**A Flawed Demang**

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It is for the first time in the history of Pakistan that the appointment of a new COAS has been made controversial. The architect of this controversy is the PTI chairman and former prime minister, Imran Khan, who maintains that since the political future of the country and its direction would be determined by this appointment, the incumbent government, which allegedly comprises the most corrupt elements and has been foisted on the country through foreign sponsored conspiracy, does not have the right to appoint the new COAS. The demand is that it should be left to the future government formed on the basis of immediate elections, which, according to his contention, would prove to be a panacea for all the problems faced by the country.

Before looking at the veracity of the demand made by him and his contention that the incumbent government could not appoint the new COAS, it is imperative first to have a look at the constitutional provision regarding the appointment of COAS and the practice that has been followed in this regard over the years. Article 243(3) stipulates, “The President on advice of the Prime Minister appoint Chairman Joint Chiefs of Staff, the Chief of the Army Staff, the Chief of the Naval Staff and the Chief of the Air Staff.”

The incumbent COAS General Qamar Javed Bajwa was given three years extension in his tenure from November 2019 to November 2022 as a result of a consensus between the PTI government and the opposition to amend the Army Act 1952 to make legal provisions for according extension to him. Consequently, Army Amendment Act 2022 was passed by adding a new chapter to the Army Act 1952. Clause 8a of the inserted chapter stipulated, “Notwithstanding anything contained in this Act or any other law for the time being in force, President on the advice of the Prime Minister may reappoint the COAS for an additional tenure of three years(3) or extend the tenure of Chief of Army Staff up to three (3) years on terms and conditions determined by President on the advice of the Prime Minister in the national security interests or other exigencies from time to time.”

According to the constitution, it is the legal prerogative of the incumbent Prime Minister to make the choice regarding the appointment of a new COAS

As is evident, according to the constitution and both Acts, it is the constitutional and legal prerogative of the incumbent Prime Minister to make the choice regarding the appointment of a new COAS or extending his tenure. The President approves the appointment and terms and conditions of his appointment on the advice of the Prime Minister. The process for the appointment of the new COAS starts in GHQ. The names of three to four generals are sent to the Prime Minister through the ministry of defence without making any formal recommendation. It is, and has been, the prerogative of the incumbent Prime Minister to pick any one of them. The outgoing COAS is also taken into confidence. In view of the foregoing, the demand by Imran Khan regarding the appointment of a new COAS is wrong, both legally and constitutionally.

When Imran contends that the corrupt elements do not have the right to appoint COAS, he conveniently forgets that he also does not morally stand on a higher pedestal to accuse others of corruption. He formed a government with the help of those elements whom he used to call the most corrupt in the country and whom he regarded as anti-state before they joined him in the coalition government that he headed. There is also a slew of corruption cases pending against PTI stalwarts, which were swept under the carpet by the former chairman of NAB. A number of corruption cases against him are now also under investigation. So, if one accepts Imran’s logic of corrupt elements not having the right to appoint COAS, then he also did not have the right to give an extension to General Bajwa. Therefore, his argument on the issue is also flawed and illogical.

He also overlooks the fact that the parties of the PDM secured far more votes than his party in the 2018 elections, and not recognizing their legitimacy was an insult to the genius of the people who elected them. Since they came to the assemblies through a constitutional and legal process, Imran is nobody to challenge their credentials and the right to run the affairs of the state.

The PDM formed the government after ousting Imran Khan through a constitutional process. Imran tried unconstitutional methods to scuttle the no-confidence motion and had it rejected by the Deputy Speaker. Then, he had the assemblies dissolved by the President and announced new elections. But, the apex court intervened timely, and he had no choice but to abdicate power as a result of the success of the no-confidence motion against him.

The court later declared the action taken by the deputy speakers, Prime Minister and the President unconstitutional. It really sounds bizarre to hear Imran talking about law and constitution when his conduct negates his credential as an honest and judicious person.

PTI regime did not even spare judges of the apex court. It filed a reference against the future chief justice of Pakistan, Qazi Faiz Isa, and later admitted that it was wrong on its part to do that. The high courts and SC, while hearing cases, are on record to have remarked that NAB was being used for political engineering. The narrative of a conspiracy also cannot be given credence in view of the fact that our intelligence agencies found no evidence of any such move.

The legitimacy of the incumbent government is beyond reproach and it has the right to appoint the new COAS. It is also its prerogative to decide on future elections. Imran needs to rethink his strategy of fomenting and aggravating chaos and crisis in the country. All the contentious issues including electoral reforms can only be resolved in the parliament and not through street agitation. In this regard, he must heed the advice of IHC and SC for returning to the assemblies. I am afraid if he continues with his strategy of precipitating political crisis, he will be scuttling his chances of ever returning to the corridors of power. There is still time to retract.

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