



**Meaningful Participatory  
Democracy in South Asia...  
Parliament's Affirmative Actions**



**Meaningful Participatory Democracy in  
South Asia.... Parliament's Affirmative  
Actions**

# CONTENTS

	Pages
<b>Meaningful Participatory Democracy In South Asia</b>	
<b>Parliament's Affirmative Actions (By Research Team of SDPI)...</b>	1
Introduction .....	1
A Troubled Past .....	3
The Parliament - Back To The Future .....	5
Inside Parliament .....	7
Legislation .....	8
Citizens' Participation .....	8
Public Hearings .....	9
Parliamentary TV Channels .....	10
Direct Contact .....	11
Websites .....	11
Opening The Gates .....	12
Parliament Visiting The People .....	13
Involving Youth .....	13
Women .....	14
Table: Parliaments in SAARC Countries .....	16
<b>Meaningful Participatory Democracy In South Asia</b>	
<b>Parliament's Affirmative Actions (By Research Anaylsts).....</b>	20
Introduction .....	20
Pakistan's Return to Democracy: Inception of the Incumbent Parliament .....	22
Parliament's Commitment to Participatory Democracy .....	23
Affirmative Actions by the Parliament .....	25
Empowerment of the Parliament .....	26
Free and Fair Electoral System .....	27
Readjusting the relationship between State and Individual .....	30
Poverty Reduction .....	31
Waseela-e-Haq (The Right Source) Program .....	32
Women and Children .....	32
Health and Welfare .....	38
Education .....	39
Conclusion .....	41

These briefing papers have been contributed by the Research Analysts and Sustainable Development Policy Institute, Islamabad in association with Strengthening Democracy through Parliamentary Development. The contributors are:

1. Mr. Hamayoun Khan, Research Analyst,
2. Syed Ali Irteza, Research Analyst,
3. Mr. Hassan Hakeem, Research Analyst and
4. Research Team of SDPI



## **Meaningful Participatory Democracy in South Asia....Parliament's Affirmative Actions**

### **Introduction**

Amid war, insurgencies, and ethnic and religious divisions, the member countries of South Asian Association for Regional Cooperation (SAARC) have been marching towards democratic governance which should revolve around the will of the people (see Table: Parliaments in SAARC Countries). However this has not been a smooth journey.

Though the struggle for democracy synchronizes with SAARC's aim of providing a platform for the peoples of South Asia to work together in a spirit of friendship, trust and understanding, and accelerate the process of economic and social development, the member states' journeys towards establishing and strengthening parliamentary democracy have amazingly been varied.

India, the largest democracy, took two and a half years after the Independence to make its constitution in January, 1950, permanently embracing parliamentary democracy. A country of more than 1.2 billion people is today a fast-growing economy. On the other extreme Nepal became republic only in May, 2008, coming out of the shadow of monarchy a year earlier but its Constituent Assembly still failing to come up with the constitution. With Bhutan's transition to democratic constitutional monarchy in 2008 and war-ravaged Afghanistan holding two elections in the first decade of the 21st century for electing the members of Wolesi Jirga (Lower House), Maldives' democracy ran into uncertainty in 2012 with the arrest of the ousted

elected president<sup>1</sup>, only four years after holding the first multiparty elections in 2008.

Though faced with a long running insurgency which it ultimately overcame, Sri Lanka did not compromise on democratically ruling the country.

If on the one hand these struggles show that despite wars, insurgencies and divisions, there is a strong desire for democracy in South Asia, for the citizens' voice to be heard, on the other it is also a story of missed opportunities of strengthening democracy by taking practical steps to make people part of it. Mostly the autocratic interruptions leading to long undemocratic governments made the people realize that they need a representative, transparent, accountable and participatory democracy.

As a general consensus over democracy has developed, there is an urgent need to address the 'disconnect' between the people and the parliaments. The strong desire for democracy should be converted into practical measures giving the people a real sense and confidence that the parliaments are voicing their concerns, problems and solutions. In order to reach out to everybody, the parliaments are exploring new initiatives such as taking the parliaments to the citizens and making optimum use of broadcasting, Internet, publications, information centers and educational initiatives.

As SAARC charter calls upon the member states to “reinforce the linkage of development and democracy, promote democracy at all

---

Former Maldives President arrested, The Telegraph. Oct 8, 2012.  
<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/maldives/9593412/Former-Maldives-President-arrested.h>

levels of the government and the society at large, and strengthen democratic institutions and processes in all national endeavors with due focus on decentralization and devolution,” people's participation in democratic governance becomes inevitable.<sup>2</sup>

This briefing paper argues for promoting a culture of participatory democracy to make the citizens part of the decisions taken inside the parliaments.

This paper will briefly look at the history of parliamentary democracy in Pakistan and some of the challenges it has been facing. It will also review the performance of the current parliament before discussing ways and means that other parliaments are adopting to make citizens part of parliamentary democracy.

### **A Troubled Past**

For Lawrence Ziring, the citizens of Pakistan are a “people of significant accomplishment and promise” who do not deserve to be “passed from crisis to crisis” and “subjected to horrors which a proud and honorable people should never have been exposed.”<sup>3</sup>

Though the Constituent Assembly, tasked to prepare the constitution, met only for two months in six years<sup>4</sup>, it was able to come up with a constitution in September, 1954 that was parliamentary and representative. However it was dissolved in October, 1954.

Though outwardly parliamentary, Pakistan's first constitution in 1956 gave the president powers that made it semi-presidential

---

<sup>2</sup> SAARC Charter of Democracy. <http://www.saarc-sec.org/SAARC-Charter-of-Democracy/88/>  
<sup>3</sup> Ziring, Lawrence (1997), Pakistan in the Twentieth Century A Political History, Oxford University Press, Karachi, p.613  
<sup>4</sup> Rafi, Raza. (2001), Pakistan in Perspective 1947-77, Oxford University Press, p.4



system.<sup>5</sup> Expectedly it was short-lived as first martial law was imposed in October, 1958.

Pakistan saw four governor generals, one president and seven prime ministers from 1947-58.

From 1958 to 2007, Pakistan witnessed four military governments spanning over 33 years, leaving nearly 17 years to democratic governments. Two parliaments functioned under the military governments from 1985-88 and 2002-07.

