

Political Turmoil And Military Era Of General Musharraf (1988-2007)

The death of General Zia-ul-Haq in 1988 ushered in the civil governments which lasted till 1999 until General Musharraf took over and once again the military era started which lasted till 2007. It is unfortunate that the democratic governments led by Benazir Bhutto and Mian Nawaz Sharif were marred by personal rivalry/venedetta, bad governance, corruption, inefficiency and tussle with the other organs of the state. People of Pakistan remained baffled hoping that the governments would deliver. The political bickering and experimentation with the constitution of Pakistan invited another military dictator to take the reins of the government. As expected the dictator maneuvered to keep intact his governance till 2007 when a civil government re-started the process of democracy in Pakistan.

General Zia left a Damocles sword in the form of 8th amendment in the hands of the President. After Zia's tradition of dissolving the NA and provincial assemblies four times, the tool of 8th amendment was used to dissolve the legislative assemblies from 1988 to 1997. During this period three elected governments were sent packing. There were four general elections conducted during this period and interestingly, the year of 1993 saw five PMs and three Presidents of Pakistan. It struck as if the democratic order was being built on the shifting sands. This article would discuss the political bickering between Nawaz Sharif and Benazir Bhutto and meddling by the military men. It ended in the Martial Law of General Musharraf in 1999 which was again legalized by the Supreme Court of Pakistan. This time the judges were really generous as they granted power to a military dictator to make amendments in the Constitution of Pakistan 1973. The plane crash of military ruler General Zia led Benazir Bhutto to capture the illustrious office of the Prime Minister of Pakistan in 1988 after the hanging of her father ZA Bhutto (a former Prime Minister of Pakistan).

The PPP emerged in the elections held on 16th November, 1988 as the single largest party in the National Assembly. It was a momentous occasion for the followers of the PPP when they saw their leader Mohtarma Benazir Bhutto taking oath of the office of the PM on 1st December, 1988 in the President's House. She had to endure pangs and grief over the trial of her father Mr. Z.A. Bhutto. She took a stand against the Martial Law of General Zia courageously¹. She was gifted with the gab. She was articulate, bright and enthralled with the wealth of confidence. Benazir Bhutto as the PM was required to share power between herself and the President of Pakistan as per the prescribed Constitution of Pakistan amended by Zia. The PM had no restriction as regards the discharge of her function in governmental affairs. The President was empowered with blessings of the 8th amendment to make appointments to the important positions of the defense services and governors of the provinces. Above all he had the discretionary power to dissolve² the legislative assemblies.

General Zia had carved this power to strengthen his own position. Now it was Mr.GhulamIshaq Khan, the President of Pakistan was unwilling to relinquish

such power. There was another hard reality which Benazir Bhutto was forced to eschew. The military had formed the third angle of the power triangle, which was known as the 'troika'. The COAS became an important angle of the troika owing to his command over the physical forces and also that the military had traditionally remained in power for long time vis-à-vis the civilian rulers.

There was yet another interesting poll result of the election of 1988, as per which the PPP could not manage a clear win in the center. It could win only 92 seats out of the 207 seats of the NA. It required the support of another political party to make its government in the center. In the province of Punjab, it failed to make its own government as it could win only 94 seats and the IJI enjoyed 111 seats. The IJI also failed to have clear majority in Punjab. It also needed the support of some of the MPAs to have its own government³. The PPP had lacked any support in the Senate of Pakistan as it didn't dissolve and had members from the Muslim League of Junejo.

Benazir Bhutto remained in the office of the Prime Minister of Pakistan for twenty months. Her tenure was marred by the political confrontation. She censured the 8th amendment to the Constitution of Pakistan 1973. Her criticism against the amendment was not in consonance with the understanding she had given to the establishment at the time of her taking the office of the Premiership of the country. Further, it was also at variance with the support which she had lent to GhulamIshaq Khan to become the President of Pakistan instead of NawabZadaNasrullah Khan, Chief of the National Democratic Party and her companion of MRD. She lacked two- third majority to do away with the amendment. On the one hand the PPP was raising clamor against the 8th amendment, while on the other hand it had opened a chapter of confrontation with the IJI government in the Punjab. The PPP yelling at the infamous 8th amendment proved to be counter-productive as it hardened GhulamIshaq Khan⁴. He took it as a move to undermine his authority. The confrontation between the GIK and Benazir Bhutto turned intense on the issue of retirement of Chairman Joint Chiefs of Staff Committee (JCSS) Admiral Iftikhar Ahmed Sirohey. The PPP government issued the notification of his retirement and the President of Pakistan GIK empowered with the power of appointment hinted that Sirohey would continue to serve as the JCSS. The confrontation between the PM and the President was also seen as regards the appointment of judges of the High Court which he appointed when he was acting as the President of Pakistan without seeking the advice of the PM. The High Court upheld the validity of the appointment⁵. It proved that the sharing of power between the office of the President and the Prime Minister as envisaged in the 8th amendment engendered tension between the two.

