

The Systematic Political Instability and Crisis Situation of Pakistan in early October 2024: **A Brief Analytical Report**

Pakistan had entered a serious political crisis which began when the Pakistan Tehreek-e-Insaf (PTI) government was removed by the military through a no-confidence vote in parliament. It had been in power from 2018 to 2022, while the term was to be completed in 2023. The military has intervened in Pakistan's politics many times before and is the country's most powerful institution. It has directly ruled over the country for 34 years and enjoys considerable influence on civilian governments. Imran Khan, former prime minister, and chair of the PTI, has faced numerous cases since his ouster.

The February 2024 elections were marred by allegations of massive rigging by the military and despite that unexpectedly the PTI won a massive landslide. Imran Khan was barred from standing in the February elections. The PTI was also denied their electoral symbol. The elections are widely considered the most controversial in history.

By the end of March 2024, Pakistan finds itself in a political crisis yet again. 1 In the final tally of the 336-member National Assembly, the PMLN has 122 seats (with 73 directly elected, 34 Women, and 5 Minority members), the PPP 71 (54 direct, 16 Women, and 3 Minority) Muttahida Qaumi Movement Pakistan (MQMP) 22 seats (17 elected, 4 Women, 1 Minority) while in the Opposition, the Sunni Ittehad Council (SIC)/ Pakistan Tehreek-e-Insaf (PTI) has 87 seats (all elected). The latter's claim for reserved seats was rejected, both by the ECP and the Peshawar High Court. Eight MNAs preferred to continue as Independents. As expected, on March 9, 2024, Asif Ali Zardari, co-chairman of the Pakistan People's Party (PPP), was elected as the country's 14th president defeating Mahmood Khan Achakzai of the Sunni Ittehad Council. On March 10, Zardari took oath as President of Pakistan for a second term. Previously, Prime Minister Shehbaz led a coalition government following the ouster of the PTI-led federal government, while Zardari completed his first five-year term as President of Pakistan in 2013. The old guard is back in power in Pakistan.

In the 371-member Punjab Assembly, the PMLN obtained 193 seats while PTI/SIC could get 98 seats, the PPP 13, and the PML (Quaid e Azam) (PML-Q) 10 seats. Nawaz Sharif's daughter, Maryam, was appointed Chief Minister. In Khyber Pakhtunkhwa (KP), the PTI/ SIC had a landslide 87 seats out of 145, with the Jamiat Ulema-e-Islam (Fazlur Rehman) appearing as the next largest party with only 17 seats. The 168-member Sindh house saw the PPP comfortably win again with 84 seats, with MQM-P appearing second largest (28 MPAs). Murad Ali Shah was appointed CM again. The 65-member Balochistan Assembly has a PPP-led (17-seat) coalition government led by Sarfaraz Bugti, including 16 PMLN MPAs and five Balochistan Awami Party (BAP) members.

Sharif, on March 3, 2024, PMLN president Shehbaz Sharif was elected prime minister of Pakistan after securing a majority vote from lawmakers in the National Assembly. Shehbaz secured 201 votes while PTI candidate Omar secured 92. Shehbaz's victory was expected as he enjoyed the support of seven other parties apart from the PMLN. It has the support of the PPP, MQMP, PML-Q, BAP, Pakistan Muslim League-Zia (PML-Z), Istehkam-e-Pakistan Party (IPP) and National Party (NP).

The PMLN president Shehbaz is the younger brother of former three-time prime minister Nawaz Sharif, who returned to Pakistan from London in October 2023. Nawaz decided against

contesting as his PMLN party did not garner enough seats in the February 8 elections to form a government on its own. Shehbaz served as prime minister of a coalition government from April 2022 to August 2023 before Parliament was dissolved to hold general elections.²

By the end of March 2024, Pakistan entered a systematic political crisis as the military had suffered a blow because of its intervention in the country's politics. Ayesha Siddiqa, a much-respected scholar, in her article "There's Trouble Inside Pakistan's Military," *The New York Times*, March 28, 2024, said that:³

For decades, Pakistan's military has been the country's most vital institution. Although it frequently intervened to oust elected governments, many Pakistanis saw this as salvation from the country's blundering politicians. The army, it was thought, was the only force capable of holding the country together. The question now is whether the generals can keep themselves together. The military has suffered a catastrophic loss of prestige after the populist former prime minister Imran Khan directly challenged its influence. In response, Mr. Khan was ousted, jailed and his party — despite winning the most parliamentary seats in a divisive February election — was shut out of a new civilian government that took power this month with the blessing of the military leadership. The country remains deeply polarized. But an even greater concern for Gen. Syed Asim Munir, the army chief, is that the polarization extends into the military itself. It is common knowledge within Pakistani and political circles that significant portions of the military leadership, powerful military families, and rank-and-file officers are sympathetic to Mr. Khan's right-wing, anti-American vision for the country, which included aligning Pakistan more closely with China and Russia. Whether this internal rift can be healed will ultimately decide the direction and stability of this nuclear-armed and fifth-most populated country. These divisions could hardly come at a worse time for Pakistan. The economy is near collapse and General Munir is working to repair relations with Washington that were badly frayed by Mr. Khan's politics. Pakistan is beset by political and security challenges on all sides, including archrival India under Prime Minister Narendra Modi, a Hindu nationalist, as well as Taliban-held Afghanistan and Iran. Iranian forces.

By May 2024 Pakistan faced an even more severe political crisis because of the tussle between the PTI and the Sharif Government. As expected, the whole matter of rigged elections is tearing the country's politics apart. The military has not been able to subdue the former Prime Minister Imran Khan who is in jail.

On May 30, 2024, Imran claimed that the February national election was rigged, calling it the "biggest robbery on public mandate." His remarks were the first to be heard in open court since he was jailed in August 2023. He said that his party is being "victimized" and there "have been gross human rights violations."⁴ The Election Commission has denied the election was rigged. Khan was then jailed on corruption charges. He is also fighting dozens of other cases. He and his PTI say the charges are politically motivated to thwart his return to power.⁵

On May 30, a Pakistan court acquitted Khan in two cases related to violence that occurred on May 9. The court cited a lack of sufficient evidence against Imran Khan. A judicial magistrate delivered the verdict. ⁶

Last year, following Khan's arrest in an alleged corruption case, his supporters engaged in vandalism targeting public property, including sensitive army installations. This is not the first time Khan has been acquitted in cases connected to the May 9 violence; on May 15, he was also cleared in two other related cases.⁷

Earlier, Pakistan Prime Minister Shehbaz Sharif on May 28, had accused some serving judges, whom he referred to as "black sheep," of allegedly providing relief to Imran Khan in various cases. Shehbaz made these allegations during a general council meeting of the PMLN, where his elder brother and former prime minister Nawaz Sharif was re-elected as the party's president.⁸

Khan led an unprecedented campaign of defiance against the military and was then snarled up in dozens of legal cases. He proclaims that the cases are bogus and have been arranged to thwart his return to power. He was imprisoned in August 2023 and as of October 9, 2024, is still in jail. In all this time Khan has been steadfast in his opposition to what amounts to military rule in Pakistan under the face of a civilian Sharif Government. The PTI has been crushed during this time.

Earlier, on September 14, 2024, Khan warned the Sharif government that the opposition party would resist any move to erode the judiciary's powers tooth and nail. He said:⁹

Sacrifices are essential for freedom. Democracy is being slaughtered, and they are about to enslave the nation... They want to protect against human rights violations and electoral fraud. The new constitutional amendment is being made to bring in Qazi Faez Isa. There is no democracy left in the country. When a party with less than 20 seats was seated in parliament, that was the end of democracy... There are restrictions on the media, and judges are being threatened. ... They talked about respecting the vote, but they honored the boot ... An FIR has been filed against me for a social media post. Why don't they also read the Hamoodur Rahman Commission Report to the nation? If they had implemented that report, martial law would never have been imposed in Pakistan... his party was getting prepared for a street movement and would hold a rally in Lahore, no matter what happened. Holding a rally is our democratic and constitutional right, but for the past year and a half, we have not been allowed to do so. Has Punjab become a police state where we are not allowed to hold a rally? Authorities put up lots of hurdles, but the PTI managed to hold a huge rally in Islamabad last week on September 8.... people must make sacrifices in the struggle for independence.... The ruling PML-N and PPP are not doing politics but are engaging in servitude. I am ready to sacrifice my life, but I will never accept anyone's subjugation. What is happening to us today could happen to them tomorrow as well... condemned the recent arrest of PTI lawmakers from inside the Parliament House and described it as unprecedented.

