**Impossible term extension**

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The federal government, which took the reins after the former Prime Minister Imran Khan had been voted out through a no-confidence motion on April 10, 2022, is going to complete the constitutional five-year term on August 13, 2023.
Article 232(6) of the Constitution of the Islamic Republic of Pakistan provides that the Parliament is allowed to pass legislation to extend the National Assembly’s term for a maximum of one year and which may be extended for a maximum period of six months following an end to the Proclamation of Emergency in the country. So as to extend the assembly’s tenure, the federal government has to fire the ultimate weapon of emergency provisions.
Undoubtedly, emergency provisions are a part of the Constitution but their use usually indicates a shattered polity. The declaration of emergency under the provisions dealing with ‘financial emergency’ may cause a deathblow to an already aggravated economy. As an end to term of the current federal government is almost a month away, Proclamation of Emergency and then extension of the National Assembly tenure is the talk of the town.
This idea of emergency proclamation was first promoted by JamiatUlema-e-Islam chief and PDM head MaulanaFazal-ur-Rehman who, while talking to a private news channel in September last year, had hinted at possible extension to the tenure of the current parliament, saying that the government will review the constitutional and legal aspects on the issue.
“Why an extension cannot be granted to parliament, which grants extensions to others,” he had stated impliedly referring to the new law which legalised the term extensions of military chiefs who have ruled the country for almost half its history.
The new law, made in January 2020, also benefitted General (r) QamarJavedBajwa. The parliament had approved the law that allows the government to extend the term of the country’s army chief, despite the objections of some parties and rights activists. On the other side, Federal Minister for Law and Justice, Mr. AzamNazeerTarar while talking to a news channel, on June 16, 2023 stated that the government was not considering to extend the tenure of the assembly. He made it clear that the general elections would be held on time.
Again, speaking on the floor of the National Assembly, Mr. Tarar reiterated that the general elections would be held in October and there was no option under consideration to extend the National Assembly tenure. Article 232(6) of the Constitution reads, “While a Proclamation of Emergency is in force, Parliament may by law extend the term of the National Assembly for a period not exceeding one year and not extending in any case beyond a period of six months after the Proclamation has ceased to be in force.
In such situation, the President has a decisive and crucial rule in a Proclamation of Emergency as the Constitution requires satisfaction of the President that “a great emergency exists in which the security of Pakistan, or any portion thereof, is threatened by war, external aggression, or by an internal commotion that is beyond the control of a Provincial Government”.
For the proclamation of emergency, a resolution from the provincial assemblies concerned is also mandatory while in Punjab and KPK, the provincial assemblies are already dissolved. So, constitutionally, it is not possible for the federal government to issue a Proclamation of Emergency in these two provinces.
Under Article 235 of the Constitution, the President is empowered to declare a state of emergency after consultation with the governor or governors if he determines that a situation has arisen in which Pakistan’s economic life, financial stability, or credit, or any portion thereof, is threatened. The President shall issue a Proclamation of Emergency and that a resolution from the Provincial Assembly concerned is also constitutionally required if the President is satisfied that a grave emergency exists in which the security of Pakistan, or any part thereof, is threatened by war or external aggression, or by internal disturbances beyond the control of a Provincial Government.
The National Assembly has a five-year term beginning on the day of its first sitting and it stands dissolved at the end of its term, unless sooner dissolved, in accordance with Article 52 of the Constitution. However, the President of Pakistan in pursuance of Article 58 of the Constitution, may, on the advice of the Prime Minister, dissolve the lower house of the country at any time before completion of its term. Likewise, Under Article 58(2), the President is empowered to dissolve the National Assembly at his discretion if the Prime Minister has been voted out through a no-confidence motion and no other National Assembly member succeeds to win the confidence of the majority of the lawmakers. Resultantly, the constitutional provisions require the elections of the National Assembly within 90 days in accordance with Article 224(1A) of the Constitution.
Articles 232 to 237 of the Constitution provide a strict mechanism for the Proclamation of Emergency by the Parliament which may make legislation to extend the National Assembly’s term for a maximum period of one year and then extension of a six-month period after the Proclamation of Emergency has ended.
The proclamation issued under Article 234 of Constitution shall be laid before a joint sitting, and the proclamation shall cease to be in force at the expiration of two months, unless before the expiration of that period it would be approved by resolution of the joint sitting and the resolution could be extended for a further period not exceeding two months at a time; but no such proclamation of emergency shall in any case remain in force for more than six months.
If an emergency is to be pronounced because of internal security conditions of a province, the provincial assembly concerned is required to pass a resolution. The president can also proclaim an emergency, but, in this case, the proclamation would need to be placed before the parliament, of which two Houses should approve it within 10 days. The proclamation of emergency needs to be placed before a joint sitting of the parliament within 30 days of the proclamation. Its validity is for two months, unless the joint sitting approves an extension through a resolution. If the joint sitting disapproves the proclamation, it will cease to be in force.
State of emergency is also declared across the world but in the public interest, solely, and not for the protection of political interests. The national Covid-19 emergency was declared by the then President, Donald Trump on March 13, 2020 and ended by the Senate in March 2023 through passing of a bill.But in the homeland, (then) military ruler, Pervez Musharraf declared a state of emergency in November, 2007. He also suspended the country’s constitution and fired the chief justice of the Supreme Court of Pakistan. As a result, national and international pressure mounted against declaration of emergency.
Then the backlash was led by the country’s legal community which took to the streets against the decision. However, no federal government ever exercised the constitutional right to extend the tenure of the National Assembly. Regarding power of the government during a proclamation of emergency, the Parliament can make laws for a Province, or any part thereof, with respect to any matter not enumerated in the Federal Legislative List.
During the state of emergency, the federal government is also empowered to suspend the enforcement of fundamental rights. It can also issue orders to the provincial governments and suspend the operation of constitutional provisions with regards to provincial bodies and matters and such orders must be approved by the Parliament.
During the proclamation of emergency, the executive authority of the federation shall extend to the giving of directions to any province to observe such principles of financial propriety as may be specified in the directions, and to the giving of such other directions as the president may deem necessary in the interest of the economic life, financial stability or credit of Pakistan or any part thereof.
Article 236 of the Constitution states that a proclamation issued under this Part can be varied or revoked by a subsequent proclamation, and the validity of any proclamation issued or order made shall not be called in question in any court.
Article 237 of the Constitution also provides that nothing in the constitution shall prevent the Parliament from making any law indemnifying any person in the service of the federal government or a provincial government, or any other person, in respect of any act done in connection with the maintenance or restoration of order in any area in Pakistan.
However, in situations relating to the proclamation of emergency, the federal government can neither hold the Constitution in abeyance nor can suspend the provisions of the Constitution related to the superior judiciary.
Though the superior courts enjoy the power of judicial review and makes decision regarding the validity of Proclamation of emergency, and the judicial orders and judgements in this respect are binding on all the parties concerned under Article 189 of the Constitution, there is no possibility of a proclamation of emergency due to dissolution of two provincial assemblies and the president’s affiliation with Imran Khan’s PTI.