Based on indirect electoral system, the second constitution under the first military government in 1962 envisaged a federal state with presidential form of government. Under the third military government, Pakistan held its first general elections in December 1970, only a year before East Pakistan becoming Bangladesh after the war in 1971. Providing for a parliamentary form of government, the 1973 constitution gave Pakistan bicameral parliament<sup>6</sup> – the National Assembly and the Senate – vesting powers in the office of Prime Minister, making the President a figurehead.

With the Prime Minister as the chief executive, the period from 1973-77 is seen as one of undiluted parliamentary sovereignty.<sup>7</sup> The other was 1997-99 when the parliament through the 13th amendment did away with the president's power under the 8th amendment to dissolve the National Assembly.<sup>8</sup> However both these civilian governments

---

<sup>5</sup> The Constitution of 1956 envisaged a parliamentary form of government wherein the executive authority was vested in the President. Briefing Paper Series, UNDP-Strengthening Democracy through Parliamentary Democracy (SDPD), Parliament and State of Pakistan: Case for Constitutional Reforms. (2008). p.6

<sup>6</sup> Before 1973, the Parliament functioned as a unicameral legislature. See National Assembly, The Oxford Companion to Pakistani History. (2012). p.366

<sup>7</sup> Briefing Paper Series, UNDP-Strengthening Democracy through Parliamentary Democracy (SDPD), Parliament and State of Pakistan: Case for Constitutional Reforms. (2008). p.6

<sup>8</sup> Ibid



were followed by long military rules.

From 1988 to 1999 Pakistan witnessed four civilian elected governments, three of which were cut short by the Presidents using the constitutional power to dissolve the National Assembly under the 8th amendment and the fourth was ousted in a military coup in October, 1999.

### **The Parliament – Back to the Future**

The Parliament - 13th National Assembly and the Senate - stands apart in Pakistan's history. It has taken up and addressed the issues that were considered complex, sensitive, and intractable. The political parties in the parliament showed the will to correct the wrongs of the past and answered the critical question of how to go from one democratic rule to another.

However before looking into the performance of the parliament, it would be instructive to briefly remember the times in which it started to work in March 2008.<sup>1</sup>

Within 30 years Pakistan again became an “ally in the war against terrorism that was meant to initially target Al Qaeda and the Taliban in Afghanistan.”<sup>9</sup>

Additionally an unprecedented sacking of the Supreme Court Chief Justice by the military ruler in 2007 gave rise to an equally unprecedented lawyers-led movement. It not only saw the ouster of the military ruler but more importantly altered the power structure in Pakistan. In the presence of 24/7 media, the people witnessed live the struggle for ousting the fourth military ruler, getting the superior

---

<sup>1</sup> See Nine Eleven and its Impact on Pakistan, The Oxford Companion to Pakistani History. (2012), p.379

judiciary restored.

Amid the question of restoring the Supreme Court judges, the 13th National Assembly started working, restoring Constitution and the way forward.

Though the 1973 constitution was adopted with consensus, providing for a parliamentary democracy, with the Prime Minister as the country's chief executive, amendments by successive civilian and military governments moved it towards a semi-presidential system.

The 102 amendments brought in after the passage of the historical 18th amendment not only restored the 1973 Constitution but has significantly changed the governance structure of Pakistan. It has met the long standing demand of provincial autonomy. As the concurrent list has been abolished, the provinces have been given the reason ability of exclusive policymaking for crucial subjects such as education, health, environment and agriculture.<sup>10</sup> Both the responsibilities and opportunities *vis-a-vis* governance are immense for the provincial governments.

The parliament has been alive to the institutional challenges. After the passage of 18th amendment, the parliament through the passage of the 20th amendment not only validated the by-polls but also provided for an independent Election Commission and more importantly deciding a process of setting up a caretaker government for overseeing the elections.<sup>11</sup>

---

<sup>10</sup> Strategic Appraisal of 18th Amendment Federal/Provincial roles and Impact on Service Delivery: A report prepared by Senior Management Wing of National Management College. (Feb 2012). <http://www.nspp.gov.pk/guideline/strategic-appraisal-of-18th-amendment.pdf>  
<sup>11</sup> Senate approves 20th Amendment bill after consensus. Dawn. (Feb 2102). <http://dawn.com/2012/02/20/consensus-reached-on-20th-amendment-in-senate/>

The passage of the 20th amendment is a welcome sign that the political forces have realized that they need to have a consensus on continuing the political process, unlike the past when the institutional standoffs disrupted the parliamentary continuity.

### **Inside Parliament**

As the 13th National Assembly started functioning under extraordinary circumstances, it expressed an inclusive approach based on established parliamentary traditions. Unlike the past practice of not forming the Standing Committees within the specified time, the 13th National Assembly set them up during the first regular working session.<sup>12</sup> The 12th National Assembly formed Standing Committees within one year.

Following the established parliamentary tradition of an opposition member heading the Public Accounts Committee, the Leader of the Opposition was made its chairperson.<sup>13</sup> Indian Lok Sabha has been appointing a member of the Opposition as Chair of the PAC since 1967.<sup>14</sup>

Though the Leader of the Opposition resigned from the Chair of the PAC in November, 2011 and again a legislator from the treasury benches has been heading it, it is important to institutionalize the well-established parliamentary practice.

---

<sup>12</sup> PILDAT Citizens' Report, Performance of the 13th National Assembly of Pakistan, The First Parliamentary Year March 17, 2008 – March 16, 2009

<sup>13</sup> Ibid

<sup>14</sup> The Chairman is appointed by the Speaker from amongst its members of Lok Sabha. The Speaker, for the first time, appointed a member of the Opposition as the Chairman of the Committee for 1967-68. This practice has been continued since then. Retrieved from <http://164.100.47.132/LssNew/our%20parliament/Folder07.pdf>



## Legislation

Apart from the constitutional 18th, 19th and 20th amendments, the parliament has been active in lawmaking, especially pro-women legislation. It has passed laws to protect women from sexual harassment at workplace, to protect them from discriminatory practices such as forced marriages and acid throwing.<sup>15</sup>

Another positive break from the past has been the number of bills brought in by the private members. From 1985 to 2007, a period that saw six parliaments in Pakistan, only three bills brought in by private members' became laws.<sup>16</sup> In the first three years, the 13th National Assembly has passed five private members' bills.<sup>17</sup>

## Citizens' Participation

As we have seen above, a consensus has developed on protecting and continuing the political process, time has come for making the people its integral part.

