Parliament in Pakistan 1971-77 and Chief Executive: An Analysis of Institutional Autonomy

Mahboob Hussain*

Abstract

This paper intends to compare autonomy of the parliament and the executive which are two major political institutions of Pakistan during 1971 to 1977. The impact of executive, as chief executive and as the main ruler of the country, over the parliament has been studied in respect of whether it hindered the process that might make parliament a stronger institution. The paper also examines whether it was only the executive that would make such decisions which were in fact the jurisdiction of the parliament. The growth of parliament in the wake of such impact of the strong executive has been studied. Thus the executive's influence over the parliament and vice versa has been evaluated.

Key Words: Power, Influence, Leader, Institution, Dependence, Legislature

The classical literature on democracy deals with the function of the legislature as the goal setting agency for the larger public in term of policy making, while the executive is supposed to implement policy on the ground. In reality, the influence of the legislature in this regard has been circumscribed by the overarching role of executive. This happens in several ways. The party or parties in power and opposition tend to control the way their legislators voted or do not vote and speak or do not speak on the floor of the parliament. In this sense, the party leadership operate essentially from outside the legislature to steer legislation, including constitutional amendments. (Waseem, 2006:30)

Executive domination is a common fact of political life. Executives are typically powerful institutions. They tend, in fact to be the major and sometimes the sole actors in organized political systems. It is relatively difficult to build a powerful legislature or electorate or for a legislature or an electorate to make itself powerful; not so with executives. (Fried, 1966: 7) For the success of the institution of the parliament a strong support or will of the chief executive is an essential. There have been such cases in the history that the executive, or in some cases the king, was not willing to support the

^{*} Author is Assistant Professor, Department of History and Pakistan Studies, University of the Punjab, Lahore

development of the institution of the parliament but in confrontation of him the people or the group of leaders with strong support of the masses were in favour of the parliament. Therefore the institution strengthened in the face of the unwilling chief executive also. The personalities nourish and get control only in a system where either institutions are too weak to assert their authority or the personalities are so powerful that they do not let the institutions assert their power.

Pakistan has never been a country where the institutions might be stronger than personalities. The country has generally done well under authoritarian rule though much depends on the way in which that authority is exercised. (British Ambassador to Secretary of State FCO, 1973) In Pakistan parliament is mostly a subordinate legislature. Here, the executive is without exception, a pre-eminent player on the national scene. It initiates decisions in party forums, which are translated into law through the legislative procedure, and are then rigidly defined, implemented and controlled by the bureaucracy. Given the domination of extra-parliamentary forces over the power structure of Pakistan, parliamentary institutions are often considered by political players as necessary accoutrements of a modern ruling structure. In other words, these institutions legitimize the existing political order. Even if real power resides outside the legislature, the power holders need to win legal and moral authority. Not surprisingly, each of the four military governments tried to fill the gap of legitimacy by creating assemblies through holding elections. (Waseem, 2006: 30)

Zulfikar Ali Bhutto was the Chief Executive of Pakistan during 1971 to 1977, as the President and then as then Prime Minister. These were the years when Pakistan's first directly elected parliament also functioned. It is a well known reality that Z. A. Bhutto was a strong personality. The image of Bhutto as a popular leader of the masses was unrivalled. With a superb craft of an actor he dominated the political stage, pouring forth a savage attack against his powerless opponents and against the capitalists and the landlords whose authority was now more imaginary than real. The act comprised a sole performance. He was the only actor. (Yusuf, 1980: 147)

In 1972, according to the British envoy, there was no one else in the political system of Pakistan who could challenge the position of Z. A. Bhutto. Even among Pakistanis who had been expressing disappointment in Mr. Bhutto could not claim to replace him. British envoy had never heard a name suggested for an immediate substitute. In his party he was unquestionably supreme, in the National Assembly too he had no alternate. Others might have ambition, but none had his iron determination and dazzling cleverness. He was the only national figure, the only international figure. The idea of Wali Khan, or Bizenjo, or Asghar Khan – not to speak of Tikka Khan – having to be

entrusted with the destinies of the country would fill any reasonable Pakistani with despair. (FCO, 1972a)

