

Sovereignty of People-Pakistan: A Case Study

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ABSTRACT

Pakistan got freedom from British colonial rule under the Indian Independence Act 1947. Constituent Assembly initiated the process of framing federal parliamentary constitution. The process was not accomplished until 1956. Failing in constituting state structure on merits, ruling class of the country took refuge in provisions of Imperial Acts of eighteenth century and deprived people to function as sovereign nation. The paper presents substance of corresponding Articles of constitutions of Pakistan and the government of India Act 1935 containing identical drive of rulers over popular will of the nation.

Independence of state means independence of the nation. It is obtained to develop system of self-rule so that rights and obligations of the state must actually vest in the population. When it happens so, the state becomes fully sovereign capable of claiming, operating and maintaining its sovereign status. Present political system has been obtained to operate in which sovereignty of people is in distress. The nation is not working as sovereign and political system has emerged with uneven constitutional format, which is in practical resemblance of colonial status. The conditions are producing issues confronting sovereign character of Pakistan. The study will analyze the issues confronting the people and will suggest strategies for improvement.

KEY WORDS: Sovereignty, Constitution, Rights and obligations, Colonial legacy, Usurpation, Legitimacy.

Introduction

Sovereignty a direct outcome of freedom is internal as well as external development. It has certain objectives to accomplish. It revolutionizes internal and external structure of the state. This character is sketched by the nation through a societal contract that is called the constitution. After obtaining freedom, the most important compulsion is to frame the constitution, which symbolizes the character of a sovereign nation. This is the constitution that transacts sovereignty from alien to domestic authority and reflects the distinction between sovereignty and subjugation. The term sovereignty has been defined from different aspects. It has been defined in American Heritage Dictionary of English language (1980) as

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complete independence and self-government. Black law dictionary (1968) defines the term sovereignty as public authority, which directs or orders what is to be done by each member associated in relation to the end of association. The Dacca High Court attributed meticulous significance to the word sovereignty, which means internal as well external sovereignty (PLD 1956, Dacca 119).

Background

In political perspective sovereignty in relation to preeminence of state is the highest civil power and supreme authority. It has been claimed that sovereignty of state belongs to the people, which is their eternal right. Since sovereignty belongs to people, it is the people who have to exercise directly or indirectly the authority of legislation, execution and adjudication in the manner determined under the constitution. In order to execute the sovereignty in true manner there should be enabling capacity in the general masses to understand legal obligations, exercise them efficiently and be at liberty to review and hold anyone accountable. The doctrine of sovereignty admits no other authority except that has been freely and expressly consented. Locke, Montesquieu, and Rousseau are regarded as fathers of this doctrine. Sovereignty in this sense is political strength to perform certain acts and to accomplish certain ends. It is the capacity in mankind, which can force people to prevent arbitrary usurpation of the collective will. Its manifestation is to secure political liberty and freedom from oppression. These are inherent rights to which every individual is entitled by the principles of social union. All power, as it emanates from the people themselves, must necessarily be within their control. The best definition of sovereignty of the people is found in the word democracy. It is a form of government in which the people exercise the supreme power collectively (Bartlett, 1921: 498).

This is a misconception that once a territory has been liberated and alien control has been defeated, it is all freedom notwithstanding that event of such liberty brings material change for which the nation made the alien system to move away. It often happens that the faction of community leading the freedom movement itself assumes sovereign powers for their arbitrary actions and do not execute the trust for benefit of the nation. Sometime it may happen that remnants of outgoing regime manage to reassemble and reoccupy state powers owing to lack of organization in native population thus depriving the nation of its sovereign prerogatives. In all such cases change occurs in supremacy of the nation in operating its affairs in democratic manner and condition is not equivalent to sovereignty of people.

In historical perspective massive instances of revolt against such usurpation may be found for re-establishing sovereignty of people in states. The revolution in England established constitutional representation and the liberty of the subjects. French Revolution of 1789 was a demonstration of resolving sovereignty of the

people. It overrode the laws of monarchy, which had aggregated to itself state functions in defiance of the privileges and prerogatives of the people. American Independence is another historical occasion when the people without a voice in the administration of their domestic affairs, arose, overthrew and established liberty, freedom and equality for nation.