The relationship between the parliament and democracy can only be cemented with the participation of the people. This relationship cannot be built in isolation as the Speakers in September, 2005 declared at the United Nations headquarters that parliament is central institution through which the will of the people is expressed....<sup>18</sup> The will of the people will only be expressed when the legislatures and legislators take initiatives to reach out to them and listen to their side

---

<sup>15</sup> Legislative Watch, Issue No 38, (Seven Pro-Women Laws in Seven Years). Aurat Foundation, December 2011.

<sup>16</sup> Briefing Paper Series, UNDP-Strengthening Democracy through Parliamentary Democracy (SDPD), Parliament and State of Pakistan: Case for Constitutional Reforms. (2008). p.12

<sup>17</sup> PILDAT Citizens Report, Performance of the 3rd Year of the 13th National Assembly. p.28

<sup>18</sup> Inter-Parliamentary Union. Parliament and Democracy in Twenty First Century. Geneva: IPU, 2006



of the story.

Parliaments are exploring initiatives and options to connect with the citizens and make them part of their work in order to build a strong culture of participatory democracy. Below are some of the options that can help to shorten distances between the parliaments and the citizens.

### **Public Hearings**

Parliamentary democracy works best when it allows citizens through public hearings to have a say in the formation of laws and other national, provincial and local matters that affect their lives.<sup>19</sup> For wider consultations, parliaments are exploring ways to allow more and more citizens to take part in public hearings.

These include from open invitations to all relevant parties for receiving their submissions to inviting select groups, NGOs and other stakeholders to take their feedback. The parliament in New Zealand has prepared a handbook on *Making a Submission to a Parliamentary Select Committee*.<sup>20</sup> In the Philippines the House of Representatives holds “out of town” public hearings, especially in the far flung areas to reach marginalized groups.<sup>21</sup>

A start has been made to hold public hearings in Pakistan. Senate Standing Committee on Defence and Defence Production held a public hearing on national security in September 2012.<sup>22</sup>

In Pakistan an effective Standing Committee system is a must,

---

<sup>19</sup> Ibid

<sup>20</sup> Ibid

<sup>21</sup> Ibid

<sup>22</sup> Senate body's rare foray into military matters. Dawn. 29 Sept 2012. <http://dawn.com/2012/09/29/senate-bodys-rare-foray-into-military-matters/>

especially after the passage of the 18th amendment. As the governments in the provinces would be coming up with new legislations and policies on subjects such as education and health, the oversight role of Standing Committees would be critical. It is essential that the formation of Standing Committees is completed within the time stipulated under the rules and at the same time there is need make the parliamentary bodies administratively strong.

### **Parliamentary TV Channels**

More and more parliaments are opting for their own TV channels for telecasting the proceedings live. This not only informs the people about the work of the parliament but also helps to engage their involvement.<sup>23</sup>

In December 2004 two separate dedicated satellite channels for telecasting live the proceedings of Rajya Sabha and Lok Sabha nationwide were launched. According to the Indian parliament, “telecasting and broadcasting parliamentary proceedings lead to first hand political education...”<sup>24</sup>

For the Hungarian National Assembly, availability of parliamentary activity through several channels – television, radio and internet – is important. Therefore the plenary sessions of the Hungarian parliament are broadcast live on radio and television, and additionally parliamentary sessions can be viewed also on-line on the internet.<sup>25</sup>

---

<sup>23</sup> Inter-Parliamentary Union. Parliament and Democracy in Twenty First Century. Geneva: IPU, 2006

<sup>24</sup> Ibid

<sup>25</sup> Ibid

## **Direct Contact**

Relations with the constituents are an important pillar of participatory democracy. They provide legislators vital feedback from the constituents. Parliaments are making efforts for cementing this direct contact.

The Sri Lankan parliament is in session in first and third weeks each month. During the second and fourth weeks members work in their constituencies to interact with their constituents.<sup>26</sup> Moreover parliaments are helping legislators in setting up parliamentary offices in their constituencies.

Legislators in Pakistan can adopt various models of constituency relations to not only come into direct contact with their constituents but also formalizing them for a sustained relationship where the both sides understand each other's perspectives. They can set up constituency office model, with constituents knowing how to reach them, holding public hearings and making use of websites and e-mail where possible.<sup>27</sup>

## **Websites**

Parliaments are making innovative uses of websites to reach out to the people. If on the one hand websites can become a valuable source of accessing information, on the other they also provide opportunities for interaction.<sup>28</sup> For the Congress of Chile, information technology has provided "electronic impetus to democracy, insofar as unlimited

---

<sup>26</sup> Inter-Parliamentary Union. *Parliament and Democracy in Twenty First Century*. Geneva: IPU, 2006

<sup>27</sup> *Parliamentarians Pocket Guide* National Assembly of Pakistan. Pakistan Institute of Parliamentary Services (PIPS).

<sup>28</sup> Inter-Parliamentary Union. *Parliament and Democracy in Twenty First Century*. Geneva: IPU, 2006



access to legislative information and the interactive nature of parliamentary websites make the legislative process and parliamentary procedures more transparent and leave them subject to closer public scrutiny". It goes on to add that its website is "equipped with tools that make it possible for users to pose questions, send comments, take part in discussion forums and opinion surveys."<sup>29</sup>

The websites of parliaments in South Asia require more attention. They are missing out on a huge opportunity of connecting with the people and becoming open and transparent.

Websites offer immense opportunities for highlighting the parliamentary work and in engaging citizens mainly by taking their feedback on the draft legislation, keeping them updated on the issues parliamentary bodies are tackling and on how they can contribute to the discussions.

In Pakistan's context parliamentary websites - especially those of the provincial assemblies - should be revamped completely to make them dynamic in order to effectively engage with the citizens, especially on legislation. They may follow the practice of providing online all draft legislation for the feedback from the citizens.