The rift between the both GhulamIshaq Khan and Benazir Bhutto brought Mian Nawaz Sharif closer to the former. Mian Nawaz Sharif had tacit approbation from presidential circles. The Punjab operation of the PPP failed to yield any result. The political stature of Nawaz Sharif rose. At this juncture, an unfortunate political culture known as 'horse trading' was nurtured. Despite hard efforts, the independent MPAs could not be bought and the government of Nawaz Sharif remained intact. The move of central government was also thwarted when it tried to dislodge the officers of the central government from the province of Punjab.

The Punjab government started filling the posts with the PCS officers. There was yet another setback which the federal government tried to give to the IJI government in Punjab. It had denied any financial support from a financial institution or a bank. As a result, the Punjab government had to resort to the establishment of its own bank which was named as Punjab Bank. Besides this step, the Punjab government also resorted to the establishment of NFC⁶ and asked for the session of CCI. A provincial government which was dissatisfied with the decision of CCI⁷ could refer the matter to the joint sitting of the Parliament whose decision in the case would stand finality. The PPP government lacked a clear majority in the Parliament and it was feared that it might not be able to muster such support. The PPP government also feared as regards the constitution of NFC as it would have been bound to distribute the revenues as per the award of the NFC.

The tension between the IJI and the PPP culminated when no confidence motion was brought on the floor of the NA. The struggle started on winning the MNAs of both sides. The trading ensued in order to buy the loyalties of MNAs by both the sides. The cash flow was seen at an enormous pace. The sold out/bought MNA was kept in the safe houses in Murree, Islamabad and Lahore under strict control of the police. The PPP government also took part in this trading with great zeal and fervor. The bought horses were presented on the day of counting. The counting started and the IJI despite its strenuous efforts in buying the stocks could manage to make the number at 107 only. It required 119 votes and it was still short of 12 votes. No confidence motion was tendered in the short democratic history of Pakistan, but, unfortunately it was ridiculed on the political horizon the way it was conducted.

Benazir did not have any experience of running the government affairs. She was young and inexperienced winch. Her style of governance didn't suit the efficiency of government. She kept under her own control the ministries of foreign affairs, finance and the defense. Her mother, Begum Nusrat Bhutto was the co-chairperson of the PPP. She took the slot of senior minister. She was under obligation to accommodate the senior stalwarts of the PPP. Therefore they were given the appointments of the advisors of the PPP. Most of them got themselves involved in the executive responsibility and remained unaccountable to the house. The bureaucracy was in shuffle. Most of the bureaucrats were turned OSDs. This treatment sent a wave of discontentment amongst the bureaucracy. The lot sale fair of job was ensued by the PPP and awarded 26000 jobs setting aside the authority of the public service commission. The regime of PPP however managed to keep some economic indicators⁸ in appreciable position. In the year 1989-90 the fiscal deficit was brought down to the level of 6.5 % as compared to the 7.4% in the previous year. The inflation was also controlled and the CPI was kept at 6.04 as against 10.40% in the previous year.

In August, 1990, GhulamIshaq Khan invoked the 8th amendment and sacked the National Assembly and Provincial Assemblies. Benazir didn't challenge⁹ it in the court of Law. However, it was Khawaja Tariq Rahim who had challenged it in the Lahore High Court. The Court termed the dissolution valid and it was upheld by the Supreme Court of Pakistan also.

Mian Nawaz Sharif Clinches Power 1990-1993

The government of Benazir was removed and in its place care-taker government of Mr. Ghulam Mustafa Jatoi was formed. He had responsibility of holding general elections. Muslim League contested elections under the banner of IJI IslamiJamhooriIttehad. It was able to win 105 seats of the NA and the 208 seats of the Punjab Assembly. It was an unprecedented act that the government in center was able to form its own government in all the four provinces.