Given the strictness, no one in Pakistan directly uses the term military in their conversations, including Imran Khan who uses the term "boot" in the above quote as code that refers to the military. Usually, the term "establishment" is used for the Military.

PTI Chairperson Barrister Gohar Ali Khan has criticized the government's potential move to introduce a constitutional amendment bill, saying that such action without following due procedure is against parliamentary rules. On September 14, 2024, Gohar expressed frustration with the Military and said that:10

Sharif Government's tendency to pass legislation under the cover of darkness. We have always said that if you want to legislate, follow the proper procedure. The Constitution clearly outlines the legislative process, and we must adhere to the law and the Rules of Business.

Gohar highlighted that private member bills first go to a committee, requiring permission a month prior, before being placed on the agenda. "Government bills are handled by the ministry, then passed through the cabinet with the prime minister's signature. Rules of Business 16 and 27 require the Ministry of Law and Parliamentary Affairs to advance these bills," he explained.

He further criticized the current government's approach: "There has been no cabinet meeting, no approval. If the bill is introduced without these steps, it will be a clear violation of the rules."11

On September 15, the Sharif government tried to introduce the Constitution (26th) Amendment Bill 2024 in the National Assembly in a very secretive manner but failed. The session was prorogued for an indefinite period. Shockingly, speaking on the floor of the National Assembly, Minister for Law Azam Nazeer Tarar said:12

The draft of the Constitution Amendment Bill 2024 was yet to be presented before the federal cabinet and Cabinet Committee for Disposal of Legislative Committee ... it was decided between the PMLN and the PPP that the unfinished part of the Charter of Democracy would be implemented. We were not going to commit any robbery or doing anything else in the dark of the night... people of the country have given authority to the parliamentarians as to how the country would be run.

Earlier, PTI leader and former Speaker Asad Qaisar said: 13

PTI leadership would strongly resist any constitutional amendment that could undermine the supremacy of the Constitution and independent judiciary...the government humiliated the Parliament and attempted to make the House a rubber stamp...It was the law minister who was saying that he did not possess a draft of the amendment...he was particularly pained by the PPP leadership, including Bilawal, because they knew the whole situation.... amendments in Articles 8 and 99 were not shared with the PPP leadership and same amendments were meant to breach basic rights of the people... the proposed Constitutional amendment which could have affected even the common person was attempted to be passed in the dark of the night. If you do not share the draft of legislation with stakeholders then it should be called theft, not legislation... there was a lack of trust on the part of the ruling party as even within allied parties different drafts were shared at different forums. He alleged that six to seven MNAs were kept in the Punjab House, and they were being forced to vote in favor of the constitutional amendment. It is better to die

instead of becoming part of such a constitutional amendment. The proposed 26th constitution amendment contains more than 54 amendments with a focus on the creation of a federal constitutional court (FCC) having a chief justice and many other judges, the tenure of the Chief Justice of Pakistan, change in the format of the Judicial Commission of Pakistan, and transfer of all the pending cases in constitutional matters to the proposed FCC. According to the insertion of a new clause 176A, the President of Pakistan would appoint the FCC chief justice and other judges under Article 175A. A person who holds or has held the office of a judge of the Supreme Court or judge of a high court that has experience of at least five years will be eligible to be appointed as FCC judge. Moreover, a person with 15 years of experience as an advocate of a high court and an advocate of the Supreme Court may also be appointed as an FCC judge. According to new Article 178A, the retiring age of the judge of the FCC has been fixed at 68 unless he resigns or is removed from office according to the Constitution. There would also be an acting chief justice of the FCC who would be the most senior judge of the FCC. According to an amendment in Article 63A of the Constitution, the vote cast by a member (parliamentarians) contrary to the direction issued by the parliamentary party would be counted and not disregarded. ... According to an amendment in Article 179, the tenure of the Chief Justice of Pakistan would be three years unless he resigns or reaches the age of 65 years. The FCC would have the authority to hear appeals, petitions, or review applications arising out of the orders of the high courts passed under Article 199 or filed/pending before the Supreme Court before the commencement of the Constitution Amendment Bill 2024. According to the substitution of Article 185 of the Constitution, the Supreme Court would have the authority to decide appeals from judgments, decrees, final orders, or sentences of a high court excluding those announced under Article 199. This Article 199 relates to orders of the high court in constitutional matters and with the passage of the bill, all the cases in this respect would be transferred from the Supreme Court to the FCC. According to an amendment in Article 175A, the commission for appointment of judges of the high courts and Federal Shariat Court would consist of two senior-most judges of the FCC, a chief justice and two senior-most judges of the Supreme Court, federal minister for law and justice, attorney general, a senior advocate or an advocate having not less than 20 years of practice in Supreme Court to be nominated by the Pakistan Bar Council for a term of two years. The commission would also consist of two members each from the Senate and the National Assembly with equal representation from the treasury and opposition benches. In the case of appointment of judges of the FCC, the chief justice and senior-most judges of the FCC would replace the chief justice and two senior-most judges of the Supreme Court.

Strongly criticizing the much-hyped judiciary-centric constitutional package shrouded in mystery, Khan claimed on September 16, that the ruling coalition is trying to introduce amendments to the Constitution in a bid to keep him behind bars. “New amendments would destroy the country’s future,” said Khan. Aiming at the rulers, he said: “They have decided to destroy the judiciary.” The “current rulers are afraid of the Supreme Court; therefore, they want to constitute a [separate] constitutional court.” He further alleged that the federal government engaged in these practices “to hide election fraud.” The PTI has been arguing for a long time that the February 8 general elections were “rigged” which he said snatched their big-scale electoral

victory via “manipulation in the results”. Khan said that his party would “never remain silent and register a strong protest against the coalition government’s move.”¹⁴

After not winning over the JUIF chief, the Sharif puppet Government decided to “indefinitely postpone” the tabling of the constitutional package. The opposition parties criticized the government for being secretive over the content of the constitutional amendments whose original draft should be presented in the parliament for a debate before its approval.

Constitutional amendments require a two-thirds majority in both houses of parliament. The lower house, called the National Assembly, has 336 seats, while the Senate, the upper house, has 96. The government needs at least 224 votes in the National Assembly and 64 in the Senate to push its package. In the National Assembly, the government is short of 13 votes to pass the said constitutional amendment while in the Senate, it is short of nine votes.

The puppet Sharif Government’s package includes more than 50 proposals, most of them concerning the judiciary. The Key ones are:¹⁵

1. To create a new Federal Constitutional Court alongside the Supreme Court. It would manage petitions pertaining strictly to interpretations of constitutional clauses.
2. Raising the retirement age of judges in the proposed Constitutional Court to 68, as opposed to other judges who retire at 65. Additionally, the term of a judge serving in the Constitutional Court would not exceed three years. Judges in other courts do not have term limits beyond the cap imposed by the retirement age.
3. The president would appoint the chief justice of the Constitutional Court, on the prime minister's recommendations. Appointments to the Supreme Court are currently conducted by a Judicial Commission, which looks at senior-most judges of the high court and recommends names to a parliamentary committee that must confirm them.
4. Reverse a controversial ruling by the Supreme Court in May 2022, which said that a legislator’s vote against their party line would not be counted. The amendments look to overturn that by allowing legislators to defy their party line when voting in parliament.

The Military and the Sharif government desire to rush through the amendments to ensure that the current Chief Justice Qazi Faez Isa, who is retiring on October 25, should become the chief justice of the newly proposed Constitutional Court, which would overrule all other courts. The PTI was opposed to the proposed changes, which threatened to make the judiciary “toothless” by taking away its independence. The party alleges that “the sole purpose behind all these constitutional changes is to somehow find a way to ban the PTI and send Khan’s case to military court,” The PTI alleges that “the government, by handpicking judges to a new court empowered with decisions on constitutional matters – including the fate of political parties – plans to strengthen its chances of judicial support for moves against the PTI and Khan”.

