

DEVELOPING THE INNER BOUNDARIES: DISCOURSE OF SENATE OF PAKISTAN (1985-1999)

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Abstract

This article aims to analyze the development of inner boundaries of the Senate of Pakistan during 1985-99. It explores the jurisdiction, areas of authority and limitations of the Senate of Pakistan. The Senate is a law-making institute but it developed its rules in 1988. The institutionalization is a continuous process and an institute takes unidentified time to become stronger. This article provides an analysis of the Senate proceedings and activities during 1985-1999 for its institutionalization in context of development of inner boundaries. The assessment of bills, resolutions, privilege motions and adjournment motions are analyzed for deep understanding of the role of Senate in its institutionalization. This study draws a conclusion that the Senate of Pakistan had developed its inner boundaries in well-mannered way by taking all those measures that can be opted for institutionalization.

Keywords: Institutionalization, Boundaries, Institutional control, Empowerment, Legislation, Privilege

INTRODUCTION

In the study, "The Institutionalization of US House of Representatives," Nelson Polsby drafted three major characteristics of institutionalization including development of Boundaries, growth of significance and creating a complex network (Polsby, 1968). The jurisdiction, area of authority and limitation elaborate the boundary of the Senate. The boundaries are defined as an indicator that marks the distinctiveness of an institution from other institutions that generally differentiates the institution from its environment (McGuire, 2004). These boundaries are further divided into two categories, i.e. inside and outside boundaries of institute. This study deals with the legislation of Senate about development of its inner boundaries during 1985-1999. Is the Senate acquired the status as well-institutionalized institution and how its members worked for the institution? Here it is about to be discussed whether the Senate of Pakistan has grown its inner boundaries by differentiating itself from environment through condemnation of contradictory moves such as discontinuation or limiting the jurisdictions of House.

The formation of boundary is a complicated process for a newly administered institution that inclines after gradual change in its environment with adoption of individualities. In practical terms, its members should constitute a discrete group with a well-defined role (Eisenstadt, 1964). The formation of inner boundaries contains the differentiation of Senate from its environment. The House legislates to preserve the rights of its members and setting up rules for extension of autonomy of the institute. In this regard, the focus is on the historical development of precedents and implementation on those rules that were framed in 1973 and 1988. The gradual change in sovereignty of the House after lifting up of Martial Law in 1985 to the promulgation of emergency in 1999 has been looked here. The development of inner boundaries of Senate contains several steps that are discussed as under.

Condemnation of Adverse Moves about Senate's Power

The factors that pertains an institutions to develop are basically adverse moves that stands unfavorable for the institutionalization. The evolution of Senate's powers to accentuate the other institutions by condemning those moves that challenged the existence and supremacy of



House is considered here. The Senate shall not be subject to dissolution (Pakistan G. o., 1973) so if any person tries to abrogates or subverts or suspends the Constitution by any other unconstitutional means shall be guilty of high treason (Pakistan G. o., 1973). The power of Senate is extra-ordinary in Parliament as compare to other institutions, i.e. National Assembly and President. Similarly, Senate denied the personal will and involvement of Executive or the attempt to usurp its authority. The Senate safeguarded its existence was challenged by Prime Minister Mian Muhammad Nawaz Sharif in 1998.

On June 26, 1998, daily '*Khabrain*' published news that 20 members of Parliament would talk to Prime Minister about the dissolution of Senate (Khabrain, 1998). Senator Zahid Hussain—a senator from Awami National Party raised the point about dissolution of Senate that stunned the House. He unveiled that Rafiq Rajwana of Pakistan Muslim League (N) prepared a draft to ask the details from Prime Minister about the said matter. However, Muhammad Akram Zaki dissuaded him to send the latter and assured that he would ask by word of mouth of Prime Minister Nawaz Sharif. Mushahid Hussain Syed, the Minister of Information and Broadcasting wrote the speech of Prime Minister Nawaz Sharif on National agenda and he said that he would do legislation through National Assembly, which means they would by pass the Senate (Pakistan S. o., 1998).

Such kind of undignified move by the Head of a major political party and that time of Prime Minister Nawaz Sharif enkindle the Senate. The House demanded explanation and apology from Prime Minister, if the news was correct. Hafiz Fazal Muhammad, a member elected from Balochistan on seat of Jamiat Ulema-e-Pakistan condemned this move. He said that Pakistan had diverse population and the Senate safeguards their rights on parity basis. If the Senate would be abolished it would cause the division of country. This move would demonstrate that they had agenda of division and scheming for that. Mushahid Hussain Syed labelled this a myth and fake news and assured that Government did not have such kind of intentions.

