”, the opposition parties were divided, therefore, the treasury benches passed these bills without considering the proposed amendments by different opposition parties. It is observed from the data that this division is mainly based on the ideologies of the parties. The religious parties in the parliament were against the Criminal Law (Amendment) bill 2009, and did not want the passage of the bill. However, other parties in opposition were in favor of the bill. Similarly in Election Bill 2017, JI, a religious

party, moved an amendment to abolish the condition of ten percent women votes to be polled in every constituency, however, another opposition party PPP proposed that it should be twenty percent. Consequently, both the alternatives were rejected by the treasury benches. Both the parties have proposed alternatives based on their ideologies. However, opposition can block the passage of any bill when the opposition is united.

The study also shows that unity among opposition parties have remarkable effect in making or blocking of any type of legislation. As in Pakistan there is multi-party system and almost ten to twelve parties make their ways to parliament. In majority cases two or three parties make government and other parties sit on opposition benches. If all the opposition parties are united against the government, it becomes difficult for the treasury benches to enact any legislation. As it was observed in 25th constitutional amendment (KP-FATA merger bill) when two close allies of PML-N were against the said amendment, however the bill was introduced and passed due to unity of the opposition parties. The Prevention of Domestic Violence Bill, (2009), (2012) was deferred two times because both religious and non-religious parties, JUI-F and PML-N, opposed the bill. In like manner, in Pakistan Protection bill 2014, the unity among the opposition parties had compelled the government to accept majority of the amendments from opposition benches. Similarly in elections for different slots in Parliament, the chances of opposition increases to win these different slots. For instance, in Senate chairmanship elections of 2015 and 2018, the opposition parties were united, thus defeated the treasury benches.

Furthermore, opposition benches have fervently participated in elections for various slots in the parliament. They nominated candidates apart from their numbers against the candidates of the treasury benches. The elections in parliament show that unity among the opposition parties have significant impacts on the results of these elections. The

opposition parties could tackle the government if only they work in collaboration and beyond ideologies and personal issues. The other conclusion from the elections in parliament is that personality of the candidates have also vital role. The study shows that if a candidate has strong personality, political parties have supported him whether he belongs to opposition or government. For example, in Senate's chairmanship election, when PPP nominated Raza Rabbani its candidate so not only the opposition parties but also the treasury benches have supported him. Because Raza Rabbani has strong and lucid character. However, some political parties also observe the proclivities of candidate's party by which he is nominated. The other finding of the study is that "policy of reconciliation" has also substantial in elections in parliament. The opposition parties, especially smaller parties, look to the behavior of major parties that how they treat and deal the issues of smaller parties. PPP leadership has adopted the policy of reconciliation as it consulted on various important issues even with smaller parties. If one observed the policy of reconciliation by PPP, it had performed tremendous jobs not only in government but also in opposition. PPP won two times the elections for the chairman of Senate while sitting on the opposition benches. Consequently, three elements- candidates' personality, party's proclivity and policy of reconciliation- produce positive results in elections. This positive result of these three elements is termed as "corollary effect" in elections for different position in parliament.

In a nut shell, the opposition benches in the period 2008 to 2018 were a loyal opposition. It neither tried to topple the government nor attempted to change the whole system of the government. It criticized those policies which were against the general interest of the common people of Pakistan. On the other hand, it proposed different alternative policies against the policies of the government. It functioned within the limits of constitution and also reminded to government its constitutional limit. In addition, unity

and disunity among the opposition parties both significantly affect the policies of treasury benches. Unity among opposition benches with candidates' party preferences and reconciliation policy produces a very positive result in the elections for different position of parliament. However, political parties also suffer from political anomaly. Simultaneously, the norms and traditions build by the opposition benches in the period from 2008 to 2018 were of high importance. It would be pertinent to say that the opposition benches in parliament in the period under research had played a significant role in flourishing the norms and values of democracy in Pakistan. The opposition benches should be given more respect as it works without any privileges. The importance of opposition benches in the parliamentary democracy can be effectively portrayed in the couplet of an Indian poet which says "The king with none to censure him, bereft of safeguards all, though none his ruin work, shall surely ruined fall."

## **Recommendations**

- The political parties of Pakistan should develop one national narrative which would form the basis of agreement and disagreement.
- Political parties should train its members especially to guide them regarding the rules of business in the parliament.
- A minimum agenda on important national issues should be drafted on which the opposition benches should take a firm stand. It would help in maintaining the unity of different opposition parties.
- The opposition benches would chalk out a plan which would not be compromised in any situation. The plan would include to maintain true democracy and transparency, to eradicate corruption, to follow constitution and to work for civilian supremacy in Pakistan.

- Political parties should follow meritocracy in their parties that intellectual and industrious political workers occupy the main position of the parties.
- Technical experts should be appointed to the different seats of parliament as they play crucial role in the process of legislation-making.
- Political parties should also develop their behavior towards others political parties irrespective of their strength which could give affective results not only in elections for various slots in parliament but also in enacting various laws. As behavior is an important element to create unity among the different parties of the opposition benches.
- The government should listen carefully to representatives from all the opposition parties.

## **Future Research Identification**

There are numerous topics which need further research in the parliament of Pakistan especially on the role of opposition. The following areas are recommended for researchers to conduct their research.

- The questions raised by the opposition benches in the parliament.
- The issues addressed by the opposition parties on “point of order” in the parliament.
- The “resolution” moved by the opposition benches.
- The response of the treasury benches to the questions and issues raised by the opposition benches.