Some Pakistani analysts say the proposed amendments if passed, may alter the balance of power between the executive and the judiciary. While the proposed amendments “aim to curtail the

powers of the Supreme Court, they appear to extend a significant exemption to the military.” They would reportedly “prevent high courts from passing orders against army officers in matters of national security.”¹⁶

The whole episode was strongly criticized as an effort of the military to subjugate the parliament and the judiciary. As expected, the reaction was swift. Khyber Pakhtunkhwa (KP) Chief Minister Gandapur, commenting on the constitutional amendment bill, said "Far from bringing about an amendment, how could they even think of presenting a bill [over it] while we are here." He called the bill 'an attack on democracy' that his government will not allow to succeed. Gandapur stated that attempts to introduce such a bill would face staunch opposition, both in Parliament and through judicial means.

He pledged to “use all constitutional rights to ensure that no one would have the courage to propose such legislation.”¹⁷

The PMLN puppet Government is hugely embarrassed for its failure to get through judiciary-related constitutional amendments and the blame for this situation has been laid on Mohsin Naqvi and Azam Nazir Tarar.

The whole affair became a great mess for the Sharif puppet Government. While the PPP and PML were both under the impression that Maulana Fazlur Rehman was on board, they were shocked when he asked for the proposed amendment package for review.

Mohsin Naqvi and Azam Nazir Tarar were directed to negotiate with Moulana and get him on board for the task. The matter became public prematurely because of the inexperience of both Naqvi and Tarar in such matters of political deal-making.

Dar was involved later, prime minister also rushed to Maulana’s residence, The PPP’s Bilawal visited the JUIF chief, but nothing worked for the government. In such matters, things are opened only after everything gets settled finally. But, in this case without getting any deal done with Maulana, the National Assembly and Senate sessions were called.

The constitutional amendment package was delayed because there was no deal to get the required numbers in the case of Maulana. Thus, the messed-up situation led to extreme embarrassment for the Sharif Government.¹⁸

The military brass was also embarrassed.

For the first time in the history of Pakistan, a military secret agency allegedly kidnapped several PTI members of the National Assembly from inside its building. The bizarre and shocking incident has shaken the country as it was reported in the media. The public criticisms were shrill and pronounced, as expected. A hard-hitting editorial “Epic Fail” in *The News* spelled it out clearly when it said: ¹⁹

The events epitomize a colossal failure for the ruling coalition, revealing their inability to manage both political and legislative affairs effectively. The proposed constitutional amendments were meant to address several key issues, including the establishment of a constitutional court – a longstanding demand enshrined in the Charter of Democracy signed by late PPP leader Benazir Bhutto and PML-N leader Mian Nawaz Sharif.

Restoring Article 63A, which had been altered by a controversial Supreme Court verdict, was also part of the package. While some aspects of the amendments are indeed contentious, many would have been less problematic under normal circumstances – if only the government had handled the process with transparency. The lack of clarity surrounding the proposed amendments, shrouded in secrecy, only fueled public skepticism and criticism. Instead of presenting the draft bill openly, the government chose to conceal it, which only served to heighten suspicions and opposition. Even the federal law minister inadvertently showed how he received the draft bill on Sunday evening, adding to the sense of disarray and mismanagement. If the government did not have the required numbers and needed to iron out things with Maulana Fazl, it should not have gone ahead with the move to table the bill. By not ensuring broad-based support and by turning the process into a dramatic spectacle, the government not only lost the narrative war against the PTI but also paved the way for further criticism. The handling of the proposed amendments has led to unwarranted criticism of Chief Justice Qazi Faez Isa and has turned an important legislative process into a controversial spectacle. The government's failure to engage stakeholders – civil society, bar councils, the judiciary, and parliament – has transformed what should have been a routine legislative update into a contentious and opaque affair. It doesn't matter what was happening behind the scenes and what guarantees not were given by Maulana Fazl to the government leaders; the fact is that the government turned it into a circus and its preference for secrecy over transparency has backfired spectacularly. The amendments bill, which could have been a step forward, has instead rightly become a symbol of political mismanagement and incompetence. As the government sips from the poisoned chalice of its own making, it is clear the real issue lies in the way the government went about doing all this.

Another good editorial “Parliaments Place” published in *Dawn* on September 18, 2024, said:20

With the storm around the government's planned amendments to the Constitution now behind it, will parliament turn its attention once again to protecting its privileges and reasserting the stature it has been granted within the configuration of the state? The issue, it may be recalled, had been taken up last week after masked individuals entered the National Assembly's premises to arrest several lawmakers associated with the PTI — a serious infraction of House privileges that had triggered an uproar on both the treasury and opposition benches. In the aftermath, a special 16-member committee was set up through a unanimous motion moved by the Lower House, which has been followed by the formation of a similar 13-member committee in the Senate as well. The committees are tasked with discussing, analyzing, and making recommendations about issues related to parliament, rules, and procedures, and conduct of business. While the committees get to work on their mandates, it is pertinent to examine the scope of the crisis parliament faces today. Over the years, a series of poor precedents have been set under successive governments that have greatly undermined its prestige and power. For example, it would be a big step towards restoring the prestige of parliament if our elected representatives agreed to stop constantly painting each other as the vilest villains to roam the earth. The executive and judiciary have still been shielded from the kind of continuous controversy that afflicts the legislature mainly because they do not air their members' dirty linen in public. This, of course, should not be taken to mean less transparency and accountability;

however, there is an urgent need to set some basic rules of engagement between political rivals. Relatedly, there is a need to realize that parliament and its members must be respected regardless of who controls the government and who sits on the opposition benches. For example, parliament injures itself when it blacks out the speeches of some of its lawmakers. If parliamentary privileges protect all lawmakers' speeches on the floor of the House, then no power should be able to dictate which speeches can be heard by the public, and which cannot. It should be left to parliamentarians to bear responsibility for their words. Secondly, those who champion parliamentary politics must also respect its procedures. Attempts to bulldoze major legislation through backdoor deals, with votes coerced out of unwilling lawmakers, undermine everything parliament stands for. Legislative activities must be open to scrutiny and debate — it is this transparency from which parliament derives its legitimacy and its power. Lastly, the effort to restore parliament's sanctity must not be predicated on the actions or words of any individual. It must rise above all political differences, no matter how serious if it is to achieve its intended results.

Salahuddin Ahmed in his brilliant article “Constitutional Package — judicial overhaul or national suicide?” published in *Dawn*, on September 17, 2024, argued that:21

A draft of the 26th Constitution Amendment Bill is in circulation. If this is indeed what is being contemplated by the government, I am reminded of the words of a doctor friend — sometimes there are patients so insistent on ignoring medical advice, that you want to give them spades to dig their graves. Nonetheless, this article is written in the forlorn hope there are still a handful of undecided parliamentarians (and only eight or 10 are needed) who possess the wisdom to understand the implications of this bill, a sense of duty towards their oath as a parliamentarian and the courage needed to resist this national suicide pact. At the very least, all parliamentarians (whichever party they belong to) must consider whether they should rubber-stamp a change to the fundamental structure of our constitutional system without even being allowed to read, consider, or debate those changes. The solution to what? For months, there were rumors of a bill aimed at extending the tenure of the chief justice of Pakistan, the retirement age of all judges or even increasing the number of Supreme Court (SC) judges. That would have been bad enough for transparently political aims. But this bill, also known as a ‘Constitutional Package’ is far, far worse. In a nutshell, it abolishes the jurisdiction of the apex court about constitutional petitions. All such cases shall go to a new constitutional court headed by a chief justice appointed by the president on the sole advice of the prime minister. The president shall also hand-pick the remaining judges of the constitutional court after consulting with the newly-appointed chief justice. Besides, no court (old or new) shall have the power to examine the actions of officials acting under “national security” laws. And (naughty) high court judges or (sensitive) cases can be transferred, without consent, from one high court to another. The argument put forth by our ruling parties is that our superior courts have become too politically partisan, and hence, reform is necessary. Right. So, to depoliticize courts, the solution is to ensure constitutional cases are only heard by judges appointed by the ruling political parties. The other argument is that our judicial system is overburdened, and litigants face long delays. Right. So, the solution is to add one more layer to the adjudicatory hierarchy so that after litigants spend decades

exhausting civil and criminal law remedies up to the apex court, they can take the dispute on constitutional grounds to the constitutional court. As for government spokespersons fond of recounting instances of capitulation by the judiciary in the face of military might, their solution for enhancing judicial resolve is to take away the judicial power to examine actions taken under “national security” laws and introduce legislation leaving judges more vulnerable to executive pressure? Taming the Judiciary 101

