

## **LEGISLATION IN PARLIAMENTS IN NEW DEMOCRACIES: COMPARATIVE STUDY OF LOK SABAH AND NATIONAL ASSEMBLY**

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### **Abstract**

*Parliaments are an essential component of the democratic architecture but their prominence varies considerably. Generally, the executive keeps effective control of legislation, Parliamentarians are considered as public representative's policy makers. They make policies and laws for the welfare of the nation. These decision makers performed their duties as per their extreme skill to secure national interests. This study highlights the efforts of the Pakistani and Indian parliamentarians. This research focused on the performance of both houses during 2008-2014. The performance of the parliamentarian is also examined in this study. This comparative study will extend the boundaries of comparative politics and system analysis theory. The basic duties of parliamentarians are legislation. In this research discussed the role of parliament and basically the legislation process in*

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*parliament. Parliament is the constitutional expression of the certain ideas. Parliament is an institution of the elected representatives which makes law for the whole nation, state or a country. Legislation in parliaments of new democracies and comparative study is useful research topic in Political Science and will provide a guideline to parliamentarians to work better.*

**Keywords:** *Anglo-Indian Community, Majlis-e-Shoora, Lok Sabah, Lokpal, Lokayuktas,*

### **Contextual Analysis**

A parliament is a multimember representative body which considers public issues, passes laws and ratifies political decisions on behalf of the wider society. State is the powerful institution within the all social institutions and provided such environment that creates the self-development in the human lives. So, the most important element of the “state is the government through which sovereign will of the state finds concrete expression”. Legislation, its implementation and Adjudication are the three dimensions of the government. However, there are some forms of government like federal, unitary, aristocracy and the parliamentary form of government. In democratic structure, somewhere these organs are present separate, intermingled or amalgamation of both (Kashyap, 1994).

The word of parliament used to describe the legislation process. Parliament or its members safeguard the interest of the people and protect their rights, and each member of the parliament represents the people of the certain area. In the Parliamentary system legislature and executive combined work with full cooperation. Parliament is very crucial institution and the supreme law making body where most important functions of the representation, oversight and law-making took place. Legislation or law making is the basic and primary function of the parliament. Parliaments are the central institutions of the government in which elected representatives makes law for the country. So, strong parliament is essential for law making process.

**Analytical Note**

India and Pakistan have bicameral parliaments with powerful lower houses and considered the genuine creator of framing the constitution and the Legislation process. In the parliamentary system people have the basic right to frame such system that definitely belongs to their preference and choice.

**National Assembly of Pakistan**

Parliament is based on the two Houses, National Assembly and Senate. National Assembly of Pakistan consisting 342 members, these members directly elected through the general public vote according to their will and called the MNAs. It is the most important component of the parliament. While, the Upper House (Senate) consisted on the 100 members these members are called the Senators and symbolize the various political parties that participate in the elections. Every new Assembly elected within ninety days and served as five-year term and the senators elected for six-year term. Senate is a body that represents the territories and provinces and promotes the feelings of peace equality and harmony. In the senate was given the equal representation to all the provinces and in the National Assembly its membership is based on population. The main purpose of the senate is to provide equal representation of all the federating units. Both these Houses of Parliament are responsible for legislation, changing and making the laws to bring desired and beloved social changes in the behavior of the state citizens.

**Lok Sabah**

Indian parliament has two houses Lok Sabah and Rajya Sabah. Representation of the Rajya Sabah is decided on the basis of population of respective States (Devesh Kapur, 2006). Lok Sabah is also called the popular House because it represents the Indian people. Its representation is based on population and maximum membership of Lok Sabah is 552. Out of these 552 members 20 members represent the seven union territories while 530 members elected directly from the states and from the Anglo-Indian community. The president of India nominated the two additional members. For the Lok Sabha elections the States are divided into single member constituencies on the basis of population. The normal tenure is five years for the membership of Lok Sabah and twenty-five years.

**Legislations in Pakistan**

Both houses of Pakistani parliament (Majlis-e-Shoora) National Assembly and Senate work together and carry out the process of law making. It is the fundamental responsibility which is performed together by both these two Houses. Rules and procedure for the introduction and adoption of any bill mutually depend on both these houses. Legislations are important by dint of several reasons like to govern the actions of the groups and people in the private or public spheres, including the setting standards.