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## APPENDIXES

### Interview Guide

#### Ph.D- Research Topic

**Role of Parliamentary Opposition in Pakistan (2008-2013): A Critical Analysis**

**Muhammad Adil**

**Ph.D Scholar**

**Department of History and Pakistan Study**

**International Islamic University Islamabad.**

**Note:** Sir/madam you don't need to answer all the questions. You can answer as per your own convenience. I am also not expecting long answers keeping in view your **busy schedule**. You may answer in 2 or three lines. I will be more than happy for your intellectual input.

1. What is your observation about the cooperation of opposition parties among themselves in different legislation whether ordinary laws or constitutional amendments?

**Ans:**-----

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2. What were the strategies adopted by the opposition to pressurize the government for accepting the amendments moved by the opposition benches?

**Ans:**-----

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3. How was the government response to different amendments moved by the opposition benches?

**Ans:**-----

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4. How do you evaluate the role of opposition parties in historical eighteenth amendment?

**Ans:**-----

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5. What were the main reasons that the opposition parties accepted some of government controversial policies which were critical to public importance, for example 21st, 23rd amendment, Pakistan Protection Bill 2014, PLA conversion Bill, Anti-terrorism (Amendment) bills etc?

**Ans:**-----

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6. What is your opinion about the role of opposition in legislation making and constitutional amendments in general?

**Ans:**-----

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7. What were the strategies of the opposition parties in different elections for different positions in Parliament?

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8. Why opposition parties failed to bring a unanimous candidate for different position in Parliament?

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9. Which party, in your opinion, made hurdles in the unification of the opposition parties in the Parliament and why?

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10. What is your opinion that which parliamentary opposition was more effective than other in PPP government from 2008 to 2013 or in PML-N government from 2013 to 2018 and why?

**Ans:**-----

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11. Please suggests some tangible recommendations, how parliamentary opposition be more effective in Parliament of Pakistan especially in legislation.

**Ans:**-----

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## 19<sup>th</sup> Amendment Act

REGISTERED No. M-302  
L-7646



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, JANUARY 4, 2011

### PART I

#### Acts, Ordinances, President's Orders and Regulations

#### SENATE SECRETARIAT

Islamabad (Dr. F. I. Zahid) — 2011.

**No. F. 9(42)/2010-Legis.**—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 1<sup>st</sup> January, 2011 and is hereby published for general information:—

Act No. I of 2011

*An Act further to amend the Constitution of the Islamic Republic of Pakistan*

Whereas it is expedient further to amend the Constitution of the Islamic Republic of Pakistan;

It is hereby enacted as follows:

1. **Short title and commencement.**— (1) This Act may be called the Constitution (Nineteenth Amendment) Act, 2010.

(2) It shall come into force at once.

(1)

[05/2011 VEx Gaz] Price Rs. 6.00

**2. Amendment of Article 81 of the Constitution.**— In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 81,—

- (i) in paragraph (a), in sub-paragraph (i), after the word "Court" occurring at the end, the words "and the Islamabad High Court" shall be added; and
- (ii) for paragraph (b), the following shall be substituted, namely,—  
"(b) the administrative expenses, including the remuneration payable to officers and servants, of the Supreme Court, the Islamabad High Court, the department of the Auditor-General, the Office of the Chief Election Commissioner and of the Election Commission and the Secretariats of the Senate and the National Assembly;"

**3. Amendment of Article 175 of the Constitution.**— In the Constitution, in Article 175, in clause (1) for the Explanation the following shall be substituted, namely—

*"Explanation.— Unless the context otherwise requires, the words 'High Court' whenever occurring in the Constitution shall include 'Islamabad High Court'.*

**4. Amendment of Article 175A of the Constitution.**— In the Constitution, in Article 175A,—

- (a) in clause (2)—
  - (i) in paragraph (ii) for the word "two" the word "four" shall be substituted, and
  - (ii) in paragraph (iii) for the word "two" occurring for the first time, the word "four" shall be substituted
- (b) in clause (5)—
  - (i) for paragraph (iv), the following shall be substituted, namely—  
"iv) an advocate having not less than fifteen years practice in the High Court to be nominated by the concerned Bar Council for a term of two years"; and
  - (ii) for the proviso the following shall be substituted, namely—  
"Provided that for appointment of the Chief Justice of a High Court the most Senior Judge mentioned in paragraph (iv) shall not be member of the Commission".

Provided further that if for any reason the Chief Justice of a High Court is not available, he shall be substituted by a former Chief Justice or former Judge of that Court, to be nominated by the Chief Justice of Pakistan in consultation with the four member Judges of the Commission mentioned in paragraph (ii) of clause (2);

- (c) in clause (6), in the first proviso, after the word "the" occurring for the first time, the words "Chief Justice and the" shall be inserted;
- (d) in clause (9), for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely —

"Provided that when the National Assembly is dissolved, the total membership of the Parliamentary Committee shall consist of the members from the Senate only mentioned in paragraph (i) and the provisions of this Article shall *mutatis mutandis* apply."

- (e) in clause (12),
  - (i) for the proviso the following shall be substituted, namely —  
"Provided that the Committee, for reasons to be recorded, may not confirm the nomination by three-fourth majority of its total membership within the said period, — and
  - (ii) after the proviso substituted as aforesaid, the following new proviso shall be inserted, namely —  
"Provided further that if a nomination is not confirmed by the Committee it shall forward its decision with reasons so recorded to the Commission through the Prime Minister.

Provided further that if a nomination is not confirmed, the Commission shall send another nomination."