But let’s take a closer look at the more important provisions of the bill. The proposed amendments to Article 175-A of the Constitution — which deals with the appointment of judges to the high courts, apex court, and the federal Shariat court — effectively merge the judicial commission and parliamentary committee that presently appoint judges. On its own, that could be defended. There was valid criticism that the 19th Constitutional Amendment and subsequent SC judgments had effectively neutered the role of the parliamentary committee. But then, the bill goes on to say that the first chief justice of the new constitutional court shall be appointed by the president on the sole advice of the prime minister. Similarly, the initial appointments of judges to the new court shall be made by the president (on the advice of the prime minister) in consultation with the first chief justice. So, for all these initial appointments to the constitutional court, there is no role for the merged judicial commission at all. The troika shall decide. Crucially, there is no requirement that the initial chief justice or judges of the constitutional court be appointed from existing SC judges. They could be retired SC judges or even advocates of the SC with 15 years of practice. The merged judicial commission will only play a role in subsequent appointments to the constitutional court — after the first constitutional court is duly filled. Conveniently, this merged commission will have 13 members — including six of the incumbent (hand-picked) appointees to the constitutional court, the federal law minister and attorney-general, and two parliamentarians from the treasury benches (making a comfortable majority of 10). To further safeguard against incipient sparks of judicial rebellion, the bill provides that, even in the future, the chief justice of the constitutional court shall neither be appointed by seniority nor by judicial commission. He shall be appointed from among the three senior-most judges of the constitutional court on the recommendation of a National Assembly committee (with proportionate representation from all parties). In other words, the ruling party shall always have a majority on that committee. A similar procedure is prescribed for the appointment of future chief justices of the SC. Thankfully, the bill does not demand the three senior judges personally perform auditions for the edification of the ruling parties. Meanwhile, the retirement age for constitutional court judges shall be 68 (or a fixed tenure of three years if the fresh appointees are already judges of the SC). This further incentivizes SC judges to play ball with the government if they wish to prolong their careers.

Abolishing the Supreme Court. Now that we understand how this new constitutional court shall be formed and its institutional subjugation to the executive, it is time to look at what it will do. First, the bill immediately transfers the entire original jurisdiction of the SC — disputes between two governments or any direct petition, or suo motu proceedings, involving enforcement of fundamental rights — to the new court. Notably, the bill specifically bars even this new court (as well as the old courts) from hearing petitions relating to a person “performing functions under any law relating to national security.”

Secondly, and even more importantly, the bill provides that the constitutional court shall have exclusive jurisdiction to hear appeals against all high court orders and judgments

passed under Article 199 of the Constitution — the writ jurisdiction. Political petitions are a tiny minority of writ petitions before the high courts. The vast majority of writ petitions involve routine challenges to wrong orders passed by lower courts and the actions and inactions of governmental authorities such as revenue officers, town planning authorities, tax collectors, promotion boards, the Securities and Exchange Commission of Pakistan, the State Bank of Pakistan, Nadra, jail authorities, police and the like. All of these will now end up in appeal before the Constitutional Court. So, what will the SC do? For one, it will hear appeals against the (few) matters that are decided by high courts in their statutory appellate or revisional jurisdictions. Even there, if any substantial point of constitutional law is involved, the case shall stand transferred to the constitutional court. Moreover, if there is a question as to whether a case falls within the jurisdiction of the SC or constitutional court, the latter shall decide. Therefore, the bill abolishes the Supreme Court of Pakistan. It merely does the courtesy of not subjecting judges to the indignity of Article 209 proceedings — about the conduct of judges — and leaves them free to twiddle their thumbs at state expense. A more fundamental attack on the basic structure of our Constitution and the trichotomy of powers enshrined therein is hard to imagine. The Parliament cannot take away the judicial power to interpret the Constitution from the apex court and vest it in, what is effective, a body subordinate to the government/legislature. No lessons learned. But there is more. The proposed amendment to Article 186-A of the Constitution — which deals with SC's power to transfer cases from one high court to another — allows the constitutional court (if it disapproves of how a high court is proceeding with a writ petition) to transfer it to any other high court or to itself. This undermines the autonomy of provincial high courts. Students of constitutional history will recall that General Musharraf sought to invest the SC with an identical power during the emergency in the Dogar era but was eventually thwarted due to the resistance of the very same political parties. They will also note the proposed amendment to Article 200, allowing a (recalcitrant) high court judge to be transferred to any other high court even without his consent, is a fresh resurrection of a clause specifically omitted by the same parties through the 18th Amendment. Going further, the proposed amendment to Article 190 removes the obligation of all executive and judicial authorities in Pakistan to act in aid of the apex court and replaces it with the obligation to act in aid of the constitutional court. Lastly, about the judiciary, the bill seeks to amend Article 239 — which deals with the procedure of constitutional amendments — by providing that if any court entertains a challenge to a constitutional amendment, its judgment, order or declaration shall be “of no legal effect and void”. For context, the SC in the Rawalpindi Bar's challenge to military courts in 2015, had held that although the judiciary would not ordinarily entertain challenges to constitutional amendments, they could do so if the amendments moved beyond the purely amendatory power and sought to entirely efface essential features of the Constitution. It is this power of judicial review that prevents, for example, a two-thirds majority of Parliament declaring that all members of the present house shall hold office for life and there shall be no elections until they all expire. The bill seeks to remove this institutional check and balance implicit in our constitutional scheme. As a bonus, in non-judiciary-related amendments possibly pointing to the actual origins of this bill, the proposed amendment to Article 243 — which deals with the command of armed forces — provides that all present laws relating to the procedure of appointments, reappointments, extensions, service limits and retirement or removal of the

services chiefs (recently introduced in 2020 for the benefit of General Bajwa) shall, henceforth, possess constitutional force and require a constitutional amendment to change. In other unrelated matters, the proposed amendment to the Fourth Schedule of the Constitution permits Parliament to grant taxation powers to cantonment boards and authorities. Neat. One could understand such an attack on judicial independence under a military regime. But what has happened to the common sense and survival instincts of politicians? During the furor about the Practice & Procedure Bill, I (unsuccessfully) tried explaining to friends in the PTI that while they may be unhappy with the clipping of the CJP's powers to constitute benches during Justice Bandial's tenure, it would be their lifeline in years to come. Predictably, it is judges (like Justices Mansoor Ali Shah, Athar Minallah, or Babar Sattar) who were most frequently the subject of the PTI's ire when the party was in power. It is these same judges who have provided them some succor during difficult times. Luckily, the PTI was unsuccessful in its various attempts to subjugate the judiciary. One hopes, not just for the future of the nation but even for members of our hapless ruling party, that they remain similarly unsuccessful in this latest attempt at national suicide.

Ejaz Haider in his excellent article "The 'Constitutional Package' is Dirty Politics Cloaked in Legislation," published in *Friday Times*. September 16, 2024, says: 22

The government's hectic efforts over the past weekend to push through a "constitutional package" do not appear to have borne fruit. For now, it does not seem to have the numbers. But the question is broader and more problematic than just the elusive magic numbers: why is the government so desperate? Short answer: it wants to (a) reconfigure the higher judiciary to ensure a sympathetic (read, pliant) Chief Justice of Pakistan with greater powers over the Supreme Court judges and (b) stuff the SC with the most amenable judges. This, again, is a means to an end, that end being its survival for the next five years and its subsequent re-election. Let's now get to the long answer. There is nothing inherently wrong with a government bringing in constitutional amendments. In this case, though, there are two problems. First, this government was midwived into existence through massive post-poll rigging and hence lacks legitimacy. Second, the constitutional package is specifically geared towards parochial political interests rather than an exercise at genuine reform.... let's get to the government's "package" now and its whys and wherefores. There are two contending actors fighting a war of attrition: PTI and the government-establishment chimera. The PTI has primarily relied on the legal-constitutional framework to protect itself. The establishment-dominated duo has responded by legal and illegal means, including the arbitrary arrest and detention of opponents and other undesirables. This approach has brought the higher judiciary into this fray. The government believes that certain judges take the Constitution and laws too seriously and that this excessive zeal hampers the government's ability to deal with the PTI. What are the objectives of the government? Ensure that the PTI and its leader, Imran Khan, are pushed out of the game; make further room for the current dispensation to complete five years and ensure that come to the next elections, PTI is still out of the game and the current in-favor political actors continue. After ten years, biology takes over with Khan being 82 and PTI then is in either total disarray or a speck on the political landscape. For this game of legal pretense to continue and for the establishment to stay in the shadows and control the system's critical, strategic nodes, the government-

establishment duo needs judges who can massage the Constitution to these ends. Corollary: if the strategy works as planned, the establishment retains its control of the system while the political actors remain subservient and beholden to its largesse. This is why civil-military relations literature considers indirect control of a system by the military worse than an open coup d'état. Oscar Wilde once told his editors that he would leave them "to tidy up the world and shoulds, wills and shalls, thats and whiches" so I will leave the legal technicalities to the jurists. But a few words about the "constitutional package" are in order, if only to flag the political machination that informs this innocent move.

