

## Restoration of Parliamentary Supremacy in Letter through Constitutional Amendments: 18<sup>th</sup> Amendment and Parliamentary Democracy in Pakistan

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### Abstract

Parliamentary supremacy is one of the basic norms of parliamentary system of government. It is the essence of the system without which it cannot function properly. In healthy parliamentary democracies, parliamentary supremacy is observed. Under the system Prime minister or head of the government is the real chief executive, while President or head of the state enjoys only ceremonial powers and acts on the advice of Prime minister. It clearly reflects homogeneity in its character. However in Pakistan there is heterogeneity. The civilian executives and national parliament are unstable and fragile, while the establishment led by Pakistan army is powerful enough to dictate political executives and national parliament. Quite often it has dismissed political governments and dissolved elected assemblies. The successive parliaments in Pakistan have opted for parliamentary system of government through various constitutional amendments but the parliament has never ensured its supremacy in letter and spirit. To counter powerful establishment the popular political forces evolved on a new strategy of consensual and reconciliatory politics in the spirit of COD. Under the strategy they tried to remove the heterogeneity of parliamentary system and restore homogeneity of the system through Eighteenth constitutional amendment. They restored parliamentary supremacy in letter. The paper analyzes those articles of Eighteenth amendment through which homogeneity of parliamentary system has been restored.

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**Key words:** Parliamentary supremacy; 18<sup>th</sup> constitutional amendment; consociational democracy; judiciary; military establishment

## **Introduction**

This study deals with constitutional amendments in Pakistan particularly 18<sup>th</sup> Amendment which contributed to supremacy of parliament from 2008 to 2013. The analysis of relevant constitutional amendments through which parliamentary supremacy was strengthened is important as it explains how and why the amendments were incorporated in constitution and did they contribute to strengthen parliamentary supremacy in Pakistan? The analysis of the amendments will help in proper understanding of the research question.

It is also worth mentioning to state here that all the amendments during the period were not the sole achievements of the ruling coalition, rather the opposition parties particularly PML(N) overwhelmingly contributed in accordance with the spirit of COD. Therefore, the researchers try to analyze the stated period of parliamentary democracy in Pakistan in light of consociational theory's characteristic where a grand coalition of political leaders of all significant segments of the plural society come together to safeguard and strengthen democratic system and instead of adversarial or government versus opposition model (Lijpart, 2004), the leadership under spirit of consociation support each other to strengthen democratic institutions. In light of the characteristic, the researchers analyze how and why the institution of parliament was strengthened through the amendments at least in letter?

While keeping in view the higher objective to strengthen democratic institutions mere smooth transfer of power and installation of democratic governments was not an end rather a mean to achieve the end. The end might be complete civilian supremacy and implementation of COD in letter and spirit. One of the important aspects of it was complete revival of parliamentary feature of 1973 constitution. The constitution has existed in Pakistan in its original form as its basic law only for a very short period. For most of the time it has either been held in abeyance or existed in a highly distorted form. Its federal and parliamentary character was first destroyed by Zia-ul-Haq through 8<sup>th</sup> Amendment and then by Pervez Musharraf through 17<sup>th</sup> Amendment. On February

18, 2008, the people voted overwhelmingly in favor of the parties that stood for restoration of 1973 constitution<sup>4</sup> to its undiluted parliamentary character. Therefore, after resuming power PPP government constituted a Constitutional Reform Committee, comprising 26 members with the representation of all political parties in parliament which produced a consensus bill which the NA and Senate passed almost unanimously on April 8 and 15, 2010 respectively which is known as 18<sup>th</sup> Constitutional Amendment. The bill became law when president affixed his signature on April 19, 2010.

Through the amendment parliamentary supremacy was brought back in the state affairs. The powers provided in original constitution to parliament were not only revived rather the institution was even more strengthened. The office of prime minister was made powerful. The novelty of 18<sup>th</sup> amendment is that in certain key appointments and matters leader of opposition has been given meaningful role in accordance with the spirit of COD, which increased the influence and importance of parliament. No doubt the 18<sup>th</sup> Amendment was an effort to clean the supreme national legislative instrument of the distortion and unlawful conversion of parliamentary form of government into a quasi-presidential one and that, too, by concentrating maximum powers and discretion in a constitutional office which ought to be mere titular head in a true parliamentary dispensation (Adaney, 2012). In the following lines those relevant clauses of the amendment would be analyzed which have contributed to supremacy of parliament.

