



Revising the Constitution: From Civilian Governance to Centralized Power (1997-1999)

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ABSTRACT

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The years 1997 to 1999 represent a critical juncture in Pakistan's Constitutional history. This phase commonly referred to as the "Nawaz Sharif Era" was marked by an unprecedented wave of amendments passed by a government with a two-thirds (2/3) Parliamentary majority. Unlike earlier phases of constitutional change driven by military rule, this era saw an elected civilian government attempting to reshape the balance of power within the 1973 Constitution. This paper examines the political motives, legal consequences, and democratic impact of the 13th, 14th, 15th, and 16th Amendments. The Thirteenth Revision revoked the President's Constitutional powers to dissolve the National Assembly and appoint military chiefs, shifting authority to Parliament. The 14th reforms enforced party discipline through anti-defection laws. The 15th revision or Shariat Bill, sought to declare the Quran and Sunnah as the ultimate source of law. Finally, 16th modification extended quota system in public services. The findings suggest that while these amendments strengthened Parliamentary supremacy, they also concentrated power in the office of the Prime Minister, thereby reshaping the distribution of power among the executive, legislature, and judiciary in Pakistan. Thus, the Nawaz Sharif Era marks a significant Shift from institutional equilibrium toward executive dominance.

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1.0 Introduction

Constitution may be defined as “*Constitution is the system of laws and basic principles that a state, a country or an organization is governed*”.¹

Constitution means body of rules written or unwritten showing the procedure of governing the state. “*Constitution means set of fundamental principles according to which a state is governed*”.² Emergence of Pakistan was not a simple event. Pakistan became independent country on 14 August 1947. After its creation so many problems were to be solved. These were administrative problems, refugee’s problems, division of assets, economic problems, accession of states and constitution making task. To overcome these problems many steps were to be taken i.e. negotiation with neighboring state, building infrastructure and constitution making which was the task for first constituent assembly. First constituent assembly composed of 69 members which later raised up to 79.³ Constituent assembly framed various sub-committees. BPC was the most significant among them, and was responsible for drafting of constitution.⁴

On 12th March 1949 NA passed Objectives Resolution which provides basic guideline for future constitution making.⁵ After that first interim report was presented by Basic Principles Committee on 28 September 1950 which suggested federal system with bicameral legislature. This report was rejected by Ulema, Bengalis people’s and politicians from Punjab. After that there was a long constitution framing struggle of almost 9 years which ultimately resulted in the shape of 1956 constitution.⁶ Constitution of 1973 was practically enforced on 14 August 1973. All major political parties were agreed on the Constitution of 1973 but many Constitutional changes were brought from 1973 – 1999 and through 12th amendment entire shape of the Constitution was changed.⁷ Eighth Amendment was made by General Zia for protection of his government. Eight Amendment was approved by Parliament on 6 September 1985. Eight Amendment gave Constitutional protection to all decisions of dictatorship.⁸ According to Article 58(2) B President could use his powers and can dismissed the Parliament. President was used Article 58(2) B for the Termination of the NA in 1988, 1990, 1993 and 1996.⁹ Nawaz Sharif during his second tenure 1997 – 1999 took many important legislative measures to protect his government.¹⁰ Nawaz Sharif removed Eighth amendment by introducing thirteenth Amendment on 1st April 1997. Thirteenth Amendment restored initial structure of the 1973 Charter.¹¹

2.0 Literature Review

Pakistan came under Martial law on July 5, 1977 when General Zia –ul -Haq took control of the government. He brought many constitutional and political changes during his rule from 1977-1988.¹² after the promulgation of the Revival of constitution Order (R.C.O) of 1985 Zia amended constitution of 1973 through eighth amendment. Through this amendment sixty-five (65) articles were amended out of 280. Revival of Constitution Order (R.C.O) was considered comprehensive part of eighth amendment.¹³ Many ups and downs became part of Pakistani politics from July 1977 to April 1988.¹⁴ Through R.C.O President changed fundamental structure of the charter of 1973 on 2nd March, 1985. Zia’s government enhanced the authority of the President and decreased the powers of the PM through eight amendments.¹⁵ Iqbal Ahmed khan presented the

draft of eight amendment on 10 September 1985 in the parliament. This draft was called Eighth Amendment.¹⁶