“Legislation is sometimes referred to as statutory law, and it is law that has been put into place by the actions of a legislature or governing body. It is valuable to setting societal standards and norms at all levels of government, including the local, state and national level” (Kerr, 1996).

Bill is the legislative proposal in a discrete format that passed by the both Houses and acquiesces or assented by the President, and becomes an act of parliament. It is related to any matter in the Federal Legislative List or in the Concurrent Legislative List. In other words, any member of the house introduced the bill and after approval of simple majority it is implemented and becomes the act. “To amend the constitution a bill passed by the simple majority of members of both Houses, for this purpose voting is necessary. From the total membership of both Houses in their separate sittings, not less than 2/3 majority is required in the case of a bill to amend the constitution. When both Houses passed the bill it presents for the president assent then after president assent it becomes an Act”.(Khan, 2014 ).

Before becoming an act, a bill has to pass different stages. Firstly, the provisions and the principles of the bill discussed when a bill comes up for the consideration. Any member of the house introduced a bill then with the statement of reasons and objectives three copies of this bill escort to the secretary then a point can be discussed and explain its principles, otherwise detail of the bill cannot be discussed. The amendments to the bills are not moved at this stage. A member can present an amendment to the bill but this will be circulated for the purpose of eliciting opinion and then the bill is put to the house on the end of discussion (PIPS, 2003).

On the orders of the day copies of it further circulated to all the members of the house. Then for advice Bill send to the Council of Islamic Ideology for “Repugnant to Islam”. In next step discussed its principles after circulating among members. Except the Money Bill, all bills moved to the concerned Select Committee or Standing Committee for recommendations.

“The Committee may allow the bill to be taken into consideration as a whole, with respect to particular clauses or amendments only or with instruction to make some particular or additional provision in the bill. One-day notice of amendments from the day a bill is to be considered has to be given by a Member. Thus, the whole bill, clause by clause, goes through the second reading and the Speaker decides if amendment proposed meets conditions of admissibility” (Niazi, 2013).

Then members of assembly give their opinion in the support or rejection of that bill. At this stage just verbal amendments can be stimulated. The Speaker place the motion after debate for the decision of the House. Except the money bill, once a bill passed in that house where it is originated then sent to the other house where same process of committee scrutiny and debate held. If it passed also in this house then sent for the presidential assent (PIPS, 2003).

All bills except the money bills have been sent for the president assent after the acceptance on that bill by the both Houses. Then president has been passed the bill it becomes the law. In other case if a bill returned by the president assent after reconsideration, then parliament will be reconsidered. If the parliament again passed this bill without or with an amendment and presented to the president, then in this form president will not withhold assent (Murshed, 2004).

When National Assembly passed a bill, without any amendment, then the speaker signed an authenticated copy which is transmitted to the President. After the Presidential assent of a bill, immediately its publication as an Act of parliament ensures in the Gazette by the secretary.

“The President may promulgate an Ordinance, having the same effect as an Act when the Assembly is not in session. It remains valid for four months and it is put

forth in both Houses (only National Assembly for Money Bill) for acceptance or rejection within four months of promulgation. Additionally, the President can 7 withdraw the Ordinance” (PILDAT, 2013).

### **Important Legislations Timeline during 13<sup>th</sup> National Assembly of Pakistan**

<b>No</b>	<b>Bills</b>	<b>Date of Passage</b>
1	The Domestic Violence (Prevention and Protection) Act	4 <sup>th</sup> August 2009
2	Transplantation of Human Organs and Tissues Act	12 <sup>th</sup> November 2009
3	Anti-Moneys Laundering Bill	27 <sup>th</sup> January 2010
4	Protection against Harassment of Women	21 <sup>st</sup> January 2010
5	The 18 <sup>th</sup> Amendment	8 <sup>th</sup> April 2010
6	Nineteenth Constitutional Amendment Act	22 <sup>nd</sup> December 2010
7	The Competition Act	23 <sup>rd</sup> September 2010
8	The Election Laws (Amendment Bill) Act	18 <sup>th</sup> April 2011
9	20 <sup>th</sup> Constitutional Amendment Act	14 <sup>th</sup> February 2012
10	National Commission on the Status of Women Bill	19 <sup>th</sup> January 2012
11	The Industrial Relations Act	14 <sup>th</sup> March 2012
12	Right to free and compulsory	13 <sup>th</sup> November 2012

	education Act	
13	National Commission for Human Rights Act	4 <sup>th</sup> May 2012
14	The Election Laws (Amendment Bill) Act	12 <sup>th</sup> March 2013
15	The Anti-Terrorisms (Amendment Bill) Act	20 <sup>th</sup> February 2013