### **Opening the Gates**

There is no alternative of physical interaction. No other access gives as clear an understanding as visiting the place. Parliaments are opening their gates to citizens to visit and see for themselves how their elected representatives work. Parliaments are reserving "open



days” for the visits by citizens and also arranging visits by schools.<sup>30</sup>

Generally in South Asia and particularly in Pakistan, security may be presented as an excuse for not opening the gates. However, more than ever now is the time to open the gates of the parliament to let the people see for themselves legislature at work. They should feel and see the supreme body carrying the will of the people.

### **Parliament Visiting the People**

In Botswana's “Parliament on Wheels”, members of the Speaker's and Information offices tour villages to explain the role of parliament in society.<sup>31</sup> South Africa's “democracy roadshows” have taken “parliament to communities that do not have ready access to Parliament so as to educate and inform people of how laws are made and how citizens can participate in law-making processes.”<sup>32</sup>

The parliaments of the SAARC countries should make use of this approach as it would provide fresh perspectives to both the sides. The people living in remote villages would be related to the parliament and the parliamentarians would be taking another small step towards participatory democracy.

### **Involving Youth**

In Pakistan today the so-called youth bulge presents a huge opportunity for creating a “constituency” for participatory democracy. Youth should be made to realize that they are part of every facet of democracy. Parliaments are engaging with the youth by developing civic education training programmes on how the

---

<sup>30</sup> Ibid  
<sup>31</sup> Ibid  
<sup>32</sup> Ibid

parliament works, how the laws are made and how they can become engaged in that process. The South African parliament produced an award-winning comic book – A Day in Parliament – which was distributed in every school in the country.<sup>33</sup>

Since 2001 more and more people in Pakistan are watching television as their source of information and entertainment, initiatives should be taken to reach out to the citizens, especially to the youth. More than 85 TV channels and 100 radio stations along with the state owned Pakistan Television and Pakistan Broadcasting Corporation provide an opportunity to launch such initiatives for the youth.<sup>34</sup>

If the Parliament of Iceland has a special website for schoolchildren, the Grand Assembly of Turkey and the Education ministry came up with “Parliaments in Schools” project, saying such initiatives allow the youth to “handle their problems with their own perspectives, to build consciousness about functional democracy including the concepts of public participation and tolerance.”<sup>35</sup>

### **Women**

An outcome of various interactions with parliaments is the involvement of women groups in shaping progressive legislation.<sup>36</sup> However this relationship needs to be strengthened by expanding it to women who did not have access to legislatures. Parliaments are taking measures to reach out to women who may perhaps never worry about what's happening inside the legislature of their country. The

---

<sup>33</sup> Ibid

<sup>34</sup> [http://www.pemra.gov.pk/pemra/images/docs/stv/list of licences issued stv1.pdf](http://www.pemra.gov.pk/pemra/images/docs/stv/list%20of%20licences%20issued%20stv1.pdf) & [http://www.pemra.gov.pk/pemra/images/docs/fm/list of Commercial FM Radio.pdf](http://www.pemra.gov.pk/pemra/images/docs/fm/list%20of%20Commercial%20FM%20Radio.pdf)

<sup>35</sup> Inter-Parliamentary Union. Parliament and Democracy in Twenty First Century.

Geneva:IPU, 2006

<sup>36</sup> Ibid

South African parliament has arranged sessions for rural women on how the parliament works and also got their feedback on draft legislation, and more importantly on the implementation of the laws on domestic violence and customary marriages.<sup>37</sup>

In Pakistan implementation of laws remains a problem. Keeping in view the local conditions, such initiatives could be adopted for putting pressure on the executive to implement the laws - for example, by holding sessions for the personnel of implementing agencies on the new legislation on the issues of women, minorities and youth.

---

<sup>37</sup> Ibid



**Table: Parliaments in SAARC Countries**

Country	Parliament
Islamic Republic of Afghanistan	<p>The Afghan Parliament is a bicameral body: the Wolesi Jirga (the Lower House with 249 directly elected members) and Meshrano Jirga (the Upper House with 102 Senators). One third of the Senators are drawn from Provincial Councils, one third from District Councils and the remaining third are directly appointed by the President. The Wolesi Jirga bears the main burden of the legislative process. According to the Afghan constitution, Parliament is elected to serve for five years. Out of 249 seats in the Wolesi Jirga, 10 seats are reserved for Kuchis and 68 seats are reserved for women.</p> <p>The first parliamentary elections since the fall of Taliban regime were held on 18 September, 2005. Five years on, Afghanistan held its second parliamentary elections on 18 September 2010. On 26 January, 2011 President Karzai inaugurated the new parliament.</p>
People's Republic of Bangladesh	<p>The Parliament of Bangladesh – <i>Jatiyo Shangshad (House of the Nation)</i> is a unicameral legislature consisting of 300 members. They are directly elected from an equal number of territorial constituencies, that is one from each constituency, on the basis of adult franchise. Unless sooner dissolved by the President, Parliament stands dissolved on the expiration of a period of five years from the date of its first meeting.</p>



Kingdom of Bhutan	<p>2008 is a historic year with the establishment of a democratically elected Parliament with sovereign power vested with the people of Bhutan. The First Parliament endorsed the Constitution of the Kingdom of Bhutan. With the signing of the Constitution by his Majesty the King and the Members of the Parliament on July 18, 2008, Bhutan's transition to democratic constitutional monarchy was complete.</p> <p>As per Article 10 of the Constitution of the Kingdom of Bhutan, there shall be a Parliament for Bhutan in which all legislative powers under the Constitution are vested and which shall consist of the Druk Gyalpo, the National Council and the National Assembly.</p> <p>The National Council constitutes of 25 members with one member representing from each of the 20 Dzongkhgas (Districts) and five eminent persons nominated by His Majesty the King. The National Assembly constitutes of 47 members from each 47 constituencies directly elected by the people of their respective constituencies through secret ballot. All the members serve for a term of five years.</p>
Republic of India	<p>The Constitution of India provides for a bicameral Parliament consisting of the President and two Houses known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). The Rajya Sabha is to consist of not more than 250 members. The minimum age for membership of the House is 30 years.</p>

