**Corruption, courts and the constitution**

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Corruption has reached pandemic levels in the land of the pure. The courts have failed to convict the corrupt. Finally, the focus has shifted to the constitution. As the first-born free generation of Pakistan, we have lived through several exciting phases of nation building.

Lahore has been at the epicentre of politics. I grew up around the Town Hall, which was the nucleus of the city. Gradually, corruption creeped in, followed by an era of loot and plunder, which resulted in the freefall of the city and the country. In the year 1967, Bhutto launched the first real political party of the country right here. It was a left-of-centre, progressive outfit called the Pakistan People’s Party (PPP). In the decade of the eighties, Zia the third usurper conceived PML-N (Pakistan Muslim League-Nawaz) in Rawalpindi, but launched it through the Muslim League House on Davis Road. Then in 1996, Imran Khan announced his movement for a ‘Naya Pakistan’ with the promise of creating a corruption-free welfare state on the model of the Riasat-e-Madina. Despite his focus and efforts for the eradication of the menace of corruption, the courts have not been able to decide cases after the passage of over three years. The corrupt have succeeded in overpowering the accountability mechanism. Now all eyes are on the constitution to break down the logjam of corruption.

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The constitution is a sacred document. Pakistan has a poor track record of constitution making. Perhaps it is the only country in the world which formulated four constitutions (1956, 1962, 1972, 1973) before finally enacting a consensual document in August 1973. Bhutto was the chief architect of this effort but unfortunately, it has never been implemented in letter and spirit. After failing to introduce a presidential system, he empowered the position of the Prime Minister (PM). Article 58-2(B) was inserted to remove the PM. It was used several times to derail the democratic order (Junejo, Benazir, Nawaz). In the Indian Constitution, the President has the power to dismiss the PM but it has never been exercised. Only once, when the tiff between Rahul Gandhi the PM and Zail Singh, the President got serious, there was talk of dismissal; otherwise it is left to the parliament to steer the democratic order. In parliamentary democracy, the parliament has a major role to play which has been missing in the land of the pure since July 1977. Every elected representative has a role to play in running the country. Most PMs keep away and try to run the executive branch in isolation. Unlike the Westminster model, in Pakistan, parties are built around individuals like family fiefdoms.

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Despite all its weaknesses, democracy in Pakistan remained corruption free till 1985. The partyless elections opened the floodgates of corruption which have not been reversed. While agencies kept a record of the activities of the corrupt, their influence and grip over the civil administration/judiciary was unchecked. The weaknesses of the Common Law was fully exploited to avoid conviction. While most national institutions tumbled, only the Armed Forces were able to retain their structure.

The ‘genie’ of corruption has to be chained for the country to move forward. The courts have been contained. For public office holders, the principle of Common Law, ‘Innocent unless proven guilty’ should not apply. It should be ‘Guilty unless proven innocent’. In order to remain in the political arena, all players must come clean or face extinction. Common Law the world over has badly failed in controlling white-collar crimes. Manipulated elections followed by a subservient legislature cannot achieve this objective. While the PM stands firm in his resolve to fight corruption, the conviction mechanism remains ineffective. Without due process, the constitution should not be trampled. The legislators will have to decide where the courts have failed. Either major legal reforms have to be introduced to achieve expeditious conviction of the corrupt or the weakness and the blackmail potential of the unscrupulous has to be dealt with. Where the PM has failed, a tenure-empowered President may succeed in nabbing the Al-Capones of Pakistan. Corruption has to be contained; institutions have to be rebuilt.

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