Presidential power increased by Zia-ul-Haq through eighth amendment.¹⁷ President can dissolve the government of PM.¹⁸ He also appoint Governor of provinces and Army Chief.¹⁹ Through eighth amendment he can appoint any member of Parliament.²⁰ He also appoint PM among the members of the parliament.²¹ President can also appoint Judges of the Supreme court (JSC) and Chief Election Commissioner (CEC) of Pakistan.²² After dissolution of National Assembly (N.A.) President of Pakistan by using his power can appoint Caretaker Government.²³ Because of eighth amendment president of Pakistan used his executive power and can hold referendum on any issue of national importance. Zia –ul – Haq used his powers and dissolved the government of Muhammad Khan Junejo in 1988 as well as held referendum in 1984.

Objective Resolution of 1949 was adopted as preamble of the constitutions of 1973, 1962, and 1956. Due to eighth amendment article 2(A) declared OR as substantive and effective part of the 1973 constitution.²⁴ It is visibly stated in eighth amendment that Islamic environment should be provided to the citizen of Pakistan in order to spend their lives according to Holy Quran and Sunnah. Islamiyat was declared as compulsory subject and teaching of Quran and Arabic was also encouraged.²⁵ Islam was designated as official faith of the country and Pakistan was declared as Islamic Republic of Pakistan.²⁶ President Zia practically implemented the true spirit of eighth amendment. Name of the National Assembly was changed as “Majlish-e- Shoora” in eighth amendment. It was mentioned in article 50(1) parliament will consisted of National Assembly, Senate, and President of state. According to article 51(1) Members of the NA were to be directly elected by the people of Pakistan and National Assembly would consist of 207 members. Article 41(7) declared that tenure of the Majlish -e- Shoora would be five years. Senate comprised of 87 seats one third ($\frac{1}{3}$) members of the upper house retired after every two years and tenure of the upper house was fixed for six years.²⁷ Seats of the minorities were increased in the provincial Assemblies (P.As) of Baluchistan, Sindh, NWFP and Punjab. Separate electorate system was introduced for minorities through eighth amendment.²⁸ Zia -ul- Haq gave constitutional protection for minorities through separate electorate.

Table 1: Seats of Non-Muslims in Provincial Assemblies

Provinces	Hindu and scheduled castes	Sikh, Buddhists, parsi and other non- Muslims	Christians	Qadiani or Ahmadi
Punjab	1	1	5	1
NWFP	-	1	1	1
Sindh	5	1	2	1
Baluchistan	1	1	1	-

Source Muhammad Sohail Bhatti, *A Short History of Pakistan*, Lahore: Bhatti Sons Publisher, N.D p .883.

It was clearly mentioned in eighth amendment that president can transfer a judge among courts. But no judge can be transferred according to his own sweet will but by the consultation of president, Chief Justice of Pakistan (CJP) and two other chief justices.²⁹

3.0 Methodology

The analysis is based on primary sources including Constitution of Pakistan 1973 and National Assembly Debates, supported by Secondary literature from scholars such as Hamid Khan, Safdar Mahmood, Chaudhary Muhammad and Ali I.A.N Talbot.

4.0 Findings and Results

4.1 Thirteenth Amendment (1997)

On 1st April 1997 13th Amendment passed by the National Assembly. This Amendment decreased power of President to dismissed the Parliament and appoint chief of all the three-armed forces. 30 Article 243 give the P.M. more power. This Amendment also decreased the powers of the Governors to dissolve their respective P.As ³¹

Because of 112 and 58(2) B, which restored the novel shape of Constitution of 1973, it was established that Parliament would have supremacy with the introduction of 13th Amendment. Article 243 reduced the powers of the Prime Minister in the sub – clause (c) of clause (2) of the Article 243 of the Constitution which provides that the President can appoint the Chairman Joint Chiefs of Staff Committee, the Chief of the Army Staff, the Chief of the Naval Staff and the Chief of the Air Staff in his discretion, and can determine their salaries and allowances ³².

