

Parliament — on the threshold of power

By Raja Asghar

PARLIAMENT performed much better in 2009 than a dismal previous year, and now appears on the threshold of new power and a feared confrontation with non-parliamentary challengers in the next calendar.

Recommendations of a joint constitutional reforms committee of the National Assembly and the Senate, which government sources say are nearly complete, will be the present parliament's most outstanding work designed mainly to implement the pledges made by the country's two main parties in their famous Charter of Democracy (CoD).

The adoption of the recommendations in a constitution amendment bill will, besides other provisions, restore parliament's supremacy in what is called trichotomy in the division of power with the executive and judiciary that was usurped by former military president Pervez Musharraf, as was done in earlier decades by two of the three other military dictators.

The committee, set up on the demand of President Asif Ali Zardari to "revisit" the power-grabbing Musharraf-era Seventeenth Amendment and headed by PPP senator Raza Rabbani, could have finished its job much earlier because of the principles agreed in the CoD, which was signed in London in 2006 by assassinated PPP leader Benazir Bhutto and PML-N leader Nawaz Sharif when both the leaders were living in exile.

But things became tardy by what looked like initial second thoughts of the presidency about parting with all the controversial powers and demands by smaller parties for a quantum of provincial autonomy that the two main parties — and possibly the so-called "establishment" — were not prepared to concede.

The constitutional amendment bill — or the committee report — was earlier expected to be brought to parliament by the end of December, but Minister of State for Law Mohammad Afzal Sandhu said in a recent television talk show "ten

days more" would make no difference.

The main amendments would mean divesting the presidency of the usually prime ministerial powers to dissolve the National Assembly and appoint provincial governors, armed forces' chiefs, and the chief election commissioner and make the president a figurehead as it should be in a genuine parliamentary system whose uninterrupted success in neighbouring India since independence has earned the country its democratic credentials.

Pakistan had only two honourable exceptions — Fazal Elahi Chaudhry of the PPP in the 1970s and Mohammad Rafiq Tarar of the PML-N in the 1990s — though unfortunately both men were often made a butt of jokes for their "powerlessness". But President Zardari would not be that powerless as he also effectively leads the country's largest party and may gain in prestige if he overcomes a political-cum-legal crisis that has erupted in the aftermath of the Supreme Court Dec

16 judgment ruling General Musharraf's already dead National Reconciliation Ordinance (NRO) of Oct 5, 2007 as never to have existed.

It meant reopening all disputed criminal charges brought against President Zardari, Benazir Bhutto and several other PPP leaders in the 1990s by the government of then prime minister and arch-Bhutto rival Nawaz Sharif but withdrawn under the NRO with stated aims, among others, "to remove the vestiges of political vendetta and victimization" and make "election process more transparent" — though the list of beneficiaries included thousands of others, most of them followers of the Muttahida Qaumi Movement along with their self-exiled leader Altaf Hussain accused of roles in violence in Karachi in the 1990s and several former bureaucrats.

While the nullification of the NRO ab initio, or from the beginning, was expected after the government decided not to defend the ordinance after withdrawing it from parliament's legislative agenda, what raised many eyebrows and what could be taken up in parliament was that the court ruling went somewhat

beyond the prayers of the petitioners — made soon after the decree was enforced in October 2007 but not taken up after General Musharraf's controversial Nov 3, 2007 emergency sacked most of the then Supreme Court judges — like monitoring trials under a law that a military dictator had enforced mainly to punish his political opponents.

Though parliament must hope to regain its lost supremacy, fears have been expressed of a possible confrontation with the bench as a consequence of a perceived political side of the judgment that is seen by many analysts as mainly targeting the PPP and, in actual fact, meaning the continuation of what the party calls a vendetta unleashed first by the Nawaz Sharif government in the 1990s and continued by General Musharraf after seizing power in an October 12, 1999 coup.

Most legal experts agree the president enjoys immunity from any prosecution, yet demands are made by non-parliamentary critics for him to resign. Nothing doing, he says defiantly as, despite past mistakes, his party seems to have got a shot in the arm and got around him to pro-

tect the mandate of the Feb 18, 2008 general elections. That portends a possible challenge from the platform of parliament if the party finds the democratic system being threatened by the judiciary it had hesitantly revived by undoing Musharraf's sacking orders while bowing to a combined movement of lawyers, political workers, media and civil society.

The court judgment seems to have given more urgency to the proposed constitutional amendments, which, according to CoD, must include a parliamentary oversight of the appointment of judges of the superior judiciary — including limiting the term of a chief justice — as well as the military budget. It is here where could lie the seeds of non-parliamentary challenges to law-makers who want a change.

Other parliamentary landmarks of the outgoing year included National Assembly's approval of a government-ordered military operation against the Taliban in the Malakand division of the North-West Frontier Province after the enforcement of an Islamic Nizam-e-Adal Regulation failed to satisfy the barbaric rebels and stormy debates over power and food shortages, the so-called Kerry-Lugar bill that tripled non-military US aid to Pakistan, and a government package aimed to reverse decades of deprivation suffered by Balochistan.

A unanimous resolution for the Malakand operation was the worst political blow to the Taliban, reflecting a national consensus to fight out, rather than compromise with, barbarians masquerading as Islamic fighters and provided a moral authority for similar actions in other trouble-spots like South Waziristan and North Waziristan tribal areas.

The debate on the Kerry-Lugar Bill failed to come up to the dreams of those who sought a rejection of the aid package but succeeded in

securing Washington's pledges that conditions of the package, like Congress oversight of the use of aid, would not be used to undermine Pakistan's sovereignty.