More than being the only leader of Pakistan Bhutto by nature believed in concentration of power within a ruler. According to Air Marshal Asghar Khan, a secular opposition leader of the time, Bhutto was not a democrat by temperament or conviction. (Khan: 48) As Chief Executive of the country he increasingly acted more like a feudal autocrat than a democratic political leader. (Kux, 2001: 220) He gradually became more authoritarian. He used martial law powers to punish several individuals and groups that had crossed his path during his political career. By the time he dismissed the Balochistan government, his critics saw him as an elected civilian strongman who had little patience for the niceties of parliamentary democracy. (Haqqani, 2005: 102)

Under the desires to continue in the office and concentrate powers in him Bhutto also delayed to lift the martial law in order to strengthen his position during the period when there was no constitution and he could assert his powers without the constitutional restrictions and interruptions from the institutions which came into being under the provisions of the constitution. The delaying tactics used by Bhutto came to surface when he made his longawaited announcement on 22 January 1972. Then it became apparent that the hopes of revival of parliamentary government would not be fulfilled as early as had been expected. Provincial Assemblies were to meet on 23 March 1972 but the National assembly was not to be convened nor was there to be an early lifting of Martial Law – omissions which the president Bhutto justified by the same reasons he had given on 13 January 1972. It was clear that Mr. Bhutto was in no hurry to divest himself of the dictatorial powers he had inherited. (FCO, 1972)

Bhutto might prolong the Martial Law for the sake of his power keeping wishes but his dilatoriness provoked increasingly urgent clamour amongst the opposition (and even a small number of the PPP), the press and the public for the ending of Martial Law. On the Frontier Khan Abdul Wali Khan, leader of the NAP spoke darkly of convening provincial assemblies unilaterally. At the same time the forces of law and order seemed in danger of collapse; there were instances of serious industrial unrest, of police strikes in certain cities and of frequent clashes between PPP agitators and their political opponents. (FCO, 1972)

It was this disastrous situation in which Bhutto grudgingly had to turn towards the constitution making process and towards parliament. He, towards the end of the first day's proceeding of the Assembly, concluded a long speech by the dramatic announcement that, provided the Assembly approved the draft interim constitution, he would repeal Martial Law on 21 April 1972. By this master stroke he did not lose the power and popularity for which he was not

ready to lift the martial law soon. The dramatic and sudden turn towards constitution and parliament virtually silenced the opposition and Bhutto, remaining powerful as ever, obtained a unanimous vote of confidence, considerably enhanced his reputation and pushed through with only minimal opposition an interim constitution. The last gave him very considerable powers but enabled him to claim that he had "rid the country of the curse of Martial Law". (FCO, 1972)

The powers that Bhutto seized during his rule did not come to him as inheritance. On the other hand he managed to earn these authorities when he was playing a vital role in the formation of the Constitution of Pakistan as Chief Matial Law Administrator and the President of Pakistan from 1971 to 1973. The promulgation of the 1973 Constitution is perhaps the greatest achievement of Bhutto not only in reference with his personal merits but also in the context of Pakistan's interests. The political bargaining that formed the backdrop to this achievement required Bhutto's special touch. He skillfully coerced alternatively different opposition parties and persuaded them to endorse the Constitution. The parties eventually came to heel. During the course of negotiations for the constitution, there were threats of walk-outs and boycotts of the National Assembly. It was only Bhutto who dealt with balancing, negotiating and finally triumphing over all of the adverse controversies which could obstruct the smooth formation of the Constitution. (Taseer, 1980: 155) This unprecedented role in the formation of the Constitution raised the confidence in Bhutto and upgraded his stature in the politics of Pakistan. This experience made Bhutto more skillful in seizure of more power and influence and he confidently started to steer virtually all institutions of the state according to his will.

During the progress towards the finalisation of the Constitution the opposition was determined to make the executive answerable to the legislature. Similarly within the PPP there were members who were inclined towards an effective legislature which could offer them hope of having a say in the affairs of the state. (Yusuf, 1980: 136) But Bhutto, determined to control the legislature in order to become more powerful, inclined towards a powerful executive.

The draft constitution gave Bhutto almost dictatorial powers which the National Awami Party (NAP) was not prepared to agree to. Wali Khan intimated that he would like the talks to be reopened and a fresh accord thrashed out. He said that there had been a whispering campaign after the October 1972 Accord that the NAP hierarchy had been bribed by guarantees of security of office. His actions had given the lie to this rumour. (Paterson, 1973) Thus in spite of the opposition against the accumulation of powers in the chief executive Bhutto administered to converge the powers in the office of Prime Minister.

