**Five days in history**

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For five long days, we watched with bated breath as five honourable judges of the Supreme Court conducted inquisitorial proceedings on the suo-motu notice they had taken on the government’s attempt to subvert the opposition’s no-confidence motion on April 3, 2022.

When the decision finally came, after iftari at around 8:30pm, in the second sitting of the day, many of us heard it in stunned silence. I’m not ashamed to say I fought back tears when the chief justice read out the unanimous verdict that reversed the deputy speaker of the National Assembly’s ruling as “unconstitutional”. Not because the ruling itself had huge implications for the short-term future of parliament, and of course, the government of the day. But for many of us, particularly the PPP, who had petitioned the SC before even suo-motu notice was taken on that fateful Sunday, what this judgment defeated were the constant assaults on democratic fundamentals as defined by the constitution. It also lifted the corrosive tumour of cynicism that inevitably sets into the individual and public psyche when attacks on the social contract that binds a nation to its state are repeated with impunity.

In a world untarred by expedient verdicts, it was an open-and-shut case, as the bar rooms described it. The SCBA was crystal clear too, as was the civil society in a petition, and none hesitated to call a spade a spade. The arguments made by the oppositions’ counsels were persuasive. While Farooq Naek opened for the opposition, Raza Rabbani placed them in a broader context, with a strong conclusion from Makhdoom Ali Khan, the arguments of the PTI’s lawyers often seemed dilatory and thematically uncoordinated. The judges seemed preoccupied in the first three days in thoroughly establishing that they were not ‘interfering’ in parliamentary processes, as defined in Article 69 of the constitution, and the PTI case tried to veer back and forth to take recourse in that. This argument ignored the violation of Article 95, and merited a verdict of reversal of the speaker’s ruling, because it was not just about protecting the “procedure”, “conduct of business” or the “maintenance of order” in the Majlis-e-Shoora as described in Article 69.

The opposition team made a clear case of how the speaker’s ruling was a clear violation of Article 95 of the constitution, with an intent to subvert the constitution, which clearly stated the limit of time during which a vote of no-confidence had to be conducted in the National Assembly. It was also able to state that the ‘surprise’ the prime minister had promised was linked to this violation. Because otherwise, as per Article 58(1), he would not be able to announce a dissolution of the NA while a vote of no-confidence against him was still on the proceedings of the National Assembly. That there was clear and deliberate scripting of one unconstitutional ruling in Parliament House followed almost immediately by another from PM House became clear in the chronology of events heard.

Another troubling refrain for the country’s conduct of foreign relations was heard among the arguments made by the PTI to defend their naked bid for a face-save and for narrative-building. More outside the court than inside, a cable from a Pakistani ambassador was weaponized to justify the dismissal of an elected parliament. Even if the purported cable carried any opinion that suggested foreign intent of regime-change, as opposed to the commonplace nuance of foreign governments expressing irritation with a particular bent of politics, it had not been declassified. No explanation had been offered for why a cable received on March 7 was raised as a political ploy to lionize a failing government for ‘standing up to a foreign power’ almost three weeks later. Nor could a link be made between the opposition’s no-confidence move, which had been on the cards for well over a year, and any alleged conspiracy.

The PPP had in fact strongly recommended a VONC as the first action to be taken against Khan’s divisive government at the formation of the opposition alliance, the PDM, in September 2020. From that time to April 7, 2022 the PPP kept its focus on not vacating our seats by opposition-resignations, but by the best political and constitutional choice: a VONC.

When it found little traction in labelling 177 MNAs as traitors because of a diplomatic cable whose contents were described by the counsel as “dash, dash, dash,” in another ill-advised bid to bolster their arguments, one of the PTI counsels actually brought up the derided Haji Saifullah (1989) case as an example of how the SC had declared the Junejo government’s dismissal unconstitutional but still refused to restore the National Assembly. In his powerful rebuttal, Makhdoom Ali Khan said that if the assembly was not restored, then we would be succumbing to what amounts to a back-door restoration of the black constitutional clause 58 (2) b, which was unanimously removed from the statute-books in April 2010 via the 18th Amendment, as one of the worst examples of extra-constitutional tampering in the sovereign right of the people to elect their own government.

On Day Five, the air in the small courtroom was extremely charged, and the judges seemed almost impatient with the time the case was taking. Leader of the Opposition Mian Shahbaz Sharif took to the floor to argue the case for restoration of the assembly. When the judges again asked why the parties were not happy with a call for early elections, Chairman PPP Bilawal Bhutto Zardari stood up to say that an immediate election without the electoral reforms the opposition seeks would only plunge the country into further crisis. By the time the evening session had convened, the PPP had submitted to the Supreme Court the Senate Committee’s 74 amendments and objections to Election Act 2021, which the Speaker NA had ignored and bulldozed in a joint session of parliament, but also the PPP White Paper on Election Rigging in 2018.

As we filed out of the Supreme Court into the warm Islamabad night, the air was heady with celebrations and animated media chatter. I was, I must confess, humbled and quiet. After a long time in awe of the majesty of justice, and clutching my well-thumbed copy of the Constitution of Pakistan, it was clear that the five honourable judges had – in a watertight short order – restored the Court’s reputation as the custodian of the constitution. But more importantly, they had given a new promise of hope in institutional integrity and a release from the dark, claustrophobic clutches of the doctrine of necessity that had informed our collective experience. Our path is a hard one now. The question is, will we all take this opening as a new beginning, starting with the resumption of grace? Or let divisive voices once again pollute public discourse and block our path to national recovery?

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