The two party-systems although evolved, yet the political confrontation didn't end. The reference-cases for corruption were filed in different tribunals against the corruption of PPP ministers. Mr. Asif Ali Zardari, husband of Benazir Bhutto was also persecuted on different allegations. Chief Minister Sindh Jam Sadiq Ali did his best to vitiate the political environment and also brought both parties on path leading to rivalry and hatred. The 8th amendment was projected as the safety valve but it served as the power bully for the presidential camp. The power was now captured by Mian Nawaz Sharif who was taking revenge upon the PPP which he had to bear while he was serving as the CM of Punjab and the center was giving him financial and political jolts. Mian Nawaz Sharif unlike Benazir Bhutto did not belong to the feudal class which hitherto in Pakistan the political power was presumed to be the baby of this class. He was a business man whose ancestors at the time of partition had a modest start as steel miller and later turned as a steel magnate. Nawaz Sharif was reared in the political field by the military regime.

GhulamIshaq Khan gave a moral support while Nawaz Sharif was the CM of Punjab against the pangs given by the PPP government in the Center. The President Camp wanted a domineering president under the 8th amendment whereas the PM Nawaz Sharif was considering him-self powerful. The power sharing was a bone of contention between the two under the 8th amendment. The appointment of new COAS became a contentious issue after the death of General Asif Nawaz Janjua. The appointment of COAS was a prerogative of President under the 8th amendment but Mian Nawaz Sharif wanted his role in its appointment. The President GIK wanted some army chief who would have helped him in his re-election as he held sway in the political affairs. GIK made General Abdul WaheedKaakar as the COAS on 12th January, 1993 superseding six Lt. Generals who were senior to him¹⁰.

Mian Nawaz Sharif thought of doing away with the 8th amendment. He needed help of Benazir who was stung by GIK and also had bad time with Nawaz Sharif. She adopted two track policies. She agreed with government to chair the NA foreign relations committee and sought release of her husband Mr. Asif Ali Zardari. On the other hand, she pursued a clandestine way of approaching the GIK and assured him of her support and also a help in the re-election as the President of Pakistan¹¹.

Nawaz Sharif' government was sacked by the GIK using his power as per enshrined in the 8th amendment. The president of Pakistan leveled charges of non-transparent privatization program, harassment of the political rivals, corruption

and implicit hand in the murder of Asif Nawaz Janjua COAS. The fresh elections to the legislative assemblies were announced on 14th July, 1993. Mir Balk Mizari was appointed as the care-taker PM of the Pakistan.

Nawaz Sharif preferred to challenge the dissolution of the NA in the Supreme Court of Pakistan. The SC in this case tried to distance itself from the Maulvi Tameez-ud-din Khan's case. As it had earned a bad reputation in this case, perhaps the judicial bench of the SC headed by the Chief Justice Nasim Hassan Shah might have thought to wash its previous deeds for which the constitutional history of Pakistan laments. The SC headed by Nasim Hassan Shah declared the act of President as unconstitutional and illegal and restored the government of Nawaz Sharif¹². The judiciary had tried to send a message to the establishment that the Constitution of Pakistan stood supreme. There had been previously two dissolutions under the 8th amendment. People had become aware of such machinations. Further, it was unlike in 1954 when people had no idea of legal battle going on in the Federal Court of law. Mian Nawaz Sharif had toured around the country and made people aware of the assault on their will. In the given situation it was expected that the President would quit his office honorably. The Constitution also required all authorities to act in the aid of Supreme Court¹³. In later incidents, the President didn't tender his resignation. Rather he himself along with Nawaz Sharif was forced by the COAS to tender their resignations¹⁴ and the assemblies were dissolved once again. The responsibility to hold the general elections in Pakistan was entrusted to the World Bank's former Vice President Moeen Qureshi¹⁵.

Benazir regains Power 1993-1996

The PPP was able to form its government in the center with the help of independents, PML (J) and some minorities. It was also able to form its government in the Sindh province. It had a weak government in the center. The PML (N) sat in the opposition. It failed to have its government in the Punjab province. It was the PPP which was able to have its government in the Punjab and the PML (N) sat in the opposition in the center and Punjab, one time considered as its bastion of power. The PPP apparently had promised to help the GIK in his re-election as the President of Pakistan, but later it ditched him and brought his own candidate Mr. Farooq Khan Laghari. Against him was Wasim Sajjad who was lodged by the PML (N). The PPP had won the election and got Farooq Laghari installed as the President of Pakistan. Benazir apparently was in comfortable position as she had her own President who had publicly announced that he would not use his powers granted to him under the 8th amendment. She was able to have her government in Punjab but Mian Manzoor Wattoo had exacted a heavy price for it as he was installed as the Chief Minister of Punjab¹⁶. She had an international image of a moderate and modernist political leader in the world of Islam. She started her second term in the office apparently with blessings of the American lobby.