- (f) for clause (13), the following shall be substituted, namely
  - "(13) The Committee shall send the name of the nominee confirmed by it or deemed to have been confirmed to the Prime Minister who shall forward the same to the President for appointment"
  - (g) clause (15) shall be renumbered as clause (17) and after the existing clause (14), the following new clauses shall be inserted, namely —
    - "(15) The meetings of the Committee shall be held in camera and the record of its proceedings shall be maintained

(i) The provisions of Article 68 shall not apply to the proceedings of the Committee.”.

**5. Amendment of Article 182 of the Constitution.**—In the Constitution, in Article 182, after the word “Pakistan” the commas, words, figure and letter “, in consultation with the Judicial Commission as provided in clause (2) of Article 175A,” shall be inserted.

**6. Amendment of Article 213 of the Constitution.**—In the Constitution, in Article 213, in clause (2B),—

(i) for the second proviso, the following shall be substituted, namely:—

“Provided further that the total strength of the Parliamentary Committee shall be twelve members out of which one-third shall be from the Senate”, and

(ii) in the third proviso, for the words “Parliamentary Committee shall comprise” the words “total membership of the Parliamentary Committee shall consist of” shall be substituted.

**7. Amendment of Article 246 of the Constitution.**—In the Constitution, in Article 246,

(i) in paragraph (a), sub-paragraphs (iii) and (iv) shall be omitted, and

(ii) in paragraph (c),—

(a) after sub-paragraph (iii), the following new sub-paragraph shall be inserted, namely:—

“(iii) Tribal Areas adjoining Larki Marwati district,” and

(b) after sub-paragraph (iv) the following new sub-paragraph shall be inserted, namely:—

“(iv) Tribal Areas adjoining Tank District.”.

RAJA MUHAMMAD AMIN  
*Secretary.*

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## 20th Amendment Act

REGISTERED NO. M - 302  
L - 7646



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

ISLAMABAD, WEDNESDAY, FEBRUARY 29, 2012

### PART I

#### Acts, Ordinances, President's Orders and Regulations

#### SENATE SECRETARIAT

*Islamabad, the 29th February, 2012*

No. F. 9(5)/2012-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 28th February, 2012, is hereby published for general information:—

Act No. V of 2012

*An Act further to amend the Constitution of the Islamic Republic of Pakistan*

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan,

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Twentieth Amendment) Act, 2012.

(2) It shall come into force at once.

(93)

12224(2012)/Ex. Gaz.]      Price    Rs. 5.00

**2. Amendment of Article 48 of the Constitution.**—In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 48, in clause (5), in paragraph (b), after the word "Cabinet", the words, commas, figures and letter "in accordance with the provisions of Article 224 or, as the case may be, Article 224A", shall be added.

**3. Amendment of Article 214 of the Constitution.**—In the Constitution, in Article 214,—

- (a) in the marginal note, the word "Commissioner's", shall be omitted, and
- (b) after the word "Pakistan", the commas and words "and a member of the Election Commission shall make before the Commissioner", shall be inserted

**4. Amendment of Article 215 of the Constitution.**—In the Constitution, in Article 215,—

- (a) in the marginal note, after the word "Commissioner", the words "and members", shall be added;
- (b) in clause (1),—
  - (i) after the word "Commissioner", the words "and a member", shall be inserted, and
  - (ii) in the proviso, after the word "incumbent", the word "Commissioner", shall be added,
- (c) in clause (2),—
  - (i) after the word "Commissioner", occurring for the first time, the words "or a member", shall be inserted, and
  - (ii) after the word "Commissioner", at the end, the words and commas "or, as the case may be, a member", shall be added; and
- (d) in clause (3), after the word "Commissioner", the words "or a member", shall be inserted

**5. Amendment of Article 216 of the Constitution.**—In the Constitution, in Article 216,—

- (a) in the marginal note, after the word "Commissioner", the words "and members", shall be inserted;

- (b) in clause (1), after the word "Commissioner", the words "or a member", shall be inserted; and
- (c) in clause (2), after the word "Commissioner", occurring for the first time, the words "or a member", shall be inserted.

**6. Amendment of Article 218 of the Constitution.**—In the Constitution, in Article 218, in clause (3), the words "constituted in relation to an election", shall be omitted.

**7. Amendment of Article 219 of the Constitution.**—In the Constitution, in Article 219, in paragraph (e), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely—

"Provided that till such time as the members of the Commission are first appointed in accordance with the provisions of paragraph (b) of clause (2) of Article 218 pursuant to the Constitution (Eighteenth Amendment) Act, 2010, and enter upon their office, the Commissioner shall remain charged with the duties enumerated in paragraphs (a), (b) and (c) of this Article."

**8. Amendment of Article 224 of the Constitution.**—In the Constitution, in Article 224,—

- (a) in clause (1A)—
  - (i) in the first proviso, for the word "selected", the word "appointed" shall be substituted;
  - (ii) after the proviso, as amended herenabov, the following new proviso shall be inserted, namely:—

"Provided further that if the Prime Minister or a Chief Minister and their respective Leader of the Opposition do not agree on any person to be appointed as a care-taker Prime Minister or the care-taker Chief Minister, as the case may be, the provisions of Article 224A shall be followed."; and

- (iii) in the second proviso, for the word "further", the word "also", shall be substituted, and
- (b) in clause (6), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—
  - .. "Provided that if at any time the party list is exhausted, the concerned political party may submit a name for any vacancy which may occur thereafter."