Qazi Muhammad Anwar of ANP revealed the facts that one day Prime Minister Nawaz Sharif invited them. He accompanied with Habib Jalib Baloch of Balochistan National Party-Awami and Chaudhry Nisar Ali Khan Minister of Inter Provincial Coordination met with Prime Minister. The Prime Minister Nawaz Sharif was thinking to introduce a bill to curtail the powers of Senate, which was denied at earlier stage. On another day in Prime Ministers' House, Prime Minister asked a strange question that whether powers of the Senate could be suspended. He referred that when a bill passed through Indian Lok Sabha—the Lower House of Indian Parliament and rejected by the Rajya Sabha—the Upper House of Indian Parliament, the bill could be referred to the joint sitting and it gets passed. The Prime Minister intended to do the same kind of legislation that may cause the reduction in Senate's powers. Qazi Muhammad Anwar clarified that he went through the Indian Constitution and told Prime Minister that the Indian Constitution did not have such kind of clauses. He replied that then to what extent we would face this and how could we go with this Senate? He had these designs about the Senate (Pakistan S. o., 1998).

Rafiq Rajwana refuted the charges of daily *Khabrain* newspaper. He said that the report of newspaper was unfair and he did not write anything to Prime Minister. However, during a Parliamentary meeting with allied parties they were discussing about development funds so he suggested that they should talk to Prime Minister about these matters.

An ally of Nawaz Government, Dr. Abdul Hayee Baloch of ANP submitted that our rulers had not accepted Federal or Federal Parliamentary system. It was not only a rumor that a newspaper published they intentionally unfold feelers. They intended to run the affairs of political party dictatorially and desired a unitary system and totalitarian party rule. These were the words of a government ally, who had heard from Prime Minister Nawaz Sharif that the Senate was creating problems for them. Since 1970, the rulers intended to impose their words and they did not bother any criticism. They tried to work as a Chief Executive so they could suppress political parties and 14 crore public as well. The Senators were already unsatisfied with the powers of Senate and envisioned to increase the powers so they intensely condemned these statements.

The words of Engineer Iqbal Zafar Jhagra—Senator of Pakistan Muslim League (N) revealed several questions when he said that Qazi Muhammad Anwar should not have to discuss those conversations



on the floor of House that were off the record. They were our allied member and if Prime Minister had talked on this matter, they should abide to reveal that matters. These were the protesting remarks by Iqbal Zafar Jhagra but his arguments made the House more uncertain on this point. He asked for the documented proves about the said matter. Haji Javed Iqbal Abbasi— a Senators of Pakistan Muslim League also asked for the documented proves.

Chaudhary Aitzaz Ahsan, the opposition leader backed the mover by saying that when a member discussed an issue on the floor of Senate, it would become a record. When Prime Minister said these words in front of three Senators then there would be no need for further documentation. In response of Senator Iqbal Zafar Jhagra and Javed Iqbal Abbasi, Qazi Muhammad Anwar narrated that he had proposed amendment that was drafted by Justice (Retd.) Muhammad Afzal Lone. Prime Minister worded that we had faced resistance from Senate on proposed legislation so he intended to slacken the powers of Senate.

Justice (Retd.) Muhammad Afzal Lone explained that he had not drafted such kind of amendment and he always favored the Federation. However, he revealed the fact that the matter raised by Senator Zahid Hussain was held one year ago. That was another factor, which identified that Prime Minister intended to such kind of move. Minister of Information, Dr. Muhammad Ismail Balidi tried to assure the House that Government did not have such kind of intentions. The situation was skeptical so the Senators demanded that Prime Minister must address to the Senate and assure the House that he did not have such intentions (Pakistan S. o., 1998).

During next sitting, Qazi Muhammad Anwar reiterated the House's condition to the Chairman Senate. As he was asked by Senator Zafar Iqbal Jhagra, to provide a document about that issue and to brought it on the record. He was fair in his words so he submitted the document to the Chairman Senate. He further said that he did not want to circulate the document in the House, as it was confidential (Pakistan S. o., Senate Debate, 1998). The purpose of production of that document was to unveil the facts and to preserve the powers and control of Senate.

Nawaz Government denied this fact in the House to limit the jurisdictions of Senate. The non-acceptance of personal will of Prime Minister by Senators unveiled the close association of Members of Senate even they were not from a single party. Senate drafted its rules for improvement and institutionalization. It fiercely criticized Executive, National Assembly Speaker, and even Judges for retrenching Senate authority. The condemnation over adverse moves about Senate's power simplifies that House developed its inner boundaries.