**Source: Author**

### **Legislations in Lok Sabah**

Indian Parliament is basically the law making body and law-making is the main and primary function of it. Between the Centre and states are the division of powers and it covers the three lists that are the union list, there are 97 subjects are mentioned in the union lists. Second is concurrent list and the third is state list also. Parliament can make legislations on the union list subjects. On the concurrent subjects, both the Centre and the state can make legislations and if any subject is not mentioned in any list that will be vested with the parliament like the residuary powers (Manisha, 2015).

The constitution is designed by the parliament in Pakistan and India. Parliament is the elected institution through the fair and free election voting of the general public, in which more than one political party existed and as the law making body they provide the legitimacy of parliament. “The Rules of Procedure and Conduct of Business in Lok Sabha and Directions issued by the Speaker from time to time there under regulate the procedure in Lok Sabha” (D'Ambrogio, 2014).

Legislation process contained a number of stages that included the policy preparation. In policy preparation on the basis of inputs drafts prepared from various public and private agencies, secondly, in the Houses of the Parliament introduction of the bills, thirdly, committee references, fourthly, deliberation of committees, fifthly, discussions of the bill in the House, then bill approval in the house and finally sent for the assent of president (Pylee, 2005).

**Important Legislations Timeline during 15<sup>th</sup> Indian Lok Sabah**

<b>No</b>	<b>Bills</b>	<b>Date of Passage</b>
<b>1</b>	Right of Children to Free and Compulsory Education Bill, 2009	4 <sup>th</sup> August 2009
<b>2</b>	National Green Tribunal Bill, 2009	31 <sup>st</sup> July 2009
<b>3</b>	Copyright (Amendment) Bill, 2010	23 <sup>rd</sup> Nov,2010
<b>4</b>	Civil Liability for Nuclear Damage Bill, 2010	7 <sup>th</sup> May 2010
<b>5</b>	Salary, Allowances & Pension of MPs (Amendment) Bill, 2010	27 <sup>th</sup> August 2010
<b>6</b>	Protection of Women from Sexual Harassment at Workplace Bill, 2011	3 <sup>rd</sup> September 2011
<b>7</b>	Companies Bill, 2011	2 <sup>nd</sup> December 2011
<b>8</b>	Protection of Children from Sexual Offences Bill, 2011	23 <sup>rd</sup> march 2011
<b>9</b>	Prevention of Money-Laundering (Amendment) Bill, 2011	27 <sup>th</sup> December 2011
<b>10</b>	Pension Fund Regulatory and Development Authority Bill, 2011	24 <sup>th</sup> March 2011
<b>11</b>	Land Acquisition, Rehabilitation and Resettlement Bill, 2011	5 <sup>th</sup> September 2011
<b>12</b>	Lokpal and Lokayuktas Bill, 2011	27 <sup>th</sup> December 2011

<b>13</b>	Street Vendors (Protection of Livelihood & Regulation) Bill, 2012	6 <sup>th</sup> September 2012
<b>14</b>	National Food Security Bill, 2013	12 <sup>th</sup> September 2013
<b>15</b>	Criminal Law (Amendment) Bill, 2013	19 <sup>th</sup> March 2013
<b>16</b>	Andhra Pradesh Reorganization Bill, 2014	1 <sup>st</sup> March 2014

Source: Author

### **Comparative Analysis**

The election of Thirteenth National Assembly of Pakistan was held in 8<sup>th</sup> February 2008 and dissolved on 17<sup>th</sup> March 2013 after completing its five-year tenure. Then, next general elections of the Fourteenth National Assembly were held on 11<sup>th</sup> May 2013 and this newly elected Assembly took an oath on 1<sup>st</sup> June 2013. PPP (Pakistan Peoples Party) rule over Pakistan three time but not just five years. So, 2009 to 2013 was the tenure of this party that completed its five years successfully.

While, Fifteenth Lok Sabah elected in India during the general election of 2009 that held in April and May, Manmohan Singh was the Prime Minister of India, and then it was dissolved by the President Pranab Mukherjee on 18<sup>th</sup> May 2014.

