

**A Study of Power Struggle on Constitutional Amendments in the National Assembly of
Pakistan between Bhutto Government and Opposition Parties**

1. **Dr. Mansoor Ahmed** Assistant Professor, Department of History, Government College University Faisalabad, Pakistan. Email: mansoorahmed@gcuf.edu.pk
 2. **Khurram Shahzad** MPhil Scholar, Department of History, Government College University Faisalabad, Pakistan. Email: khichikhuram@gmail.com
 3. **Muhammad Numan Tahir** MPhil Scholar, Department of History, Government College University Faisalabad, Pakistan. Email: numant464@gmail.com
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Abstract

The opposition parties all over the world have a significant character in the process of not just constitution-making but also during the amendment process. Likewise, opposition parties manifested a significant role not just in the introduction of the 1973 constitution but also in the amendments introduced during his government. This study while going through the constitution-making process, attempts to explore the demands of the opposition parties to be introduced in the constitution and once it was promulgated their pressure to amend as per their demands. Bhutto in the desire to have a unanimous constitution promised the opposition parties that it would add their ideas to the Constitution. In the coming years, the most prominent amendments that were incorporated were related to the declaration of Ahmadis as non-Muslim. The opposition demanded to introduction of a wide range of Islamic ideas. The primary sources for this study include the National Assembly of Pakistan Debates during the years 1973-77. Secondary information can be found in a variety of sources, including books, newspapers, journals, and official records. The role of opposition in each of the six amendments that were made to the constitution of Pakistan between 1973 and 1977 will be discussed in this study. This study concludes that opposition during the Bhutto government aspired more pivotal role in amendments to the constitution but the government was not ready to incorporate their all demands, it was this tussle that paved the way for the martial law of General Zia ul Haq and the removal of Bhutto government.

Keywords: Opposition, National Assembly, Constitution, Amendments

Introduction

On April 16, 1973, the legislative body passed the Constitution Bill, however, it was not officially promulgated until August 14 of the same year. The electoral process encompassed the selection of candidates for both the Senate and the Presidency. The Prime Minister of Pakistan, the Speaker of the National Assembly of Pakistan, the Deputy Speaker of the National Assembly of Pakistan, and the Chairman and Deputy Chairman of the Senate were also elected (Khan, 2009). All of these measures were implemented before the formal implementation of the Constitution. There were no fresh elections for either the federal or provincial governments. Neither the government nor the United Democratic Front (UDF) looked for new elections after East Pakistan was split up in 1971.

Zulfikar Ali Bhutto assumed the position of Prime Minister of Pakistan on August 12, 1973, following his election during a session of the National Assembly, as required by the recently adopted constitution (Parveen, 2013). The United Democratic Front (UDF), a collective of Pakistani opposition parties, has put forth Mawlana Shah Ahmad Noorani as a candidate for the position of prime minister. The move was made to restore a more traditional form of parliamentary government (Pirzada, 2000). Opposition leader in Pakistan's National Assembly Abdul Wali Khan had promised to fight for political democracy and the rule of law. The opposing party committed to ending all forms of exploitation, providing for everyone's fundamental needs, and guaranteeing everyone's access to basic rights. Along with this, they pledged to abandon their efforts to establish a dictatorship in Pakistan. The PPP government assured the opposition that its views would be included in the new Pakistani Constitution when it took office. However, Zulfikar Ali Bhutto triggered an important conflict between the two parties within 48 hours of the new Constitution taking effect by

breaking a rule he had set for himself. The ruling party did not support the opposition's proposed amendments to the Constitution. The opposition was looking to introduce a variety of Islamic concepts and establish a system of political democracy as its primary objective. The Assembly was small, and members' ability to convince others about the ruling party depended on how effectively they spoke, but they still had a challenging task (Mehmood, 2007).

