**[Dismissing the Constitution](https://www.dawn.com/news/1774812/dismissing-the-constitution)**

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THIS is an extraordinary phase of Pakistan’s political life. None of the five directly elected legislatures are in place and both the federation and the four provinces are being governed by unelected caretaker governments — not just for 90 days which is the maximum period mandated by the Constitution, but for extended periods.

The caretaker governments in [Punjab](https://www.dawn.com/news/1733720) and [KP](https://www.dawn.com/news/1732853/azam-khan-takes-oath-as-kp-caretaker-chief-minister) were formed in January and are already into their ninth month. If elections are held in February next year, as is widely believed in view of the ongoing delimitation exercise, the two provincial governments would complete 14 months by the time the elected governments are sworn in.

The caretaker federal and the remaining two governments of Sindh and Balochistan would complete six months by the time the elected governments are in place.

In the past 38 years since the system of caretaker governments was devised and made part of the Constitution, caretaker governments have never existed for this long. The only time the caretaker set-up existed longer than the mandated period was in 2008 when the election date, and therefore the caretaker period, was extended by about 40 days due to the assassination of Benazir Bhutto and the resulting riots that erupted in many parts of Pakistan especially Sindh. Even this non-compliance with the constitutional provision was later post-facto regularised by inserting Article 270BB (General Elections 2008) in the Constitution through the 18th Amendment.

Continuation of unelected caretaker governments for extended periods runs counter to the spirit of democracy and the Constitution — more specifically to the latter’s preamble where it is stated that “…the state shall exercise its powers and authority through the chosen representatives of the people”.

The new parliament will, therefore, have to debate the question of validation of the delay in election and the extended period of caretaker governments once the new National Assembly takes oath. The Supreme Court has already pronounced that the requirement of election within 90 days is not flexible.

It is surprising how such a partisan caretaker government was allowed to be sworn in.

The delay in election and extended rule of the caretaker governments may be one of the most serious deviations from the Constitution in recent times, but it is, by no means, the only instance when constitutional and legal niceties were pushed aside. The KP caretaker cabinet took oath on Jan 26, 2023, and from the get-go, the strong and well-documented political affiliation of most caretaker ministers was obvious.

The subject was extensively discussed in the media, and the concerned political parties made no secret of the affiliation of these ministers. The only complaints these parties made was that the ‘quota’ of these parties in the cabinet was not as much as they thought they deserved.

It is surprising how such a partisan caretaker government was allowed to be sworn in, in the first place. When one of the ministers addressed a political party’s public gathering, the Election Commission of Pakistan sprang into action and advised the caretaker chief minister to sack the minister concerned. After the [minister resigned on July 24](https://www.dawn.com/news/1766397), the ECP asked the chief minister to sack almost the entire cabinet which was involved in politics.

Although the ECP’s direction to enforce the impartiality of the caretaker government before the general election is a welcome step, the continuation of the partisan ministers for a full seven months shows the lax attitude towards the Constitution and the Elections Act, 2017, whose Section 230(1)(d) requires caretaker governments to be impartial towards all parties and candidates. It is difficult to imagine how a person affiliated with a political party can be impartial to other parties.

Another example of taking constitutional and legal requirements casually is that of a sitting senator — a founder-member of his party the Balochistan Awami Party — who was selected by the outgoing prime minister and leader of the opposition to be the caretaker prime minister.

It is commendable that Mr Anwaar-ul-Haq Kakar [resigned](https://www.dawn.com/news/1769940/after-selection-as-interim-pm-anwaarul-haq-kakar-to-resign-from-senate-bap) from the Senate and the basic membership of BAP before taking oath as prime minister. This tradition set by the prime minister, which was in line with legal requirements, was, however, not respected by one of the members of his cabinet, Sarfaraz Bugti, the interior minister, who continues to be a senator, with the Senate website identifying his affiliation with the BAP. As these lines were being written, even the ECP had not raised any objection to his political affiliation. How can there be two rules about political affiliation for caretaker federal and provincial ministers?

Although the National Assembly was [dissol­ved](https://www.dawn.com/news/1769231) a month ago, and the Constitution stipulates that elections to the new assembly take place within 90 days of the dissolution, the poll schedule has not been released. Even the basic question of who is authorised to decide the polling date seems to be in dispute. Both the president of Pakistan and the ECP claim the authority. Even if there is a lack of clarity in the Constitution, the Supreme Court should quickly step in and give an authoritative interpretation of the Constitution.

Two important pieces of legislation, the Army (Amendment) Act, 2023, and the Official Secrets (Amendment) Act, 2023, were passed by parliament before the National Assembly was dissolved. When the Acts were notified by the law and justice ministry, after the lapse of the statutory 10 days allowed to the president to either sign or raise questions, the president used a social media post to [deny he had signed the Acts](https://www.dawn.com/news/1771203).

This casual attitude towards the Constitution and the laws of the land so close to elections is rather scary. Can state institutions and the holders of high office re-dedicate themselves to upholding the Constitution in letter and spirit?

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