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Constitutional Amendments in PML (N)'s Government (2013–2018): Role of PPP as Major Parliamentary Opposition

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Abstract: *The main theme of the paper is to highlight the role of the Pakistan Peoples' Party being a major opposition party in the Parliament towards constitutional amendments that were put forwards in Parliament by the Pakistan Muslim League (N) as the ruling party during 2013–2018. This research article investigates the responses and reactions of various PPP legislatures towards the constitutional amendments passed in the National Assembly as well as in the Senate of Pakistan. This research paper also analyzes the role of the PPP parliamentarian in the 21st, 22nd, 23rd, and 31st constitutional amendments.*

Key Words: Pakistan Muslim League (N), Pakistan Peoples' party, Parliamentary Opposition, Constitutional Amendments, Government

Introduction

After the 2013 General Elections, held on May 11, PML (N) emerged as the single largest party and gained 182 seats because of its vital role in the outstanding electoral performance of the party. PPP emerged as the second largest party, got 48 seats remained the major opposition party in Parliament. Other majority parties were PTI with 32 and Muttahida Qaumi Movement (MQM) with 24 seats in the Parliament. On June 01, 2013, Mr Nawaz Sharif of PML–N, for the 3rd time, became the Prime Minister of Pakistan and Syed Khursheed Ahmed Shah of PPP became the opposition leader during this government. The PML (N) government, from 2013 to 2018, performed significant legislative functions in its tenure. The most vital were the 21st, 22nd, 23rd, and 31st constitutional amendments. However, PPP had a very prominent role in these constitutional developments. It presented alternatives to the government for making these constitutional amendments. This research analyzes the role of the PPP as parliamentary opposition in the 21st, 22nd, 23rd, and 31st constitutional amendments.

21st Constitutional Amendment: PPP Response as Major Parliamentary Opposition

The 'All Parties Conference' adopted the National Action Plan of 20 points to combat terrorism on December 24, 2014, opening the way for the twenty-first constitutional amendment to be passed unanimously (Manan, 2015). The country's political and military leaders decided on the construction of contentious military courts to expedite terrorism-related cases at the All Parties Conference on January 2, 2015. The meeting unanimously decided to act quickly on the 20 points in NAP outlined in the APC resolution, including the military courts' establishment. In this regard, the All Parties Conference finalized a draft of the amendment bill. PPP's Zardari was lauded by Federal Information Minister Pervaiz Rashid for his principal and leading role in securing agreement on the proposed 'National Action Plan' (Haider, M, 2015, January 2). However, the PPP's Farooq Naek and Aitzaz Ahsan ripped into the amended bill. According to Mr Ahsan, the proposed modification was disgusted

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to established democratic standards and so would not be recognized by the legal community. He cautioned that the bar councils would react negatively. Mr Ahsan, the Senate opposition leader, also maintained his former opinion that the desired goal of establishing military courts could be met by amending the PAA of 1952. On the other hand, senator Naek stated that similar methods had been used against politicians in the past ([Ghummam, K. 2015, January 3](#)). Despite these statements, PPP's Zardari came out as the biggest supporter of the PML (N) Government and favoured the PML (N) by accepting the demand to establish military courts by rewriting the constitution and putting an end to debate on the matter ([Desk, W. 2015, January 7](#)).

Nawab Yousuf Talpur, a Sindh MNA, also spoke out against the PPP leadership's decision on the military court. Syed Khurshid Ahmed Shah and Chaudhry Aitzaz Ahsan, the PPP's opposition leaders in the National Assembly and Senate, respectively, co-chaired a parliamentary party meeting on January 6, 2015. Mr Talpur believes that the parliamentary party meeting should have been summoned sooner since they now have no choice but to vote in favour of the bills backing military courts after the leadership made its decision. ([Dawn, 2015, January 6](#)). Raza Rabbani, the PPP's Senate legislative leader, called it a "death day" for Parliament. Mr Rabbani later read aloud on the Senate floor Article 270-AA of the constitution, saying that Parliament had previously had the honour of not approving the illegitimate acts of military rulers, but "today it is taking its dying breath". He feared the constitution would no longer be "pure" if the proposed 21st Amendment bill was passed. Aitzaz Ahsan attempted to reassure his colleagues by underlining some of the draft laws' positive qualities, as Khurshid Shah opted to remain silent during the parliamentary party meeting. He claimed that the PPP had secured many crucial provisions into the draft that would limit the use of military courts for political purposes. He reassured lawmakers that the proposal would prevent the law from being used against politicians and nationalists. Similarly, he added, the law will only be in existence for two years because of PPP's efforts. As a result, legal experts and numerous PPP legislators were concerned in the run-up to the vote on the 21st Constitutional Amendment. PPP senator Raza Rabbani was in tears when he spoke on the floor of the Parliament on January 6, 2015, after voting for the 21st Constitutional Amendment ([Dawn, 2015, January 7](#)). Aitzaz Ahsan, the Senate Leader of the Opposition, called the vote a "tough moment" in his life. He said, "We have ensured that the bill can't be used against anyone other than terrorists while defending his party's