	<p>The Lok Sabha is composed of representatives of the people chosen by direct election on the basis of adult suffrage. The maximum strength of the House envisaged by the Constitution is 552. The qualifying age for membership of the Lok Sabha is 25 years.</p> <p>The Lok Sabha, unless sooner dissolved, continues for five years from the date appointed for its first meeting and the expiration of the period of five years operates as dissolution of the House.</p>
Nepal	<p>Constituent Assembly is an assembly of people's representatives elected by the people through direct (first past the post - FPTP) election and proportional election; and members nominated by the decision of the Cabinet. As per provision of the Interim Constitution of Nepal, 2007, there are 601 members in the Constituent Assembly. Among them, there are 240 members elected through the direct election (FPTP) system and 335 members elected through the proportional election system which were held on 10 April 2008; and 26 nominated members in the Constituent Assembly. The main objective of the formation of the Constituent Assembly is to prepare the draft constitution and ratify it by addressing the people's spirits for maintaining the long-term peace in the country.</p>
Republic of Maldives	<p>The People's Majlis is the supreme legislative authority in the country and is one of the three principal organs of the State. Unicameral in Constitution, the People's Majlis is vested with the</p>

	power to enact, revise or amend the Constitution. People's Majlis consists of 77 elected members from 21 administrative divisions of Maldives. The term of the People's Majlis is 5 years.
Islamic Republic of Pakistan	The Parliament of Pakistan consists of President and the two Houses known as the National Assembly and the Senate. With exception to money Bills, however, both the Houses work together to carry out the basic work of the Parliament, i.e. law making. The 342-Member National Assembly is elected directly on the basis of adult franchise under the first-past-the-post for five years.
Democratic Socialist Republic of Sri Lanka	The Parliament of Sri Lanka is unicameral. The 225 members of the Parliament are elected directly by a system of proportional representation. The term of the Parliament is six years.

Sources:

<http://ukinafghanistan.fco.gov.uk/en/about-us/working-with-afghanistan/Politics/The-Afghan-Parliament/>

<http://www.parliament.gov.bd>

<http://www.nab.gov.bt/aboutus.php>

<http://www.parliamentofindia.nic.in/>

<http://www.can.gov.np/en>

<http://www.majlis.gov.mv/en/majlis-at-a-glance/>

<http://www.na.gov.pk> & The Oxford Companion to Pakistani History

<http://www.ipu.org/parline/reports/2295.htm>



# **Meaningful Participatory Democracy in South Asia....**

## **Parliament's Affirmative Actions**

### **Introduction**

#### **Democracy in South Asia**

The democratic trends in South Asia have been chequered and patchy. The culturally and politically diverse region has unfortunately had unwanted periods of suspended democratic processes throughout its post-colonial history. Though democracy remains fragile and vulnerable to forces outside the main political arena in some parts of the region, its aspiration and values have remained highly consistent throughout the region. The challenges to democracy vary from country to country and are subject to institutional capacity and evolution. Almost one fifth of the world population, most South Asians believe in democracy as the best way of governance, although the region, after decolonization, has remained plagued by structural and at times ideological problems. Factors responsible for the disruptive recognition of democracy in South Asia include structural fragility, underdevelopment, poverty, illiteracy, ethnic differences, military coups, and political differences in the intrastate and interstate relations.

Comparatively analyzing South Asian countries, India and Sri Lanka's democratic journeys have been relatively smooth, despite many challenges. Other South Asian states are vying for an evolving

process in which some states are on successful path to democracy, while others are evolving a process in which there is transitional phase towards achievement of democracy.

In the 21st century, the states are facing different challenges with the changing international scenario and increased global competitiveness. South Asia's entanglement in layers of complex obstacles such as economic instability, over-population and social challenges has also hindered democratization. Pakistan's road to democracy has been bumpy due to the periodic military coups in the name of saving the country's failing socio-political conditions. Successful democratic institutions that evolve through a transparent process of self- governance can be the only way to prepare South Asian countries to fight against the increasing perils of various kinds.

The decade of 1970s witnessed a drastic rise in many democratic countries around the world. Starting from southern Europe, the democratic wave reached South America and then East, Southeast and South Asia. Before 1974, there were roughly 40 democratic countries in the world but by 1996 the number had increased to 117<sup>1</sup>. In Pakistan, the seeds of true democracy were sown by the first government of Pakistan People's Party (PPP) led by its leader Shaheed Zulfikar Ali Bhutto in 1971. However, it was unfortunately disrupted by a military coup. The subsequent environment after the

---

<sup>1</sup> Vanhanen, T. The Process of Democratization: A Comparative Study of 147 States, 1980-88. Crane Russak, New York, 1990.

draconian military dictatorship allowed for weak democratic governments from 1988 to 1999 that weren't allowed to function and complete their terms. Another military dictator was ousted by popular resistance and the newly elected government of the PPPP.

After a decade long military rule, democracy returned to Pakistan in 2008. Despite challenges, the democratic government has continued to function, strengthening democratic values and ushering new hopes for establishment of participatory democracy in the country. The continuation of this process is imperative and it is hoped that direct military takeover of the government in Pakistan is now a thing of the past.

### **Pakistan's Return to Democracy: Inception of the Incumbent Parliament**

Democracy returned to Pakistan after the successful 2008 elections in which Pakistan Peoples' Party (PPP) emerged as the largest political party. Other parties such as Pakistan Muslim League – Nawaz (PML-N), Pakistan Muslim League – Quaid-e-Azam (PML-Q), Muttahida Qaumi Movement (MQM), and Awami National Party (ANP) also gained substantial representation in the assemblies. This transition to democracy provided people with hope for installation of a government that would be accountable to them, remain concerned about their problems, and adopt a forward-looking approach.

The incumbent National Assembly of Pakistan held its first session on March 16, 2008. Dr. Fehmida Mirza, elected with an over two-



third majority, became the first woman Speaker of any elected House practicing parliamentary democracy, not only in Pakistan but in the entire Muslim World. The Parliament began its proceedings with undoing the legacy of Musharraf dictatorship heralding a new beginning for the country.