### **Methodology of the study**

This study is based on a qualitative data analysis and interpretation. The study mainly focuses on the 18<sup>th</sup> constitutional amendment and its role in restoring parliamentary supremacy in Pakistan in letter. The study is analytical in nature and draws on a meticulous study of the relevant portions of the 18<sup>th</sup> and other relevant amendments in the constitution of Pakistan that the researchers deem to have either shackled or restored the sovereignty of the parliament in letter. The researchers, more or less, adopted an exploratory cum explanatory approach in order to see as to which parts of the amendments have played the stated roles and why. Further, the first

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<sup>4</sup>The Constitution of the Islamic Republic of Pakistan 1973 as amended by The Constitution (Eighteenth Amendment,) Act, 2010.

author during his PhD field work, bearing in mind the importance of the prominent politician and law maker for decades in the parliament of Pakistan named Mian Raza Rabbani who have played a key role in devising and drafting the amendment, has also interviewed him in this respect.

For secondary data various sources have been used ranging from the established literature on the political development in Pakistan besides newspaper reports/articles.

### **18<sup>th</sup> Amendment and sovereignty of the parliament in Pakistan**

Article 46 refers to the duties of prime minister in relation to the president. Before the adoption of 18<sup>th</sup> Amendment the article provided for the following duties of prime minister: (a) communicating all decisions of the cabinet to the president regarding administration of the affairs of federation and proposal for legislation; (b) furnishing information such as those related to the administration of the affairs of the federation and proposal for legislation when the president calls for; and (c) if the president so requires to submit any matter to the cabinet for its consideration in which a decision has already been taken either by prime minister or a minister but has not been considered by the cabinet (Adaney, 2012). The original constitution under article 90 expressly provided that prime minister would be chief executive, “the executive authority of the federation shall be exercised in the name of the president by federal government consisting of prime minister and federal ministers which shall act through prime minister, who shall be the chief executive of the federation through officers subordinate to him in accordance with the constitution” (Cohen, 2011:9). Thus the word ‘chief executive’ which was used for prime minister in the constitution was dropped assigning him subordinate position. Moreover, through the 8<sup>th</sup> Amendment, Article 46 was also amended to further emphasize on the subordinate position of the prime minister to the president. The amended article suggested that it shall be the ‘duty’ of Prime Minister to keep informed the president about the policy decisions of the cabinet. The emphasis on the ‘duty’ of the prime minister left no doubt about the subordinate status of the office of prime minister. In principle, it is not the president but the parliament to which prime minister of a country is answerable. The provision had also undermined prime minister Position in his own backyard, which is the cabinet. No wonder, than “the result of the amendment is to make prime minister additionally answerable to the president and opens

avenues for manipulation of the cabinet by the president.”<sup>5</sup> Due to these amendments, during 8<sup>th</sup> Amendment regime different prime ministers were realized their subordinate status by military establishment through presidency. Politicians of major political parties have bitter experiences in that respect which compelled them to revive the article, as stipulated in original `1973 constitution. The 18<sup>th</sup> Amendment restored the article as it was in original 1973 constitution which reads as, “the prime minister shall keep the president informed on all matters of internal and foreign policy and on all legislative proposals the federal government intends to bring before Majlis-e-Shoora (Parliament).”<sup>6</sup> Now it is no more the duty of prime minister to keep the president informed about the above mentioned matters. Thus, through the amendment parliament posed more confidence in prime minister.

Article 48 clause (6) is about the power of president to call for a referendum. Under the original constitution, president had to act on advice of prime minister and his orders as counter signed by prime minister. But the article was amended in dictatorial regimes which was then used by dictators to legitimize their usurpation of powers therefore, clause(6) of the article has been amended which is now, “if at any time the prime minister considers it necessary to hold on referendum on any matter of national importance, he may refer the matter to a joint sitting of the Majlis-i-Shoora( parliament) and if it is approved in a joint sitting, the prime minister may cause such matter to be referred in the form of a question that is capable of being answered by either ‘Yes’ or ‘No’.”<sup>7</sup> The purpose of the change is to remove individual discretion, and to place it before national parliament, being the institution of collective wisdom.