### **Comparison of Legislation process in Lok Sabha and National Assembly of Pakistan**

<b>Legislations</b>	<b>National Assembly</b>	<b>Lok Sabah</b>
Bills	205	179
Government Bills	122	159
Private Member Bills	19	264
Question Hour	<b>12,623</b>	93,360

Resolutions	85	63
Budget Debates	82	13,076
Sittings	521	367
Sessions	63	105
Working Days and Hours	696	1,485
Adjournment Motion	1,880	189
Calling Attention Notices	543	254
Legislative Bills	105	116

Source: Author

Above mentioned table of comparison shows that both houses of India and Pakistan completed its five-years parliamentary tenure successfully, achieved few landmarks and does several legislations like the domestic violence act, transplantation of human organs and tissues act, anti-money laundering act, protection against women harassment act, right to free and compulsory education act, anti-terrorism act ant the 18th, 19th and 20th constitutional amendment act, promoted the provincial autonomy and the new criteria for hiring the Judges of Supreme Court and High Court in National Assembly. While, Protection of Children and Women from Sexual Harassment Bill, criminal laws, companies law bills, national food security bills, and the right of children for free and compulsory education bill etc.

The 13<sup>th</sup> national assembly of Pakistan laid the basic foundation of many important and positive impacts on its working. For example, it was for the first time was put in place a tradition of chairpersonship of the committee that in the House based on party representation. It also ensured that the opposition leaders of assembly also elected as chairs of standing committee in proportion to their representation. Beside of it, only the ruling party or the coalition partners were elected on the chair of the standing committee.

Similarly, for the first time in Pakistan, in the 13<sup>th</sup> national assembly opposition leader was elected as head of the public accounts committee that was the major positive step towards deepening the democracy so, the Public accounts committee issued and published 13<sup>th</sup> report in its five-year tenure and claimed to have 115 billion recovered and cleared a backlog of the past ten years. During the five year of the 13<sup>th</sup> National Assembly, on 18<sup>th</sup> November 2008 was formed the PCNS (Parliamentary Committee on National Security) by the joint resolution of the house that remained another important and effective committee.

During the five year the 13<sup>th</sup> National Assembly of Pakistan passed the largest number of bills and most of them were passed with consensus. The opposition also played the constructive and positive role in bringing major changes and participates positively into the key legislations. Under the 13<sup>th</sup> National Assembly of Pakistan saw effective and major changes in the shape of 18<sup>th</sup> constitutional amendment and restore the parliamentary democracy in the country in this result that was finished during the military rules.

The 19<sup>th</sup> constitutional amendment introduced the new way to appoint the High Court and Supreme Court Judges and in the 20<sup>th</sup> constitutional amendment that is the landmark development to strengthen the democracy and set a precedent for all the followers. That was the historic day as to active milestone of democratic government through approving and recommended the 20<sup>th</sup> constitutional amendment. During its five-year tenure, the 13<sup>th</sup> National Assembly began its journey of public access and greater transparency through the basic and key importance to the general public and Media about the Assembly proceedings and sittings by its websites.

However, in the fifth parliamentary year of PPP its Prime Minister Yousaf Raza Gialini disqualified by the supreme court in contempt of court case. Then, Raja Pervaiz Ashraf elected the newly Prime Minister and took an oath on June 2012. Likewise, in the same year 11 MPAs of the thirteenth National Assembly resigned because of dual nationalities, its nine members of the lower House died during the same year, including the Shahbaz Bhatti who was the Minister of the Ministries Affairs and assassinated in Islamabad.

While, there are some account of trends in which the 13<sup>th</sup> National Assembly of Pakistan remained failed to play its basic role and these impact negatively effect

on the five-year tenure of the 13<sup>th</sup> National Assembly. For Example, 13<sup>th</sup> National Assembly remained failed or unsuccessful on resolving the basic and key issues that facing the Pakistan like Law and Order situation in FATA Baluchistan and Karachi, Terrorism and raised ethnicity or sectarianism. So, the Assemblies never moved and expressing sorrow on the severity of these issues.

During its five-year tenure Thirteenth National Assembly introduced and passed the many government and private member bills. Total 205 bills passed by the thirteenth national assembly of Pakistan that was the 78% improvement from the previous 12th national assembly of Pakistan. While, the Fifteenth Indian Lok Sabah introduced total 291 bills, 179 were passed that was the 23, 79% improvement and 480 ministers participated in this debate.