Significant amendments were introduced to the Constitution of Pakistan in 1973-77 by the party in opposition. The opposition presented proposals for amendments to the existing Constitution of 1973 in various domains, including the safeguarding of fundamental rights, provision of employment opportunities for citizens, the establishment of free education, reinforcement of a strong democratic system, promotion of Islamic culture and civilization, and formation of Islamic principles within the constitutional framework. This finding highlights the significant influence possessed by the opposition in Pakistan's National Assembly throughout constitution-making between 1973 and 1977 (Khan, 2009)

One of Pakistan's greatest concerns after East Pakistan's separation in December 1971 was whether or not to recognize Bangladesh's independence. The opposition in Pakistan's National Assembly has been vocal in its opposition to the country's decision to recognize Bangladesh. The government's leader, Zulfikar Ali Bhutto, has come out in favor of recognizing Bangladesh. The opposition, through various media channels, attacked Zulfikar Ali Bhutto for his supposed role in the partition of Pakistan. Bhutto wanted to address the issue without appearing overly eager for recognition of Bangladesh. After Zulfikar Ali Bhutto took the case to Pakistan's highest court, many hearings were held. However, the case was put on hold until the Constitution of 1973 went into effect. The Constitution kept its stance open so that people might have meaningful conversations about it. East Pakistan was not mentioned once when we discussed Pakistan's geography. As the Second Islamic Summit Conference prepared to meet in Lahore, in February 1974, the idea of recognizing Bangladesh gained momentum.

The consensus among individuals is that the First Amendment to the Constitution, accepted in 1974, was adopted to recognize the nation of Bangladesh (Khan, 2009). Indeed, Bangladesh had already been recognized as an independent nation to facilitate the appearance of Mujibur Rahman at the Islamic Summit Conference held in Lahore in February 1974. In April 1974, the region of East Pakistan was formally excluded from the constitutional framework through an amendment to Article 1.

The leaders of the PPP looked to implement these modifications to the legislation due to two primary justifications: If the individual in question sought to eliminate the highly vocal opposition party, NAP, there was a concern that certain dissatisfied members of the PPP could think about establishing a fresh political party that would pose a challenge to Bhutto's power. Consequently, he desired to retain control and maintain a position of influence. It was a move in the direction of what Bhutto ultimately desired to accomplish. He intended to establish a single-party system in which he would assume absolute control over all aspects of governance. This demonstrates how Bhutto is drifting away from democratic ideals and toward tyranny. Furthermore, the initial amendment has resulted in a reduction of the maximum interval between sessions of the Senate, the National Assembly, and the Provincial Assemblies from 130 days to 90 days.

Prime Minister Zulfikar Ali Bhutto told the National Assembly that the tragedy of Rabwah was not a new issue started by the *Qadiani* people. He claims this problem has continued ever since the partition and keeps coming up again and again. The Prime Minister has stated that he believes the public's mood will take a turn for the worse if opposition members of parliament introduce a move to adjourn on the above sensitive topic. With the hope of assembling a significant number of people to influence the government, the opposition called together religious experts, spiritual leaders, and prominent politicians. The event was held in Lahore, not far from the Madrasah Qasim-ul-Ulum. The meeting resulted in the formation of the All Parties Khatm-i-Nubuwat Action Committee (APKNAC). This committee gave four points about *qadyanis*: Classifying *Qadianis* as a minority group that does not follow Islam; Removing *Qadianis* from prominent designations in Pakistan; Termed Rabwah as an unrestricted place where Muslims can live; Arresting Mirza Nasir Ahmed, the leader of the *Qadianis* from 1909 to 1982, and any other parties responsible for the event (NA Legislature Debates, June 1, 1974).