However, the critical issue before parliamentarians was to remove Article 58 (2) (b) which was hanging like ‘swords of Damocles’ over parliament. Prior to 18<sup>th</sup> Amendment an effort had been made in Nawaz Sharif second tenure as prime minister when his party enjoyed two third majority in parliament, through 13<sup>th</sup> Amendment the controversial clause 58 (2) (b), which had provided discretionary power to president to dissolve national assembly had totally been removed. But

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<sup>5</sup>See *Dawn* May 15, 2006.

<sup>6</sup>See 1973 constitution of Pakistan prior to 18<sup>th</sup> Amendment.

<sup>7</sup>See 1973 Constitution (original), Article 90.

again it was revived by General Pervez Musharraf through 17<sup>th</sup> Amendment. The article was used by successive presidents backed by military bureaucratic establishment to dismiss democratically elected civilian governments, blackmail parliament, hostage elected governments and advance establishment's political agenda.<sup>8</sup> Prior to 18<sup>th</sup> Amendment the clause (2) (b) of article 58 provided that, "notwithstanding anything contained in clause (2) of article 58, the president may dissolve national assembly in his own opinion; a situation has arisen in which the government of the federation cannot be carried in accordance with the provision of the constitution and an appeal to electorate is necessary." The clause (3) of the article further provided that in case of dissolution of NA, president under paragraph (b) of clause (2) shall refer the matter within 15 days of the dissolution to the Supreme Court wherein a decision shall be taken within 30 days which shall be final.<sup>9</sup>

The provision had almost provided an absolute discretionary power to president because it was not provided in the article as through what yardstick the president would have to assess whether the government of the federation could be carried on in accordance with the constitution or not. Another aspect of this presidential authority was, as one member of national assembly argued at some length that, "it would be disastrous if two persons have the authority to use one power at the same time as prime minister and president have the authority to dissolve national assembly. The right of dissolution should rest with prime minister alone because he represents parliament and is a part of it. Moreover, parliament has shown trust and confidence at him" (Naqvi, 1996). The fact of the matter was that president who himself was the creation of the national assembly could dissolve it without any fear of accountability. If presidential order was declared null and void by Supreme Court, the president could still continue to retain office without suffering any penalty. On the contrary, when an elected prime minister advised president to dissolve national assembly he would have to lose his premiership and had to face the electorate again.<sup>10</sup> The article had clearly limited sovereignty of parliament and had made the system subservient to the will of

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<sup>8</sup>See 8<sup>th</sup> Amendment Act 1985, Article 90.

<sup>9</sup>*Ibid*, Article 46.

<sup>10</sup>See 18<sup>th</sup> Amendment, *opcit.*, Article 46.

an individual who stood immune despite his intervention, if he so desired. It was precisely in this context which made one constitutional expert to remark that, “the present presidential post is no less than that of constitutional dictator.”<sup>11</sup> The subsequent dismissal of elected assemblies by presidents while exercising the power enjoyed by them under 58 (2) (b) were sufficient to prove that the article was serious hurdle in smooth functioning of parliamentary system. The power had been exercised against major signatories of COD therefore, when they came to power they had already decided to revive the constitution as it was a serious question before them whether parliament would remain fragile and weak and the extra parliamentary forces would keep on pulling its strings. To respond positively to the challenge they decided unanimously to do away with the controversial 58 (2) (b) once for all. In 18<sup>th</sup> Amendment the clauses (2) (b) and (3) of article 58 were totally deleted. Thus the sword of Damocles which was hanging over parliament has been removed and constitutionally there is no supra institution over parliament.