Superseding Other Institutions' Discussions

Institutional boundaries prevent to interfere in the matters of other institutions. However, an institution that intends to expand its boundaries may supersede the powers of other institution. This expansion may causes with the suppression of powers of other institutions or without lessening its powers. The Senate of Pakistan tried to emphasize on other institutions including National Assembly and Provincial Assemblies to increase its jurisdictions over them. Senate discussed Provincial and National Assemblies' internal affairs that are discussed here.

The issue of repatriation of an officer from the Sindh Assembly's Secretariat came under consideration of Senate when Senator Javed Jabbar launched a privilege motion. The Sindh Government impinged the Constitutional rights of the Speaker of Sindh Assembly. The Speaker had rights to appoint or promote the officer while Sindh Government repatriated the officer without the consent of Speaker. This action harmed the democracy and set a hazardous precedent for similar acts in other provinces and the federal legislature. Senator Javed Jabbar labelled Zia's military rule as "abnormal times" because of absence of free and fair justice. He alleged that government backed Courts during the Military rule and it still had its remains. The mover showed his doubt over the judicial system as the Sindh High Court rejected the plea of Speaker of Sindh Assembly in this regard (Jabbar, 1985).

Mr. Ahmad Mian Soomro presented the same kind of adjournment motion namely, the tussle between the Speaker of Sindh Assembly and Chief Minister of Sindh on the transfer of Secretary of Sindh Assembly. National Assembly witnessed same kind of resolution that was deferred and not considered. Minister of Law, Iqbal Ahmad Khan clarified that the officer was working on deputation

basis in the Sindh Assembly Secretariat so it was prerogative of parent institution to call him back. The matter was still under consideration of National Assembly and Sindh High Court as the final judgment was not revealed. In spite of this, the matter was pending between the Sindh Government and Sindh Provincial Assembly; Senate discussed the matter and declared this repatriation lawful (Pakistan S. o., Senate Debates, 1985).

A matter of gold scam was under consideration of court of law. Daily *Jasarat* unfolded the fact that an employee of Overseas Pakistanis Foundation was involved in gold scam of Rs. 765000 (Jasarat, 1986). Molana Kausar Niazi raised the matter in the Senate through an adjournment motion. He pointed out that the scammer was welfare assistant of foundation and performed duty outside of custom examination at airport. Mr. Chairman explained that overseas foundation was a company and under technical grounds, he was not a government officer (Niazi, 1986). Similarly, on the same day Molana Kausar Niazi presented another adjournment motion about the 'censorship and ban on advertisements to Daily 'Aman' Karachi' in which he talked about the show cause notice and fine of Rs. 30000/- (Niazi, Senate Debates, 1986). Both cases were pending before the Court and under Rule 71(1) stood inadmissible. In spite of knowing the base of these issues, Senator raised the questions to the House to emphasize on law and order situation as well as to validate the worth of the House.

Thru Russian-Afghan war, during 1980s, Pakistan hosted more than two million Afghan refugees (Watch, 2022). However, in the course of the decade, several attacks from Afghan Militia on Pakistan were witnessed. In February 1986, during Afghan attack, one person Lal Muhammad was killed, three were kidnapped and a dispensary was burnt in *Chaman* (Nawa-i-Waqt, 1986). Abdul Raheem Mir Dad Khail raised this issue in Senate on 2 March. Foreign Minister, Muhammad Aslam Khan Khattak told the House that the presented motion was already discussed in National Assembly, however, the National Assembly did not concluded the matter yet (Pakistan S. o., Senate Debate, 1986). On next day, Mir Nawaz Khan Marwat explained the whole scenario and assured that the government had left no stone unturned; to recover the kidnapped persons as well as this kind of incidents would not be happen in future (Pakistan S. o., Senate Debate, 1986). National Assembly discussed this matter but Senate also raised the issue by superseding the Lower House. Senate asked the government to point out reasonable facts and emphasized to do remedial measures for this. The Senate often superseded other institutions that explored the gradual increase in power of the House.

Preservation of Rights of Members and House

Senate of Pakistan empowered its members to raise the voice against the breach of privilege of any member. A privilege is "a right or immunity granted as a peculiar benefit, advantage, or favor, especially the right or immunity attached specifically to a position or an office" (Dictionary, 2022). A privilege motion can be led to the House with the consent of Chairman of the House. Rules of Procedure and Conduct of Business in Senate particularized the items, which can cause the breach of privilege (Pakistan S. o., Rules of Procedure and Conduct of Business in Senate, 2012). The member will raise a question involving a breach of privilege either of a member or of the Senate or of a Committee thereof, if based on misconduct, disobedience of order, presenting false, forged or fabricated documents and tampering with documents of the House or committees.