1. Extension of the judges' retirement age. Apparently, despite his statements to the contrary, the current Chief Justice, according to the government, is amenable to this if the retirement age for all judges is extended to 68.
2. The likelihood of a three-year tenure cap for the CJP.
3. Change in the seniority principle for elevation to the position of the CJP. Insiders say there would be a panel of three or four names out of which one would be selected as the CJP.
4. Change in the procedure for selecting "appropriate" High Courts judges to the SC.
5. Increase in the number of judges to 23.
6. Amendment nullifying the SC decision on floor-crossing (Article 63 A), which disqualifies a member whose vote is not counted. This measure is likely to be retrospective to get the votes of any "PTI" members. Additionally, there's the issue of creating a Constitutional Court that will only deal with constitutional issues while the current SC will be confined to dealing with civil and criminal cases. The proposed CC is to have five judges. Insiders also say there will likely be changes to the Supreme Court (Practice and Procedure) Act, 2023, with the CJP regaining his sole prerogative for suo motu action and formation of benches. On the face of it all this might seem ordinary. Given the context, this is an obvious exercise to neuter the SC. The government wants to retain the current CJP, who is due to retire in October. This is because it fears the next incumbent won't do the government's bidding. Ditching the seniority principle in favor of a panel means the government can choose someone who, in theory, will play ball. An increase in the number of judges procured through the new procedure would mean getting favorable judges in the SC. Amending the SC decision on floor-crossing will allow the government to get the necessary numbers by beating PTI dissidents into defection. This is also useful for future vote buying. The SC knows what the government is trying to do and eight judges issued a clarification on Saturday regarding the earlier judgment on reserved seats, which made it clear to the ECP that it could not refuse to recognize PTI seats. This was the SC's warning shot across the government's bow — if you play dirty and we know you are playing dirty, we retain the right to strike down your constitutional package. The constitutional package is vital for the government-establishment duo, besides being time-sensitive. It is equally vital for the judiciary to block the package if the SC is not to be turned into the government's handmaiden. But there's a limit to how far politics can be played through technical employment of legalities. If the constitutional package goes through and the SC overturns it, the country will be plunged into a deadlock. The situation could get worse if the government refuses to implement the SC decision. The ECP, despite the SC's exhortations and reprimands, remains resolute in refusing compliance with the SC's orders. The judiciary enforces its decisions through a normative acceptance by the state of its legal-moral authority. Courts do not have their police forces for enforcement. What happens when the government refuses to bow to the SC? That's when the institutions of the state, already disjointed, go into an open conflict.

That's when the armed actor can decide to throw out the legal-constitutional compact, kick aside the chessboard and start playing solitaire. That's when venalities lead to a country imploding. No one wins. But everybody loses.

Meanwhile, the politics of the amendment episode was paralyzing the country. Prime Minister's Special Assistant, Rana Sanaullah, revealed on September 17, 2024, that "informal discussions on proposed constitutional amendments have been held with PTI, with the opposition party showing agreement on the improvements these amendments could bring". He further noted that "the amendments which have already seen consensus could be passed in the Senate and National Assembly by the first week of October. However, efforts are ongoing to build broader agreement on the remaining proposals."

Meanwhile, Defence Minister Khawaja claimed that "PTI had no objections to the amendments but requested that the process be delayed until December. The government is pushing for a broad agreement on the amendments, which aim to address critical issues, including judicial reforms." However, with PTI signaling no strong opposition, the focus now shifts to ensuring that all political parties can reach a consensus to move forward. While the government is confident in securing passage of the agreed amendments by early October, some aspects are still under discussion, and further dialogue with opposition parties is expected.²³

However, Khan has alleged that constitutional amendments are being pursued to extend the terms of three top officials, including Chief Justice Qazi Faez Isa, Islamabad High Court's chief justice, and the Chief Election Commissioner. "They are amending the constitution to extend the terms of three umpires," Khan said. The government has vowed to reintroduce the bill once a consensus is reached, acknowledging that the lack of agreement with JUI-F has delayed the process. However, with Fazlur Rehman showing no signs of backing down, it is still unclear when the bill will be presented in parliament.²⁴

Meanwhile, Maulana Fazlur Rehman has completely rejected the government's proposed draft on constitutional amendments, calling it unacceptable. He questioned the credibility of the process, saying, "Now they are claiming it was not even their draft. What kind of game was being played?"²⁵

It is astounding that the military brass, through the puppet government, had attacked the parliament earlier, demeaning the institution. Later, it forcefully kept the constitution document a secret from even the government ministers themselves. The parliament was not shown the document which created a bizarre situation that led to severe criticisms from the members, and the people of the country. The reason was simple: the amendments would have destroyed the independence of the judiciary and suppressed the legislature permanently leading to even more strict military rule or a civilianized version of a martial law regime of sorts. It is baffling that the military brass was in such haste to amend the country's constitution and thereby ensure permanent military dictatorship. As expected, the amendment attempt was vehemently criticized both in Pakistan and abroad. Undoubtedly, there is a need to reform the judiciary, but it should happen properly through a prolonged deliberation process and certainly not be just bulldozed

through a rubber stamp parliament in just one sitting. It is unimaginable that the military brass thought that they could get away with the amendment process in great secrecy, without the required numbers of votes, and any debate. The amendment fiasco had demeaned Pakistan which was thereby reduced to the status of a banana republic. The whole episode proved to be a grand disaster for the military brass and the puppet Sharif government. The amendment's fiasco was at once very widely criticized by the people of Pakistan.

As expected, the incident raised a furor in the country. The PTI General Secretary Salman Akram condemned the recent attempt at constitutional amendments, which he claimed were “intended to undermine the judiciary and ban PTI. Raja specifically criticized the amendments for trying to manipulate the Supreme Court of Pakistan and vowed not to recognize Justice Qazi Faez Isa as the Chief Justice of Pakistan.”

Raja further alleged that “the government was looking to establish a parallel constitutional court under Justice Isa through the proposed amendments.” He warned that despite the government’s efforts, they had failed to convict Khan through legitimate means and were now resorting to “military courts.” He declared this a “red line” for PTI and the people of Pakistan, affirming that the party would continue its struggle for Khan’s release.”²⁶

The PTI senior leader Sardar Latif Khosa also lambasted the government for trying to amend the constitution to “impose Justice Qazi Faez Isa as Chief Justice.” He rejected the recent reshuffle within the Supreme Court, describing it as “part of a government strategy to stack the judiciary with favorable benches.” Khosa warned that “such actions could have “serious consequences,” referencing the political turmoil that led to the fall of Sheikh Hasina’s government in Bangladesh.²⁷

Ammar Ali Jan in his superb article “As the Old is Dying, New Struggle to be Born,” published in *Dawn* on September 22 says:²⁸