support for the bill. A few days later, he stated that the PPP had only endorsed the contentious constitutional amendment to eradicate terrorism and extremism from the country ([Dawn, 2015, January 10](#)).

The Twenty-First Constitutional Amendment Bill was passed by the National Assembly and Senate on January 6, 2015. On January 7, 2015, the President gave assent to the Bill into law and made it a part of the Constitution ([Dawn, 2015, January 7](#)).

22nd Constitutional Amendment: PPP Response as Parliamentary Opposition

The PML (N) government had proposed the 22nd amendment in the constitution amid apprehensions that during the elections for the upper house of Parliament, there was horse trading. The government's projected draft of the 22nd Amendment introduces a change in the voting procedure from 'secret ballot' to 'open ballot'. PPP had extended the much-needed support to the PML (N) government during the sit-ins of Pakistan Awami Tehreek and PTI and during the passage of the 21st amendment for the formation of the military courts. This time, however, the PPP opposed the government's move to amend the constitution.

The opposition PPP welcomed the predicted events, stating that the party was opposed to horse trading in all elections, not only Senate elections. However, the government's plan to modify the constitution by show of hand in a senate election was a rapid and insensitive move devoid of profound consideration and indication and appeared to be aimed at political point scoring. The party has instead suggested the government consult with other political parties to evade horse trading.

The spokesperson for PPP's Zardari, Senator Farhatullah Babar, released a formal statement in this regard. He remarked, "It's unclear how these technical difficulties can be handled by a show of hands". When elections are barely ten days away, the government must speak honestly about them and explain how they will be implemented. They're either ignorant or engaging in political gimmickry or both," According to PPP's Aitzaz Ahsan. The PML (N) government made an unexpected move despite the fact that the ECP had already published the election schedule. He did remark, though, that the elections may be held by show of hands if the PML (N) government could pass the requisite modification earlier than Election Day. Barrister Ahsan, a senior PPP leader without whose support the government would not have been able to pass the amendment with a two-thirds majority in the

Senate because the PPP controlled the upper house, said that the proposed amendment had both merits and demerits, with stories of horse trading spreading and allow the government to come to them and told them that what it was thought, and then they would be able to speak firmly.

The former prime minister and PPP leader Raja Pervaiz Ashraf had questioned the PTI's stance over the matter, which was backing the government for the constitutional amendment. He said that the two different laws could not be made for the same matter. When the people cast their votes by secret ballot, why open the ballot for the legislators, he asked. The people would not accept any amendment to secure personal gains. He said that the government had received the PPP response over the constitutional amendment, and PPP would not be backed by the constitutional Amendment for Senate polls ([Ary News, 2015, February 28](#)).

PPP Vice President Sherry Rehman also emphasized that major procedural reform should not be implemented so soon to the polls, especially when the schedule and candidate list have been decided ([Daily Time, 2015, February 28](#)). The PPP, on the other hand, had demanded a comprehensive package of electoral reforms for constitutional revision (The Nation, 2015, February 26).

In a statement, Zardari said that "manipulated power transfer" was rooted in electoral fraud and horse trading and that these issues had to be dealt with comprehensively rather than with fragmented solutions. He went on to say that it was encouraging that the government recognized that horse-trading had done the Parliament and political process grave damage, and if it was serious, it should invite all political parties to discuss how to best avoid electoral manipulation not only in the Senate, but also in the national assembly, provincial assemblies, and municipal authorities. PPP's Zardari pledged to assist in rallying support for the 22nd amendment from other political heavyweights. They stated that if the draft of the proposed amendment is approved by the All Political Conference, a meeting of the National Assembly would be summoned promptly to pass it ([Manan, A. 2015, February 27](#)).

