

Q) What are the political and legal constraints over the sovereignty of parliament in Pakistan?

i) Introduction:

Parliament is an imperative facet of any flourishing democracy. With the sole purpose of the well-being of its fellow compatriots; the significance of a well-functioning, meticulous parliament is an established axiom. However, amidst several military

coups, the blatant judicial interference, countless power struggles and discords between peoples' representatives and powers that be, the checkered history of the country, since its inception, has witnessed the gradual enfeeblement of this vital pillar of democracy.

2) What is meant by Parliamentary Sovereignty :

The term parliamentary sovereignty denotes passing laws that serve and contribute towards the well-being of people. The word 'sovereign' attributed with parliament represents that the members thereof are supreme and self-determining and have complete freedom and power when acting in their capacity as the representative of the people, so long as it is within the prescribed ambit of law and morality.

3) Sovereignty of parliament in Pakistan :

Albeit, the parliament in Pakistan is deemed as supreme, however, being an Islamic country, it must uphold the teachings and principles of Islam. In accord with Islam's teachings and the spirit thereof, Only Allah

has the right to be omnipotent and His creation has no more than the role of His subordinate. Therefore, all the laws enacted should adhere by the teachings of Islam and the members of parliament are regarded as the agents of Allah almighty.

4) Impediments to parliamentary sovereignty:

As aforementioned, the decades of meaningless strifes ~~of~~ and self-serving policies of individuals and institutes alike, have rendered the parliament to recede. In Retrospect, the prerogative conferred to parliament, enshrined in the constitution of 1973 has, with impunity, been recurrently subjected to utter disregard. Consequently, parliamentary sovereignty is at its nadir. To enumerate a few constraints to the contemporary parliamentary sovereignty is as follows:

4.1) Prevalent illiteracy among general public:

The ubiquitous illiteracy among the common masses is one of ~~the~~, if not the foremost, important hinderance to a thriving and well-established sovereign parliament. A population devoid of knowledge pertaining to basic democratic fundamentals and the power

There of weids, cannot entirely leverage the system into enhancing and elevating their lifestyles. People are oblivious of how their elected representatives squander their hard earned tax money. More often than not, voter would vote for the same candidate, or his successor, that their lineage has been following, completely heedless to the performance the candidate delivered. The candidates' support is determined by influence, wealth, power they boast, and all the desirable traits such as honesty, commitment, education are overlooked. Such heights of ignorance prevailing among the general people can only falter the already reeling system.

4.2) Opposition's detrimental role:

Contrary to other well functioning and thriving parliamentary democracies across globe, the opposition's role in Pakistan is a rather detrimental one. The opposition in Pakistan, in retrospect, has invariably tried to undermine the government. Whether its horse trading, subjecting the government to harsh and unjustified criticism or maligning the public office holders and their families, the opposition has never been shy of resorting to such devious tactics for their ulterior motives. There are many examples of this in our history, with a quintessential example and a relatively recent one

being how the coalition of 19 parties overthrew Khan's government. Thus, marked the beginning of the downward spiral of the country perpetuating hitherto.

4.3) Politicized Judiciary:

The judiciary of the country, whom some have dubbed as 'a blight in our embaciated democratic structure', has also had an instrumental role in diminishing the parliament. Some would dissent of the harsh remarks aforementioned, but in light of the role it played throughout the ~~con~~ country's history including but not limited to, the condoning of General Ayub's illicit military coup as doctrine of necessity, it is easily justifiable. The judiciary, viewed as the foremost important pillar of justice ~~at established~~ and a watch dog for safe guarding the fundamental rights of people, has prioritised its own interests ~~or~~ at the expense of millions being deprived of these rights. The partisan judgements and a persistant blind eye to Gen Ayub's and subsequent military coups has inflicted damage to the sovereignty of parliament.

4.4) Self-interest prioritised over national interest:

The legislators have, more often than not, out weighed their personal interests over

national interest. This recurrent pattern has pushed common people to impugn the credibility and ambitions of their elected representatives. The split personalities of these representatives, between running election campaigns and sitting in government, is palpable. They have long tantalized people with desire for a better life style. In a milieu where the people lose trust in the parliament, the sovereignty thereof can only be dwindled.