On June 14, 1974, a nationwide strike was launched to force the government to fulfill the opposition's four demands after it refused (Pirzada, 2000). In June 1974, Mawlana Shah Ahmad Noorani proposed a 37-member National Assembly motion. The resolution advocated amending the constitution to classify Qadiani people as non-Muslims (NA Legislature Debates, June 15, 1974). Mirza Ghulam Ahmed Qadiani declared himself a prophet after Muhammad (PBUH). Despite his prophethood, he spread various Quranic verses and pushed for the eradication of Jihad, which were all lies about key Islamic principles. According to the doctrine of Khatm-i-Nubuwwat, no prophet was able to succeed Muhammad (PBUH). A person's lack of faith in the prophethood of Muhammad (PBUH) may be used as evidence that they do not follow the Islamic faith.

People from the Lahori Group were said to have met with Mawlana Shah Ahmad Noorani in Lahore and offered him 50 lakh rupees to get the words "Lahori Group" taken out of motion. Mawlana Shah Ahmad Noorani turned down the offer (Ahmad, 1993).

Zulfikar Ali Bhutto sanctioned all the aforementioned evidence and the Pakistan People's Party (PPP) extended support in this matter. This period witnessed the convergence of multiple international forces. Before entering the Parliament, a presentation was conducted. The major religious political parties in the country, namely Jamiat Ulema-e-Pakistan (JUP), Jamiat Ulema-e-Islam (JUI), and Jamaat-e-Islami (JI), formed a coalition. These factors collectively facilitated the successful implementation of the Second Amendment Bill of the Constitution (Hussain, 2009). On September 7, 1974, Abdul Hafeez Pirzada gave the National Assembly of Pakistan all of the proposals from the special committee. All of the members of the National Assembly of Pakistan agreed with all of the proposals. The Pakistani Constitution can be amended through the processes that follow:

"The inclusion of individuals affiliated with the Qadiani Group and the Lahori Group, who identify themselves as "Ahmadis," is recommended within the context of the third paragraph of Article 106. It is advisable to incorporate a specific provision within Article 260 to provide a precise definition for the term "non-Muslim" (Ahmad, 1993)."

After the endorsement of these suggestions, Pirzada proceeded to introduce a legislative proposal to alter the constitution. The legislative proposal titled "The Constitution (Second Amendment) Bill, 1974" was unanimously approved by the House, encountering no opposition. The legislative proposal received approval from every member of the House of Representatives (NA Legislature Debates, June 15, 1974).

As said, the Bhutto government was intolerant and attempted to limit individual freedom and liberties. Opponents were severely persecuted by the PPP and several were detained. Political opponents had to turn to the judiciary, which failed them. Opponents of Bhutto's government received little justice from the court's decisions. Bhutto and his colleagues opposed the opposition's relief, seeing the judiciary's interference as contradictory to the PPP government's goals (Khan, 2009).

The Bhutto government limited judicial power. The judiciary's authority was undermined and its involvement in such matters was prevented by a strategic plan. The 3rd Constitutional Amendment restricted the court's ability to provide bail before arrest (BBA) until a case had been filed against the person being accused. Without a registered case, bail was ineffectual. Political figures avoided victimization using pre-arrest bail. If the victim had reasonable grounds to expect an arrest and requested legal relief, a judge could give this bail without a case.

As part of the unfair treatment, the courts granted political opponents bail before filing their cases. The 3rd Amendment and Article 10 amendment nullified the right. These February 1975 changes banned preventive detention. Targeted were PPP leadership opponents. The Third Amendment limited the rights of political prisoners while strengthening the federal government. The law allowed the federal government to indefinitely jail political rivals accused of state-harming activities (NA Legislature Debates, February 12, 1975).

Before the Third Amendment, the NAP, the main opposition party, had been dealt with. After Abdul Wali Khan was imprisoned, another member of the JUI opposition party, Mufti Mahmud, assumed leadership of the opposition in parliament. He and the other opposition members walked out to demonstrate their rejection of the proposal. Abdul Wali Khan claims that the government's failure to help the opposition get their work done in the House is to blame for the problems they've had. An agreement between the government and the opposition led to the end of the boycott on February 6, 1975. The Accord's most important parts are as follows (NA Legislature Debates, February 12, 1975):

- i. Legislative proceedings include:

- a) Before each meeting of the National Assembly, the agenda for that meeting must be set in agreement with the opposition in the House;
 - b) The government should only suspend rules when necessary;
 - c) There should be no limits imposed by the government;
 - d) Opposition amendments should be given due consideration.
- ii. The government will properly consider opposition Resolutions and Motions.
 - iii. Privilege Motions must not threaten or suppress the opposition.