9. **Insertion of new Article 224A of the Constitution.**—In the Constitution, after Article 224, amended as aforesaid, the following new Article shall be inserted, namely:—

**"224A. Resolution by Committee or Election Commission.**—(1) In case the Prime Minister and the Leader of the Opposition in the outgoing National Assembly do not agree on any person to be appointed as the care-taker Prime Minister, within three days of the dissolution of the National Assembly, they shall forward two nominees each to a Committee to be immediately constituted by the Speaker of the National Assembly, comprising eight members of the outgoing National Assembly, or the Senate, or both, having equal representation from the Treasury and the Opposition, to be nominated by the Prime Minister and the Leader of the Opposition respectively.

(2) In case a Chief Minister and the Leader of the Opposition in the outgoing Provincial Assembly do not agree on any person to be appointed as the care-taker Chief Minister, within three days of the dissolution of that Assembly, they shall forward two nominees each to a Committee to be immediately constituted by the Speaker of the Provincial Assembly, comprising six members of the outgoing Provincial Assembly having equal representation from the Treasury and the Opposition, to be nominated by the Chief Minister and the Leader of the Opposition respectively.

(3) The Committee constituted under clause (1) or (2) shall finalize the name of the care-taker Prime Minister or care-taker Chief Minister, as the case may be, within three days of the referral of the matter to it:

Provided that in case of inability of the Committee to decide the matter in the aforesaid period, the names of the nominees shall be referred to the Election Commission of Pakistan for final decision within two days.

(4) The incumbent Prime Minister and the incumbent Chief Minister shall continue to hold office till appointment of the care-taker Prime Minister and the care-taker Chief Minister, as the case may be.

(5) Notwithstanding anything contained in clauses (1) and (2), if the members of the Opposition are less than five in the Majlis-e-Shoora (Parliament) and less than four in any Provincial Assembly, then all of them shall be members of the Committee mentioned in the aforesaid clauses and the Committee shall be deemed to be duly constituted."

10. **Amendment of the Second Schedule to the Constitution.—**In the Constitution, in the Second Schedule,—

- (a) in paragraph 1,—
  - (i) for the words "Chief Election Commissioner", the words "Election Commission of Pakistan", shall be substituted; and
  - (ii) after the word "and", occurring for the second time, the words "Chief Election Commissioner", shall be inserted, and
- (b) in paragraphs 2 and 22, for the words "Chief Election Commissioner", the words "Election Commission of Pakistan", shall be substituted

11. **Amendment of the Third Schedule to the Constitution.—**In the Constitution, in the Third Schedule, in the Oath prescribed for the Chief Election Commissioner,—

- (a) in the title, after the word "COMMISSIONER", the words "OR A MEMBER OF THE ELECTION COMMISSION OF PAKISTAN", shall be added; and
- (b) after the word "Commissioner", the words and commas "or, as the case may be, member of the Election Commission of Pakistan", shall be inserted

IFTIKHAR ULLAH BABAR  
*Secretary*

## 21<sup>st</sup> Amendment Act

REGISTERED No. M-302  
1-7646

# The Gazette of Pakistan



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

ISLAMABAD, THURSDAY, JANUARY 8, 2015

PART I

Acts, Ordinances, President's Orders and Regulations

### SENATE SECRETARIAL

Government of Pakistan

No. E-96562015-Law28, dated 20th January, 2015. An Act to amend the 21<sup>st</sup> Amendment Act (passed by the President on 7<sup>th</sup> January, 2015) in the purpose of amending the Constitution of Pakistan.

AMENDMENT ACT

*To further amend the Constitution of the Islamic Republic of Pakistan.*

With due regard to the situation and circumstances of the country, and to special needs for speedily implementing certain other constitutional changes, and to war of independence against Pakistan, and to the need of upholding the security of Pakistan by any legal constitution and procedure, it is hereby willed that all their members using the name of *islip* may use:

1.

Peres - R. 2015

14-2015-Law-Gaz

AND WHEREAS there exists grave and unprecedented threat to the integrity of Pakistan and objectives set out in the Preamble to the Constitution by the framers of the Constitution, from the terrorist groups by raising of arms and insurgency using the name of religion or a sect or from the foreign and locally funded anti-state elements;

AND WHEREAS it is expedient that the said terrorists groups including any such terrorists fighting while using the name of religion or a sect, captured or to be captured in combat with the Armed Forces of Pakistan, otherwise are tried by the court martial established under the Acts mentioned hereinbelow in section 2;

AND WHEREAS the people of Pakistan have expressed their firm resolve that such other criminal terrorist organizations and the like who are responsible for the said illegal and terrorist attack on the Army Public School at Peshawar on 16 December 2014, permanently withdraw from hideout terrorist from Pakistan, it is expedient to provide for the amendment of Article 175 of the Constitution of Pakistan in the interest of security and integrity of Pakistan;

This Act was enacted as follows:

**Short title and commencement.** - (1) This Act may be called the Constitution (Twenty-first Amendment) Act, 2015.

(2) It shall come into force at once.

(3) The provisions of this Act shall remain in force for a period of two years from the date of its commencement and shall cease to form part of the Constitution and shall stand repealed on the expiration of the said period.

**2. Amendment of Article 175 of the Constitution.** - In the Constitution of the Islamic Republic of Pakistan, an remitter called the Constitution, in Article 175, in clause (3) for the last stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:

"Provided that the provisions of this Article shall have no application to the trial of persons under any of the Acts mentioned at serial Nos. 6, 7, 8 and 9 of sub-part II of Part I of the First Schedule, who claims or is known to belong to any terrorist group or organization using the name of religion or a sect."

*Explanation:* In this proviso, the expression 'sect' means a sect of religion and does not include any religious or political party regulated under the Political Parties Order, 2002."