The second term of Benazir in the office of the PM was unfortunate and it failed to come up to the expectations which were pinned up with her. The agitation and confrontation between the PML (N) and the PPP was on the height. The

government of PML-N and the ANP was replaced with the tactics by PPP and the governor rule was invoked for more than two months. Mian Sharif the father of Mian Nawaz Sharif was arrested and it followed with the strikes, lockouts, protest, meetings, wheel jams, shut down of business and the boycott of the assemblies. This state of affairs was dismal and dejected and people were perturbed by the animosities between the two main parties.

The government of the Benazir Bhutto also met the same fate as did the other governments. Her government was sacked on 5th November, 1996 as per powers granted by the 8th amendment by her own President Mr. Farooq Khan Leghari leveling the allegations of corruption, killing of Murtaza Bhutto, extra-judicial killings and non-compliance of the orders of the SC. The next date for the general elections was fixed 3rd Feb, 1997. Malik Khalid Meraj was considered as the veteran politician of PPP, he was made as the care-taker PM of Pakistan. It is interesting that the Supreme Court this time upheld¹⁷ the action taken by President as per article 58(2) (b) as justified by 6 to 1 as against the case of Nawaz Sharif when the Chief Justice of Supreme Court Nasim Hassan Shah had declared the same act of President as illegal.

Nawaz Sharif re-enters Powers Echelons 1997-1999

The NA comprised 214 members and the PML-N led by Mian Nawaz Sharif had landslide victory as it attained 135 seats. In Punjab province it secured 211 seats out of 248 seats. The PPP had died in these elections as it could secure only 19 seats of the NA and in the Sindh province it could not win more than 36 seats out of the house having total of 109 seats. There are many theories forwarded for the dismal performance of the PPP in these elections. Perhaps the PPP voter was disillusioned with the poor performance of the PPP and the PML-N managed a come-back in the saddle. There was emergence of new political party named as Tahrir-e-Insaaf (movement for Justice). Imran Khan was leading this party who had won fame as a cricketer and also name for the establishment of Shaikat Khanum Memorial Research Hospital. The Party failed to win even a single seat in these elections; however, it highlighted the issue of corruption and accountability in Pakistan.

The Nawaz government was swollen with the pride of two-third majority in Parliament. It thought of passing a fourteenth amendment. Ever since the beginning of the process of civil governments in Pakistan after the end of Zia era, there was a necessity to eradicate the menace of defection which was witnessed in the Cases of no-confidence motion against the government of Benazir Bhutto in 1989, overthrow of the GhulamHyderWynne's government in 1993 by the defection of Wattoo and the end of Sabir Shah's government in the NWFP in 1994. Fourteenth amendment¹⁸ to the Constitution of Pakistan, 1973 was passed on 3rd July, 1997 by inserting the Article 63-A.

The government of Nawaz Sharif recorded a history for its entanglement with the supreme judiciary. Chief Justice Sajjad Ali Shah had paved a way for the government of Nawaz Sharif, in this sense he was their benefactor. The cordiality of relations between the both ended when the Supreme Court¹⁹ took the bail of

officers of the WASA who were handcuffed at the spot at the orders of the PM. This was not only a matter of contention. Rather, the things further worsened between the Government of Nawaz and the Sajjad Ali Shah on the issue of enforcement of the Anti-Terrorist Law. Nawaz wanted to establish the parallel system of anti-terrorist courts as it is believed that he wanted to accommodate the PML-N people as the judges of these courts. The antagonism further excelled when the CJ Sajjad Ali Shah recommended five judges to the SC²⁰ from the three different High Courts. It was already settled in the judges' case that the recommendations of the Chief Justice are binding to the government to follow. Nawaz Sharif did not like the recommendations of such judges. It issued a notification as per the number of the judges of the SC were reduced from seventeen to twelve. The CJ Sajjad Ali Shah paid back in the same coin. The SC declared issuance of such notification as void ab-initio. The path on war was set. Nawaz was adamant to accept the recommendations of Sajjad Ali Shah. On the other hand, the attitude of the CJ Sajjad was also whimsical and unbearable. The SC also suspended the fourteenth amendment passed by the Parliament. On 30th Oct, 1997 the SC passed another judgment invoking the Article 190 of the Constitution of Pakistan, 1973 to get the appointment of the judges made by the President of Pakistan as the PM was reluctant to make such appointments. The whole nation remained tensed with the brawl ensued between the PM Nawaz and the CJ Sajjad. The President made such appointment and it became a victory point for Sajjad Ali Shah and it ended with the failure of Nawaz Sharif for whom the reasons for non-compliance of the SC CJ's recommendations were merely personal.