With reference to publication, speeches or writings reflecting on the House, its Committees or members, publication of false or distorted reports of debates, Expunged Proceedings, proceedings of secret sessions, premature proceedings and evidence or report of a Parliamentary Committee is breach of privilege. Similarly, derogatory reflection on the report of a Parliamentary Committee, circulation of petitions before presentation or premature publication of various other matters will also treated as breach of privilege of the House, member or committee.

Obstructing members in the discharge of their duties, attempts by improper means to influence members in their parliamentary conduct, intimidation of members, obstructing officers of the House, refusal of Government functionaries to assist officers will be treated as violation of privilege. The obstructing of witnesses, failure of the Government to lay before the House any report or a document required to be laid before the House in pursuance of the provisions of the



Constitution or the law and failure to provide information required by the House or its Committees may cause the contravention.

The case of obstruction to discharge the duty of members was discussed when Molana Kausar Niazi drew attention of House towards the tapping of phone. Another reason was censoring of letters of the member by the Government. He took this move as moral crime because government influenced his parliamentary conduct as well as intimidated the member. He asked that, why Government wasted millions of rupees for tapping the phones? Were they trying to threaten the members of the Parliament? Interior Minister Mr. Muhammad Aslam Khattak spelled out to House that he inquired about that matter, and there was no tapping and censorship was witnessed in case of Molana (Pakistan S. o., Senate Debates, 1985). As the mover of motion emphasized that, he got this report from a well-versed person so House preserved the rights of member and inquired the matter at emergency basis.

Opposition often alleges that elections are tempered and the same allegation was observed in non-party based elected government in 1985. On 14 May 1985, Nawa-i-Waqt newspaper published the words of Major Habib Ullah Khan that he admired the narrative of Mr. Gohar Ayub about the elections of Senate from the N.W.F.P. He said the elections were basically selection instead of election and the N.W.F.P's friendly elections were unfair (Khan, 1985). Another heading was published as, "Civilian Governors must be appointed instead of Military Governors and the elections of Senators of N.W.F.P should be declared as null and void" (Nawa-i-Waqt, Civilian Governors must be appointed instead of Military Governors, 1985). Malik Fareed Ullah Khan presented privilege motion about this matter. He expounded that, this caused the breach of privilege of the Senators elected from N.W.F.P, Chairman as he was elected from the said province and members of N.W.F.P Assembly, as they were Electoral College of Senators.

Qazi Abdul Latif said that it was not an opinion of a single member it was planned work. As a member said something and rest of the members seconded his opinion and this would lessen the importance of the Parliament. Molana Sami ul Haq propounded that, Senate and National Assembly are Federal institutions and the Houses must be fortified from such type of talks. This issue not only violated the privilege of Senate, it was an attempt on Provincial Assembly of N.W.F.P as well (Pakistan S. o., Senate Debates, 1985). Similarly, Shad Muhammad Khan and Mr. Zahoor-ul-Haq favored the motion and told to the House that a telegram of Mr. Gohar Ayub was also received to the members in which he said that the election of the Senate was fraudulent.

Molana Kausar Niazi and Qazi Hussain Ahmad opposed the motion and said the House might take it light and the members must ignore such type of objections. The issue raised by senator was undoubtedly a breach of privilege and Senate snubbed that type of wording used for the House. The preservation of right of Senate, Chair and Members was quite importance for its prestige. This kind of motions nullified the chance to express such kind of narration about the Senate.

The Constitution of Pakistan bounds the each House of Parliament to conduct at least three sessions in every year. The interval between the two sittings should not be increase more than one hundred and twenty days. Similarly, the Houses are bound to meet at one hundred and thirty working days in each year (Pakistan G. o., Constitution of Pakistan, 1973). Before the 10th Amendment in Constitution of Pakistan, the House has to meet at least for the three months that was increased up to 120 days. If House did not meet the criteria the privilege of the House may considered as lapsed. Molana Kosar Niazi introduced a privilege motion on non-completion of total session days of the Senate as envisaged by the Constitution. The 1985's Senate came into existence in March, so the House was bounded to meet at least for seventy-one days but the House convened for twenty three to twenty nine days only. By continuing the session until 31 December, the House was unable to meet the prescribed criteria. Therefore he alleged that Government negated this constitutional need so the privilege of the House lapsed (Pakistan S. o., Senate Debates, 1985).