Bhutto preferred an executive centered presidential form of government, one not too different from the Ayub Khan, but ultimately he was persuaded to accept a modified parliamentary system (Burki, 1999: 46) where though parliament existed yet the Prime Minister was the strong Chief Executive. The Constitution was federal in character and after much haggling within the cabinet Bhutto accepted, against his inclinations, that he would be Prime Minister, and not continue as President. (Taseer, 1980: 155) Previously Bhutto wanted to retain the presidency in his person considering it powerful but later he accepted to become the Prime Minister because its being powerful Chief Executive according to the new Constitution of 1973.

At the end of the constitution making process there was no doubt that Bhutto would enjoy exceptional authority in comparison with his Westminster counterpart. (British Ambassador Islamabad to Secretary of State FCO, 1973) Therefore the most significant characteristic of the 1973 Constitution, and one that had been the subject of much criticism by the Opposition was the power to be enjoyed by the Prime Minister. (British Ambassador Islamabad to Secretary of State FCO, 1973)

It was this feature of the most powerful Prime Minister that made Kamal Azfar (1987: 159) opine that every constitution in the history of Pakistan including that of 1973 was built around an individual and what was more unfortunate regarding 1973's constitution was that the individual in question did not observe the rules of the game made by him. In Azfar's view the constitution of 1973 was the first constitution in which the entire executive power was concentrated in the Prime Minister. This fulfilled the desires of Bhutto to become all powerful so that he might over rule all of the institutions as well as the individuals in the political system of Pakistan.

The constitutional powers might be worthless if practically Bhutto or anyone else in his place would not be able to exercise those powers which had been granted by the constitution. But the situations had strengthened Prime Minister Bhutto's position extensively in all respects. With an overall majority in both Houses any Prime Minister from Pakistan People's Party would have little need to worry about getting his policies approved. The fear could be only from the signs of discontent already in the lower ranks of the party. From the hands of powerful Bhutto only these dissidents of the party needed increasingly careful handling, particularly when economic matters were discussed. (British Ambassador to Secretary of State FCO, 1973)

Bhutto did neither prove a weak prime minister nor did he care to work in the limits and let the institutions of the state flourish freely and independently. He, as the President and CMLA, did not pay much regard to democratic institutions like assembly or parliament. Bhutto's attitude before the adoption of Constitution and during martial law was almost dictatorial. He concentrated

the power in his position with the help of different tactics. He reinforced his authority by the appointment of his nominees as governors in all the four provinces. The powers under Martial Law were used even to unseat a dissident member of his own party. (Yusuf, 1980: 128,131).

Soon after the adoption of the constitution, it became clear to the opposition that Bhutto did not really intend to abide by the consensus he had reached with them. (Burki, 1999: 47) Not only disregarding the compromises with the opposition outside the parliament and without the consensus within the Assembly, Bhutto did not wish to give parliament its proper status. On 7th September 1973 opposition leader Wali Khan told a press conference that the reason for the boycott of the National Assembly proceedings by Opposition was that the Opposition felt that the Prime Minister was "not ready to give the parliament the status it deserved and was bent upon injuring its dignity under the impression that the Assembly's only job was to endorse his proclamation". (British Embassy Islamabad to D H Doble FCO, 1973).

The image of Bhutto as a leader who overpowered the authorities of institutions had been developed in the opposition as early as 1973. The opposition think him all in all in almost all affairs of the state and in contrast to all institutions of the country. Bhutto was bestowed with an undemocratic title of the king of kings. On the 5th March, 1973, during the course of his speech on the Constitution Bill, opposition leader Abdul Wali khan referred to the dismissal of the Mengal Ministry in Balochistan and said that the "orders came from the Imperil Majesty, Shahinshah of Pakistan from Islamabad," hinting towards Z. A. Bhutto. The law Minister objected to the use of these words and asked for their withdrawal. Mr. Speaker remarked that the rules did not permit ironical expressions against the Head of the State. He insisted for the withdrawal of the expressions in the question which, after some arguments, was done by the leader of the Opposition. (NAD, 1973) This discussion on the comments showed two-fold impression of Bhutto and the National Assembly. The former was considered as the dictator and the later was not powerful enough to mention this reality even in an ironical way. This was not just an image, impression or allegation of the opposition. Bhutto actually had dominated complete political system with the passage of time. He exercised the powers which were necessary to run the system as well as for the smooth and easy control over the affairs of the government and state. Bhutto had managed to assert his authority with different tactics through various developments.