Article 89 of the constitution pertains to the powers of president to promulgate an ordinance. According to the article prior to the amendment, “the president may, except when the national assembly is not in session, if satisfied that circumstances exists which render it necessary to take immediate action, make and promulgate an ordinance as the circumstances may require” (Mirza, 2015: 40). According to the article there was no limit on the number of times an ordinance could be re-promulgated. Therefore it was an easy way to bypass national parliament. To block the way, the article has not only been amended to that effect rather if the upper house i.e. Senate is in session the president cannot promulgate ordinance. The text of the amended article is as such, “the president may, except when the senate or national assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an ordinance as the circumstances may require” (Rabbani, 2012). Furthermore, “it shall be laid before the national assembly if it contains provisions dealing with all or any of the matters specified in clause (2) of article 73, and shall stand repealed at the expiration of one hundred and twenty days from its promulgation or, if before the expiration of that period resolution disapproving it is passed by the assembly, upon the passing of that resolution; provided that the

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<sup>11</sup>See 18<sup>th</sup> Amendment, Article 46, Article 48.

national assembly may by a resolution extend the ordinance for a further period of one hundred and twenty days and it shall stand repealed at the expiration of extended period, or if before the expiration of that period a resolution disapproving it is passed by the assembly, upon the passing of that resolution; provided further that extension for further period may be made only once” (Ibid). Thus an effort has been made to ensure that law making is the prime domain of national parliament and no other institution can be given that right.

Article 90 (1) deals with the exercise of executive authority of federation. The original constitution expressly provided that prime minister would be chief executive, “the executive authority of the federation shall be exercised in the name of the president by federal government consisting of prime minister and federal ministers, which shall act through prime minister, who shall be chief executive of the federation.”<sup>12</sup> But a change was brought through 8<sup>th</sup> Amendment which provided that, “the executive authority of the federation shall be exercised by the president directly or through officers subordinate to him in accordance with the constitution” (Zaman, 1992). Thus the word “Chief Executive” which was used for prime minister in the constitution was dropped assigning him subordinate position. The article simply reflected that it had made the president a real chief executive which was in contradiction to the spirit of parliamentary system where the elected leaders of the House i.e. prime minister exercises real executive authority. The creation of two centers of power led to schism and conflict between the two highest office holders of the country which ultimately led to the failure of parliamentary system. The COD leadership was aware of this constitution lacuna, therefore, the article was amended. Now the executive authority is exercised in the name of president, while prime minister is the chief executive of the federation. The amended article is now read as, “subject to the constitution, the executive authority of the federation shall be exercised in the name of president by federal government, consisting of prime minister and federal ministers, which shall act through prime minister, who shall be chief executive of the federation.”<sup>13</sup>

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<sup>12</sup>*National Assembly Debates*, Monday, October 4 1985

<sup>13</sup>*Nawa-i- Waqat*, March 13, 1993



Article 91 deals with the election of prime minister by national assembly. The text of the article prior to amendment was, “the president in his discretion appoint from amongst the members of national assembly a prime minister who, in his opinion, is most likely to command the confidence of the majority of members of national assembly”<sup>14</sup> The article was silent as to how and through what mechanism the president would ascertain whether a certain person hold the majority. In a parliamentary system it is the sole prerogative of the legislature to elect its leader. Affecting such changes in the basic structure of constitution meant, “Imposition of presidential autocracy on a parliamentary framework.”<sup>15</sup> The president’s discretionary powers were misused by successive presidents using the tactic of delaying summoning of NA until managing their desired coalition or securing enough votes to elect the prime minister of their choice. Both the major political parties were affectees of the discretionary powers available to president in the article therefore; they unanimously agreed to amend the article to check the powers of presidency. The amended article 91 (2) is now read as, “the national assembly shall meet on 21<sup>st</sup> day following a day on which a general election to the assembly is held unless sooner summoned by the president,”<sup>16</sup> and article 91 (3) stipulates, “after the election of the speaker and deputy speaker, the national assembly shall, to the exclusion of any other business, proceed to elect without debate one of its Muslim member to be prime minister.”<sup>17</sup> The revised article has restored parliamentary sovereignty by enabling its lower house i.e. national assembly to elect prime minister without the influence of any other institution.

Article 91[3] of the constitution deals with the rules of business. To ensure parliamentary norms that it is the federal government and not the president who shall make rules of business. Therefore, the article has been amended to that effect. The article’s sub-clause prior to 18<sup>th</sup> Amendment was, “the president shall also make rules for the allocation and transaction of the

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<sup>14</sup>See the 1973 Constitution prior to 18<sup>th</sup> Amendment, Article 89

<sup>15</sup>National Assembly Debates, April 8,2010.