**3. Amendment in the First Schedule of the Constitution.** In the Constitution, in the First Schedule, in sub-part III of Part I, after serial No. 5, the following new entry shall be added, namely:—

- 5. The Pakistan Army Act, 1952 (XXXIX of 1952)
- 6. The Pakistan Air Force Act, 1953 (VI of 1953)
- 7. The Pakistan Navy Ordinance, 1961 (XXXV of 1961)
- 8. The Protection of Pakistan Act, 2014 (X of 2014)."

WAILED PIRVAN,  
Secretary

## 24<sup>th</sup> Amendment Act

REGISTERED No. M - 302  
L-7646



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, DECEMBER 26, 2017

### PART I

#### Acts, Ordinances, President's Orders and Regulations

#### SENATE SECRETARIAT

*Islamabad, the 24th December, 2017*

No. F. 9 (30)/2017-Legis.—The following Act of *Majlis-e-Shoora* (Parliament) received the assent of the President on 22nd December, 2017 and is hereby published for general information:—

Act No. XXXVIII of 2017

*An Act further to amend the Constitution of the Islamic Republic of Pakistan.*

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Twenty-fourth Amendment) Act, 2017.

(1605)

*Price : Rs. 2.00*

[2170/2017/Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of Article 51 of the Constitution.**—In the Constitution of the Islamic Republic of Pakistan, in Article 51:

(a) for clause (3), the following shall be substituted.—

"(3) the seats in the National Assembly referred to in clause (1), except as provided in clause (4), shall be allocated to each Province, the Federally Administered Tribal Areas and the Federal Capital as under:

	General Seats	Women Seats	Total Seats
Balochistan	16	4	20
Khyber Pakhtunkhwa	39	9	48
Punjab	141	33	174
Sindh	61	14	75
Federally Administered Tribal Areas	12	-	12
Federal Capital	3	-	3
<b>Total</b>	<b>372</b>	<b>60</b>	<b>332</b>

(b) for clause (5), the following shall be substituted:

"(5) Save as provided in clause (3) in respect of the Federally Administered Tribal Areas, the seats in the National Assembly shall be allocated to each province and the Federal Capital on the basis of population in accordance with the last preceding census officially published.

Provided that for purposes of the next general elections to be held in 2018 and bye-elections related thereto, the allocation shall be made on the basis of provisional results of the 2017 census which shall be published by the Federal Government".

AMJED PERVEZ,  
*Secretary*

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## Protection of Pakistan Act 2014

REGISTERED NO. M-302  
L-7646



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, JULY 15, 2014

PART I

### Acts, Ordinances, President's Orders and Regulations

### NATIONAL ASSEMBLY SECRETARIAT

Volume No. 146, July 2014

**No. 1, 22 (30) 2013-Legis.**—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 8th July, 2014, and is hereby published for general information:

Act No. X of 2014

### *An Act to provide for protection against waging of war or insurrection against Pakistan and the prevention of acts threatening the security of Pakistan*

WHEREAS it is expedient to provide for protection against waging of war or insurrection against Pakistan, prevention of acts threatening the security of Pakistan and for speedy trial of offences falling in the Schedule and for matters connected therewith or incidental thereto:

It is hereby enacted as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Protection of Pakistan Act, 2014.

(2) It extends to the whole of Pakistan;

(3) It shall come into force at once;

Provided that this Act shall remain in force for a period of two years from the date it comes into force.

**2. Definitions.** —In this Act, unless there is anything repugnant in the subject or context,—

(a) "armed forces" means the Military, Naval and Air Forces of Pakistan and the Reserves of such Forces;

(b) "civil armed force" means Police, Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Government as such;

(c) "Code" means the Code of Criminal Procedure, 1898; Act V of 1898;

(d) "enemy alien" means a person—

(a) whose identity is unascertainable as a Pakistani in the locality where he has been arrested or in the locality where he claims to be residing, whether by document or other evidence; or

(b) who has been deprived of his citizenship under the Pakistan Citizenship Act, 1951 (1 of 1951), acquired by naturalization;

(e) "Government" means the Federal Government;

(f) "militant" means any person who

(i) wages war or insurrection against Pakistan; or

(ii) raises arms against Pakistan, its citizens, the armed forces or civil armed forces; or

(iii) takes up, advocates or encourages or aids or abets the raising of arms or waging of war or a violent struggle against Pakistan; or

(d) threatens or acts or attempts to act in a manner prejudicial to the security, integrity or defence of Pakistan; or

(e) commits or threatens to commit any scheduled offence, and includes

(i) a person who commits any act outside the territory of Pakistan for which he has used the soil of Pakistan for preparing to commit such act that constitutes scheduled offence under this Act and the laws of the State where such offence has been committed, including an act of aiding or abetting such offence; or

- (a) any person against whom there are reasonable grounds that he acts under the direction or in concert or conspiracy with or in furtherance of the designs of an enemy alien;
- (g) "Police" includes all the police forces established by the Provincial Governments or the Federal Government;
- (h) "Preparing to commit a scheduled offence," means any act, prior to an attempt, whereby a person equips or arms himself with the means and instruments necessary for the commission of such offence and includes the possession, storage, fabrication or transport of explosives, firearms, instruments, articles, suicide jackets or vehicles designed to be used in such commission;
- (i) "Prosecuting agency" means a prosecuting agency established by a Government for the prosecution of offences falling under this Act;
- (j) "Prosecutor General" means the person appointed as Prosecutor General by the Government under section 12 of this Act;
- (k) "Schedule" means a Schedule annexed to this Act;
- (l) "Scheduled offence" means an offence as set out in the Schedule;
- (m) "Secretary of Pakistan" shall have the same meaning as is assigned to it in Article 266 of the Constitution;
- (n) "Special Court" means the Special Court established under section 8 of this Act; and
- (o) "Special Judicial Magistrate" means the Special Judicial Magistrate appointed under section 8 of this Act.