The final frontier for the state was its monopoly over ‘Pakistan,’ an elusive category that has intense emotional appeal for large sections of society. In that realm, PTI and Khan have decisively displaced the military as the primary expression of nationhood in mainland Pakistan. For decades, the establishment projected Khan as a political alternative in which the modernist, corporate aspirations of society coalesce with more traditional virtues of piety and personal integrity. After alienating political leaders from the peripheries and the mainstream, Khan was the final line of defense for the state. Yet, in a bizarrely whimsical manner, the establishment switched sides, hoping that the military’s historical core support base would abandon PTI. Instead, they moved with the PTI, making Khan the embodiment of ‘Pakistani nationalism.’ Consequently, the state no longer has a monopoly over religion or nationalism, while also struggling to fend off intensifying challenges from ethno-nationalist forces....Khan, on the other hand, represents the spirit of the time, insofar as these new social groups are more willing to coalesce around him. Yet, his stint in power was marred by the fact that he and his party offered precious little in terms of new ideas for Pakistan’s political economy. IMF conditionalities, bulldozing bills in the parliament (similar to what we recently witnessed

with the clumsy attempt to pass the 26th Constitutional Amendment Bill), helplessness in front of rent-seeking elites while using severe repression against opponents, and very little discussion on redistribution of economic power were the hallmarks of his brief stint in power. Even today, PTI's strength remains its ability to harness the anger of the people through the production of a catchy narrative that feeds into the anxieties and aspirations of people. However, a narrative is different from ideology since the former can be molded anytime to suit the audience one is addressing, while ideology requires a consistency of principles over an extended period. This is why we hear very little from PTI in terms of a concrete vision for the future and a lot about how the current dispensation is a hopeless failure. Consequently, we have entered a stage of revolutionary aesthetics that veil a deep conservatism, an intensification of tactical maneuvers but without any strategic horizons, and an increasing anger towards the status quo without any proposals for an alternative social contract. What we are then witnessing in these multiple crises is the culmination of an order that began in the 1950s — a status quo that was propped up by foreign powers to do their bidding in the region, a political economy addicted to war, rents and excessive consumption, a failure to innovate, and a refusal to incorporate difference. It is resulting in the dismantling of the ideological underpinnings of the ruling order and a deep political disorientation, exemplified by the lack of imagination exhibited by political parties. In other words, the old order has lost its *raison d'être*, and the instability we witness today is a symptom of a deeper crisis that signals the end of a historical epoch... The world is out of joint, and to seek illusions instead of truth in such moments will be a great abdication of intellectual responsibility. Our biggest failure will be if we continue to comfort ourselves with the belief that things will go back to a 'normal' equilibrium at some point. The costs of failure are too high for us to remain comfortable in our illusions.

Today, Pakistan faces an existential dilemma of a heavily militarized bogus political dispensation and setup, unlike anything earlier. With profoundly serious contradictions and fault lines. The brilliant editorial "The New Normal" published in *The News* on September 22 spelling out Pakistan's existential dilemma says that:²⁹

In a startling declaration, PTI founder Imran Khan has said that even the martial laws of Generals Ziaul Haq and Pervez Musharraf were better than today's democratic setup. His words, meant as a critique of what critics call the current 'hybrid regime,' do find some takers who point out that democracy in the country, once a rallying cry and symbol of resistance against authoritarianism, has now become a hollow shell. Observers have noted that this comparison may not be entirely without merit – though with important caveats. General Zia's era was a dark chapter in Pakistan's history, marked by a comprehensive assault on political, social, and civil rights. His regime didn't just target political dissent; it reshaped the very fabric of Pakistani society, promoting religious extremism, nurturing a Kalashnikov culture, and entrenching the seeds of intolerance. It was a time when women's rights, minority rights, and human rights were all mercilessly trampled under the weight of his draconian policies. This is why perhaps nothing can be compared to General Zia's martial law. Today's Pakistan faces its own set of grave challenges – a creeping encroachment on fundamental rights through internet bans, a chilling attempt at creating an online firewall, and the passing of anti-democratic

legislation. Little is done to mask the undercurrents of control and censorship that are once again pervasive. This system may not be new in Pakistan's long history of power struggles, but it has certainly evolved into something disturbingly permanent. The most alarming aspect of this evolution is the role political parties have played. Today's political forces are content with merely jostling for their turn to benefit from the very framework that diminishes democracy. It is also tragic to see how political parties that survived Zia's and Musharraf's martial laws are now willing participants in the erosion of the democracy they once championed. Each government – PTI in 2018, PDM in 2022, and PDM in 2024 – has ceded more space, weakening democracy with each step. This new normal reflects a fundamental shift in Pakistan's political culture. No longer is there an urgent call for dialogue or a collective effort to restore democratic principles. Instead, the grand political dialogue that seems so noble on paper is a mere fantasy. The reality is much bleaker: there is no room for meaningful dialogue when political parties are preoccupied with waiting for their turn in power through backroom deals rather than through free and fair elections. Lip service is paid to democratic ideals, but actions reveal a collective abdication of responsibility. Political parties have willingly given up on ensuring that the people's vote counts, that elections are fair, and that power is earned through legitimacy rather than through the machinations of invisible hands. The tragedy is that Pakistan's democracy, which survived assassinations, coups, and the violent repression of its leaders, is now fading – because those entrusted with safeguarding it have simply stopped fighting.

Meanwhile, PTI leaders reaffirmed their unwavering commitment to upholding the supremacy of the Constitution, the rule of law, and democracy in Pakistan. PTI General Secretary Salman Akram Raja said that the "puppet" regime was installed by "stealing PTI's mandate in the February 8 elections" and "condemned recent constitutional amendments" that he claimed were "aimed at undermining the judiciary and banning PTI".³⁰ He criticized the amendments for "attempting to manipulate the Supreme Court" and vowed, "not to recognize Justice Qazi Faez Isa as the chief justice of Pakistan". The PTI leader further alleged that "the government was seeking to establish a parallel constitutional court under Justice Isa through these proposed amendments." He warned that despite the government's efforts, they had failed to convict former prime minister Imran Khan through legitimate means and were now resorting to "military courts" a move he declared as a "red line" for PTI and the people of Pakistan. PTI senior leader Sardar Latif Khosa also rejected the recent reshuffle within the Supreme Court, describing it as part of a government strategy to stack the judiciary with favorable benches. Khosa warned that such actions could have profound consequences, referencing the political turmoil that led to the downfall of Sheikh Hasina's government in Bangladesh.

Abbas Nasir, in his thought-provoking article "Imran-specific amendment, *Dawn*, September 22, 2024, says that: 31

The amendment was aimed at clipping the superior judiciary's wings, gaining more control over appointments to the superior courts, acquiring the power to transfer strong-

mindful judges from one high court to another, and, finally, authorizing military court trials of civilians. Even the outcome of the challenges to military court verdicts was sought to be 'managed' at the appeals stage with an entirely executive-appointed constitutional court, which would also have become the final forum for the adjudication of all constitutional and fundamental rights issues. It is clear to anyone with even a rudimentary knowledge of politics in Pakistan what is meant by the 'executive' in the current context. And herein lies the rub. Most elections in Pakistan have seen a degree of tweaking by the security state. One can be sure that in the next attempt to push through the amendment, nothing will be left to chance. However, in last February's elections, this 'tweaking' was of unprecedented proportions. Independent observers say that the establishment, elements of the superior judiciary, and the Election Commission of Pakistan (ECP) all played a role in ensuring what Gen Zia once called a 'positive result' in the election. Yes, you don't have to remind me that the 2018 elections were also tweaked: before, during, and after voting day. But if you'll argue that last February's elections were no different than the one before that, I'd strongly disagree with you. The magnitude of the 'tweaking' is tangible in many constituencies on account of the inexplicable differences between the initial counts, leads from polling stations coming in real-time, and the result announced by the ECP officials. This is after jailing party leaders, cracking down on workers, and denying a party its symbol. Whichever side of the political divide you found yourself on, this aspect was clear to you, even if you were hesitant to acknowledge it in case your allegiance and sympathies happened to be with the winning side and not with the out-of-favor political party. At the root of the charges of 'rewriting of the Constitution,' leveled at some learned judges of the Supreme Court, is this very tweaking, which was so blatant that when elements of the superior judiciary tried to redress the situation, they were slammed as partisan. Some legal experts suggest that in strictly constitutional/ legal terms, they may have overstepped the line in giving relief, but what they did was meant to right the wrong and dispense 'meaningful justice.' Of course, this would, and did, incur the wrath of the most powerful entity in the country. If you ask me, I was very ambivalent towards Imran Khan and his politics. There was never a question in my mind that he enjoyed mass support; in fact, the status of a cult leader who could do no wrong. At the same time, his decisions while in power demonstrated his scant regard for human rights, freedom of expression, and free media. He was authoritarian in his outlook. But now my ambivalence is gone, because his freedom and possible path back to office through the ballot box and rule of law is being blocked using tactics that could put to shame the way his establishment backers handled the opponents of the hybrid set-up he headed as chief executive. Many in my tribe can blacken reams on the current constitutional breakdown and the travesty that is being perpetrated in the form of legislation every day, particularly by a parliament with questionable credibility, but it will change nothing. Just see how the sides are seen to be arrayed on each side. On one side are some judges of a split superior judiciary and the most popular political party in the country, whose jailed and persecuted leadership is unable for now to mobilize its fanatical support base into effective street power, which could potentially challenge the more entrenched and potent power player in the country. On the other side is the establishment and those who appear no more than its minions, whether in the executive or some other area, such as the ECP. With the failure of its earlier effort to have the amendment pushed through, one can be sure that in the next