The sanctity of Supreme Court was ransacked by the workers of the PML-N while Chief Justice Sajjad Ali Shah was hearing a case. There was other group of the judges led by Justice Saeed-uz-Zaman who contended for the post of the Chief Justice of the SC. The bar intervened and for the time being there was respite in the brawl of the judges of the Supreme Court. The intervention of COAS was also requested by the CJ Sajjad Ali Shah. However, in the midst of avalanche in the Supreme Court and the corridors of the government of Mian Nawaz Sharif, the President of Pakistan Farooq Khan Laghari tendered his resignation (it was believed that there was nexus between Sajjad Ali Shah and him). On 23rd December, 1997 Justice Ajmal Mian was notified by the government of Mian Nawaz Sharif as the CJ of the SC.

Mr. Laghari as the President of Pakistan cannot go scot free in this high pitch drama played amongst the actors the government of Mian Nawaz, the judiciary and the legislature. The PPP nominated him as its President. He threw under the carpet the follies committed by the PPP minister and above all the husband of the PM Benazir Bhutto. He himself started his career as Mr. Clean, but he was not as his sons were found in smuggling the vehicles from Afghanistan on the basis of their father holding the prestigious office of the President of Pakistan. Further, his name also appeared in the Mehran Bank scandal. When he developed some personal animosity with Benazir Bhutto he used article 58(2) (b) and dissolved the NA. The government of Benazir Bhutto was in this way overthrown. He made an understanding with Nawaz Sharif and lent him his administrative support and thus he managed overwhelming majority. When he found such a great number of PML-

N members in the NA, he made recourse to the Army and the Judiciary to subdue the Nawaz heavy mandate. The army didn't participate in his plan and it was Sajjad Ali Shah who withstood him till the last ball until he himself was stamped out. When he was shown the way of impeachment he tendered his resignation in utter disgrace. Chairman Senate Wasim Sajjad was made as the acting President of Pakistan²¹.

Nawaz government thought of another tool to strike down the constitution in vogue by introducing fifteenth amendment to the constitution in August, 1998. Article 2B was proposed to be inserted in the Constitution of Pakistan, 1973. As per this amendment the Holy Koran and Sunnah would be the supreme law of land. The Federal government was obliged to take steps to enforce Shriah, establish Salat, and administer Zakat and promote Amrbilimarroof and *nahianilmunkir* (to prescribe what is right and forbid what is wrong). This bill sent a wave of panic amongst the political parties. The bill was passed in the NA by a favorable vote of 151 and 16 unfavorable votes. In the senate, the bill could not succeed as government didn't have two-third majority.

From a view point of an independent observer, Mian Nawaz Sharif wanted to consummate his aspirations as his patronage General Zia to enjoy dictatorship in the name of Islam. There were already certain provisions in the Constitution as per which the existing laws could be brought in conformity with Islamic Injunctions. Through this amendment the center wanted to become more powerful and weaken the provinces. Indeed, it would have jeopardized the provincial autonomy. It would have aired the sectarianism in Pakistan and the Constitution would have been reduced to a meaningless document. The constitutional provisions would have been subdued to the orders of executives. The status of judiciary would also have been marred by the executive in the name of Islamic orders. The freedom of press and speech would have been affected and draconian censor ship laws would have come to surface. The minorities would have felt insecure and their due rights would have been jeopardized. It was a brutal attempt by the Nawaz government to bring dictatorship in Pakistan on the basis of Fatwaas sought from their favorite Ulemas and Faqihs.

By now Mian Nawaz Sharif had obsessed with grabbing limitless powers. The media had portrayed him as the most powerful PM of Pakistan since the creation of Pakistan. He was swollen with pride and from here his dénouement started. On 5th October, 1998, COAS General Jehangir Karamat while addressing the Naval War College hit an idea of the establishment of National Security Council NSC. Mian Nawaz didn't like this idea. He forced him to tender his resignation from Army as the COAS. The rank and file in Army didn't like the forceful resignation of their Chief. They took it as the humiliation of their institution. Mian Nawaz Sharif had by now mellowed down the parliament through fourteenth amendment and thirteenth amendment had stripped the president of his powers. It was to his credit that he had removed the CJ SC who had tried to entangle with him.