The opposition boycotted the 1975 budget session after the Speaker rejected Mufti Mahmud's motion. He recommended putting an end to the boycott if Abdul Wali Khan was released and could attend House proceedings. The individual further claimed that the budget, which was passed without opposition, will be seen as the PPP's rather than the parliamentary. The opposition's boycott ended in the winter session. The Constitution (Fourth Amendment) Bill 1975 was passed in that session.

The PPP government limited the courts' powers under the Fourth Amendment of the 1973 Constitution to prevent them from aiding political opponents. Regarding the execution of Article 199, this was correct. According to legal decrees, a high court cannot detain or give bail to a person in preventive custody. The Constitution was changed to limit the High Court's ability to help political opponents, including denying bail to prisoners.

The High Court lost some of its constitutional rights to stop the government from obtaining evaluating, or retrieving funds. If a High Court issues a stay order in such a case, it will only be effective for sixty days unless the Court issues a final ruling within that term. Before the Fourth Amendment, High Court temporary orders similarly lasted sixty days.

Parliamentary procedure was not followed in implementing the amendment. The opposition in Pakistan's National Assembly (NA) said they wanted to talk about limiting the power of the High Courts. The people in question were not given a chance to say what they wanted, and then, under the direction of the sergeant-at-arms, the security staff used physical force to get them out of the House. During the voting procedure for this alteration, the absence of the opposition was recorded. It is a proven fact that Zulfikar Ali Bhutto enjoyed more support in Pakistan's National Assembly than the required two-thirds majority. The particular individual in question had the power to make any change to the Constitution. However, it would have been against the rules of parliamentary democracy to shut down the opposition party and force them out of the Assembly through physical violence (NA Legislature Debates, November 14, 1975).

Mufti Mahmud, the leader of the opposition, suggested that the second meeting, which was planned for November 14, 1975. This would make it easier for opposition members to talk about the Bill. According to the speaker, the government violated the February 6, 1975 agreement, which required the opposition to be notified of the session's agenda before its finalization (Sayeed, 1980). The speaker expressed strong disapproval that the government didn't give the opposition a chance to look at the important Constitutional reform in depth and make suggestions for possible changes. JUI member Mawlana Niamatullah claims that the government failed to protect their lives, dignity, and property. Several members of the opposition have called for more time to consider the Bill's changes (NA Legislature Debates, November 14, 1975).

Mawlana Hazarvi supports changing the Constitution with a two-thirds majority. According to his account, Sherpao was attacked by terrorists just two days after the supposed agreement on February 6. The person wanted to know why the House couldn't do anything to stop acts of sabotage like these. According to his comments, the government should not continue in power following the detonation of explosive devices. It is essential to take action against individuals who have participated in terrorist activities as accomplices, as well as those who have viewed terrorists as their political representatives. As a result, the individual in issue chose to withdraw from the session to campaign for the release of such individuals. After continuous protests, the Speaker told the Sergeant-at-Arms to kick out a few opposition members. The Constitution (Fourth Amendment) Bill 1975 was passed after the Speaker told members who didn't agree to leave the House (Khan, 2009).

