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Political crisis and caretakers

There is a need for the enforcement of the Constitution not 'selectively', but in its totality, writes
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Pakistan is passing through the most serious crisis of its history. Although the country has all along been riding on the crest of problems and challenges, this 50th year of its existence seems to be the most critical. It is an irony of history that a country that came into existence as a result of a popular democratic movement led by Quaid-i-Azam Muhammad Ali Jinnah and supported by Muslims of all denominations, with the declared objective of establishing a state and society based on Islamic values and the principles of freedom, democracy and social justice, has been subjected to military dictatorships for almost half of this period. What is all the more disturbing is that even most of the remaining periods of civilian rule have been marked by certain variants of personalized despotic control.

Barring a few years, we have been facing not only grave law and order problem, political instability, economic crisis, violations of human rights but also more gruesome shadows of arbitrary rule by "democratic" leadership, who, instead of following the Constitution, tried to impose centralized despotic rule. The democratic process, which began in 1985, has again been marred by mismanagement, abuse and centralization of powers in the hands of whoever emerged as the chief executive. For these reasons, National and Provincial Assemblies had to be dissolved again and again. Every time people find themselves compelled to rise in protest to get rid of a government riding roughshod in the name of 'parliamentary democracy.'

Why people were demanding ouster of Benazir's government and dissolution of the Assemblies emphasizing not only the need for a new mandate but also accountability of the exploiters? In short, there is a need for the enforcement of the Constitution not 'selectively', but in its totality.

The Benazir regime claimed it had a mandate to rule for five years. It conveniently forgot that a mandate is not merely a matter of period, more importantly; it is given to be exercised in accordance with a manifesto and commitments made by the political parties and their candidates and in accordance with the Constitution and the law of the land. The substance of democracy is rule of law and its observance by all along with respect for the people's will and their mandate. If these commitments are flouted, if the Constitution, laws, and regulations of the country are openly violated, if rules of the game are not observed, there is no legitimacy about any particular period.

The history of democracy bears witness to the fact that because of the change of political climate, failure to implement the manifesto and public commitments, incapacity to face political and economic challenges, or emergence of new situations not visualized, Assemblies have been dissolved and fresh elections held. If the United Kingdom is taken as a model of parliamentary democracy, one finds that

after the First World War general elections were held over two dozen times, of which more than half a dozen times Parliament was dissolved before it completed its legal tenure. J.A. Griffith and Michael Ryle in their major work *Parliament: Functions, Privileges and Procedures*, say that fresh elections were held in 1951 and 1974 within one year of the elections and induction of Parliament.

The leading constitutional expert Prof A. V. Dicey maintains that if a new situation arises, dissolution of parliament is not an anomaly or an undemocratic act. When dissolution is followed by fresh elections, it is in the fulfillment of one of the cardinal principles of parliamentary democracy. If there is a prima facie case that a government has failed to deliver in accordance with the mandate given to it by the electors, there is no compulsion not to dissolve the parliament. Fresh reference can and, in certain cases, must be made to the people, the electors, who are the real 'political sovereign' in democracy. Lord Dicey in his monumental work: *An Introduction to the Study of the Law of Constitution* says, "it is the verdict of the political sovereign which ultimately determines the right or (what in politics is much the same thing) the power of a cabinet to retain office.... No modern constitutionalist will dispute that the authority of the House of Commons is derived from its representing the will of the nation, and that the chief object of a dissolution is to ascertain that the will of Parliament coincides with the will of the nation."

The PPP government, which came into power in October 1993, had miserably failed on all major counts ideological, constitutional, democratic, law and order, economic, foreign policy, sociocultural harmony. relief and justice to the poor and the under privileged. It is necessary to examine some aspects of this government's performance in order to establish the need for a fresh mandate, including the mandate to bring about basic changes to rid the country of corruption, mismanagement, horse-trading and failure to govern according to the Constitution.

It is a constitutional and democratic right of all political parties to mobilize public opinion through agitation and demonstrations and to organize unarmed and peaceful protests. Every protest, every procession, every assembly means some obstruction in the normal flow of traffic or business but it is part of the democratic process that facilities are provided and avenues created for peaceful political activity aimed at protest and demonstration. This right is enshrined in our Constitution. Articles 4, 15 and 16 affirm this right. Federal or provincial governments have no right to impose unreasonable and arbitrary restrictions on demonstrations simply on the basis of imaginary apprehensions.