4.1.1 Text of the Thirteenth Amendment

The Constitution of the Islamic Republic of Pakistan (CoIRP) needs to be amended for the objectives set forth hereafter. It has now been made law:

(1) Short topic of Amendment (a) This Act may be cited as the Constitution (Thirteenth Amendment) Act, 1997. (b) It will be effective immediately.

(2) Article 58(2) (b) shall be omitted.

(3) The clause "after consultation" in Article 101 of the Constitution will be changed to "on the advice of."

4.1.2 Reactions of Political Parties to the Thirteenth Amendment

Syed Zafar Ali Shah presented Thirteenth Amendment bill in front of National Assembly. This Amendment bill was approved by two third majority of the parliament. 190 members of the cast their vote in favor of Amendment bill and no vote was cast against it. Government as well as Opposition Parties welcomed the bill. The government sources said, in order to create strong Parliamentary democracy, the PM's power must be restored. Opposition leader Benazir Bhutto welcomed the bill as: it is a moral victory for all those who have spoken up for the supremacy of Parliamentary democracy in the country. The President of Pakistan Farooq Leghari supported thirteenth Amendment to. ³³

4.2 Fourteenth Amendment

On 1st July 1997 14th Amendment was approved by Parliament. This Amendment discouraged changing of party affiliations on the part of Parliamentarians. It also enables the party leader to take stringent measures with party members who voice opinions contrary to party policy. Representatives' floor crossing was allowed for under the provisions of 34 of the 14th Amendment. 35 A new Article 63 (A) was introduced in the constitution. The main purpose of 63(A) was to add some more items in already existing Article 63 for disqualification for membership of the

parliament. This Article 63(a) bars from changing party affiliation for personal gain or any ulterior motives the elected members in the National Assembly & Provincial Assemblies. "Horse Trading" is one of the major causes of political instability in the state. The term "defection" is defined at length in Article 63(a) and the process of what should happen in the case of a defection by a member of the Provincial Assemblies or Parliament is clearly spelled out, as is the consequence it would trigger.³⁶ Fourteenth Amendment amended sub - clause 1 of 1(a), sub - clause 3 of clauses 1 (a) and clause 2 of Article 63(A) of the 1973 Constitution. Horse – trading was over with the Fourteenth Amendment³⁷

4.2.1 Text of the Fourteenth Amendment Bill

1) Topic of Amendment

- a) This Act may be cited as "The Constitution (14th Amendment) Act of 1997.
- b) This agreement will go into effect at the same time. The addition of a new Article 63 (a) in the CoIRP. Following Article 63, the following new Article should be inserted: In the event any member of a Parliamentary party deviates from this, he shall be summoned on a written notice by the head of the political party or another person on his behalf to show cause within 7 days of the receipt of such notice. The Presiding Officer of the House in which the action is taken shall be so notified if a notification is made pursuant to this section.

Explanation

(a) A member of the House shall be deemed to have defected from a political party if he was elected as a candidate or a nominee of a political party or under a political party symbol or otherwise than as a candidate or a nominee of a political party, but subsequently joined a political party by making a written statement.

(i) Works against party discipline, such as the party constitution, party code of conduct and policies.

(ii) Opposes party line or abstains on bills contrary to party policy.