attempt, nothing will be left to chance and all ducks will be in a row to bulldoze it through. The numbers, most significantly without the JUI-F senators, don't add up in the Senate at least, even if a sleight of hand can produce what is required in the National Assembly. But don't be surprised if something is pulled out of a hat in the Upper House too. With the lawyers' fraternity divided, as is the media, there will be few obstacles outside the two Houses. What then? Can we look forward to political stability and the promised economic boom? Will we have a rule of law on the streets to replace murderous intolerance, where an accused is not left to the mercy of lynch mobs or, worse still, where the police don't usurp the role of judge, jury, and executioner? Will the scourge of terrorism that is claiming the lives of our finest security personnel and civilians just disappear? I wish you, I, or anyone else could respond with a resounding 'yes.' But tragically, we all know the true answer. The issue is one of competence. Can the entities to blame for the mess we are in perform better with unbridled power, free of judicial scrutiny? Well, did it work in the past when we tried it? Oh no. I wouldn't dare suggest we learn from our own experience. Because we don't. So, let's complete another cycle of yet another such exercise. And if we still haven't moved, and we won't, we can try a different approach.

By late September Pakistan was descending into an unprecedented, complex, and monumental political crisis with no bright light at the end of the tunnel. The Pakistan military faces unprecedented internal and external pressures. The mainstream media has been censored and tightly controlled, as never before in history, by the military establishment. However, the global information revolution has proved that the Pakistan military is not able to control the national narrative, which has resulted in increasing signs of failure in its policies of national control of the whole country through a sham democratic political government façade.

Maulana Fazlur Rehman on September 22 said there was no political stability in the country. He said that:³²

Neither Pakistan's Constitution, parliament nor its institutions are secure. The law-and-order situation in the country is deteriorating and each institution is interfering in the affairs of others...The institutions should operate within their respective boundaries... The solution to problems lies in adhering to the Constitution... There was no political stability in the country...We want to see parliament, judiciary, and military becoming stronger. Each institution is weakening because we are not adhering to the Constitution.

The way the constitutional amendment episode took place has shattered Pakistan's image as a semblance of a working democracy, even an enlightened, and civil state. It was shocking, to say the least. Meanwhile, protests against the Sharif Government are growing in the country.

The PTI successfully staged protests in Islamabad on October 4, 2024, in which the police arrested Aleema Khan and Uzma Khan, sisters of Imran Khan. As of October 7, they are still in police custody. The police also arrested 878 activists of the PTI f terming as "sabotage." ³³ In the wake of the PTI protests, a case of sedition and terrorism has been filed against Khan and several

senior party leaders and workers in Lahore and Rawalpindi. It is claimed that from jail, he incited these leaders to engage in violent actions against the state.³⁴

Additionally, several cases were registered against PTI workers for violating Section 144 by holding protests in the city. The protests were prohibited under the emergency law, which was in effect at the time. As of October 7, the crackdown against PTI workers continues as the authorities go ahead with legal measures against those involved in the unrest.

Meanwhile, in Rawalpindi, charges have been pressed against more than 300 party members, including senior leadership, in connection with the ongoing protests at Islamabad. According to the police, Imran and key leaders have been named under Section 109 for “aiding and abetting the crime”.³⁵ So far, 16 protesters have been arrested during the operation. The First Incident Report (FIR) accuses the PTI founding chairperson and local leadership of “orchestrating a plan to overthrow the government and impose their agenda through violent means. According to the FIR, around 300 workers, armed with weapons, petrol bombs, and batons, set out to create chaos, disrupting the public order and spreading terror”. The FIR also mentions that “despite judicial orders, Imran Khan has been granted illegal and extraordinary privileges in prison, allowing him to keep communication with his political workers. It is alleged that he has been encouraging his supporters to engage in violent activities against the state and its institutions.”³⁶

Meanwhile, on October 6 two Chinese nationals were killed, and several others were injured in a massive blast outside Karachi Airport, the country’s biggest. The separatist militant group, the Baloch Liberation Army (BLA), claimed responsibility for the attack. The BLA has a history of targeting Chinese interests in the region and has previously killed Chinese citizens and attacked Chinese facilities, including the consulate in Karachi. In March 2024, five Chinese officials were killed after a suicide bomber rammed a vehicle into a convoy of Chinese engineers working on a dam project in Khyber Pakhtunkhwa. In another incident the same month, eight terrorists were shot dead by the security forces after they tried to attack the Gwadar Port, a key project of the multi-billion-dollar CPEC. The BLA accuses Beijing of exploiting Balochistan. ³⁷

By talking about the issue of internal discipline proactively, the military leadership aims to prevent any potential distractions and uphold its focus on its core responsibilities, including the fight against militancy.³⁸

There has been a surge in attacks by the Tehreek-e-Taliban Pakistan (TTP) in KP and a resurgence of Baloch extremist organizations in Baluchistan. In August 2024, there were 59 in Pakistan resulting in the death of 84 people, compared to 38 attacks the previous month. There have been 29 attacks in KP, 28 in Balochistan, and two in Punjab. With the military busy fighting on several fronts, its leadership is unlikely to put up with any politicization of issues or diverting focus from the situation at hand as it would make it harder for the forces to concentrate on these urgent security matters.³⁹

The Second attempt at amending the constitution will be made soon.

On October 9, PPP Bilawal predicted that the constitutional amendment would sail through parliament by the 25th of this month. He said that the government has the option to secure the magic number under “conscience voting.” Despite this, efforts are being made to reach a consensus,” he added.⁴⁰

Bilawal said that “the JUIF chief had agreed on constitutional courts and judicial reforms.” He said that “constitutional courts should be established in the provinces as well because these courts will provide immediate relief to the people.”⁴¹

Bilawal Bhutto Zardari expressed PPP’s support for the formation of the constitutional court He told the Balochistan High Court Bar Association, “If you don’t accept the constitutional courts, you should leave the practice.”⁴² The JUIF has now proposed to constitute a constitutional bench within the Supreme Court instead of creating a separate Federal Constitutional Court The party wishes to suggest that a five-member bench should be constituted, which should only deal with constitutional matters.

This suggestion is certainly a good one and must be duly considered. There is no need for a separate court altogether.

The JUIF said that their party's constitutional package was “expected to be finalized soon and it will be shared with everyone to develop broader consensus to avoid a situation which was created last time when the ruling alliance attempted to pass constitutional amendments.”

The Sharif Government and its allies have once again approached JUIF to get his party's eight votes in the NA and five in the Senate. Also, the PTI leadership has been holding meetings with JUIF to persuade it to not support the government bill.⁴³

Meanwhile, the Sharif Government with the backing of the military is brazenly alarmingly and increasingly cracking down on public dissent in the country. Patricia Grossman Associate Asia Director of the globally respected Human Rights Watch, in her admirable dispatch “Pakistan Government Intensifies Crackdown on Political Dissent” published in Human Rights Watch on October 9, 2024, states:⁴⁴

Last Saturday, hundreds of PTI supporters, many of whom had traveled from Khyber Pakhtunkhwa, where the party controls the provincial government, violently clashed with police during a march outside Islamabad to protest Khan’s imprisonment. Dozens of protesters and police were injured, with one officer dying due to the injuries, and over 500 people were arrested, including many opposition political party supporters and people protesting peacefully. Many have been charged under vague and overbroad laws prohibiting rioting and creating threats to public order. Police used tear gas and blocked roads to prevent the march. Officials have alleged that protesters fired on police. Days earlier the authorities had cut off mobile internet to disrupt the march. A journalist in Islamabad who witnessed the protests told Human Rights Watch, “The entire city was shut down with [shipping] containers, internet and mobile phone signals turned off and both the police and protesters pelting each other with stones—the entire Islamabad looked like a war zone.” In the weeks before the march, police had arrested several PTI legislators and party leaders in night raids. Khan, who served as prime minister from 2018 to 2022, was arrested in May 2023. PTI supporters then responded with violent protests—hurling rocks and Molotov cocktails, burning buildings and ambulances, and in

a few cases, shooting police. Khan was convicted and imprisoned on charges of corruption and disclosing state secrets in August 2023 and barred from contesting the February 2024 general elections. In those elections, candidates backed by Imran Khan won the most seats but not enough to form a government on their own. Pakistani authorities should release those held for peaceful protest or for supporting the political opposition, respect the due process rights of all those detained, and respond to violence during protests by international human rights standards. Fundamental guarantees of the right to dissent and peaceful protest should not become casualties in this standoff.