And the refusal of most parliamentary parties to consider the NRO as originally planned by the government was a rare show of parliament's loud refusal to become a rubber-stamp as well as the ruling coalition's willingness to compromise, which found out later as not much rewarding when matters went to court.

Despite a chorus of discordant voices outside parliament, Prime Minister Yousuf Raza Gilani's Balochistan package received a positive response in the last of four joint sittings of parliament held in 2009, as the PPP-led government seemed to be opening a new chapter in the troubled province with an offer of dialogue with the dissidents at home and in exile, troop withdrawals from

some hotspots, a halt to the construction of new cantonments, release of political workers arrested on criminal charges, promises of more jobs and economic benefits besides more provincial autonomy to be incorporated in the constitution amendment bill.

Legislative business initiated in the National Assembly more than tripled, with some landmark bills seeking protection against domestic violence and women's harassment at workplaces and regulation of transplant of human organs and tissues. But the passage of 15 bills — including the finance bill containing the budget for fiscal 2009-10 and most of which were adopted by the Senate as well — was not enough, leaving Parliamentary Affairs Minister Babar Awan complaining of slow pace of Standing Committees in finalising their reports on government and private bills before their presentation for passage.

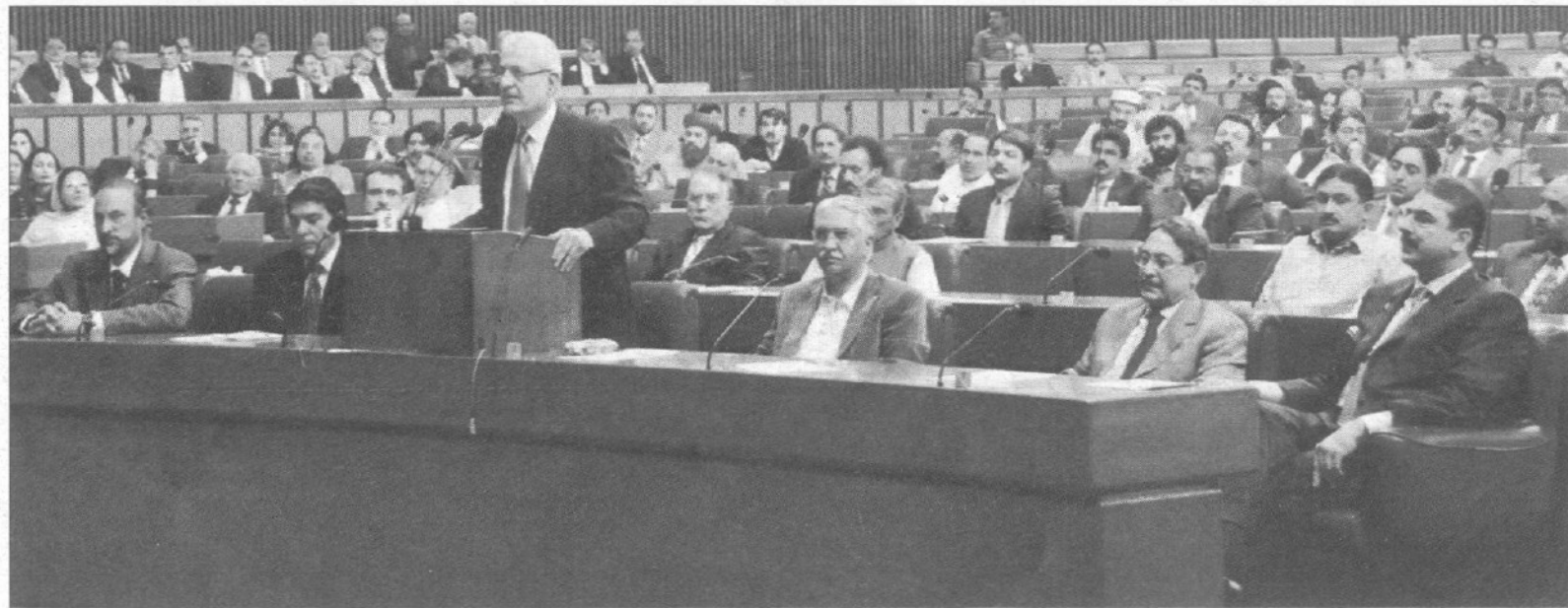
But neither of the two houses could take up the 37 ordinances referred to them as a consequence of a July 31 Supreme Court ruling that nullified General Musharraf's Nov 3, 2007 emergency proclamation but gave the government up to 120 days to decide the fate of the decrees, including the NRO, after they lost the constitutional protection given them by the former president. While the NRO was withdrawn, most of the remaining ordinances, which related to non-controversial day-to-day activities of government departments or institutions but expired after the Nov 28, 2009 deadline, were re-promulgated by President Zardari, qualifying to be considered by parliament afresh.

The National Assembly's key Public Accounts Committee headed by opposition leader Chaudhry Nisar Ali Khan claims to be moving with due speed, with estimated recoveries worth Rs19 billion as a result of

its scrutiny of government departments, though its first consolidated report is expected to be presented in the next lower house session planned for the first week of January, 2010.

The year also saw the formation of Pakistan's first women's caucus in parliament, headed by National Assembly Speaker Fehmida Mirza, which has contributed to the promotion of women's causes, including bills related to their rights.

But despite its achievements, absenteeism continued to afflict proceedings in both houses of parliament. And the National Assembly often sees Prime Minister Gilani virtually besieged by members from both sides of the aisle coming to his desk with applications to be initialled by him. Repeatedly warnings by the speaker and by comparatively stringent Deputy Speaker Faisal Karim Kundi have failed to change the trend. ■



SENATOR Raza Rabbani outlining details of the Balochistan package in parliament.—PPI