**3. Use of armed forces and civil armed forces to prevent scheduled offences.** (1) Any police officer not below BS-15 or member of the armed force or civil armed forces who is present or deployed in any area may, on reasonable apprehension of commission of a scheduled offence after giving sufficient warning, use necessary force to prevent the commission of a scheduled offence, and in so doing shall, in the case of an officer of the armed forces or civil armed forces exercise all the powers of a police officer under the Code.

(2) In particular and without prejudice to generality of sub-section (1), an officer of the police not below BS-15 or member of the armed forces or civil armed forces in the above situation may—

- (a) after giving prior warning use such force as may be deemed necessary or appropriate keeping in view all the facts and circumstances of the situation against any person who is committing or is about to commit an offence.

likely to commit a scheduled offence, it shall be lawful for any such officer after forming reasonable apprehension that death or grievous hurt may be caused by such act to fire or order the firing upon any person or persons against whom he is authorized to use force in terms hereof.

Provided that the decision to fire or order firing shall be taken only by way of last resort, and shall in no case extend to the inflicting of more harm than is necessary to prevent the scheduled offence which has given rise to the reasonable apprehension of death or grievous hurt.

Provided further that all cases of firing which have resulted in death or grievous hurt shall be referred to an internal enquiry committee by a person appointed by the head of the concerned law enforcement agency.

Provided further that all cases of firing which have resulted in death or grievous hurt shall be referred to an internal enquiry committee by a person appointed by the head of the concerned law enforcement agency.

*Explanation : Requirements of apprehension to fire under this section* – The following circumstances shall be called "circumstances" namely:

- (i) credible information to the effect that a person, who is present on the site, is suspected to be a person and such person either attempts to resist arrest or once it achieves a certain point of sufficient and it is necessary to do so, resists or obstructs the officers;
- (ii) prior information that without any credible information, an individual in an area which may have been in the process of being involved in the planning, commission or attempted commission of a scheduled offence to carry out action as mentioned in paragraph (i) above;
- (iii) appreciation of circumstances at the scene that a person can cause harm and the situation may lead to grievous hurt or death;
- (iv) threatening movement of a person, who is in possession of a fire arm or reaching for a fire arm to target law enforcement personnel or a member of the public which may lead to grievous hurt or death; or
- (v) prior information or apprehension is felt that the person may consist of such or personally trigger the explosion which can cause harm or a person, as is likely to be a commission of such an offence if may lead to grievous hurt or death.

- (b) enter without warrant, any person who has committed a scheduled offence or against whom a reasonable suspicion or credible information exists that he has committed, or is about to commit any such act or offence, and
- (c) enter and search, without warrant any premises to make any arrest or to take possession of any fire-arm, explosive, weapon, vehicle, instrument or article used, or likely to be used and capable of being used, in the commission of any scheduled offence.

Provided that after the search, the circumstances justifying it and the items recovered shall be reported within two days to Special Judicial Magistrate of the area by the officer conducting the search.

- (3) Nothing contained in sub-section (1) or sub-section (2) shall affect the provisions of Chapter XXVII contained in section 152 of this Act, which shall apply to any person acting under this section.

**5. Application of Code.** The provisions of the Code, insofar as they are not inconsistent with this Act, shall apply to this section.

**6. Investigation.** (1) All the scheduled offences shall be cognizable and non-bailable.

(2) A scheduled offence shall be enquired into by a police officer acting in aid of civil authority, and the police may, in investigating, make a report to the investigating magistrate, by whom it may be investigated and, if so required, the facts may be communicated to the armed forces or a named person. The joint investigation team shall be headed by the Police Officer in aid of.

(3) Where a witness or a suspect of a scheduled offence is held under the provisions of sub-section (2) of section 152 of this Act, it shall be the duty of the investigating magistrate to consider whether the expenses of the witness or suspect, including the expenses of transport to and from the head of joint investigation team or any other officer, constable or constable, during the time necessary for enquiry from the place of arrest or detention to the court, shall be paid to him before a Special Judicial Magistrate and may, upon the remand of the accused to the custody of the police or custody of any other investigating agency.

(4) A Special Judicial Magistrate may remand the accused, from time to time, in such custody as such Special Judicial Magistrate thinks fit for a term, not exceeding sixty days.

Provided that the Special Judicial Magistrate shall not remand an accused person to custody under this section for a period exceeding no fifteen days at a time.

(5) A judicial magistrate may remand the accused, in such custody as the accused shall be satisfied to accept, the Public Prosecutor.

(3) A person arrested or detained under this Act who falls within the meaning of clause (d) of section 2 of this Act shall be considered an enemy alien and subject to provisions of section 15 presumed to have joined waging war or insurrection against Pakistan.

**6. Preventive detention.** (1) The Government may, by an order in writing, authorize the detention of a person for a period specified in the order shall not exceed ninety days if the Government has reasonable grounds to believe that such person is acting in a manner prejudicial to the integrity, security, defense of Pakistan or any part thereof or external affairs of Pakistan or public order or maintenance of supplies and services.

Provided that detention of such person shall be in accordance with the provisions of Article 111 of the Constitution.

Provided further that without prejudice to the above, an enemy alien may be detained in the manner as provided in so far as it does not interfere with the rights so guaranteed to him in the case of preventive detention under Article 111 of the Constitution.