The government requires the PPP's help to enact this amendment because it has a majority in the Senate, but the PPP has stated that it would not support it ([Daily Time, 2015, February 28](#)). Finally, the National Assembly unanimously endorsed the 22nd Constitutional Amendment bill on May 19, 2016; however, due to the PPP's lack of support, articles 59(i), 64A, and 226 of the Pakistani constitution, which

would have made senate elections more transparent, were not amended. Federal Law Minister Zahid Hamid introduced the bill in the National Assembly. Articles 211, 213, 215, 217, 218, 219, and 222 of the Constitution were just amended to allow retired civil workers and technocrats to join Pakistan's Election Commission. The bill was passed by the Senate on June 3, 2016. The opposition, particularly PPP lawmakers, blasted the PML (N) government for failing to give them enough time to evaluate the law, which had already been passed by the National Assembly.

Under the amendments, one member from each province would be appointed to the commission's four members. According to the bill's revisions, grade 22 retired civil employees and technocrats, as well as current or retired judges of the superior courts, were now eligible for appointment as CEC and ECP members. The electoral commission, like the Senate, would continue to work for the entire year, with ECP half members retiring every two and a half years. The bill had set an age limit of 68 years for members of the CEC and 65 years for members of the ECP. PPP opposition leader Aitzaz Ahsan said the bill had some flaws, but the opposition had opted to vote for it "under compulsion" because the ECP's current members were slated to retire on June 10. The amendment bill's approval was similarly marred by controversy. A constitutional amendment needed the support of at least 70 senators in the 104-member Senate to pass. Senator Mohsin Leghari's decision to oppose three clauses of the bill during a clause-by-clause examination after his proposed revisions were rejected made the procedure controversial. PPP chairman Raza Rabbani announced that 69 members voted in favour of the bill's provisions 2, 4, and 5, while one member voted against them. The bill was enacted "unconstitutionally," according to the PPP Senator, because votes on three of the package's clauses fell short of the two-thirds majority in the house, which was the requisite ([Dawn, 2016, June 3](#)).

23rd Constitutional Amendment: PPP Reaction as Opposition Party

Military courts for a two-year term, established under the 21st amendment to expedite the conviction of hard-line terrorists in the aftermath of the December 2014 schoolchildren tragedy, ceased to exist on January 7, 2017. After their tenure ended, the government met with political parties several times to gain parliamentary approval for the prolongation of the special law, which several human rights organizations and political parties had doubts about ([Dawn, 2017, January 10](#)).

PPP Secretary General Farhatullah Babar had stated that the PPP had serious misgivings about the military courts' track record over the previous two years, in which they had not only been unsuccessful in meeting their objective but had also surpassed their authority. Aitzaz Ahsan, the Senate Leader of the Opposition, told journalists at the parliament house that PPP primarily divergent from military courts but also believed that without military courts, terrorists would be continued to be involved in major cases ([Dawn, 2017, January 10](#)). The opposition PPP said that it would not attend a parliamentary leaders' meeting organized by the speaker of the National Assembly in an attempt to reach a compromise on the subject, deepening the standoff on the issue of the military courts' revival. Syed Naveed Qamar, the PPP's parliamentary leader, and MNA Shazia Marri declared their decision to skip the meeting. According to the PPP, the government amended the draft mainly to placate its ally Jamiat Ulema-i-Islam. The PPP leader believed that the government was not serious about addressing the issue, as evidenced by the fact that it had only changed the draft to appease an ally and that the PPP would never be included in any law that might be used against politicians ([Dawn, 2017, February 23](#)). The PPP's secretary general, Nayyar Bokhari, chastised the PML (N) government for beginning talks with the parties on the topic after the previous law, which established military courts for a two-year period, had expired. He also minimized tensions between his party and the JUI (F) regarding limiting the jurisdiction of military courts to religious organizations and sects, blaming the government for changing the bill of the proposed 21st constitutional amendment to which all parties had unanimously agreed. The PPP had declared that they would not endorse the government's proposed draft in its current form because it was changed without their involvement and just to appease its ally, the JUI (F) ([Dawn, 2017, February 28](#)).