(b) If action is requested under section 1(a) (i), the party's disciplinary committee will make a decision after providing the member a personal hearing within seven days of receiving a reference from the party's leader. If the verdict is against the member, he can appeal to the leader of the party within seven days after the verdict, and it will be final. In cases falling under clause 1 (a) (ii) and (iii) the declaration can be made by the leader of the party in question after an examination of the explanation given by the member concerned and based on an assessment of whether that member defected or not. In addition to notifying the member, (c) the presiding officer of the House will be notified of the political party's decision. He shall report his decision to the CEC within 2 days. The CEC shall do so within seven days from the time such notification is received by the said CEC by declaring the seat vacant and notifying the election schedule. (d) Anything in this Article applies to the Chairman and Speaker of the House. In this article, for the sake of argument³⁸

4.2.2 Reactions of Political Parties to the Fourteenth Amendment

14th Modification was passed by Parliament on 1st July 1997. The bill was adopted by all the 181 members of the Assembly present in the House. The Senate unanimously approved the

Fourteenth Amendment bill on 30th June 1997. The basic purpose of this Amendment was ending of horse – trading. A total number of 76 Senators voted in favor of the bill without any opposition. All the leading political leaders of the country hailed the Fourteenth Amendment, Prime Minister Nawaz Sharif hailed the Act with the remarks that, “This is a structural reform which will end the politics of localism (changing loyalties) The PPP’s chairperson and opposition leader Benazir Bhutto also welcomed the bill saying that the passage of Fourteenth Constitutional Amendment (Anti Defection bill) would strengthen democracy in the country and would initiate a clean and transparent political activity in Pakistan.³⁹

4.3 Fifteenth Amendment Bill

15th Amendment Act was presented in the Parliament on 28th august 1998⁴⁰. Pakistan's central government was instructed to put in place the implementation of Shariah, the management of Zakat system and to promote “Amar bil Maroof and Nahi Anil Munkar”⁴¹. To eliminate all the corruption, and to provide socio –economic justice as per Islam. 42

Further, Central Government would give directions for the implementation of clauses (1) and (2).. New clauses (3A), (3B), (3C) and (3D) have also been inserted into the constitution by the Amendment Bill. As per clause (3A) a Bill with the intention to remove any obstacle to the implementation of any matter related to Shariah.

A joint sitting of parliament would consider the new clause (3B) Provided that in case the Bill was not passed or rejected by the house or passed with Amendment. Similarly, the clause (3C) lays down that after the consideration by the joint sitting the bill would be presented by the President. Then, under clause (3D) the president would approve the amendment within seven days with either clause (3A) or (3C).

Islam is proclaimed as the religion of country, “this amendment will allow Pakistani Muslim to live their life according to Islam both individually and collectively”. 43

This Amendment makes The Holy Quran and Sunnah as the highest law of the land .44 Under the provision of this amendment every decision should be taken according to Islam. Central Government shall be enforcing Shariah, to ensure prayers, and a proper Zakat system, to promote virtue and prevent vice .45

Implementation of Islamic Values was made possible through Fifteenth Amendment. This Amendment Central Government made a step for implementation of Islamic Values religious freedom of non – Muslims and their status as citizens. This amendment abolished injunctions against Islam too. 46

Through Fifteenth Amendment bill Nawaz Sharif wanted to familiarize despotism in the country in the name of religion. The need for this Amendment was not felt because the provisions of Islam already in the Constitution were enough to make the laws and future legislation compliant with Islamic injunctions. The amendment gave the federal government more power and the provinces less power..

4.3.1 Reactions of Political Parties to the Fifteenth Amendment

Fifteenth Amendment rejected by the NA and Opposition Parties. Nawaz Sharif called the members of the National Assembly from his party, who were criticized the bill, to resign. Fifteenth

Amendment bill was passed by the Parliament on 9 Oct 1998 by 151 votes in favor and 16 against it. Two parties ANP and PPP casted their vote against the bill. The bill was not routed through the Senate because the Nawaz Government failed to gain required 2/3 majority. ⁴⁷

4.4 Sixteenth Amendment

PML (N) won overwhelming majority in the election of 1997 in National Assembly and Punjab. Many constitutional steps were taken by Nawaz's government from 1997 – 1999.⁴⁸ Sixteenth amendment was passed by the parliament on 5th August 1999. Through Sixteenth amendment two changes were brought i.e.