In 1974 Bhutto dominated the Federal Government just as absolutely as he did his party. With a few exceptions, his entire Ministers were virtually unknown when he came to power. (FCO, 1974) Two of his early critics, Meraj Mohammad Khan and M.A. Kasuri, were ousted before the end of 1972. The Left-wing lobby appeared for a time to be successfully steering him along

doctrinaire lines but when it became apparent that their policies were not only failing to solve the country's economic problems, but even exacerbating them by destroying business confidence, Bhutto dropped in turn two of the lobby's principals J. A. Rahim and Mubashir Hasan. With the departure of these two there remained nobody, with the possible exception of Sheikh Rashid, who was likely to oppose Bhutto in any matter of substance. (FCO, 1974)

While executive's position was being strengthened in the rise of personal stature of Bhutto the legal and constitutional power of the executive was also enhanced with the help of constitutional amendments. On May 24 1974, an amendment in the constitution gave the executive the authority to declare illegal any political party found "operating in a manner prejudicial to the sovereignty or integrity of the country." The modification was intended to protect the prime minister from frivolous changes in party loyalty of the type that had paralyzed governments in the period before Ayub Khan. (Burki, 1999: 46-47)

The National Assembly was, of course, PPP dominated and, though treated by Bhutto with obvious respect and used most skillfully by him when convenient (as in the matter of Qadianis), had no real independent power of initiative. The National Press and especially the English language Press was almost entirely under Bhutto's direct or indirect control. (FCO, 1974)

Bhutto as the Chief Executive of Pakistan continued to accumulate power and nearing the three-year point, Bhutto had lost novelty popularity but gained power. He had full control of his party and the Central Government, and effective control of the Governments in Sind, the Punjab and the NWFP. In Baluchistan he directed the army which was slowly, probably successfully, wresting control form the Sardars; he had the army's backing; he was successfully smothering or isolating the political Opposition. (FCO, 1974) In 1976 Mr. Bhutto was virtually unchallenged within his party or government. He had a genuine regard for the desires of the electorate and paid lip service to democratic institutions, but his style of government was authoritarian. The continuation of the State of Emergency made effective opposition impossible. The press was not entirely controlled but has little freedom of maneuver. (Bushell, J. C. W. to FCO, 1976)

In Bhutto's regime, then, the institutions which Bhutto once thought were vital to Pakistan's political development continued to languish. Political parties, including the ruling PPP, were in a chaotic condition if not in a shambles; parliament and the provincial legislatures often adjourned for want of quorums, mainly because the prime Minister or the chief minister concerned would not attend, except rarely; and the higher bureaucracy remained demoralized because it had virtually no job security. Student unions and bar associations continued to be vigorous, but they are not institutions of

governance. The only instructions, if they can be so called, prospering in Pakistan in 1976, were the security agencies. (Haqqani, 2005: 109)

The Bhutto government enjoyed a comfortable majority in the Parliament. But instead of letting the Parliament do its job and make law for the land, he adopted the technique to rule the country by 'Ordinances'. He signed 219 Ordinances from 1972 to July 1977, at the average rate of one Ordinance per week. (Arif, 2002: 286) With not much opposition in the Parliament and unrest on the streets, in 1976, confidant Bhutto asked the Intelligence Agencies for their assessment about an outcome of the general elections possibly to be held soon. The Agencies assured him of certain success and Bhutto decided to seek a fresh mandate by holding general elections in March of 1977. (Ayub, 2005: 361)

Bhutto did not take the parliamentarians into confidence before decision making and told later on. One reason behind this was also that a number of MNAs were in parliament just because of Bhutto's wish and some persons even could not imagine becoming a parliamentarian without the wish of Bhutto. (Khar, 2012) These Bhutto sponsored members never dared even to suggest any measures for the strength of the institution where they represented the people of their respective constituency. They could not resist the wishes of the leader or executive during their participation in the procedures of the parliament.

