**Production orders**

BY A H M E D B I L A L M E H B O O B 2020-11-01

THE subject of production orders for detained legislators is once again in the headlines. Prime Minister Imran Khan, while recently addressing the Tiger Force Convention in Islamabad, angrily announced that `No dacoit will get a production order .  
  
Shehbaz Sharif will not get a production order till he submits a full response in court, nor will any of the other dacoits.  
  
Rule 108 pertaining to `Production of member in custody for a sitting of the Assembly or meeting of Committee` is a long-established part of the National Assembly rules. Similar rules are part of each legislature`s rule book in Pakistan.  
  
Although Punjab`s provincial assembly was the last among the legislatures to add a similar rule in January 2019, its speaker Chaudhry Parvez Elahi has been the most liberal presiding ofñcer to issue production orders for detained MPAs irrespective of party affiliation. At least two former PTI provincial ministers were allowed to attend each day of the assembly sitting and committee meetings. Leader of the Opposition, Hamza Shehbaz, who has been in custody for about a year now, has also been attending the provincial assembly proceedings almost regularly, thanks to the power of the production order exercised by the speaker.  
  
One thing common to all such rules is that the presiding officer of each legislature has the authority to summon a member in custody. Some of the rules also authorise chairs of committees to issue production orders, but practically, that authority remains subject to the presiding officer`s consent.  
  
The case of the provincial assembly in Sindh is almost unique. Here, the speaker Agha Siraj Durrani was arrested by NAB in February 2019 under dubious circumstances while on a visit to Islamabad. He remained in custody for about 10 months and was granted bail by the Sindh High Court in December 2019. It is not clear whether the speaker himself or the deputy speaker who was, at times, the acting speaker issued his production orders but he was brought from prison to the assembly to preside over the session and then transported back to prison until the Sindh government declared the speal(er`s chamber and later his house as a sub-jail, which meant that he did not need to be transported to prison after the assembly sitting.  
  
It is not for the first time that Prime Minister Imran Khan has opposed production orders. He had discussed the subject in a cabinet meeting back in July 2019 as well and the government spokesperson at that time had indicated an intention to amend the rules so that thefacilityofproductionbeforethe house or committee could be denied to legislators. It seems that better sense prevailed and the idea of amending the rules was not followed up.  
  
In any case, the amendment may not have been an easy route to take. The amendment in rules has to be routed through the Committee on Rules and Privileges in each legislature after which it has to be approved by each legislature separately. It is outright impossible to amend the rule in the Sindh Assembly where the PPP has a clear majority.  
  
Even in the Punjab Assembly, where the PTIled coalition is in power with the critical support of the PML-Q, the desired amendment may not be possible because the latter may not support such a move.  
  
In the past, the Punjab Assembly has passed bills such as the one which enhanced the salaries and allowances of MPAs and others despite Imran Khan`s strong opposition. The Senate, with the opposition in majority for now, may also turn down such an amendment. It will be a close contest in the National Assembly as some allied partiesof the PTI may not support the proposed amendment. The same goes for the Balochistan Assembly. The only legislature where the production orders rule may bescrapped with relative ease is in the KP Assembly. The question is whether it will be worth it.  
  
The prime minister may need to reconcile with the fact that legislatures are independent institutions with their own rules and leadership. Although the speakers of some assemblies belong to his party and ultimately may follow his directions as head of the party, the cause of democracy and fair play will only be served if presiding officers of the legislatures are allowed to exercise their independent judgement.  
  
In the peculiar political context of Pakistan, legislators are not taken into custody just because they have committed a criminal offence; strong political motives are at play most of the time. There is, therefore, a reason why all legislatures have rules allowing legislators to represent their constituents even when in custody. The prime minister may be well advised to not bother with amending the legislative rules.  The writer is president of the Pakistan Institute of Legislative Development And Transparency president@pildat.org Twitter: @ABMPildat