The civil-military relations dilemma ensued again after the Kargil debacle. There were rumors all around that the military chief General Pervez

Musharraf is being sacked and these rumors remained in air till the fateful day²² of the 12th October, 1999. Lt. General Zia-ud-Din being a personal choice of Mian Nawaz Sharif (as was the President RafiqTarrar) wanted to install him as the COAS. His choice General Zia was the junior most in the hierarchy. The Army Corps Commanders resisted his installation as the COAS. They captured the important installations throughout country. The television went off the air for several hours. The plane carrying General Musharraf from Sri Lanka was diverted to Nawab Shah, but due to control of the civil aviation Karachi Airport by the army authorities his plane was safely landed at the Karachi airport. There came another Martial Law in country and it was known as the Martial Law/politically maneuvered era of General Musharraf which continued till the year 2008. The military government of General Musharraf had its own political/ judicial implications which will be discussed in the later pages of this doctoral thesis.

The government of Nawaz Sharif during his second term failed to perform well despite the fact that it commanded a heavy mandate. On political front it didn't perform well. It estranged its relations with the ANP on the matter of change of name of province of NWFP as 'Pakhtoonkhawah'. It was said that Nawaz Sharif had backed out of its promise of renaming the province of NWFP. The MQM and BNP of AkhtarMengal also had their complaints against the PML-N. Then the government of Nawaz was confronted with lawlessness and sectarianism in country and especially in Karachi. The establishment of ATCs did a little help in checking such despicable law and order situation in country. His policies gave an impression that he strengthened the Punjab province and left a feeling of deprivation amongst the smaller provinces. The president of Pakistan, the PM and chairman Senate were all from Pakistan²³. It is generally believed that it was Nawaz Sharif who was responsible to create schism amongst the judges of the SC. His economic policies failed to yield any result. He thought himself as the economic wizard but failed to eradicate the worst effects left on the economy during the Benazir era. It was he who had frozen the foreign currency accounts (FCAs) and the world lost its confidence in the Pakistani economic system.

Military era of General Musharraf 1999-2008

General Pervez Musharraf announced²⁴ on 13th October, 1999 that the government of Mian Nawaz Sharif had been done away with and the army had taken a control of the affairs of country. It was also announced that the martial law would not be imposed. However, General Mushrraf proclaimed emergency throughout country and himself assumed the title of Chief Executive. The Constitution of Pakistan was put under abeyance and the office of the President was allowed to continue. The legislative assemblies were suspended. PCO Provisional Constitution Order was enforced, however, it was said that the affairs of country would be run as close to the Constitution as possible. The courts were allowed to function but they were stopped to pass any order against the Chief Executive. The fundamental rights were not to contradict the proclamation of emergency. The President was required to act upon the advice of Chief Executive.

The military government had to subordinate the judiciary also as the date for hearing of case filed under 184(3) by the PML-N people for the illegal

dissolution by the army approached. There were strong rumors that the government of Nawaz Sharif would be restored. The military government had to panic. In a haste the Oath of Office (Judges), 2000 was promulgated which made the judges of superior courts mandatory to make decisions as per the Proclamation of Emergency and the PCO. Justice Irshad Hassan Khan was made as the CJ of SC as Saeed-uz-Zaman had refused to take oath under the PCO (Provisional Constitutional Order).

Justice Irshad Hassan Khan heard the case²⁵ of military takeover of the 12th October, 1999 and pronounced his judgment on 12th May, 2000 disposing of all the petitions. He said that there was sufficient corroborative and material evidence produced by the federal government as per it necessitated to take the extra constitutional measure by the Army on 12th Oct, 1999. The intervention was to be validated on the basis of *the Doctrine of State Necessity* and the principle of *Salus Populi Suprema Lex* held in the Begum Nusrat Bhutto's Case. The certain parts of the Constitution of Pakistan 1973 were held in abeyance on the basis of state necessity. The judgment validated the assumption of power by General Musharraf through an extra constitutional step by proclaiming the Emergency and PCO. The Chief Executive was allowed to make any constitutional amendment if the constitution was silent on that matter. The military ruler also took license from the SC of CJ Irshad Hassan Khan to make any amendment in the fundamental rights in contravention to the articles 15, 16, 17 18, 19 and 24 of the Constitution. The SC also declared that the posts of COAS and the Chairman JCSC were the constitutional posts. The SC was so benevolent as it granted the Army Chief three years' time to hold the general elections in country after redoing the electoral rolls.