Today, Pakistan is engulfed in severe political instability and crisis, the like of which never appeared before in the country's much-troubled history. Amendment of a constitution is severe business as it is the Basic Law of any republic. Therefore, there must be serious deliberations in open sessions of the parliament, both the National Assembly and the Senate. That takes time. The famous 18th amendment took a year and a consensus was developed. Pakistan is in a mess. Today, the body politic is thoroughly divided along political party lines. However, there is a crisis that urgently requires serious thorough deliberations on it. Rather than the deep schisms and overreacting behavior being seen now. The country's institutions are malfunctioning now, even the overly powerful military. Therefore, there is an urgent need for a thorough analysis.

After the failure of the first attempt very recently, the second attempt is now being made by the Sharif Government, backed by COAS General Asim Muneer. The development comes as the country is facing a tumultuous political and security situation amid ongoing protests by the PTI in Islamabad as well as a surge in terrorist attacks in parts of the country. Therefore. It does not allow any public discourse. The military has a noticeably clear motive behind the whole plan. It simply wishes to set up complete control over the country somehow behind the whole plan. It. The military senses that it can undertake the constitutional amendments because of favorable external circumstances. It may be right in this cold calculation.

Regardless, it can be easily predicted based on cold observations of Pakistan and the regional developments that Imran Khan will not return to power and will remain in jail. The party did not galvanize the people, except for its home base in Khyber Pakhtunkhwa, for the required change in Pakistan. Some form of permanent military rule in Pakistan and a much greater military footprint in all government institutions will be installed somehow. Only because it will have the blessings of the Western powers, Arab-friendly states, and even China.

A country's military has no role in that country's politics. However, in Pakistan people are unsure. The country is caught in an endless debate about the rightful place of the military in Pakistan's political system, if any. The country was going in circles, not being able to manage its most basic contradictions. History would repeat itself later and this contradiction would again come to haunt the country's politics. The country faces a political and economic crisis and therefore serious structural reforms are urgently needed. An earlier reform agenda is still unfulfilled. Therefore, there is now an urgency to carry it through at once.

Briefly, a pragmatic and political approach needs to be the focus now. Meanwhile, the political parties are discredited because of their actions, the bureaucracy is demoralized because of bad governance, and society is divided on sectarian, linguistic, and ethnic social cleavages.

The Sharif puppet Government is not acting boldly and changing Pakistan from within. Pakistan does not have the luxury of time. Hopefully, the new government will act at once. The future of Pakistan depends on such rethinking. A frank and open discussion on these issues must begin at once. Remember there are no sacred cows within Pakistan. Notwithstanding the opinion of the military brass, the Islamic Republic of Pakistan was the only thing sacred for the citizens of the country and not it is military. Because of past failures, Pakistan was facing an existential crisis that emanated from several internal and external factors. The PDM government was impaired because of massive corruption, incapacity, and endless and unwarranted political bickering with the PTI, its main rival for power. The morale of the people is at its lowest in history. India, the arch-foe of Pakistan, smells blood and is going for the proverbial kill. It is accusing Pakistan of supporting terrorism and is bent on destroying its global image as a responsible military power. Tragically, the Sharif Government did not have a foreign policy to speak of. It only reacts to events by external powers, especially the US and India. The Army was in charge as far as foreign and defense policies were concerned, virtually dictating foreign policy now. It was prudent to realize that Pakistan was not only threatened from the outside but also threatened from within. The current political and military leadership now stands discredited and does not have any credibility left. The tragedy of Pakistan does not stop here. The country's political parties are also discredited because of their actions, the bureaucracy demoralized because of bad governance, and the society itself badly divided on sectarian, linguistic, and ethnic social cleavages.

Pakistan is now certainly a mess. The country is now among the list of top ten failed states in the world. This is ironic because Pakistan also happens to be one of the strongest military powers in the world today. Pakistan's military strength cannot prevent an implosion of sorts like what happened with the Soviet Union in the late 1980s. The country is now dangerously isolated. It is only China and Saudi Arabia that have shown some support. The US has developed a robust strategic relationship with India, the arch-enemy of Pakistan. Relations with Afghanistan are extremely strained as Pakistan is threatened by the TTP attacks from bases across the border. Relations with Iran restrained also and the two have had tit-for-tat skirmishes recently. The current simultaneous Israeli conflict with Hezbollah, Hamas, Houthis, and Iran is threatening to destabilize the entire region. The US and other world powers are trying to keep the conflicts from spreading. Meanwhile, the Pakistani people were feeling hapless and disillusioned, as never before. The country was in a mess with no positive aspect on the horizon. The only good thing happening in Pakistan was the rising awareness thanks to the Information Revolution and the media. This awareness needs to be channeled into a political force of some reckoning.

Pakistan has also failed to make the necessary progress toward a modern and enlightened Islamic state. The country has a constitution that reflects Islamic values, more than any other country. Therefore, all political parties must adhere to it. The state cannot, and should not, allow any violation of the Constitution under the guise of religion. Pakistan is threatened by extremism.

Undoubtedly, earlier governments were not up to the task and had failed to protect Pakistan's vital national interests. Plus, both faced an immense image problem because of corruption

allegations pending in the courts of Pakistan. Soon, the leadership of both parties will face jail terms for their gross corruption and other misdeeds.

Undeniably, Pakistan has suffered from an acute image problem and must shed its image as a hotbed of international terrorism. It was only now that there was some evidence of a change of direction. Much more needed to be done on this score, however. The earlier civilian governments, both the PPP, the PMLN, and PTI, had miserably failed to boldly act and change Pakistan from within. The second Sharif Government and the Military are also failing to reform Pakistan's state, and society. There is a crisis of leadership in Pakistan as there is dearth of a visionary statesperson that can somehow galvanize the nation to meet its complex and mammoth challenges. Meanwhile, the population is growing at an alarming rate. Pakistan is now 250 million in population strength with massive poverty. The country's state education and health services are overwhelming and of low quality. Meanwhile, the growing climate emergency threatens the country, but with little preparation to meet its complex challenges. Most importantly, the global human development indexes continue to be extremely low.

In short, Pakistan does not have the luxury of time. Future governments will be facing a plethora of problems and will have to act at once. The future of Pakistan depends on such prudent actions and some rethinking. A frank and open discussion on these issues must start at once. Remember, there are no sacred cows within Pakistan. Notwithstanding the opinion of the military brass, the Islamic Republic of Pakistan is the only thing sacred for the citizens of the country and not is military.

Because of past failures, Pakistan is facing an existential crisis that emanates from several internal and external factors. In the end, all governments had been impaired because of massive corruption, incapacity, and endless and unwarranted political bickering within themselves. The people are dejected now and India, the arch-foe of Pakistan, is bent on exploiting the situation to its advantage. It is supporting the terrorist groups in TTP and the BLA, while at the same time accusing Pakistan of supporting terrorism. India is also bent on destroying Pakistan's global image as a responsible military power. Meanwhile, Pakistan is harping on the conditions of Muslims in Indian-Occupied Kashmir endlessly with no results. It is only further infuriating the Indian government. Thus, the strained relations with India shall continue unabated.

The puppet Sharif Government faces enormous and complex challenges. It was hoped that somehow the military's power would be gradually reduced. However, the opposite has happened, which is unfortunate. The hybrid political system is turning into a military dictatorship with a civilian face which is becoming problematic, to say the least. In the future, only a clean, efficient civilian government that delivers required public services can keep the military in check. Such is the sharp reality of Pakistan's troubled politics. It is hoped that future governments will deliver and earn the trust of the people, and then be able to thwart the military's interventions. There is no evidence of that happening yet. The opposite is happening instead. Without political stability, good governance, efficient state services, and enlightened democratic rule Pakistan will remain isolated, poor, and backward. The people of Pakistan suffer as a result. We wish it were otherwise.

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