Iqbal Ahmad Khan, the Federal Law Minister argued that the calendar year was not yet ended and the motion was presented before the time. Secondly, Article 254 of the Constitution states that if an act or thing required to be done within a certain period and it did not happened during that time, the act should not be invalid or ineffective. The year 1973 and 1974 witnessed the same issue



(Pakistan S. o., Senate Debates, 1985). The House discussed the matter in detail and finally the Law Minister asked for four days respite. Senator Kausar Niazi raised the issue before the time, as Members tried to apart the House from breach of its privilege.

Zia's government announced that Martial Law would be lifted up on 31st of December 1985 and before that, the government empowered the President under eighth amendment. This amendment changed the Pakistan's Parliamentary system to the Presidential system and made Prime Minister subservient to the President (Aziz, 2015). To increase the importance of President, government distributed pamphlets by the employees of the Senate secretariat while House was in the sitting. One of them having name as 'Islamic State' and the other one as '*Islami Riasat*'.

In 'Islamic State' on page 23 it was narrated that, "once elected, they should function as independent Members and not be tied to any political party, although they may well be divided on a given question of proposal placed before them. There is no scope of the British type of democracy or Parliamentary or party Government under Islamic System. The Presidential system appears to be more akin to it." While in '*Islami Riasat*' the author wrote, "You see the Parliamentary system, in this system all powers are vested to Prime Minister and it's Cabinet but the system also has an expository President as well. He may do some traditional work or appoints the Ministers but there is no place for such type of puppet. There is need to empower him as a *Khalifah* who can run the government effectively. Islamic system is quite different from Parliamentary system and it cannot be attained (Pakistan S. o., Senate Debates, 1985)." These pamphlets were distributed at that time when political parties' bill was under process in the House.

Molana Kosar Niazi familiarized the House about the distribution of pamphlets that caused the increase in suspicions and complications about the acts of government. He proposed a privilege motion and said, the distribution of these types of pamphlets to the members of the Parliament clarifies that government want to distract the minds of the members. Especially on this occasion when committee had submitted its report about the political parties' bill and this House allowed the formation of the political parties. This kind of literature affected the privilege of the Senate especially when House is working under Parliamentary system instead of Presidential. A hidden hand of Government wants to sabotage the system and wants to create the situation under which every member of the Senate works individually instead of a party system. This cause the increase in power of President than Prime Minister and President becomes 'Khalifa-tul-Muslimeen' and 'Ameer-ul-Momineen' (Pakistan S. o., Senate Debates, 1985).

Minister of Information, Mr. Hamid Nasir Chattha replied that, these booklets certainly do not reflect the Government point of view. These booklets contain extracts from the writings of established scholars like Molana Abul-Alla-Moududi, Molana Amin Ahsin Islahi, Syed Suleman Nadvi and Justice Hamood-ur-Rehman. The books, from which these extracts have been taken, were published long before the existence of the Parliament. Mr. Iqbal Ahmad Khan assured that this kind of literature would not be share to the House again (Pakistan S. o., Senate Debates, 1985). The assurance from government benches was a result of pressure created by the Senate to prevent non-parliamentary actions as well as safety of privilege of the House.

Islamization in Pakistan remained the burning issue throughout life of the country but Zia-ul-Haq used frequently this word to strengthen its government (Shan, Waris, & Basit, 2016). Though 1985's government was not a complete democratic government but a strong factor; "opposition" was present in Parliament. Both Houses were filled with non-party based electable and shuffling of Cabinet remained throughout the rule. Muhammad Azam Farooqi, Jammāt-i-Islami's Chief of Sindh remained the Minister of Information during 1979's Cabinet but was seen in opposition benches after elections of 1985. He recorded a statement to Dawn News as, "The present Government ruled over the country for over 9 years in the name of Islam and failed to fulfil its promise to enforce Sharia in its totality. All those members of the Parliament would be *gheraoed* (picketed) and would not be allowed to return to their constituencies if they opposed the Sharia Bill in Parliament." While Mr. Niamatullah Khan, "Member of the Provincial Assembly in Sind and the local leader of the Jamaat-i-Islami claimed that all those forces opposing the passage of the Sharia Bill were allegedly backing dacoities, robberies and corruption" (Dawn, 1986).