4.5) Feudalism in the country:

The ingrained Feudalism within our democratic-structures has had an instrumental role to the cotemporary withering parliamentary sovereignty. These elites, backed by the powers that be, employ winning party tickets to enter politics and later on pose a hinderance to any legislation enacted so long as its contradictory to their personal interests, irrespective to the ~~imp~~ national interests of the country. Such impediment pose a serious threat to the effectiveness of the parliament, and in turn weakens the sovereignty thereof.

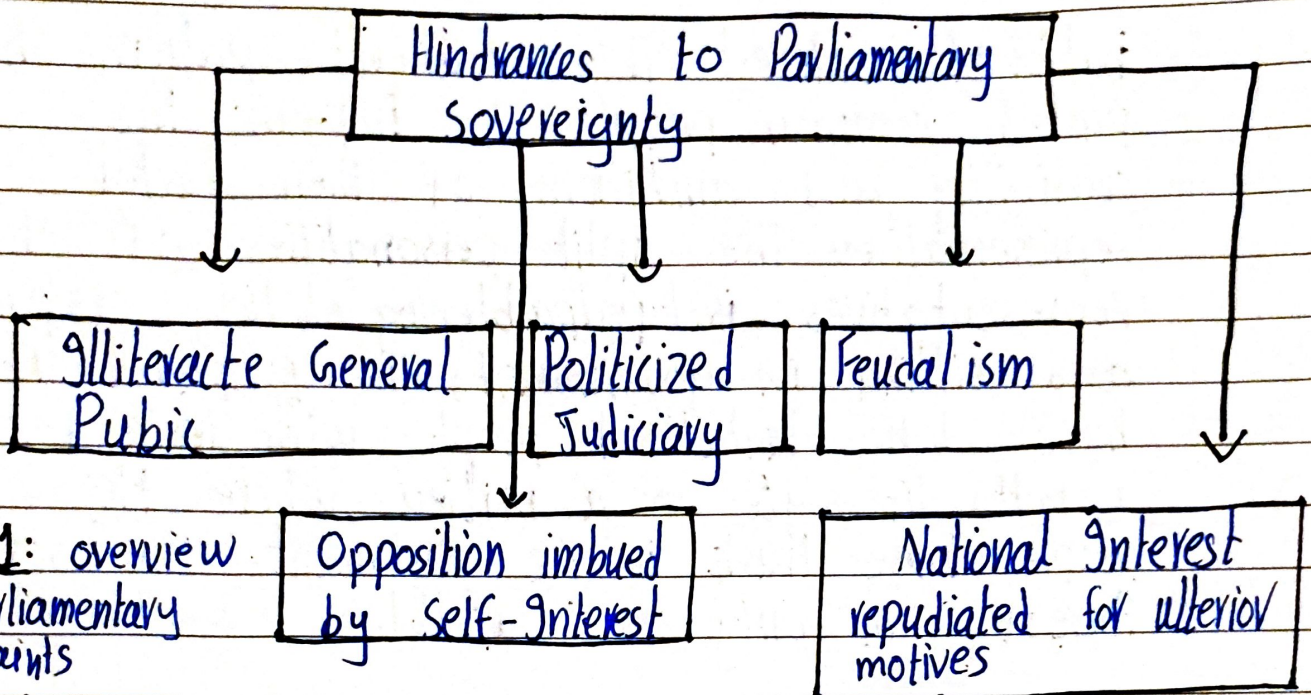


Table 1: overview of Parliamentary constraints

Opposition imbued by self-interest

National Interest repudiated for ulterior motives

5) Legal constraints on parliamentary sovereignty:

The parliament, as mentioned above, albeit is considered supreme, but it is not the final authority. Such are the claims of many legal experts who argue and reiterate the axiom that true sovereignty belongs to Allah alone. In a similar way, there are several legal constraints on parliamentary sovereignty, to name a few is as follows:

5.1) Sovereignty belongs to Allah:

As stated at the outset of the constitution of Islamic Republic of Pakistan

"Whereas sovereignty over the entire universe belongs to Almighty Allah alone

and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust!"

The mentioned stipulation is a reminder to parliamentarians about the prescribed boundaries ~~within~~ which they must not transcend while exercising their authority.

5.2) Restriction to pass law contrary to Islamic teachings and principles:

The constitution prohibits the parliament from passing laws that go against Islamic teachings and principles. Article 227 pertains to this restriction, where in it is stipulated:

"all existing laws shall be brought in conformity with the injunctions of Islam as laid down in the holy Quran and sunnah"

The mentioned article clarifies that the laws enacted must be in accordance with the Islamic principles-

5.3) Restrictions on enacting laws that pose a threat to fundamental rights:

The constitution restrains the legislators from passing laws that could potentially violate the fundamental rights of the people. This is done in spirit of Article 8 of the constitution which states:

"Any law, or any custom or usage having the force of law, insofar as it is inconsistent with the rights conferred by this chapter, shall, to the extent of such inconsistency, be void".