The courts have also upheld this right and the observations of the Lahore High Court on 26th October, 1996, on the JI Dharna before the National Assembly is one such instance. Despite such a clear constitutional ruling, the Federal and provincial governments of the PPP used every possible form of state force to check the movement and create barriers cutting off Islamabad from the rest of the country. It is also an irony that while the Peoples Party was all out to stop demonstration in front of the Parliament, it had, itself, tried to organize a long march against Nawaz Sharif's government in 1992.

It is my considered view that the use of force against the long march by the then government in 1992 was as illegal and UN called for as was the use of force by the present PPP government against the peaceful movement of Jama'at Islami. Yet the duplicity of the PPP leadership stood exposed and its double standards have become a manifest reality.

Benazir's government tried to project itself as the defender of the Parliament and its Qazi Husain Ahmad dharna politics supremacy. It criticized Jama'at Islami and others for subverting the parliamentary system. It also tried to single out Qazi Hussain Ahmad as the one guilty of committing contempt of

Parliament. He was targeted for criticizing those members of the parliament who have brought bad name to it. He was rebuked for saying that the sacred institution of Parliament has been reduced to a house of evil because of the misdeeds and misdemeanor of its present occupants!

Nobody would be happy to criticize the house, which we all regard as the custodian of political power. The Jama'at has always stood for democratic institutions and traditions. It is a cardinal policy of the Jama'at that change should come through the constitutional process and that elections are the proper mechanism for change of leadership.

Parliament is an august institution. But an institution is as good or as bad as are its occupants. A team is known by the players it is made of. If those who occupy an august institution like the Majlise Shura or the provincial assemblies or for that matter, any institution, university, hospital, judiciary, police administration and fail to come up to the minimum standard they are asked for, they themselves demean such an institution. Nothing is wrong with the pool, but it is the rotten fish that spoils it. The aim of criticism, however, should be the cleansing and re storing of its purity and usefulness.

Qazi's, or anybody else's, criticism of the Assemblies is not an unusual utterance. This is an accepted practice in politics and literature. Shakespeare's masterly portrayal of the Jewish institution of interest based money lending today's 'noble' art of banking by its personification in the character of Shylock is now a classic. Iqbal's description of the League of Nations as a "vulgar mistress", his portrayal of the Paris Mosque as a "house of idols" and of politicians as "Satan" are not exercises in vituperation but perceptive critiques of sensitive institutions.

It is only in the interest of these institutions that serious criticism must be made of all the failures of those who occupy them and of all those malpractices and abuses of powers which destroy the sanctity of the ballot box, and besmirch the authority and credibility of Parliament and its organs. If the election process is subverted through rigging and use of force, then criticism of such elections cannot be taken as debunking of the electoral process. Rather, this exposes the efforts, which tarnish the sanctity of institutions. What has been done in the Occupied Kashmir and has been criticized all over the world is the destruction of the electoral process. The objective is to expose their malpractices which amount to its raping. Similarly, if a large number of the members of parliament fail to fulfil their duties, they are to be held accountable for they bring bad name to the institution. If the government adopts policies, which marginalize parliament or demean it, the government has dishonored it. If corruption is rampant, loan defaulters roam around the corridors of power, parliamentarians are busy in seeking personal favors, perks and plots, manipulating appointments, transfers, and misusing developmental funds, then what else can be the description of such a situation?

Because of the misdeeds, loot and plunder of national resources by the so-called public representatives we see a total disenchantment of the common man in respect of those who were handed over a great trust and have totally failed to fulfil its demands. This disenchantment is everywhere, exempting, of course, those who are responsible for the mess.

National as well as international media published stories of our rulers malpractices and the state of corruption prevailing in our beloved homeland. Our rulers earned for the country the 'honor' of being the second most corrupt nation in the world!

If our rulers do not mend their ways and instead resort to the use of force for silence the criticism aimed at bringing about a genuinely healthy change, we would continue to be disgraced as a nation and, Allah forbid, Pakistan would be a target of ridicule among the community of nations.

The caretakers are, therefore, required to adopt such measures, which can do away with the malaise ruining our society and politics. The caretakers' team should immediately start the process of accountability. People would like to see that plunderers and inept people are brought to book and held accountable for their misdeeds.

The caretaker government should ensure free and fair elections on the basis of proportional representation. Holding of census is also a constitutional requirement, which has regrettably been delayed and on which depends the credibility of elections. Moreover, it should be made obligatory for political parties to observe Article 62 of the Constitution for fielding their candidates. Then, Election Commissioner should also be empowered to scrutinize them, even when elected, under Article 63. No doubt holding of polls in time is a constitutional obligation, but one obligation cannot be fulfilled at the expense of other mandatory constitutional requirements. In short, what is needed is that the Constitution be acted upon in its true spirit and totality.