Jamaat-i-Islami was in favor of Islamization and their leader recorded several statements, however, these statements were so harsh. In a privilege motion, Senator Javed Jabbar stated that statement of leader of Jamaat-i-Islami threatening members of Parliament was an intimidation and violence against the members of Parliament. The association of members of Parliament with dacoits, robbers and corrupt person was direct attack on the independence, integrity and dignity of the Senate and of the Parliament. While Senate was still considering the Sharia Bill, so it was an attempt to interfere with the working of Senate and Parliament (Jabbar, Senate Debates, 1986).

Qazi Hussain Ahmad— Leader of Jamaat-i-Islami tried to clarify the stance of Azam Farooqi but the Acting Chairman admitted the motion by declaring that as interference in working capacity of Members of the Parliament. After the willingness of the House, the issue was not debated anymore and was referred to the privilege committee. As the privilege of House and its member was threatened and in spite of freedom of expression Senate did not allowed anyone to talk against the sovereignty of the House.

Rashid Mir, President Pakistan Peoples Party Rawalpindi and head of complaint cell in the Prime Minister's secretariat gave the same kind of statement in a public meeting at Kahuta on 7 February. He said that the present Senate is a gift of Martial Law and it should be replaced by a new Senate (Nawai-e-Waqt, 1989). Senator Sartaj Aziz pointed out that a protest rally on 10 February in Rawalpindi would be started for the dissolution of Senate under the umbrella of Pakistan Peoples Party. Such kind of rally and statement by an office-bearer of ruling party reflected disregard for the constitution as well as the prestigious House, Senate. This constituted a breach of sanctity of the constitution and privilege of the House (Aziz S. , 1989).

Information Minister, Mr. Javed Jabbar opposed the motion with a mixture of reluctance and regret. Reluctance because motion seek the dignity of this House, that might be questioned or might be misunderstood by the mover. He tried to convince the House that PPP always struggled for supremacy of Parliament and told that the person who led this statement was not an official of the Federal Government. Mr. Javed Jabbar as defendant did not satisfied the House. *Prima Facie* motion ruled in as these kinds of statements do amount to tarnishing the image of the Senate and to place impediments in the proper functioning of the Senate will (Jabbar, Senate Debates, 1989). Senate often avoided political statements about the government and criticism on members of Parliament but did not allow to disregard the House.

Senate vested several types of privilege to its members, as law-enforcing agencies cannot raid to a Senator's House without intimation. A raid was conducted at Senator Sheikh Ali Muhammad's residence without intimation on 15 September 1990. Malik Muhammad Hayat flew a motion that privilege of Senate had been breached due to this unlawful raid. He indicated that watchman was hit by the forces and son of Sheikh Ali Muhammad, Ejaz Sheikh who is also Editor of a local daily was unlawful picked up and detained about twelve hours. Chaudhary Shujaat Hussain replied that Sindh Government already denied this matter that they had not conducted this raid. However, on 15 September, Rangers were informed that a suspicious person was present at the residence of Senator so they raided. They picked up Ejaz Sheikh and investigated him. On next day, Sheikh Ali Muhammad went to Rangers headquarters and explained the whole matter and the issue was settled. Sheikh Ali Muhammad also claimed that his privilege was breached due to unfair raid (Pakistan S. o., Senate Debates, 1990). The matter was open-eyed breach of privilege so Senate safeguarded its Member and called a question over law-enforcing agencies to express their supremacy over them.

Another matter of involvement of intelligence agencies on tapping of phone of Chairman Senate came into light on the same day. Prof. Khurshid Ahmed raised this issue and stated that concerned Minister allegedly made a false statement before the House and the Senate's Privileges Committee. As the implicated agencies, notably the Intelligence Bureau and the Inter-Services Intelligence testified before the Privileges Committee that the telephones of the Chairman Senate had never been taped by any of them because they were not permitted to tape the lines.

However, during the course of some judicial proceedings before the Lahore High Court, the Attorney General filed a formal statement about tapping of telephones of several important



personalities, including some Federal Ministers, the Speaker of the National Assembly, and the Chairman Senate. Prof. Khurshid Ahmed pleaded that the Attorney General's statement was a conclusive proclamation (Pakistan S. o., Senate Debates, 1990). Chairman Mr. Wasim Sajjad called the motion to order for referral to the Privileges Committee because the statement of Attorney General and false statement of Minister created uncertainty.

Under the privileges of Senate, Police is liable to inform the House about the detainees of Senators. Senate received intimation on July 15, 1991 dated 30 June from the District Magistrate Jacobabad. They submitted that Senator Ijaz Ali Jatoi was taken in protective custody on the 26 June 1991 under Section 151 of CrPC. He was released on 29 June as soon as apprehension of breach of peace disappeared (Pakistan S. o., Senate Debates, 1991). While on 17 July, Senators Syed Abdullah Shah, Ijaz Ali Khan Jatoi and Mr. Abdul Raheem Khan Mandokhel introduced privilege motions about the unlawful detention of Parliamentarians including Senators and MNAs on June 26, 1991 by the Police in Sindh.