The Fifth Constitutional Amendment was approved in September of 1976 (NA Legislature Debates, September 3, 1976). The objective was to restrict the power of the judiciary to the legislative branch. The primary purpose of the 5th Amendment was to limit the arbitrary power possessed by judges. Bhutto personally advocated for the amendment during his address to the National Assembly

on September 3, 1976. The amendment did give the parliament more freedom to make laws about emergency regulations and basic rights, but it took away some of the powers of the courts. In addition, the amendment mentioned earlier established the terms for judges serving on the Supreme Court and High Court as five and four years, respectively. By giving judges of the Supreme Court and High Courts who were in his good graces longer terms of office even after they had retired. It showed that he was biased and dishonest in his fight for democracy (NA Legislature Debates, September 3, 1976).

Abdul Hafeez Pirzada questioned the judiciary's attempts to interfere with the legislature and executive branches. Abdul Hafeez Pirzada advised judges to quit, run for election, and join the Assembly if they were dissatisfied. He said the Constitution created the court and gave it the power to administer justice within its jurisdiction. Acting against the Constitution is treason and revolt. Abdul Hafeez Pirzada believes the legislature must clarify the judiciary's authority. The person said that fixed terms of office for the Chief Justices of the Supreme Court and the High Court would be good, pointing out that the President, Prime Minister, and members of Parliament all have fixed terms of office. Based on their existing conditions, Pirzada believes the other judges would be frustrated if the Chief Justice stayed in office for 15 years or more. Pirzada claims that only eligible Supreme Court judges were appointed. Pirzada also supports dismissing High Court judges who denied Supreme Court appointments (Pirzada, 2000).

The Constitution (Fifth Amendment) Bill received 111 favorable votes in the National Assembly and was ultimately ratified on September 5, 1976. After their changes were rejected during the Bill's second reading, the opposition left the National Assembly. The Senate passed the bill on September 8, 1976, and the President of Pakistan signed it into law on September 15, 1976.

The bill to amend the Constitution with the Sixth Amendment was passed in a single day. The Pakistani Parliament received the Constitution (Sixth Amendment) Bill during the final session of the National Assembly before its dissolution in preparation for forthcoming elections. The outcome of the vote was in favor. The Amendment was about four Articles that describe when judges of the Supreme Court, High Courts, and other courts may have to step down. It was agreed that the Chief Justice of the Supreme Court, who had turned 65, and the Chief Justice of a High Court, who had turned 62 but had not yet finished their respective five- and four-year terms, could continue to serve until the end of their terms. There were also a few small parts to the legislation about the Sixth Amendment. Prominent individuals in opposition expressed strong resistance to the Bill. The imposition of term limits for Chief Justices required their departure from their positions before attaining the age of retirement. On the other hand, the Sixth Amendment stated that persons could continue working after they reached the age of retirement to complete their tenure of duty and fulfill their obligation to the country. Any amendments to the Sixth Amendment Bill that members of the opposition had proposed were rejected by the House.

During the time we are looking at, the opposition members as a whole put forward a lot of changes to the Constitution of 1973. But in the end, most of these suggested changes were turned down by the House. The majority of those who opposed the proposal possessed significant abilities to convince others. They were able to convince the Prime Minister and other politicians of the time to pass the bill they had written against the *Qadianis*. This bill said that the *Qadianis* were not Muslims. At one point, the *Qadianis* offered them money to get them to drop their amendment against them, but they stuck to their strategy of not giving in.

They worked to protect the fundamental rights of the people and advocated several constitutional changes that would make it easier for individuals to find work. They expressed opposition to various laws, such as preventive detention, during parliamentary sessions. The people in the opposition were fair and tough in parliament. They fought hard against the amendments proposed by the government and those who tried to change the way Pakistan's parliamentary system works. The leaders of the opposition had never let their party members promote extremism or aggression. They were still dedicated to the idea of a democratic Pakistan. They were considered a figure who might unite the numerous opposition parties in Pakistan into a single political force that offered an alternate viewpoint. The United Democratic Front, which brought together the different right-wing groups into a single force, was a clear example of this. In the end, the opposition was always pushing for parliamentary democracy and constitutionalism in their political work. This fight went on until the Bhutto government ended in July 1977.

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