### **Parliament's Commitment to Participatory Democracy**

The incumbent Parliament of Pakistan has been a robust and equal platform for legislation and oversight. The National Assembly sessions have witnessed equal participation of all participants and even opposition members have played a remarkable role in the legislative business.

The Parliament has remained committed to democratic values and taken affirmative actions for promotion of participatory democracy. It has remained sensitive about this important issue and contributed with certain landmark steps in this regard with unprecedented cross-party consensus, reflecting the consensus and commitment of parliamentarians on upholding the democratic process at all costs.

The Parliament has undone the distortions in the 1973 Constitution by the military dictatorships, and in order to keep pace with the changing world and its requirements, made three amendments to the Constitution and passed 75 Acts (out of 105 bills passed by the Lower House). Many of these Acts are directly related to reinforcement of democratic structures and promotion of participatory democracy.

The Standing, Special, Select, and Parliamentary Committees, with cross-party representation, have also been looking into the matters of the respective ministries. These committees have also been inviting or summoning before them any member or any other person having a special interest in relation to any matter under consideration and hence serving as effective watchdogs in their respective domains.

The Parliament has ensured that it upholds and strengthens democratic values and institutions, while promoting participatory democracy through broad participation in formulation of laws and policies, and direction and operation of the political system. The aspirations of the people and their representatives, even when not in majority, have been given consideration and respect. For example, keeping in view the grievances of the several nationalists groups and smaller federating units, the issue of provincial autonomy promised in the 1973 Constitution has been implemented effectively and provinces have been granted independent decision-making powers. The longstanding demand of changing the name of, what is now, Khyber-Pakhtunkhwa province was positively answered. The 7th National Finance Commission (NFC) award that revised the formula for distribution of resources in favour of the provinces, especially the lesser developed ones, was another important achievement. The Parliament, in a Joint Sitting of the National Assembly and Senate, also presented and approved the Aghaz-e-Huqooq-e-Balochistan (the beginning of the rights of Balochistan) Package to address the

grievances of people of the province through several administrative and political measures and arrangements.

Other relevant areas that have been accorded attention in this regard include the hugely popular and successful social protection initiative in the form of Benazir Income Support Program (BISP) sanctioned by an act of Parliament; steps for educational uplift including the landmark Education for All Act, besides the establishment of several public sector universities by acts of Parliament; the highest number of bills and acts passed for protection of women and children; an act for the proper transplantation of human organs and penalties for any illegal transplant; and an independent National Commission of Human Rights Act was passed for the protection of human rights as enshrined in the Pakistani Constitution and International Conventions of which Pakistan is a partner.

#### **Affirmative Actions by the Parliament**

The incumbent National Assembly has so far passed 105 bills over four years of its legislative business of which 75 have been promulgated as Acts of Parliament. This is more than the number of bills and Acts passed by any of the previous assemblies. Much of this legislation keenly focuses on the promotion of participatory democracy in the country, an area which had previously been ignored in legislation, policy, as well as governance.

The details of legislation, in various areas, promoting participatory democracy are as follows:



- **Empowerment of the Parliament**

- **The Constitution (Eighteenth Amendment) Act, 2010:** drafted by a bi-partisan, bi-cameral parliamentary panel declared the unconstitutional acts of dictators under 8th and 17th Constitutional Amendments null and void. It also quashed some of the presidential powers of yesteryears by transferring some key powers to Parliament including the infamous 58(2)(b) the discretionary power to dissolve the National Assembly and appointment of services chiefs and Governors of the provinces. Eighteenth Amendment aims to attain federal, Islamic, parliamentary, and modern progressive state wherein the rights of citizens are secured.
- **The Constitution (Nineteenth Amendment) Act, 2010:** also drafted by a bi-partisan, bi-cameral parliamentary panel deals with appointment of superior courts judges, addition of senior most judges in the Judicial Commission of Pakistan for the appointment of free and impartial mechanism of superior courts judges. These appointments then will have to be vetted by a represented Parliamentary Committee consisting of Opposition and Treasury members through consensus and subsequently

approved by the President of Pakistan through the Prime Minister. This particular amendment reconsidered and thoroughly discussed the reservation shown by the Supreme Court on the appointment procedure of the superior court judges in the 18th Amendment, thereby satisfying the superior courts apprehensions.

- **The Pakistan Institute for Parliamentary Services Act, 2008:** promotes research and training facility to draft bills, resolutions and other motions technically promoting parliamentary democracy by equipping the lawmakers with all the technical expertise required in legislative processes in Pakistan.
- **Free and Fair Electoral System**
  - **The Constitution (Twentieth Amendment) Act, 2012:** passed by the two third majority of the legislatures in the National Assembly and the Senate, elaborates the process of the independent Election Commission of Pakistan that will ensure free and fair elections in a transparent manner. The Twentieth Amendment also stipulates the process of creating an independent care-taker or interim setup for conducting free and fair elections.

- **The Election Laws (Amendment) Act, 2009:** ensures free, fair and transparent elections along with ensuring integrity of electoral rolls and to bring provisions according to the Constitution Eighteenth Amendment 2010 in Electoral Roll Act 1974 and Representation of the People Act 1976.
- **The Representation of the People (Amendment) Act, 2009:** to address frequent adjournments sought in election petitions and amendment in 1976 Act and this amendment will make sure that the law is followed.
- **The Representation of the People (Amendment) Act, 2011:** states that in national interest, there is need that privilege to participate in electoral process while having citizenship of another country may be withdrawn to nourish and inculcate more national commitment and loyalty, so that every citizen of Pakistan, particularly, those who are ambitious to become public representative or intend to hold a public office through political process should also be committed and loyal as far as their citizenship status is concerned.

Readjusting the Relationship between State and the Federating Units.