Senator Syed Abdullah Shah, Senator Ijaz Ali Khan Jatoi, Syed Khurshid Ahmad Shah MNA, Rafiq Ahmad Mehesar MNA, Mir Bizen Bizanjo MNA, Shabir Ahmad Chandio MNA, Nisar Ahmad Khoro MPA, Sanaullah Khan Minister Balochistan, Sardar Fateh Muhammad Hasni MNA and many other were detained by Police led by SSP Jacobabad, SSP Sukkur, SSP Sanghar, and DC Jacobabad. They arrested us without intimation, without warrant, charge and explanation and moved us to some unknown places (Pakistan S. o., Senate Debates, 1991). The motion was not quite opposed by Minister Shujaat Hussain and he clarified that Sindh Government only intimated that Ijaz Ahmad Jatoi was taken into protective custody while we are unaware about other Members (Pakistan S. o., Senate Debates, 1991). The House acted as custodian of their members and called a question upon the unlawful arrest of Senators.

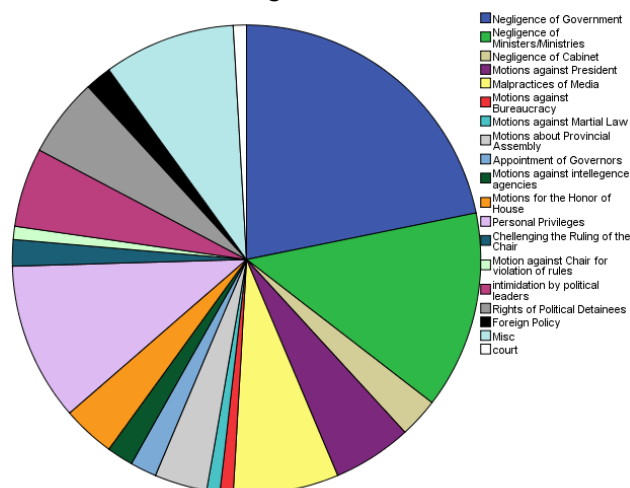
The House raised voices against the arrest of Senator Qazi Hussain Ahmed during session of Senate. This arrest prevented him from performing his Parliamentary duties and immediate intimation about the arrest was not sent to the Chairman. This caused the clear case of breach of privilege of the Senator and of the whole House. Dr. Noor Jehan Panezai, the Acting Chairperson, informed the House that she had just received a fax communication from the Punjab Government stating that Senator Qazi Hussain Ahmed had been released. The authorities' refusal to notify the Chairman of his detention immediately resulted in contempt of the House. Minister for Interior F. K. Bandiyal delivered a statement outlining the government's position. While his statement displeased the movers, arguing that even if the Senator's arrest was justified, an early notification of his arrest should have been provided to the Chairman of the Senate. This failure on the part of the authorities was reason enough to rule the motion in order (Pakistan S. o., Senate Debates, 1993).

Hafiz Fazal Muhammad introduced a motion that his privilege breached due to issuance of legal notice by an advocate of EXEN WAPDA Karak, NWFP. During Question Hour, the mover asked a question about WAPDA. The EXEN alleged that was a personal attack on him, which caused harm to his reputation. He further alleged that the senator raised that question on the request of an employee of Senate. Due to this discrimination, he demanded compensation of one million rupees in that notice. The advocate asked me to defend the case within seven days. The mover asked to refer the motion to privilege committee so that EXEN may prosecute against this suit (Pakistan S. o., Senate Debates, 1998). The House accepted the motion and referred this to committee. The House protected his Member as rules allow the members to raise a valid question for the public interest.

The introduction of privilege motions in the House and its admissibility showed that House as custodian, preserved the rights of House as well as his Members. This discussion identifies the hold of House over its inside matters as several presented privilege motions stood inadmissible because that motions did not meet the identified criteria. The plethora of examples is expounded here that determines the work of House for development of its boundaries inside the House.