The SC had given strength to the military government of Musharraf after the pronouncement of judgment in the Zafar Ali Shah case. Musharraf promulgated the Ordinance of President Succession on 20th June, 2001. In compliance of this Ordinance, the President RafiqTarrar was sent home unceremoniously and he himself took oath of the office of President from the CJ SC Irshad Hassan Khan. Irshad Hassan Khan should have at least for a moment thought under which legal mechanism the oath was being administered to Pervez Musharraf as the President of Pakistan. This arrangement was not even discussed in the Zafar Ali Shah Case. This forceful change was introduced so as to grant some legal sanctity to General Musharraf as he was going to India for talks in Agra which didn't bear any fruit.

Like his predecessor General Zia, Musharraf also found an opportunity to perpetuate his rule²⁶. The incident of world fame known as nine-eleven happened in the US. The blame was on Osama bin Laden whom the Taliban had hosted in Afghanistan and Pakistan was supporting the Taliban government in Afghanistan. This was an opportunity for general Musharraf to win the favors of Americans and he accepted all of their demands. He altogether changed his Afghan policy and handed over the bases to the Americans. He did everything at the expense of sovereignty and constitutional government in Pakistan. The American 'War on Terrorism' helped Musharraf to extend his stay in power indefinitely. The CJ of SC compromised on the independence of superior judiciary and slaughtered the conventions. Musharraf had the other norms of his previous military bosses whose

traditions he had to follow in order to ensure prolongevity in the echelons of powers. One of such ploys was the 'referendum'. His predecessor General Ayub Khan had used this tool in 1960 and General Zia in 1984 to enjoy office of the President of Pakistan for five years. On 30th April, 2002, referendum²⁷ was conducted on the question whether the people of Pakistan wanted to see General Musharraf to eradicate sectarianism and extremism and also establish democracy and local government. As expected 97% people of Pakistan gave their answer to this question in affirmation despite the fact that the polling stations gave a deserted look. Beside this, the CEC had facilitated this referendum as no electoral list was provided at any PS so as the voter could poll as many times as like it. The scene was offensive when they saw Generals of Pakistan in uniform canvassing for the referendum of Pervez Musharraf. A judge of CEC had to hear the voice of his conscientious that he could not bear all such machinations of referendum and put up his resignation. The referendum had no legal ground.

Musharraf Baptizes his Dictatorship

Musharraf needed to cleanse his dictatorship at the altar of democracy. Therefore, he brought in vogue the General²⁸Election Order, 2002 in February, 2002. It was scheduled to hold general elections to the national and provincial legislative assemblies. The PML-Q popularly known as the King's party was created by the agencies comprising dissenters from the PPP and PML-N. The NAB and ISI's political wing played an important role in twisting the loyalties of the politicians for the democratization of Musharraf military rule. The politicians who had agreed to join the PML-Q were either set free from their cases or their prosecution was delayed in the NAB courts. Similarly the bank defaulters who had consented to join the Musharraf dictatorship were given ample time to settle their outstanding bank loans.

Despite all resources of the government machinery, the PML-Q and NA were failed to manage the requisite majority. The independents were influenced and made to join the King's party, thus it helped the Musharraf regime to get extra seats of women and the minorities. But, the King's party failed to manage the requisite majority. Hence, the ISI and the NAB had to break loyalties of the PPP parliamentarian's MNAs. In return they were all offered the lucrative ministries in the federal government. These MNAs made a forward block in the PPP²⁹. To facilitate the job of forward blockers of the PPP, the article 63 A of the constitution was suspended so that they may easily cross the floor.

Mir ZafarullahJamali as the PM tried to enjoy the perks and privileges instead of asserting himself as the PM. In fact, he didn't really want to be Junejo by acting against the tide of military. He allowed Musharraf to become his boss and felt himself honored to behave as his subordinate.

The seventeenth amendment is the replica of eight-amendment. By then General Zia had maneuvered the spineless parliament to consummate his wishes. The nonparty-based legislative assemblies did whatever the dictator had commanded. This time there was another dictator named General Musharraf who had twisted the rigged parliament despite brokered resistance from the religious

and other political parties' opposition headed by MaulanaFazalu-ur-Rehman. It establishes that before the might of military the democracy and democratic institutions are weak and subordinate. The will of people suffers in bargain before the power flowing out of the barrel of gun.