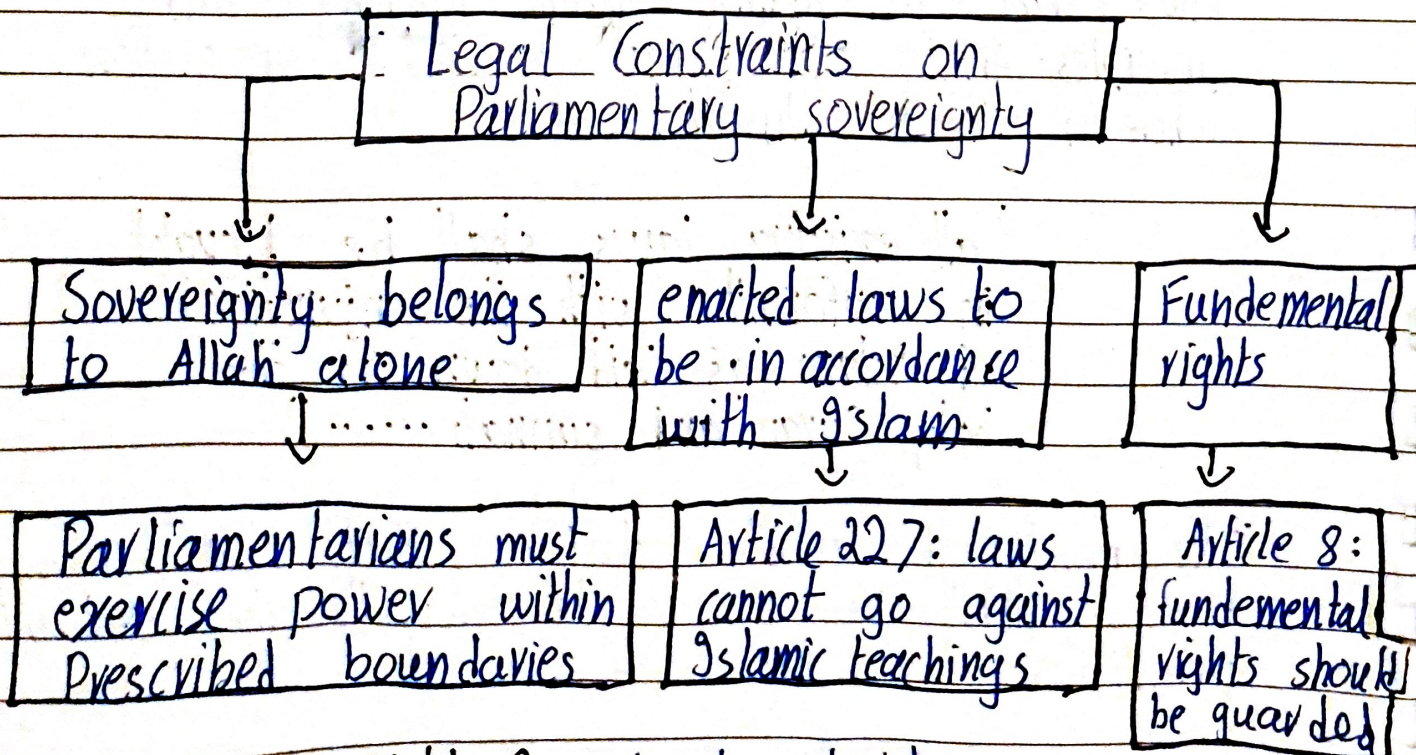


Table 2: Legal constraints overview

6) Conclusion:

To sum up, there are many factors that rendered the enfeeblement of parliamentary sovereignty. While there is no single panacea that can steer the shipwrecked institute to safer shores, a meticulous, yet pragmatic course of action ^{can} augment the probability of success.

Even the ostensibly small measures such as eradicating feudalism or launching campaigns aimed at disseminating political knowledge and dispelling misconceptions can go a long way. It is also vitally important to keep a tenacious grip on Islamic principles, after all, it was for practicing Islam and upholding the principles thereof, that this country was established.