4.4.1 Text of the Sixteenth Amendment

- (1) Quota System in services was enhanced from 20 – 40 years.
- (2) Equal representation in services to all classes belonging to any areas in Pakistan. ⁴⁹

4.4.2 Quota System in Services

Quota system was introduced in Pakistan for government services. Seats were reserved on zonal basis and people of each zone could apply for governmental services whether they were more or less educated because in some area of Pakistan good educational facilities were not available. Initially 10 years “Quota System” was established in the constitution of 1973 for government jobs. Later on, it was enhanced from 10 – 20 years through eighth amendment. 20 years Quota system expired in August 1993, and discrimination in services started on the basis of cast, religion, race, and place of birth, after expiry of quota system. ⁵⁰ Sixteenth amendment increased 7.5% appointments on the basis of qualification in federal government.

S:NO	Provinces	Reserved Seats
1	Punjab and Islamabad	50%
2	Sindh	19%
3	Baluchistan	6%
4	Tribal areas and Gilgit Baltistan	4%
5	Azad Kashmir	2%
6	Khyber Pakhtunkhwa	11.5%. ⁵¹

Source: *Dawn*, 5July, 2013.

4.4.3 Equal Representation

The constitution of 1973 provided equal representation to all people belonging to any area of Pakistan without any discrimination of color, caste and religion. People of concerned area only can apply for government jobs. Sixteenth amendment changed article 27 clause (1) of the constitution. ⁵²

- 1) Short title and commencement
 - (i) This amendment known as (16th amendment) Act 1999.
 - (ii) It shall come in to force at once.
- 2) Amended article 27 of 1973 constitution.

In the constitution of the “Islamic Republic of Pakistan” in article 27(1) in the first provision for the words “twenty” the word “forty” shall be relieved and shall be deemed always to have been so replaced. ⁵³

5.0 Discussion and Conclusion

The second tenure of Prime Minister Nawaz Sharif from 1997 to 1999 represents a defining yet paradoxical chapter in Pakistan's constitutional evolution. Coming to power with an unprecedented two-thirds majority, Sharif's government possessed both the political mandate and legislative strength to reshape the constitutional framework. This period was marked by a series of pivotal amendments that fundamentally altered the balance of power within the state, reflecting both an aspiration for institutional stability and an underlying tendency toward executive centralization. The 13th Amendment stands as the most consequential reform of this era. By stripping the President of the discretionary power to dissolve the NA under Article 58(2)(b), it sought to end the recurring cycle of dismissals that had plagued parliamentary governments. In doing so, it strengthened the office of the Prime Minister and aimed to ensure governmental continuity. Closely following this, the 14th Amendment introduced the anti-defection law, compelling legislators to adhere strictly to party lines. While it was intended to curb political horse-trading and foster party discipline, it simultaneously reduced the autonomy of individual parliamentarians. The proposed 15th Amendment, or the Shariat Bill, revealed the government's attempt to infuse the legal system with Islamic principles by making the Quran and Sunnah the supreme law of the land. Although it did not secure final passage, it underscored the ideological dimension of Sharif's agenda. Finally, the 16th Amendment extended the quota system for underrepresented regions, reflecting a commitment to socio-political inclusivity. Collectively, these constitutional developments illustrate a dual narrative. On one hand, they were steps toward consolidating democratic institutions and reducing institutional conflicts. On the other, they concentrated authority within the executive, raising concerns about the erosion of checks and balances. The Sharif era of 1997–1999 thus highlights a critical lesson: constitutional change driven by brute parliamentary majority, without broad political consensus, can achieve short-term governance goals but may also sow the seeds of future instability. The true strength of a constitution lies not merely in its amendments, but in the spirit of restraint and accommodation with which power is exercised.

Contribution

Nadia Shaheen: Problem Identification and Theoretical Framework

Farah Zaheer: Data Analysis, Supervision and Drafting

Samia Jabeen: Methodology and Revision

Conflict of Interests/Disclosures

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