Leaders of the PPP organized a conference on March 4, 2017, to discuss the issue with other lawmakers; however, it failed to reach an agreement. According to PPP's co-chairman, Asif Ali Zardari, the goal of organizing the conference was to build a consensus on the subject and to take a collective decision from the parties in attendance before taking the matter to Parliament for final decision ([Dawn, 2017, March 4](#)). The PPP decided to create its own constitutional amendment bill, which would include initiatives to remove political parties' concerns about how the courts operate. If the restoration of military courts becomes unavoidable at any point, the party will offer a draft. Farhatullah Babar, a spokesman for the PPP, claimed that political parties who had already

agreed to the government's request to prolong the courts' duration by two years had stated in the MPC that they would wait for the PPP's draft before making a final decision on the matter. Former law minister Farooq Naek had been charged by Asif Zardari with quickly preparing draft laws on military courts in the event that their restoration was deemed inevitable by all parties ([Dawn, 2017, March 5](#)). Asif Ali Zardari, PPP Co-Chairman, issued his party's nine recommendations for extending the operation of military courts. Zardari stated that his party was "offering proposals for, not opposing (a military court extension). He added, "We want a law that defines terrorists and uses that definition to define terrorism". The PPP presented its requests in the second round of discussions on the issue, but only two of its nine points were agreed upon. The PPP had made nine recommendations, including applying the provisions of the *Qanoon-i-Shahadat*, 1984 (Law of Evidence) to military courts and granting the accused the right to appeal ([Dawn, 2017, March 6](#)).

The PML (N) government claimed on March 10 that all legislative parties had reached an agreement on the issue of resurrecting military courts for a two-year period, but the PPP dismissed the notion. The PPP, on the other hand, claimed that there was no agreement on the military courts' lifespan and the appointment of sessions and additional session judges. The PPP also indicated it was rejecting the government's draft proposal for court revival. It was determined that military courts would not be extended any further and that by May 2018, the government would implement long-awaited judicial changes to enhance the legal system ([Khattak, I. & Bilal, M. 2017, March 9](#)).

According to Syed Khurshid Ahmed Shah, with the exception of two, most of the PPP's nine recommendations for military courts had been agreed upon. He claimed that a long-term resolution of the terrorism issue could not be solved while establishing military courts. To combat the extreme attitude, the country required a long-term strategy. He also criticized the government for failing to put the National Action Plan into action ([Dawn, 2017, March 10](#)). The PPP, on the other hand, was adamant that all nine of its points must be accepted. In the National Assembly, the government had previously filed a draft bill for the 23rd amendment to the constitution (reviving military courts for two years). The PPP, on the other hand, had rejected the bill and offered its own proposals. As a result of the PPP's strong reservations, the NA speaker referred the bill to a parliamentary committee. Senator Farhatullah Babar, Secretary General of the PPP, stated that his party was not divergent to the resurrection of

military courts but that their term should not be exceeded one year ([Dawn, 2017, March 15](#)).

On March 21, 2017, the National Assembly enacted the 28th amendment Bill, which would be renamed the 23rd Amendment Bill, to reestablish military courts. The new measures proposed by the PPP were implemented into the law, such as the accused being brought before the court within 24 hours of being arrested, along with a charge sheet, having the right to hire counsel of their choosing, and the 1984 *Qanun-e-Shahadat* being used in their cases. The Pakistan Act of 1952 and the "Anti-Terrorism Act of 1997" were added to the first schedule of the constitution as a result of the newly accepted amendment. This completed the legal requirements for military courts to handle trials in terrorism matters ([Dawn, 2017, March 21](#)).

The 'Pakistan Army Amendment Bill' was passed by the Senate on March 23, 2017, but the 28th Constitutional Amendment Bill had to be postponed for six days since the government was unable to get enough members for the two-thirds majority required. Military courts needed constitutional protection; hence the 28th amendment was necessary. PPP Senate Chairman Mian Raza Rabbani presided over the session for the vote on the Pakistan Army Amendment Bill; however, he declared that he would not be present when the house reconvenes on March 28 to vote on the 28th amendment. Rabbani being a proponent of Parliament's supremacy, stated his opposition to military courts. PPP's senator Farhatullah Babar called the condition for lawmakers to either accept party leaders' instructions on a constitutional amendment or face disqualification as faulty. He explained, "It means about a dozen persons have been given the power to modify the Constitution,".....The accumulation of power in the hands of party leaders is dangerous" ([Dawn, 2017, March 23](#)).

On March 28, 2017, the Senate passed the 28th constitutional amendment bill, completing the parliamentary procedure to enlarge the life of military courts for the next two years ([Dawn, 2017, March 28](#)). On March 28, 2017, President Mamnoon Hussain gave assent to the "twenty-third constitutional amendment bill" and the "Inquiry Commission bill", which became Acts. President Mamnoon Hussain also approved revisions to the "Pakistan Army Act 1952", which were enacted as a separate law in addition to the constitutional amendment by the Parliament ([Ghauri, I 2017, March 28](#)).