<sup>16</sup>Constitution 18<sup>th</sup> Amendment,Article 89.

<sup>17</sup>See the 18<sup>th</sup> Amendment, Article (89) (2)(a)(1).

business of the federal government.”<sup>18</sup> The amended sub-clause (3) of the article now stipulates, “The federal government shall also make rules for the allocation and transaction of its business.”<sup>19</sup> By substituting ‘President’ with ‘Federal Government’ the amended article has ensured sanctity of parliamentary norms.

Article 101 deals with the appointment and functions of the governors of provinces. The clause (1) of article 101 states that for each province there shall be a governor who shall be appointed by president through consultation the prime minister.<sup>20</sup> But the successive presidents appointed governors in their own discretion while the recommendations of the political governments were ignored. On the other hand governor enjoyed crucial powers in the respective province, which he usually exercised on the advice of president instead of federal government due to which the working of federal parliamentary system faced serious turmoil. It was in this backdrop that clause (1) of article 101 was amended. The amendment made the president bound to appoint governors on the advice of prime minister. The amended article states that the governor for each province shall be appointed by president, however, on the advice of the prime minister.<sup>21</sup>

Article 112 deals with the powers of governor to dissolve provincial assembly. Prior to the amendment governor was constitutionally bound to dissolve respective provincial assembly on the advice of president. But now after 18<sup>th</sup> Amendment the governor can only dissolve assembly on the advice of chief minister. Article 112 (1) state, “the governor shall dissolve the provincial assembly if so advised by chief minister, and the provincial assembly shall, unless sooner dissolved, stand dissolved at the expiration of 48 hours after the chief minister has so advised.”<sup>22</sup>

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<sup>18</sup>The 1973 Constitution(original),Article 90(1).

<sup>19</sup>Constitution 8<sup>th</sup> Amendment, Article 90(1).

<sup>20</sup>Constitution 18<sup>th</sup> Amendment, Article 90(1).

<sup>21</sup>See the 1973 Constitution, prior to 18<sup>th</sup> Amendment, Article 91.

<sup>22</sup>National Assembly Debates, April 8, 2010.

Thus governor's powers were only limited to ceremonial functions while real executive authority would rest with chief minister in accordance to parliamentary traditions.

Article 153 is another important article which deals with the constitution of Council of Common Interests. Previously it was not mandatory that prime minister would be chairman of the council. The 18<sup>th</sup> Amendment declared that prime minister would be the chairman of the council while other three members shall be nominated by prime minister. The amendment also made it mandatory that the council shall submit its annual report to both the houses of the parliament (M.R. Rabbani, personal communication, September 12, 2012), which has made the council accountable to parliament and has increased the status and influence of parliament. Similarly, the formation of National Economic Council has also been revised. Previously, the president enjoyed discretionary powers to constitute the council. However, after 18<sup>th</sup> Amendment dominant role has been given to prime minister in formation of the council. Moreover, the council has been made accountable to parliament.<sup>23</sup> The amendment has also revised the role of the office of Auditor General. Prior to the amendment, the Auditor General's report was supposed to be submitted to the NA only, nevertheless, after the amendment the same would be submitted to the senate also which has increased power and influence of parliament.<sup>24</sup>

Article 75 (a) provides for procedure about the appointment of judges of Supreme Court and High Courts. Before the amendment, the constitution had vested the power of appointment of Chief Justice and other judges of the Supreme Court and High Courts in president, nonetheless, the president shall appoint them in consultation with Chief Justice. However, in the Al-Jihad Trust case 1996 ruling, the consultation of Chief Justice was made binding on the president. The monopoly of chief justice over the appointment of judges had caused deterioration of relations between judiciary and executive. During the periods of political governments, which compelled political leadership to review the article? The amended version is definitely an improvement as the power of appointment of judges has been taken from individuals and handed over to

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<sup>23</sup>See the 18<sup>th</sup> Amendment, Article 91(2).