- **The Constitution (Eighteenth Amendment) Act, 2010:** drafted by a bi-partisan, bi-cameral parliamentary panel devolved powers to the federating units under which several federal ministries were abolished and transferred to the provinces. The concurrent list was abolished under which the federal government could overrule the previous decision of the federating units even in the areas that were under their control.
- **National Finance Commission Award (7th):** the four provinces agreed upon the 7th NFC award after a gap of many years over the distribution of financial resources among them on annual basis by the federal government. The provincial share in the divisible pool has been enhanced to over 56 % thereby adopting a multiple criteria for distribution of money to the provinces. The government changed the design of the revenue sharing formula for the first time for fiscal equalization among provinces thus achieving the consensus among provinces and thereby giving provinces more autonomy and further consolidating democracy. For the first time factors like poverty, revenue collection and inverse population density were added in addition to population.

- **Readjusting the relationship between State and Individual**

The relationship between an individual and the state is a social contract in which the individual cedes a certain amount of his freedom to accept the sovereignty of the state in return for his well-being. Rousseau bases the relationship of an individual and the community on 'stability', and justifies the subordination of the individual to the state to ensure such stability. In this case, if the individual is denied the well-being and stability for which he cedes his sovereignty, the very reason for this social contract stands void.

Pakistan due to several reasons became more of a national security state in which the individual had been relegated to the periphery of power in an inversely proportional relationship with the state. The present government, and in particular the incumbent parliament, made it sure that the relationship of the state and individual was reformulated relatively in favour of the former as compared to the past. For this purpose, several policies were formed, and more importantly, the parliamentarians carried out very bold legislation in several areas, to be detailed below, that has fulfilled this commitment towards the people and become the basis of promotion of participatory democracy.

- **Poverty Reduction**

**Benazir Income Support Program:** In the year 2008, when the country was hit by double-digit inflation due to the increase in oil prices, the Government of Pakistan, committed to social protection, responded in the form of Benazir Income Support Program (BISP). Under this program, enrolled families from the underprivileged sections of the society, are paid cash assistance of Rs.1000/month apart from benefits provided under graduation strategy such as long term interest free returnable financial assistance, vocational & technical training, and health & life insurance coverage. The government has focused on the empowerment of these rural women who have been subjected to continued violation of the basic rights. This scheme has also targeted women agriculturists by providing them soft loans and technical assistance to develop their farms on modern footing.

BISP had not only become a role model for the Pakistan tackling poverty but also for the other developing countries of the world. It was initiated in October 2008 with an initial allocation of Rs.34 billion (US \$ 425 million) for the financial year 2008-09 and aimed at supporting 3.5 million families during the year. The allocation for the financial year 2012-13 is Rs. 70 billion which shall provide cash assistance to 5.5 million families, covering almost 40% of the population



below the poverty line.

The program is being implemented all across the country in the four provinces (Punjab, Sindh, Baluchistan, and Khyber-Pakhtunkhwa), Federally Administered Tribal Areas (FATA), Azad Jammu and Kashmir (AJK), Gilgit-Baltistan (GB) and Islamabad Capital Territory (ICT). Application forms were distributed among the Parliamentarians in equal number (8000 to each member of the National Assembly and Senate and 1000 to each member of the Provincial Assemblies) irrespective of party affiliations for distribution among the eligible families. The BISP Bill was later passed by both Houses of the Parliament and signed by the President of Pakistan in the form of Benazir Income Support Program Act 2010.

**Waseela-e-Haq (The Right Source) Program:** A BISP initiative that represents the true sense of state's responsibility towards its citizens, with the mission statement 'Breaking the vicious cycle of poverty through micro loan' is a project that extends small loans to women to start small personal businesses, empowering and helping them to grow personally as well as contributing to national development.

- **Women and Children**

Any country's future largely depends upon the quality of maternal guidance to children as well as academic and social

environment to woman and children in a society. A well-educated and healthy mother resultantly plays a very significant part in her family's physical, mental, academic and intellectual growth. It is therefore very important for any government to pay much attention on the welfare of its female population apart from others, particularly it should also focus on the education and health of country's female population as well as providing them with conducive environment of earning respectable livelihood. Such measures will have direct bearing on the future of children in any society. Pakistan's current Parliament has primarily focused on gender performance of Pakistan's social and economic indicators to create a scenario in which a lot could be done for the welfare of mother and child, both directly and indirectly, through meticulous legislations and bills.

According to the Constitution of Pakistan, gender equality is specifically guaranteed under Articles 25 (equality before law and equal protection under the law) and 27 (nondiscrimination based on gender alone). The Constitution, furthermore, gives more protection to the institution of marriage, family, the mother and the child as well as ensuring full participation of women in all spheres of national life. With the utmost efforts shown by the current Parliament, women are now seen more at the helm of affairs

and adding more to the progress and prosperity of the country. Dr. Fehmida Mirza has been elected as the first woman Speaker of the National Assembly with the highest number of women Parliamentarians. Women have been allowed to join fields like Armed Forces, Police Service etc which were provisionally considered the exclusive domain of men only. The current Parliament of Pakistan to its credit has the distinction of passing 28 acts and numerous bills which specifically worked for the betterment of woman and children in Pakistan and extended more protection to them in all the spheres of life. Following are few important ones:

**The Domestic Violence (Prevention and Protection) Bill, 2009:** is to address a public concern and recognizing the gravity of domestic violence on women and children. The Act aims to empower women by adopting zero tolerance for violence against them. The perpetrators of the crime under this Act are liable to be punished under criminal code of Pakistan. The offender will be subject to maximum punishment of two years prison or fine to the tune of Rs 200,000 and minimum punishment of six months term and fine amounting to Rs. 100,000. The amount of fine will be given to aggrieved person and the court will ensure it.

**The Criminal Law (Amendment) Act, 2009:** aims at addressing the sexual harassment issues faced by women in



Pakistan. The Amendment is to add a specific section that does not give a vague term and makes it useable for women in cases of insult, humiliation and intimidation. Bearing in mind harassment has been the most common issue faced by women throughout South Asia, in particular, the Parliament of Pakistan, considering harassment faced by the women in Pakistan; amended the Pakistan Penal Code (PPC), 1860 and the Code of Criminal Procedure, 1898. Previously, Section 509 of the PPC declares any word, gesture or act intended to insult the modesty of women, as a basis for a person's liability to the sentence. The Bill elaborates and specifies what constitutes harassment of any person in public, private, and work places.

