**Institutions Clash**

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It has been complete three months since the ongoing tussle between the institutions over the holding of elections. The Supreme Court and PTI (Pakistan Tehreek Insaaf) reiterate for elections, the PDM’s coalition government delays it through parliamentary tactics and reasons, while the ECP seems to be in a quagmire. Such institutional tug of war would lead the country to nowhere.

This apparent conflict over elections is a conflict of institutional supremacy. The government urges for the supremacy of the parliament as recently 180 MPs gave Shehbaz Sharif, the prime minister of Pakistan, their “vote of confidence” as a sign of his ability to continue with the government, but this voting on the eve of escalating tensions between the executive branch and the supreme court has not been welcomed by the majority. The coalition government’s display of force is a direct blow to the supreme court, which has been compelling for early elections.

There is no questioning the supremacy of the parliament, but the recent conflicting moves and legislations of directly hitting the supreme court are seen with suspicion. The Parliament’s recent bill Supreme Court (Practice and Procedure) Bill, 2023, aims at curtailing the Suo Motu powers of the Chief Justice of Pakistan, and transferring the power of taking suo motu notice to a three-member committee comprising senior judges including the Chief Justice, is also an attempt to subjugate the powers of the supreme court.

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The debate of the behaviour of any Supreme Court or High Court judge in the performance of their duties is prohibited in parliament under Article 68 of the constitution. This means that parliamentarians cannot criticize or curtail judges’ conduct and powers while they are carrying out their official duties, a rule that parliament recently seem to have ignored.

Akhtar Aly Kureshy, a senior lawyer and columnist, is of the opinion that the PDM’s coalition government headed by Prime Minster Shahbaz Sharif needs careful consideration with respect to legislating and amending with the supreme court’s inherent powers. Kureshy further adds, ” Supreme Court has inherent constitutional powers by virtue of their judicature, these powers can not be manipulated with ill-gotten intentions.”

Being partially agreed with the above statement, but woefully added here that, the supreme court has many a times stepped out of its constitutional limits. The elected Prime Minsters were forcefully convicted and disqualified on meagre and unproven charges. The former Prime Minster Zulfiqar Ali Bhutto was hanged, Yousaf Raza Gillani was disqualified on contempt charges for refusing to comply with the Supreme Court order to reopen dormant fraud investigations against Asif Ali Zardari, and Nawaz Sharif was disqualified on meagre Iqama issue. These convictions and disqualifications by the supreme court are actually continued steps to undermine the sanctity of the elected head of government through its conduct and verdicts. The Supreme Court being guardian and interpreter of the Constitution has the prime liability to esteem the constitutional domains of other institutions.

In terms of power, there is another significant institution-cum-organization called the Establishment, but regrettably, political involvement and institutional intervention by the establishment have a long history. For three decades, it has had absolute power over the nation. Analysts have noted that, when not in direct control, it has worked behind the scenes to overthrow elected governments, support pressure groups, split up parties to divide their support base, fund opposition parties to upset elected systems, etc. to hold onto political power.

The issues that political parties face are unique. Since 2014, the main political party, the PTI, has been the target of a “prohibited funding” case before the ECP. The PML-N and PPP are only two of the major political parties that have faced similar legal actions. A decision could be made at any time. These instances may result in serious repercussions if evidence of foreign money is found, not just for the people involved but also for the heads of those organizations that voluntarily provide annual statements of accounts under oath. The Chaudhry Pervaiz Elahi faction of the PML-Q succeeded in ousting the party’s leader Chaudhry Shujaat Husain after initially 10 PML-Q MPs of the Punjab Assembly voted against the “direction” of the organization.

This verity should be borne in mind by all state and non-state institutions that, there is a complete written constitution in Pakistan, which is the supreme code of the country. All institutions including the army, judiciary, parliament etc. are subject and answerable to the constitutional domains, and any stepping out of the domain and trespassing the constitutional limits would create a squabbling atmosphere in the country.

The constitution explicitly supports the doctrine of Trias Politica, which means the separation of power along with checks and balances among all institutions, each institution has its paradigms and well-prescribed domains. The constitution expressly forbids the encroachment of one state institution’s jurisdiction and authority by another state institution(s), and very clearly defines each state institution’s mandate. The parliament and the supreme court may not participate in an inter-institutional debate about their domains and powers given the existence of the Constitution and its pertinent articles addressing the mission of various state institutions.

For the national interest, all state and non-state institutions should play their positive parts by staying within their respective constitutional domains and limits. Any trespassing to the other’s domain would further drag the country into more predicaments.

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