<sup>24</sup>See the 18<sup>th</sup> Amendment, Article 91(3).

institutions i.e. Judicial Commission and Parliamentary Committee for appointment of judges. In the amended version of the article the parliamentary committee had been given upper role in the appointment which was not acceptable to anti-democratic forces, therefore, the relevant clause was challenged in Supreme Court which gave decision in favor of petitioners and issued directives to parliament to amend the article to that effect, which resulted in 19<sup>th</sup> Amendment, thus deprived off the parliament to have meaningful role in the appointment of the judges.<sup>25</sup>

The appointment of Chief Election Commissioner (CEC) has always remained a controversial issue as through the office favorable results were obtained in the past during the crucial process of election, therefor, the veto institution has always tried to enable presidency to enjoy discretionary powers regarding the appointment of Chief Election Commissioner. The COD forces had serious reservations about the process of election and time and again termed the elections as rigged. In COD agreement they had agreed upon the non-controversial process of appointment of CEC. In the light of that agreement changes were brought in Article 213, which deals with the appointment of CEC. The amendment empowered the prime minister for nomination of the Chief Election Commissioner. The procedure is that the prime minister shall send a list of three persons one of which shall be nominated as Chief Election Commissioner in consultation with the leader of the opposition in NA. In case there is disagreement between the two, the amendment provides for constitution of a parliamentary committee by Speaker of the NA having equal representation from the treasury and opposition benches to which shall separate lists be submitted from both sides for decision. The member of Election Commission would also be appointed as per method of CEC.<sup>26</sup>

The president and governors were deprived of even some formal powers through 18<sup>th</sup> Constitutional Amendment. Before the passage of the amendment, president had the powers to appoint Chairman of the Public Service Commission. However, after the passage of the amendment, president is bound in appointment of the chairman of PSC on the advice of prime

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<sup>25</sup>See the 1973 Constitution prior to 18<sup>th</sup> Amendment, Article 91(3).

<sup>26</sup>See the Constitution 18<sup>th</sup> Amendment, Article 91(3).

minister while for provincial chairmen the governor concerned is bound to appoint him/her on the advice of the concerned chief minister.<sup>27</sup>

The amendment also curtailed the powers of president, stipulated under article 243, in appointing services' chiefs. Prior to the amendment, president had the power to appoint the services chiefs in consultation with the prime minister. However, after the passage of the amendment president is bound to appoint them on the advice of prime minister. Prior to amendment the clause (3) of the article provided, "the president shall in consultation with the prime minister appoint (a) Chairman Joint Chief of Staff Committee; (b) Chief of Army Staff; (c) the Chief of Naval Staff; and (d) the Chief of Air Staff, and shall determine their salaries and allowances."<sup>28</sup> After 18<sup>th</sup> Amendment, "the president shall, on the advice of prime minister, appoint; (a) Chairman Joint Chief of Staff Committee; (b) Chief of Army Staff; (c) the Chief of Naval Staff; and (d) the Chief of Air Staff, and shall determine their salaries and allowances."<sup>29</sup> The amendment actually revived the original 1973 constitution and confirmed to the traditions of parliamentary system. The constitutional history of Pakistan is evident to the fact that being a veto institution, Pakistan's army had never accepted civilian supremacy in the appointment of its services chiefs. During the dictatorial regimes of General Zia-ul-Haq and General Pervez Musharraf powers of appointment of services chiefs were taken back from prime minister and were given to president through controversial 8<sup>th</sup> and 17<sup>th</sup> Amendments respectively. Moreover, Pakistan army has safeguarded this institutional interest at all costs during the period of 1990s when there was so called civilian rule. In the presence of presidency enjoying such crucial executive powers backed by powerful veto institutions like army, its intelligence agencies and judiciary to safeguard their own institutional interests, the elected institutions particularly national parliament remained weak, fragile and in no way could exercise influence and authority, rather remained at the mercy of establishment-back presidency. As a result the so-called democratic governments actually

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<sup>27</sup>See the 17<sup>th</sup> Constitution Amendment, Article 101(1).

<sup>28</sup>See the 18<sup>th</sup> Amendment, Article 101(1).