The National Assembly's formation could also be called into question due to the treatment with the members of the Assembly from Balochistan. Wali Khan, the opposition leader said had told in 1973 the Assembly, was not in order because the members from Balochistan had been denied their constitutional right of representing their electorate. (British Embassy Islamabad to D H Doble FCO, 1973)

The executive machinery of the country also did not regard the parliament significant in any case. There were many examples in this regard, few of which are quoted below. The privilege of parliamentarians was breached by the executive to such an extent that in a circular letter dated 23rd December, 1974, the Acting Chief Minister of Sind under the orders of the Prime Minister had directed that no Senator shall visit Lauri Sharif during any religious ceremony or on an occasion like an *Urs*. Over this on 27th January, 1975, Mr. J. A. Rahim raised a question of breach of the privilege of all Senators from Sind. The motion was opposed by the Minister for Law and Parliamentary Affairs on the grounds that no such privilege as referred to in the motion was available to Members of Parliament under the Constitution and that the member did not raise the question at the earliest opportunity. The Acting Chairman observed that going to Luari Sharif was not a privilege available to

Members of Parliament under the Constitution and the motion was, therefore, ruled out of order. (Senate Debates, 1975)

The parliamentarians were arrested on the orders of the executive and their voice could not be raised in the house of which they were the members and that was called the most powerful institution of the parliamentary government. On March 3, 1976, Maulana Shah Ahmad Noorani raised a question of breach of his privilege alleging that on 19th December, 1975, he was arrested and detained for about two hours and the Police officials concerned did not comply with the provisions of Rules 64 and 65 of the Senate Rules. The Chairman ruled the motion out of order observing that the question of privilege was not raised at the earliest opportunity. (Senate Debates, 1976)

On another occasion the issue of continued harassment of the senator Noorani by police, CID and Intelligence personnel inside the Government hostel was raised as the matter of privilege on March 4, 1976. The Minister for Finance argued that the allegations were not specific in as such as they did not name the official or the particular harassment caused by him to the Senator. He also contended that the motion related to matter in which the Senate could not intervene. On March 16, the leader of the House moved that the motion be referred to the Committee on Rules of Procedure and Privileges. The Chairman consequently and unwillingly put the motion to the House which was carried. As he allowed the motion to be moved the motion is deemed to have been admitted under the rules. (Senate Debates, 1976a)

Chief Executive Bhutto also exerted control over parliament through his cabinet. Bhutto's team of ministers was unique in several ways. Barring Tridev Roy, a trible chief from East Pakistan, and Nurul Amin who had a day earlier been made Vice President, all the others were members of his political party. Almost all of them had gone to university. Five of them had attended institutions of higher learning abroad. Seven out of ten ministers were practicing lawyers and one a practicing consulting civil engineer. One was a retired judge of a high court. Except Jatoi, none of them were big landlords. It was a cabinet of professional men from the middle class and it was to serve Bhutto well during the first year of government. The team went to work with zeal and dedication. It was truly a dedicated team. (Hassan, p. 17)

Hussain Haqqani views that Bhutto's original political team then was replaced by a new team of ministers and advisers from the civil and military establishment. (Mubashar, 2000:53) Under the influence of this team, the PPP's secretary general perceived "Bhutto's tilt toward and obscurantist interpretation of Islam. Three seemingly unrelated developments reflected, and possibly caused, that tilt. The first and second of these three developments mentioned by Haqqani were the amendment in Pakistani constitution to include a provision that effectively declared the Ahmadis non-

Muslims, members of the Ahmadi sect to be non-Muslim and the holding of the Islamic summit conference in Lahore.(Haqqani, 2005: 106)

Parliament's insignificance was presented in the attitude of the ministers to the proceedings of the Parliament. The concerned ministers did not feel it suitable to attend the sessions of the NA regularly. On 28th November, 1975, Begum Nasim Jahan raised a point of order that the Minister-in-charge was not present during the debate on a bill. The Chairman pointed out that the law Minister, a Minister of State and the Parliamentary Secretaries were sitting in the House and in a democratic Government the cabinet being collectively responsible, if any clarification was needed, it could be given by any one of them. (NAD, 1975)

Speaker was not a member of the Cabinet and he had no place in a party meeting or the meeting of the executive and was rather above the Cabinet but Speaker of the National Assembly attended the meeting of the cabinet. When this issue was raised in the Assmly Minister for the interior defended the Speaker saying that the Cabinet could invite any person to attend its meeting. The hold of Chief Executive over parliament could be noticed when it was clarified that the Prime Minister had to discuss the schedule of the Budget session and had invited the Speaker to attend the meeting.

