**Letting matters play out**

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On Monday, the Honourable Chief Justice of Pakistan expressed confidence in the parliamentary process and opined that the issues before the Bench whilst hearing the Supreme Court Bar Association of Pakistan’s (SCBAP) petition could be raised in the parliament and settled there. This approach of non-interference in the no-confidence motion is a welcome step indeed. The concerns of SCBAP on the worsening security situation in the capital could be addressed by a two-fold direction to the police and security agencies. Firstly, they must protect lawmakers and secondly, to ensure that no untoward incident is allowed to take place that would mar the political process.
Although a clash between the government and opposition supporters seems inevitable and imminent given the outbursts of their leadership, there is little that the Supreme Court (SC) could actually do at this stage apart from denying the permission for charged supporters to be present outside the parliament. The SC has wisely refused to jump the gun and anticipate what might come and try to change the course of events.
However, a Presidential Reference has also been filed regarding floor crossing. This is not the first time in history that a presidential reference has been filed to seek the assistance of the court in the resolution of a constitutional impasse or to refer to a question of political importance. The Federal Court, as the Supreme Court was then known, was approached in 1955 to resolve the issues related to legislation. However, this time the issue is of floor crossing of members which is primarily a political issue, though it has constitutional importance.
It could very well be argued that the Supreme Court could let matters take their natural course and in answering the reference, state that the law cannot intervene till the actual act of floor crossing has taken place and the matter comes before the Court in the normal course. For a court to opine upon a hypothetical assumption, that a wrong is about to happen and what could or should be the consequences that follow, is indeed a stretch.
This is not to say that the Federal Government could not refer a question to the court for its opinion. For instance, the 1955 reference arose out of the judgement of the Court itself which required explanation or reconsideration. But the question is on whether the present reference is of the nature which ought to be entertained by the apex court.
Moreover, there is indeed the fear that such a reference would involve the Supreme Court in a political debate inviting the ire of charged supporters of political parties. The tenor of the reference does connote that the government may have lost the majority in the House and hence is trying to get a decision from the court before the motion of no-confidence is tabled in order to forestall impending defeat. In response, the Supreme Court may give a binding decision on an anticipated activity that may not actually transpire, especially if the motion is not passed. It could also be that the government may seek to delay the motion pending a Court decision and that may not go down well with the opposition and its supporters.
Throughout the history of Pakistan, there have been decisions which have changed our course and brought about fundamental changes in jurisprudence. Some of these are not celebrated. So far, the court is taking a cautious approach which may augur well for all of us.