**The Family Courts (Amendment) Bill, 2008:** The Amendment ensures immediate relief to children by providing maintenance allowance at initial stage of proceedings in suit for maintenance. The Bill is aimed at providing immediate relief to the children by providing interim maintenance allowance, as soon as the written statement is filed on behalf of defendant in a suit for maintenance of children, and at any stage of the case in any other suit for maintenance. (Two separate Bills have been moved on the same theme by different members of NA).

**The Protection against Harassment of Women at the**

**Workplace Bill, 2010:** to create an environment free of sexual harassment, to open the path for women to have equal opportunity to earn livelihood and participate in the development of the country. Harassment is one of the biggest issues faced by our working women, and it prevents many from entering the job market. This Bill is aimed to create a safe working environment for a woman that is free from intimidation, harassment and abuse, so that their right to work with dignity could be fulfilled.

**The Guardians and Wards (Amendment) Act, 2008:** is a proposed amendment to protect the right of mother for keeping custody of minor during age of his minority which would be in the welfare of the minor.

**The Women in Distress and Detention Fund (Amendment) Act, 2012:** Another very important pro-women act passed by this incumbent Parliament is to provide legal and financial assistance to the women languishing in jails by amending "Women in Distress and Detention Fund Act, 1996".

**The Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011:** This Bill is aimed at checking such traditions and customs in our society that have taken roots in certain segments. The Bill stipulates that a woman cannot be used for settling a dispute or to pay off an outstanding debt.

Such cruel acts are dealt with severe punishments. The Bill also calls for ending other social evils including depriving women of their inheritance and contracting them into forced marriages.

**The Criminal Law (Amendment) Act, 2011:** another landmark act, which stipulates 14-year imprisonment sentence and fine up-to Rs. 1 million for those who commit the crime through Acid Control and Acid Crimes Prevention, Act 2011. The criminal act of throwing acid on women was becoming common and there was no proper legislation in the past for such heinous acts. Through this legislation, the import, production, transportation, hoarding, sale and use of acid will be prevented and it will provide legal support to acid and burn victims.

**The National Commission for Human Rights Act, 2012:** to constitute an independent National Human Rights Commission for the protection of the Human Rights of the common people of Pakistan. Through this Bill it will be ensured that no intelligence agency detains any citizen illegally. The commission empowered through this Act can survey any jail or secret prisons to check for illegal confinements. It also states that the armed forces and intelligence agencies will be answerable to the Commission and Parliament.



**The National Commission on the Status of Women Act, 2012:** promotes social, economic, political and legal rights of women, as provided in the Constitution of the Islamic Republic of Pakistan and in accordance with international declarations, conventions, treaties, covenants and agreements relating to women, including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). This national level commission for women with full administrative and financial autonomy will monitor and ensure compliance within national laws and international conventions; to advocate for the rights of women; to highlight discriminatory practices, abuse and violations of women's rights; and to make policy recommendations.

- **Health and Welfare**

**The Transplantation of Human Organs and Tissues Act, 2010:** through these acts, the parliament will ensure and monitor proper transplant and enforce prescribed standards for recognized medical institutions and hospitals. Through this Act of Parliament proper punishment was prescribed for any illegal and/or commercial transplant of organs.

**Waseela-e-Sehet (Health & Life Insurance) Program:** Waseela-e-Sehet is one of the major BISP initiatives improving access to quality health services and reducing

income loss from catastrophic health shocks and providing financial cushion of Rs. 100,000/- in case of death of the bread-winner of the eligible beneficiary family.

- **Education**

**The Shifa Tameer-e-Millat University Act, 2012 NUML and The NDU Act, and the National Vocational and Technical Training Commission Act, 2011:** have guaranteed women's inclusion & promotion in key academic, research and vocational institutions. This current parliament ensured empowerment for Pakistani women in all academic and education related institutions.

**The Medical and Dental Council (Amendment) Act, 2012:** of the Parliament will give approval to educational institutes to practise as hospitals after ensuring their professional development and through transparent procedures thereby ensuring quality health and welfare for people. This Act will empower the Pakistan Medical and Dental Council (PMDC) to have a quality check on both government and private medical and dental educational institutions, and will also provide better standards for medical and dental education and practice in the country. The PMDC will be allowed to penalise medical and dental colleges on mismanagement and poor quality of education.

**The NFC Institute of Engineering and Technology Multan Act, 2012:** aims at improving autonomy while improving governance and management to enhance the quality of higher education in the country.

**The Institute of Space Technology Act, 2010:** is to cater to the need of training expert manpower and imparting technical education in disciplines of space technology and to do research and service to society by disseminating quality knowledge.

**The Shifa Tameer-e-Millat University Act, 2012:** to encourage establishment of new universities/degree awarding institutes to provide more opportunities for higher education learning in fields of medicine, engineering and information technology.

**The National Defense University Act, 2011:** to promote quality education in the sectors of national defence and national security studies.

**Waseela-e-Taleem (Education) Program:** A BISP initiative in line with the commitment of Pakistan to achieve universal primary education. Under this program, 8.5 million children of BISP beneficiary families who are out of school shall be provided education through conditional co-responsibility cash transfers (CCT) by making cash payments to families who send their 5-12 year old children to school. Initially, the



program shall be launched in 20 districts in all parts of the country by the end of 2012. It shall be subsequently expanded to other parts of the country.

**Waseela-e-Rozgar (Vocational & Technical Training)**

**Program:** Another BISP initiative that aims to empower women by helping them to acquire vocational and technical training and become economically independent. The trainings include both certificate-based skills and in-house or product-based training.

**Conclusion**

The performance of the current Parliament over the last five years shows that a democratic dispensation is the first step towards advanced participatory democracy. Through its effective legislation and oversight, the Parliament has not only undone several mistakes of the past, but has shown visible sensitivity towards pressing areas that were previously unaddressed. While a commitment to democracy should not be subject to questioning in today's world, keeping in view the history of the region, especially that of Pakistan, it is imperative that all political actors and the civil societies display commitment and resolve in adherence to democracy. It is hoped that the continuation of this process would lead the region towards participatory democracy.



**National Assembly Secretariat, Parliament House,  
Constitution Avenue, Islamabad, Pakistan  
[www.na.gov.pk](http://www.na.gov.pk)**