The thirteenth National Assembly of Pakistan introduced the 205 private member bills, 19 were passed in assembly. While, in Lok Sabah introduced 372 private member bills, discussed 22 but 264 were passed.

The thirteenth National Assembly introduced 222, but out of these 122 government bills were passed. While, in the Fifteenth Lok Sabah 177 government bills passed out of the 265.

During the five parliamentary years of the 13th National Assembly of Pakistan total 521 sittings held. Total 82 budget sittings held during the five years of the 13th national assembly of Pakistan. While, during the Fifteenth Lok Sabah total 367 sittings held and met 335 days and 1329 hours that was the average 3 hours and 46 minutes per day. Total numbers of debates were 13,076 that are the 100% from the previous Lok Sabah.

In the Thirteenth National Assembly of Pakistan 3,357 question were asked per day. 261 legislators asked the 16056 questions and out of these 12623 responded, 3357 remaining ignored, 68 received partial answer, 6 withdraw and 2 were lapsed. During the five years of the 13th National Assembly women participation looks much active and appreciated in the question hour. It is also an appreciating that first time a woman Dr. Fahmida Mirza elected as the speaker of Assembly. Overall 8138 questions were asked by the women legislators as compare to men that appreciated their activeness and interest. 7918 questions were asked by the men lawmakers in the five year. So, women parliamentarians play their oversight role as submitted almost 48% of the total questions.

While, the Fifteenth Lok Sabah had taken 9.05 %time on answering the questions and total 93,360 questions asked by the Indian parliamentarians. During the tenure of the 15th Lok Sabha, in 2011 Budget was passed without standing committees scrutinizing the demands for grants from various ministries” (Mandira Kala, 2014).

During the 13th National Assembly of Pakistan held the total 63 sessions out of these 13 was Joint and 50 were the regular sessions. Beside of it 521 regular sessions were also held in the 13th national assembly. While, in Fifteenth Lok Sabah held the three sessions that are the winter, monsoon and budget sessions and in a year on an average, parliament meets 85 to 105 days.

Thirteenth National Assembly presented the 543 out of these 440 were discussed in the assembly. 1880 Adjournment Motions were received among them 8 were referred to the standing committee, 31 were discussed in the House and 84 brought before the House. The Thirteenth National Assembly received total 299 Privileges Motions among them 100 were referred to the standing committee and 50 brought before the House.

Thirteenth National Assembly met 696 days in 63 sessions and 1345 were the actual numbers of Hours the House met. While, during the Fifteenth Lok Sabah introduced the total 228 Legislative bills and out of these 116 were passed in assembly. Likewise, Finance bills also introduced that were 63 and out of these full by full 63 financial bills were passed by the Fifteenth Lok Sabah.

India is such a state where no any Martial Law conducted and parliament work and completes its business successfully. It does not mean that there is no any issue rose in India. India also faced many internal as well as natural threats but never called military to rule over country. That’s the reason democracy successfully work in such like Indian state. So, Pakistan should also lean from the India.

### **Conclusion and Recommendations**

This research suggested some recommendations to strengthen the parliamentary democracy. Pakistan Muslim League N. has great opportunity to work more efficiently. Ruling party should create the environment of mutual understandings with opposition parties on the other side Bharatiya Janata Party should coordinate with opposition parties to work more efficiently because the last Lok Sabha has some gaps which should be lesson for this party. Supremacy of parliament should

be maintained. No man is beyond law. Constitution should be supreme law the country in its real spirit. Application should be with fidelity. The majority party should play an active role with the coordination of opposition parties particularly committees should be shared by opposition parties. The opposition of the parliament should play their positive role to strengthen the democracy. Parliament should complete its tenure.

The parliamentary committees on interest should work more open and national security issues should be trialed publically on with an extensive variety of government and non-government spectators as in Lok Sabha. Parliament should be used the most important key for check and balance institutions because it is a most significant element of the national governance system. The committees should have checked and contained mistakes of different intelligence activities. The Activities of senior civil services should be under observation of parliamentary committees. Committees should have submitted their reports in time for implementation in its real spirit. The political powers should be used by the cabinet and opposition should have check on it to balance the powers for public interest.

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