<sup>29</sup>See the 18<sup>th</sup> Amendment, Article 112(1).

turned into opposition to powerful establishment. Therefore, it was one of the reasons that COD forces being worst affectees of the powers decided to swing the pendulum back in favor of prime minister and parliament and take control over the crucial appointment of services chiefs and heads of the spy agency.

The changes brought about by 18<sup>th</sup> Amendment are positive but in certain respects it failed to restore parliamentary system as outlined in original 1973 constitution. Prior to 8<sup>th</sup> Amendment the executive authority of the state was to be exercised by federal government in the name of president. The amendment through article 90 vested the authority in president. The 18<sup>th</sup> Amendment failed to alter this article back to its original form and thus the power will continue to be used by president on behalf of federation which is not in consonance with the norms of parliamentary system.<sup>30</sup>

The 18<sup>th</sup> Amendment also failed to delete Objective Resolution from the constitution, which has been inserted through 8<sup>th</sup> Amendment during Zia's regime in the preamble of constitution in an attempt to Islamize the constitution. Nevertheless, it does not fit into the parliamentary structure of the constitution. Article 62 (concerning qualification of the parliament's membership) and 63 (concerning disqualification of parliament's membership) had also been altered by the Zia regime. The new conditions laid down under these two articles are tough and difficult to meet. The 18<sup>th</sup> Amendment has also failed in this respect as it could not reverse the impacts of 8<sup>th</sup> Amendment and bring the articles to its original shape (Khan, 2015). Similarly Article 70 requiring all political parties to conduct internal elections has been removed through 18<sup>th</sup> Amendment. Senator Raza Rabbani pleaded the case and defended it on the floor of the parliament stating that the article was a legacy of General Musharraf intending to create difficulties for political parties especially PPP and PML(N). However, the senator failed to acknowledge that several clauses introduced by the regime were retained while this clause, if kept intact, could strengthen the parliamentary democracy.

## Conclusion

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<sup>30</sup>See the 18<sup>th</sup> Amendment, Article 153.

Despite short comings it may be argued that 18<sup>th</sup> Constitutional Amendment was a major step forward in restoring supremacy of parliament at least in letter. It reversed, to a great extent, the distortions of two controversial amendments i.e. 8<sup>th</sup> and 17<sup>th</sup> which were enacted in 1973 constitution during the dictatorial regime of General Zia and General Pervez Musharraf, as it had conferred crucial legislative, executive and judicial powers upon the president at the expense of parliament and prime minister, as a result of which Pakistan had turned into a quasi-presidential republic. The 18<sup>th</sup> Amendment has limited presidency only to ceremonial functions, empowered parliament and prime minister in accordance with the spirit of parliamentary system. It has deprived of the president to dissolve parliament and dismiss elected prime minister. The amendment reversed some of the constitutional legacies of dictatorial regimes. The amendment was dully supported by all political parties and military allowed the process to move ahead partly because in its own institutional judgment it was not the time for it to take an active public role, as its image as institution had come to its lowest ebb due to the much controversial policies of Musharraf regime.

No doubt that the 18<sup>th</sup> constitutional amendment restored parliamentary supremacy in constitutional document. However, the real politics in Pakistan reflects that it will take significant time to ensure parliamentary democracy in spirit. The political development during Nawaz Sharif's period from 2013 to 2018 shows that parliament remained under constant pressure. During the period, time and again its supremacy was challenged by the permanent unelected but powerful institutions i.e. judiciary and military establishment. The elected prime minister was trialed in Panama Case on the charges of corruption. As a result he was not ousted through vote of no-confidence but rather through a very controversial and politically motivated judicial decision by Supreme Court of Pakistan. In 2018 general elections a cricketer turned politician Imran Khan was patronized and brought as a strong possible alternative. He was brought to the office of premiership through a controversial mechanism but not to the authority and power which the office of a prime minister should enjoy in a true parliamentary system. The same Imran Khan who was once a blue eyed baby of the establishment, now in a series of interviews complains about the entrenched role of the establishment and powerlessness of civilian institutions. It simply justifies the case that only restoration of parliamentary supremacy in letter is not sufficient rather the political leadership, political parties, parliament and other

civilian institutions must join hands under the strategy of consociational politics to ensure and materialize supremacy of parliament in spirit as well.

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