**Exemption.** A person connected or reasonably believed to be connected with the preparation, attempt or commission of a scheduled offence or a person acting in concert with or directed by such persons, as defined in the aforesaid sub-section (2) of section 8 shall be deemed to be aliens in acting in the manner mentioned above.

(2) In case of war either Federal Government or the Provincial Government has called Armed Forces or any other power under Article 245 of the Constitution or where any other Armed Forces have been called by the Federal Government or Provincial Government, and of any other power like the Anti-Terrorism Act, 1997 (XXV of 1997) the said Armed Forces may detain any enemy alien or militant in designated internment camps after a notification to that effect.

Provided that detention of such person shall be in accordance with the provisions of Article 111 of the Constitution.

(3) At any time during the said notification or upon its withdrawal, such internee may be handed over to Police or any other investigating agency for formal investigation and prosecution.

(4) The Federal Government shall frame Regulations to regulate the internment orders, internment camps, mechanisms for representation against the internment orders and judicial oversight of such camps, subject to the provisions of sub-section (2) of section 8.

(5) All persons arrested or detained by the armed forces or civil armed forces and kept under arrest or detention before the coming into force of the Protection of Pakistanis (Amendment) Ordinance, 2014 (Ordinance No. 1 of 2014) shall be

deemed to have been arrested or detained pursuant to the provisions of this Act if the offence in respect of which such arrest or detention was made also constitutes an offence under this Act.

**7. Report.** —Upon completion of investigation, the Joint Investigation Team shall, through the Public Prosecutor, submit a report before the Special Court.

Provided that notwithstanding anything contained in the Qanun-e-Shahadat 1984 (P.O.10 of 1984), such report shall be admissible in evidence within the meaning of section 173 of the Code.

**8. Establishment of Special Courts etc.** —(1) The Government may establish as many Special Courts under this Act as determined by it.

(2) The Government, after consultation with the Chief Justice of the concerned High Court, may appoint any person as judge of the Special Court constituted under this Act who is or has been a Sessions Judge in any province of Pakistan, or has been an advocate of the High Court for a period of not less than ten years, and is not more than seventy years of age.

(3) A judge of the Special Court shall have all the powers of a Sessions Court as provided under the Code.

(4) The Government may provide security of tenure to a judge of the Special Court appointed under this Act as may be prescribed by the rule.

(5) The Government may, after consultation with the Chief Justice of the concerned High Court, appoint any Magistrate of the First Class serving as a member of the subordinate judiciary under any High Court or any other officer of not less than BS-18 of the Pakistan Administrative Service or Provincial Management Service of any Province or any person who is or has been an advocate of the High Court for a period not less than five years, as Special Judicial Magistrate.

(6) The Special Judicial Magistrate shall have all the powers of Magistrate of the First Class provided under the Code unless they are inconsistent with this Act.

(7) No Special Court shall take cognizance of a scheduled offence except on a report submitted under section 7.

**9. Place of inquiries, investigations and trials etc.** —(1) The Government, on the report of a prosecuting agency, may determine the place of custody, inquiry, investigation and trial of a scheduled offence anywhere in Pakistan.

(2) Subject to the Constitution:—

(a) the Government, Joint Investigation Team, armed forces or enclaved forces may, in the interest of the security of its personnel or for the

silence of the detainee or accused or internee as the case may be or for any other reasonable cause withhold the information except from a High Court or the Supreme Court regarding the location of the detainee or accused or internee or interment centre established information with respect to any detainee or accused or internee or his whereabouts.

Provided that the judge or judge to whom the disclosure is made may decide to treat it as privileged information in the public interest and

(b) the Government may do, in the interest of the security of Pakistan or in the interest of the safety of the accused or the accused or internee or any detainee, accused or internee who is a terrorist or a member of a terrorist organisation.

(c) a person who is accused of an offence which is being tried by the Government may be consulted at any point in the trial and may be present during the trial.

10. **Exclusion of public from proceedings of Special Court.**—(1) nothing given in this Article is to be construed as giving to any power which a Special Court may have in virtue of this Article, the power to exclude the public from any proceedings at any stage of the course of the trial of any person accused of an offence which is being tried by the Government in the interest of the security of Pakistan or in the interest of the safety of the accused or the accused or internee or any detainee, accused or internee who is a terrorist or a member of a terrorist organisation.

**Establishment of Prosecuting Agency.**—The Government shall establish an independent Prosecuting Agency headed by a Prosecutor General to provide consultation and legal guidance to the investigating agencies and conduct the prosecution of scheduled offences.

11. **Prosecutor General.**—(1) The Government may appoint any person as Prosecutor General who is not less than forty-five years of age and has been an advocate of the High Court for a period of not less than ten years.

(2) The Prosecutor General may issue instructions and guidelines for the competent investigation and effective prosecution of the cases of scheduled offences.

(3) The Prosecutor General may with the approval of the Government withdraw from the prosecution of any scheduled offence before the Supreme Court and on submission of such request the court may discharge or acquit the accused from the case as it may deem fit.

**13. Protection of judges, prosecutors and witnesses etc.**—The Government shall take appropriate measures to provide adequate security to the prosecution witnesses, investigating officers, prosecutors, Special Judicial Magistrates and Judges of the Special Courts and for this purpose may establish, anywhere in Pakistan, high security prisons with court rooms.

**14. Joint trial.**—(1) While trying any offence under this Act, a Special Court may also try any other offence, which an accused may, under the Code of Criminal Procedure, 1898, be charged, at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any scheduled offence it is found that the accused person has committed, in addition any other offence connected with scheduled offence, the Special Court may convict an accused for such other offence also and pass any sentence authorized by this Act or, as the case may be, such other law.