In reference to the weakness of the parliament in contrast with the Chief Executive Ahmad Raza Khan Qasuri during his visit to England stated to the effect that the Assembly had not legal status. Qasuri wanted to discuss it in the house but Speaker avoided it saying "This needed to be discussed in the Chamber and you have a right to come to me and then I will explain certain matters to you. That is for your benefit that is for the benefit of the House and that is the benefit for the democracy". (NAD, 1974)

Conclusion

During the democratic period from 1971 to 1977 the executive dominated the state of Pakistan more than any other institution. Z. A. Bhutto was undoubtedly a dominating leader and he proved to make the institution of executive as a centre of power as well. The parliament on the other hand could not exercise its autonomy free from the control of mighty executive. The members of the parliament individually as well as the parliament collectively remained under shadow and could not assert their constitutional authorities in contrast to the executive. Often executive continued to use the parliament in support of its policies and decision. The efforts of the opposition in the parliament regarding the assertion of the position of legislature often were overshadowed by the executive though the weakness of the opposition was too a factor of the strength of the executive. The parliament within was too weak to assert its position in front of the powerful executive. The

powerlessness of the parliament as an institution eventually could not help the executive in the wake of public agitations and military intervention in the government in the form of Martial Law in 1977.

References

Arif, K. M. (2002) Khaki Shadaws. Karachi: Oxford University Press.

Ayub, Muhammad (2005) *An Army, Its Role and Rule: A History of the Pakistan Army from Independence to Kargil, 1967-1999.* Pittsburgh: RoseDog Books.

Azfar, Kamal (1987) *Pakistan political and Constitutional Dilemmas.* Karachi: Pakistan Law House.

British Ambassador Islamabad to Secretary of State Foreign and Commonwealth Office (FCO) (1973) Diplomatic Report No. 392/73, 16 August, FCO 37/1334, The National Archives (TNA) London.

British Embassy Islamabad to D H Doble FCO (1973) 10 September, FCO 37/1339, TNA London

Burki, Shahid Javed (1999) *Pakistan: Fifty Years of Nationhood.* Lahore: Vanguard.

Bushell, J. C. W. to FCO (1976) 37/1787, TNA London

FCO (1972) Memorandum, Diplomatic Report No. 282/72, 24 April, FCO 37/1136, TNA London.

FCO (1972a) Diplomatic Report No. 411/72, 2 August, FCO 37/1136, TNA London.

FCO (1974) Diplomatic Report No. 404/74, 10 December, FCO 37/1498, TNA London

Fried, Robert C. (1966) *Comparative Political Institutions*. New York: Macmillan Co.

Hassan, Haqqani, Hussain (2005) *Pakistan between Mosque and Military*. Lahore: Vanguard Books.

Hasan, Mubashir. (2000) *The Mirage of Power: An Inquiry into Bhutto Years* 1971-197, Karachi: Oxford University Press.

Khan, M. A. Generals in Politics.

Khar, Ghulam Mustafa (2012) Interview by the researcher, 13 June, Khar House 478 Meer Street Lahore.

Kux, Dennis (2001) *The United States and Pakistan, 1947-200 Disenchanted Allies.* Karachi: Oxford University Press.

NAD (National Assembly Debates) (1973) 5 March, pp. 625-630

NAD (1974) 24th June.

NAD (1975) 28th November.

Paterson, J R (1973) British Embassy Islamabad, Tour Notes, 17-21 January. FCO37/1338, TNA Lonodn.

Senate Debates (1975) 27 January, pp. 112-122.

Senate Debates (1976) 3 March, 1976, pp. 143-147.

Senate *Debates*, (1976a) 4 March, pp. 220-235, 16 March, p. 391, 5 March, pp. 273-280

Taseer, Salman. (1980) Bhutto A Political Biograph, New Delhi: Vikas.

Waseem, Muhammad (2006) *Democratization in Pakistan, A Study of the 2002 Election*. Karachi: Oxford University, Press.

Yusuf, Hamid (1980) *The Return of the Politicians.* Lahore: Afrasia Publications.