31st Constitutional Amendment: PPP Response as Major Parliamentary Opposition

On May 23, 2018, in the Prime Minister's Chamber of the National Assembly, Prime Minister Shahid Khaqan Abbasi addressed a session of legislative leaders on Fata reforms, where a new draft of the constitutional amendment bill was presented. All of the major political parties had agreed on the draft ([Dawn, 2018, May 23](#)). However, the PPP stated that it had not yet endorsed the document that the prime minister had provided to them after it had been approved by the federal cabinet. The PPP has raised concerns about several of the draft's provisions and pointed out some ambiguities. During the meeting, members of the PPP highlighted that the PML (N) government had not even forgotten to include Article 247 of the Constitution in the draft. On May 24, 2018, the National Assembly passed the much-anticipated draft bill, with 229 legislators voting in favour and only one voting against it. The proposed bill would change seven sections of Pakistan's constitution to enable the execution of recommended reforms ([Anis, M, 2018, May 25](#)).

According to PPP leader Naveed Qamar, the passage of the constitution amendment was a significant step toward putting tribal territories on the level with the rest of the country. He was also pleased that all parties were on the same page about this issue ([Dawn, 2018, May 24](#)).

The PPP parliamentary committee reviewed their strategy on the Fata reforms bill before the convenience of the Senate session. Rehman, who presided over the meeting, encouraged all senators from his party to ensure their presence in Parliament's Upper House ([Ghauri, I, & Hussain, D, 2018, May 24](#)).

In terms of the reforms bill, senior PPP leader Raza Rabbani argued that lawmakers worked as "puppets" rather than acting independently.... "While this is a welcome move, if Parliament had taken the initiative, it would be preferable". He further said, "We offered reforms through the then President Asif Ali Zardari's office in 2009, but we were stopped at that time". Notwithstanding the reality that the NA asserted that the 31st Amendment Bill would result in additional administrative entities, he warned that "provincial split on the basis of administrative necessities would not be allowed". He further stated, "Every province has its own legacy, culture, history and language; establishing a new province without these components would be difficult".

Sherry Rehman, the leader of the opposition, refuted the claim of Rabbani that Parliament did not

depend on itself rather than operating on "directives". She responded to him that at least PPP has its own history and struggles to prove otherwise. According to Rehman, "Zulfikar Ali Bhutto had established the first Fata committee, and Benazir Bhutto even went to the superior court to struggle for the people of the tribal areas to gain access to their political rights" ([Chauri, I. & Hussain, D. 2018, May 25](#)). Imtiaz Shahid Qureshi, Provincial Minister for Law and Parliamentary Affairs, introduced the historic 31st Constitutional Amendment Bill 2018 in the provincial assembly, which received approval from the National Assembly and Senate. The Federally Administered Tribal Areas Reforms Bill, 2018, was passed by the Khyber-Pakhtunkhwa Assembly on May 28, 2018. The bill required 83 votes to win a two-thirds majority. However, it received 92 votes out of the total 124. After the approval of the landmark bill from the provincial assembly of KP, the tribal borderlands would be brought to the mainstream. The seven agencies and six frontier regions would be merged with KP, and in this way, through this amendment, the people of Fata would be obtained representation in the provincial assembly of KP. After passing through Pakistan's Senate, the bill was approved after the assent of President Mamnoon Hussain, which would be known as the 25th Constitutional Amendment Bill became law ([Dawn, 2018, May 31](#)).

Conclusion

To conclude, the PPP, as the major opposition in the Parliament of Pakistan, played a substantial role in making the 21st, 22nd, 23rd, and 31st constitutional amendments. All the PPP opposition leaders in Parliament had contributed their part, although they had a strong reservation on some clauses. And also put forward different alternative amendments in these constitutional amendments, despite the fact that the 21st and 23rd amendments were the democratic tragedy and miscarriage of justice. This was a failure on the part of PPP leadership to stand with true principles and the democratic spirit of the constitution. PPP, a major opposition party in Parliament, had failed to make this constitutional move unconstitutional. The 22nd constitutional amendment was passed, but changes in clauses related to senate elections were not amended due to the lack of PPP support. However, the PPP has always been a staunch supporter of the rights of the people of FATA, and it has always been a top priority for them to offer all essential services. Finally, the long-running demand and struggle for FATA reforms came to an end in May 2018 with the 31st constitutional amendment. Hence, it is implied the PPP, as the major opposition had a constructive and cooperative role during PML (N)'s government (2013-2018).

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