Musharraf had made a great noise as regards the accountability of politicians' but it remained a futile activity. It didn't produce the desired results. Through NAB, draconian laws were enacted regarding the detention and bail. A serving General of Army was head of the NAB. The process of NAB accountability remained selective and it cast doubts. The recovery from bank defaulters also remained in doldrums as NAB was failed to produce any impressive results in this regards also. NAB had to run into plea bargain with the corrupt former generals, bureaucrats and politicians. They were allowed to enjoy the remaining plundered money after they made a fraction of payment from the nation's wealth. In fact, the NAB worked for Musharraf to have his political hold. It created members for the King's party. The politicians were arrested and cases were prepared against them. Those who had agreed to become passenger of political wagon of Musharraf they were let free from the prosecution of NAB.

Conclusion

The military, after the continuous eleven years rule of General Zia, had become enough sane not to meddle in the politics of Pakistan directly. The COAS General Beg was given the medal of democracy. The military, however, didn't allow a free lunch to the inborn politicians. By this time, the terms such as controlled democracy and guided democracy were coined and put in practice. The rule of General Musharraf was, however, once again legalized on the basis of Doctrine of Necessity departing from the case AsimaJillani as it had showed a resolve that it wouldn't resort to this infamous doctrine.

*Dr. ZahidMahmood, Additional Commissioner, Income Tax Lahore.

¹ Benazir Bhutto, *Daughter of the East*, Hamish Hamilton, 1988.

²*The Constitution of Pakistan, 1973* Article 58(2) (b). Now, this power of the President of Pakistan has been done away with.

³ The Daily Jang, 3rd December, 1988.

⁴GhulamIshaq Khan was a civil servant. When he retired from the civil service, he was taken as the Finance Minister by the General Zia. Afterwards, he became as Senator and later risen to the level of Chairman of Senate. When General Zia died in air crash, he became the acting President of Pakistan. It was he who used the article 58(2) (b) to dissolve the NA and disrupt the rule of Benazir Bhutto in1990.

⁵*M.D. TahirVs. Federation of Pakistan* PLD 1988 LHR.

⁶Article 160 of the Constitution of Pakistan, 1973.

⁷Article 153 of the Constitution of Pakistan, 1973.

⁸*The Economic Survey of Pakistan 1995-96*, Government of Pakistan.

⁹*Khawaja Ahmed Tariq Rahim Vs. The Federation of Pakistan* PLD 1991 SC

¹⁰ The Daily Dawn, 13th Jan, 1993.

¹¹Amin Tahir, *Pakistan in 1993*, Asian Survey, Feb 1994 p. 191.

- ¹² *Mian Nawaz Sharif vs. The President of Pakistan* PLD 1993 SC
- ¹³ *The Constitution of Pakistan, 1973* Article 90.
- ¹⁴ The Daily News, 19th July, 1993.
- ¹⁵ The Daily Nawa-i-Waqt, 20th July, 1993.
- ¹⁶ Yusuf, Hamid, *Pakistan A Study of Political Developments 1947-97*, Sang-e-Meel Publications, 1999.
- ¹⁷ *Mohtarma Benazir Bhutto vs. President of Pakistan* 1997 SCMR 353
- ¹⁸ PLD 1997 Central Statutes 324
- ¹⁹ Hamid Khan author of the book '*Constitutional and Political History of Pakistan*' writes that when a Police Officer said in the ear of Nawaz Sharif that FIR was not registered against the accused therefore, they can't be handcuffed. The PM Nawaz Sharif, to this replied that he didn't care for the FIR.
- ²⁰ The Daily Dawn, 29th August, 1997
- ²¹ Hamid Khan, *Constitutional and Political History of Pakistan*, p.460.
- ²² The Daily Nawa-i-Waqt, 13th October, 1999.
- ²³ Hamid Khan, *Constitutional and Political History of Pakistan*, Oxford University Press, 2009.
p. 473.
- ²⁴ The Daily Dawn, 13th October, 1999.
- ²⁵ *Zafar Ali Shah vs. General Pervez Musharraf*, PLD 2000 SC 869
- ²⁶ The Daily Nation, 11th September, 2001
- ²⁷ The Daily Dawn, 1st May, 2002
- ²⁸ PLD 2002 Central Statutes 193
- ²⁹ The PPP participated in the elections of 2002 under the banner of PPP Parliamentarians