**15. Burden of proof.**—(1) An enemy alien or a resident facing the charge of a scheduled offence or offence of terrorism etc., captured or a person arrested in preparation to commit or while attempting to commit such an offence shall be presumed to be engaged in waging war or insurrection against Pakistan unless he establishes his non-involvement in the offence.

(2) Any person apprehended in the course of preparation, attempt or commission of a scheduled offence and from whom any weapon, material, vehicle, article or instrument designed for or capable of being used or employed to facilitate the commission of the offence of bombing, suicide bombing or target killing in previous must shall be presumed to be guilty of preparation, attempt or commission, as the case may be, of a scheduled offence.

*Explanation.* A cell phone or other instrument that contains logs or evidence of calls or messages made or received that facilitate the preparation, attempt or commission of such an offence, shall be deemed to be such an instrument and any record thereon or therein shall be admissible in evidence.

**16. Punishment.**—Notwithstanding anything contained in the Pakistan Penal Code or any other law for the time being in force, a scheduled offence shall be punishable with imprisonment which may extend to twenty years, with fine and confiscation of property unless the scheduled offence already provides a higher punishment and the Special Court convicting the accused may also deprive him of the citizenship acquired by him by naturalization.

**17. Transfer of cases.**—(1) Where, after taking cognizance of an offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall notwithstanding that it has no jurisdiction to try such offence, return the case to the prosecuting agency for its submission before a court of competent ordinary jurisdiction.

(2) The Persecutor General may, with the approval of Government and for reasons to be recorded, withdraw a case at any stage of the proceedings from one Special Court with its permission and submit the same in other Special Court constituted under this Act.

(3) Notwithstanding anything contained in any other law for the time being in force, the Government may apply to any court of law or tribunal that any case involving any scheduled offence punishable under this Act, pending before such court or tribunal be transferred to a Special Court; then such other court or tribunal shall transfer the said case to Special Court and it shall not be necessary for the Special Court to recall any witness or again record any evidence that may have been recorded.

**18. Certain provisions of the Code not applicable.**—The provisions of sections 374, 426, 435, 439, 439A, 481, 496, 497, 498 and 564A of the Code shall not be applicable to the scheduled offences.

**19. Appeal.**—(1) An appeal against the final judgment of a Special Court shall lie to the High Court.

(2) Copy of the judgment of a Special Court shall be supplied to the accused and public prosecutor on the day the judgment is pronounced.

(3) Any aggrieved person or the Government may file an appeal against the final judgment of a Special Court within a period of thirty days from the pronouncement of judgment.

**20. Savings.**—No member of the police, armed forces or civil armed forces acting in aid of civil authority, Persecutor General, a prosecutor, Special Advocate, Magistrate or the Judge of a Special Court shall be liable to any action for any act done in good faith during the performance of their duties.

**21. Power to make rules.**—(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may include guidelines for police and members of armed forces, civil armed forces acting in aid of civil authority while using force to prevent scheduled offences.

(3) On the notification, the rules shall be laid before both Houses of Parliament.

**22. Amendment of Schedule.**—The Government may, by notification in the official gazette, amend the Schedule by adding or modifying any entry thereto or omitting any entry therefrom.

**23. Authorization.**—The Federal Government may, by notification in the official gazette, authorize a Provincial Government to perform such functions as

exercise such powers under this Act or the rules made thereunder as the Federal Government may deem fit.

**24. Overriding effect.**—(1) Subject to such conditions as the Government may specify by notification in the Official Gazette, the provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

(2) In case there is any conflict between the provisions of this Act and any other law for the time being in force, the provisions of this Act shall prevail to the extent of inconsistency.

**25. Removal of difficulties.**—(1) If any difficulty arises in giving effect to any provision of this Act, the President may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing such difficulty.

(2) An order under subsection (1) shall be made before each session of the Parliament in its first sitting after the order is made.

**26. Validation.**—All inquiries, investigations and proceedings initiated and conducted, anything done, actions taken, sentences or orders passed, rules or regulations made, notifications issued, powers conferred, assumed or exercised by any person or authority or power between the dates of 1st July, 2014 and the day this Act comes into force (both dates inclusively) shall be deemed to have been validly initiated, conducted, done taken, passed, made, assumed or exercised under this Act and shall have effect accordingly.

#### SCHEMATIC

#### 75. Section 247

Scheduled Offences (1) The following acts, committed with the purpose of waging war or insurrection against Pakistan or threatening the security of Pakistan shall be the scheduled offences and includes other offences relating to:

- (i) crimes against ethnic, religious and political groups or minorities including offences based on discrimination, hatred, creed and race;
- (ii) use of arson, fire-bombs, suicide bombs, biological weapons, chemical weapons, nuclear arms, plastic explosives and other materials capable of exploding or creating bombs employed to kill or cause hurt to persons or destroy property;
- (iii) use of arson and bombs on public places, government premises, sites of worship, historical places, business concerns, or other places, and risking or causing death of at least five persons therein;
- (iv) killing, kidnapping, extortion, assault or attack of members of the Parliament, Judiciary, Executive, Media, and other important personalities or any other person;

(2) Offences punishable under sections 7, 121A, 122, 123, 123A, 123B, 124, 124A, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139 and 140 of the Pakistan Penal Code.

(3) Prejudicial, abominable, or not in consonance to contain any of the offences specified in this Schedule.

MUHAMMAD RIAZ  
Secretary

A small, dark, curved insect larva with a segmented body and a protractor-like head.