The Senate of Pakistan safeguarded the privilege of the House and its Members. During 1985-1999, the House considered approximately 110 privilege motions that were ruled by Chair. The major part of presented motions was during the period of President Zia-ul-Haq. Senate faced about 3/5 of the

privilege motions during that rule. This shows the Senate worked more effectively for the supremacy of Parliament, democracy and for the fundamental rights. The presentation of 66 privilege motions just in forty months during March 1985 to August 1988 exposed the suppression of Majlis-e-Shoora (Parliament) by the Military dictator. The other 54 privilege motions were presented during eleven years of democracy that clarifies the smooth working of Parliament. The presented motions are labeled in the following chart.



The presented motions contained several kinds of important issues that were in accordance with the time and situation. The highest number of privilege motions was about the negligence of Government. About 24 motions were about the failure of Government to meet the promises, misrepresentation or non-representation of reports or Presidential address and about the practices that were not in accordance with law. Similarly, the Ministers or Ministries were opposed 15 times due to breach of privilege about the misinterpretation of matters and for their personal statements. The Cabinet Division three times caused the breach of privilege for misreporting and for asking unnecessary question from the House. It was witnessed that the collectively 42 privilege motions were presented with relevance to negligence of Government or their appointees.

The Senate of Pakistan advanced its boundaries to other institutions including President, Judiciary, Bureaucracy, Media and Military. The House witnessed six privilege motions about the activities, movements and on personal statements of the President. The Senate of Pakistan intended to prohibit the institute of President to indulge in the political matters. Similarly, the House rescinded the pressure from courts, so it summoned the detained Senators to attend the House, however, disallowed the motion based on plead of a Senator that was active in the Court. The Senate allowed media persons to sit in the sessions of the House; therefore, Senate condemned the malpractices of media. The Senator eight times raised the question of breach of privilege by media due to non-reporting, misreporting, distortion of facts, over-coverage to specific body and for false reporting. The House condemned the unauthorized moves of bureaucracy so the Senate approved a privilege motion on misbehavior of the bureaucracy. In the same way, one motion was presented for the restoration of democracy and opposing the Military rule in 1985 still after the restoration of democratic legislature.

As a custodian of federating units, Senate discussed the matters of Provinces. It condemned the erroneous polices of Provincial Government, arrest of MPA from Assembly precincts and two times about the Municipal Corporation. Similarly, the House emphasized twice that the Governors should be appointed from the concerned Provinces. The Senate of Pakistan raised the issue of dissolution of Provincial Assemblies during the reigns of President Zia-ul-Haq and President Ghulam Ishaq Khan. The Senate of Pakistan addressed with privilege motions that were presented in capacity of House or for the Members of the House. The House two times condemned the matter of taping of telephones of the Senators and Chairman Senate by intelligence agencies. Similarly, for the honor of Senate, and to increase the allowances and salaries of Members, the Senators presented four privilege motions. Twelve motions were based on personal privilege of Members while two motions



were against the ruling of the Chair and one privilege motion against the Chair for violation of rules. This opened out that the House was empowered to preserve the rights of the Senate and Senators. The question of privilege against the Chair clarified that Senate did not bear any internal or external pressure.

The matters of violence and intimidation by the leaders of political parties were came under consideration for six times. Similarly, the House addressed six privilege motions for the rights of political detainees that were detained under Martial Law and even under civilian Governments. The Senate of Pakistan severally discussed the foreign policy; however, the House discussed two privilege motions on this subject as well.


Some other matters that included the motions about law and order situation in country, activities against culture, resignation of Members and appointment of Leader of the House were presented in the House. Similarly, elections on two vacant seats of Senate, matter of appointment of attorney general, discrimination in funds allocation between Senators and MNAs and Motion on an incident of protest outside the Parliament were discussed in the Senate. The presentation of motions clarified that the Senate defined and implemented the rules for the protection of rights of members and the House as well.

CONCLUSION

The development of institutional boundaries can be measured through how the institution safeguarded its members as well as itself. The Senate adopted the major steps that internally strengthen an institution. The condemnation of adverse moves against Senate, superseding the other institutions and protection of rights through privilege identified that Senate became internally well-bounded. Senate majorly discussed and debated the matters that were raised during the so-called democratic rule of Zia, 1985-1988. During 1985-1999, about 60% of the total Privilege motions were presented during Zia rule that identified the working of Senate for development of its boundaries. The resistance of Senate against military rule denoted that Senate as a democratic institute preformed significantly. The members form opposition benches raised valuable points that identified the negligence of the governments. These motions stressed to government to work more effectively. Therefore, it can be concluded that Senate worked independently to achieve institutional differentiation. The role of Senators especially from opposition benches during the military rule was up to the mark. The senators from ruling party were more concerned to safeguard the decisions by party leadership. To extend the hegemony of the Senate, House made effort to increase its authority.

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