**The 24th and 25th amendments**

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The 24th Amendment was tabled in 2017; then-president Mamnoon Hussain authorized it on December 22, 2017. This was the last year of the third PML-N government, and its leader Nawaz Sharif had lost power for the third time. This was done not through a no-confidence motion – which is a constitutional way to remove a prime minister – but at the behest of non-political forces who have been operating against nearly all elected prime ministers of the country for over 70 years now.

After the removal of Nawaz Sharif by a court order, Shahid Khaqan Abbasi assumed the prime ministerial chair in August 2017. He was the first prime minister of the PML-N who was not a Sharif-family member. One of the challenges he faced was to develop a consensus on the results of the 2017 census. Since the British Raj in the Subcontinent, it has been a practice to hold a general census every ten years. During the first 40 years of Pakistan, governments managed to hold a census in 1951, 1961, 1972, and 1981.

After 1981, the next census was due in 1991 but due to consistent political uncertainty it got repeatedly delayed. When the second Nawaz Sharif government came to power in 1997 with an unprecedented two-thirds majority, it managed to hold a census in 1998 after a gap of 17 years. In 2011, the PPP was in power but constantly faced one challenge after another. Finally the next Nawaz Sharif government once again managed to arrange for the exercise which turned out to be fairly controversial.

From 1981 to 2017, Pakistan had just two censuses and both under the PML-N, with the last being far from satisfactory. With this background, it is easier to understand why there was a need for the 24th Amendment. In 2017, there were two census figures: the figures of the 1998 census and the provisional results of the 2017 census.

There is a constitutional requirement according to Article 51 that the government must allocate National Assembly seats to each territorial unit of the country per the official results of the preceding census. The results of the 2017 census became controversial after nearly all provinces and even some cities raised their concerns about the reliability of data.

There were stirring debates across Pakistan questioning the census results. The demographic allocation of seats became a bone of contention and the national legislature was in a fix about how to handle the situation. As the complaints kept increasing, the government had to make a decision before the preparations for the next elections started. The sitting government and the Election Commission of Pakistan (ECP) took up the challenge.

Other political parties also agreed to the 24th Amendment in December 2017, allowing new seat allocations as follows: Balochistan increased its seats from 17 to 20; Khyber Pakhtunkhwa (KP) from 43 to 48; Punjab reduced its tally from 183 to 174; Sindh retained the same strength with 75 seats; and seats in Islamabad increased from two to three. The amendment provided that the allocation of seats in the National Assembly was specific for the 2018 elections on the basis of ‘provisional results’ of the 2017 census. That amendment facilitated the ECP to go ahead with the new delimitations.

The term of the PML-N government was expiring in May 2018. And in the last days of its power, the 25th Amendment suddenly surfaced and went through all the legal formalities pretty quickly. According to this amendment, the Federally Administered Tribal Areas (Fata) merged with KP. Since the times of the British Raj, tribal areas in Fata had political agents in each tribal agency, enjoying nearly absolute powers over their people who were treated as subjects rather than citizens.

Since independence there were demands to either merge the tribal agencies into the adjoining province or create a new province of tribal areas with its own chief minister and legislative assembly to make its laws. In December 2016, the KP Assembly adopted a resolution in favour of merging Fata into KP. In March and then in December 2017, the federal cabinet also approved the formation of a national implementation committee on Fata reforms. The security establishment at the time had a considerable say in the implementation committee.

As the tenure of the PML-N government approached its last weeks – or rather days – pressure on the government to merge Fata into KP intensified. In April 2018, a new law came into force through ‘the Supreme Court and High Court (Extension of Jurisdiction to Federally Administered Tribal Areas) Act, 2018’. It extended the jurisdiction of the Supreme Court of Pakistan and the Peshawar High Court to Fata. Finally, in May 2018 the 25th Amendment altered Article 1 of the constitution in which the country’s territory had Fata as an area separate from the other four provinces.

The amendment also changed Articles 51 and 59 concerning the allocation of seats in the national and provincial assemblies for each federating unit. It abolished the much-hated frontier crimes regulation (FCR). The Senate now reduced its seats from 104 to 96 and the National Assembly lost six seats: from 342 to 336. The KP Assembly would have 145 seats in which Fata had 21, and after 2024 Fata will have no separate representation in the Senate or the National Assembly. It is interesting to note that the amendment received 229 votes in the NA and there was only one opposing vote from the PTI. The JUI-F and PkMAP walked out of the NA before the vote. In the Senate, five senators of PkMAP voted against the amendment.

Per the constitution of Pakistan, any amendment affecting geographic boundaries requires a two-thirds majority in the provincial assembly in favour of the changes. Within the last week of May 2018, the KP Assembly approved the bill with the required majority. With the same alacrity Mamnoon Hussain also signed the Fata Interim Governance Regulations, 2018, outlining how the administration would govern Fata after the abolition of the FCR within a two-year time frame.

It is also intriguing that the government included the repeal of Article 247 of the constitution in the amendment just before its submission. Another point to highlight here is that the government of Afghanistan was not happy with the new development and criticized the merger of Fata with KP. Afghanistan believes that according to the treaty of Rawalpindi signed in 1919 – also called the Anglo-Afghan Treaty – the erstwhile North-West Frontier Province (now KP) would not extend beyond the Khyber Pass. One of the staunch supporters of Fata as a separate province was the MQM which not only supported the 25th Amendment but also called for the creation of more provinces across Pakistan.

Some political leaders demanded a referendum to decide the fate of Fata rather than imposing the ‘decision from the above’. The JUI-F and PkMAP were against the merger calling it a forced and unjustifiable amendment. All said and done, the 25th Amendment sought to establish a uniform regulatory foundation for Fata, but the process and fast pace with which this amendment crossed all barriers within seven days raised concerns about the influence of non-political forces in such matters, as happened with some of the earlier amendments as well.

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