Sovereignty of state and peoples' sovereignty as overlapping concepts are sometimes misunderstood. It is therefore needed to differentiate the two co-related themes.

State Sovereignty

A sovereign state comprises of territory, population, government and capacity to enter in to relation with other states. Originally in the constituting process a state possess or originates with only two of the four features; population and territory. Rests are developed in due course of time usually under provisional arrangement and later under the constitution normally framed by the constituent assembly. These are the prerequisite for a political entity of becoming and later continuing as sovereign state. Lack of one character deprives a state to retain sovereign status. As stated above the state originates along with territory and population. Institutions of government and capacity to establish relationship with fellow states are generated later on. Development of internal organization is as much material as external capacity. These are specialized legal concepts in state composition that in the opinion of Unger have separate legal norms and well-defined traditions (Unger 1976). State is institutional power and regulates their interactions (Altman, 1990). This necessity leads the nation to arrive at an accord of statehood to ensure preservation of public rights and obligations. Accomplishment of these two characteristics along with two pre-existing constitutes sovereign state.

Sovereignty of People

When the population in general is at liberty under the characteristics of self-determination to govern the affairs of state themselves, it is called sovereignty of people. It is associated area of state territorial sovereignty. Territorial sovereignty is of course enabling factor for the population to resolve its agenda of freedom, but execution of sovereign status vests in the entire population. The population enables the territory to be called a sovereign state by a representative system of government. When state becomes sovereign it is not the end. Sovereign declaration must be associated with material change in its leading characteristic of status of population. Sovereignty is the need of people and not the territory. State may be declared sovereign but the population of that may not be found so in consequence of that. Territory without population needs no sovereignty. Yet if it is with population it must be associated by sovereignty of people. This character

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brings social activity and social peace. With social peace comes liberty, security, prosperity, greatness all the blessings moral and material which the sovereignty of the people alone guarantee (Bartlett, 1921: 507). People are sovereign when each member of the society really owns the state because the state owns its subjects with all features of ownership.

Objective Analysis

If freedom is seen from this point of view, the attainment of freedom is preliminary phase, which in response gives rises to another one called structural development. Structural development grows into two phases. Leadership in association of population produces one as aspired during the process of freedom movement. Enlargement of the system continues with passage of time as needed and desired by the people.

Attainment of sovereign territorial status and development of sovereign national political system under a constitution are equally relevant objectives of an independence movement. There may be found some sort of connection in these two independent phases viz. the creation of statehood and development of its political system. Each community by breaking sovereign territorial boundaries of parent state has to create an alternative political system. Leadership of freedom movement generally performs both these functions. As international organizations have yet to devise law on the subject of freedom movements and systematize creation of states as legal concern of international community, states are now created on the basis of human power and material destruction. Association of devastation alongside process of independence of states has caused inadequacy and exhaustion of energies required for development of state structure. States are although created in response to liberation or resistance movement of population of the territory; nevertheless the purpose of internal organization although equally imperative is not sometime performed simultaneously. This often turns second phase of freedom into chaos and anarchy. The case of Pakistan unfortunately falls in this predicament.

Political system operating in Pakistan at the time of liberation had to support creation of a new constitution for the country. People of Pakistan had resolved to create parliamentary form of government. Political leadership of the country fully skilled in required mission had to execute existing as well as future requirements of constitutional characters. Certain ordinary events obstructed the flow of political advancement, which was taking orientation in the country. This hindrance as a consequence blocked the constitutional developments, which remained unaccomplished and the adventurers filled the vacuum. Since Pakistan had to develop parliamentary form of government it is of the essence to keep in mind the concept of parliamentary sovereignty.

Parliamentary Sovereignty

Parliamentary sovereignty is popularly understood as sovereignty of the people. Parliamentary sovereignty in its common perception seems misunderstood because some time its essence has been translated beyond its parameters and is allowed to operate over and above the mandate of people. Albert Dicey has produced a classic exposition "Parliament has the right to make or unmake any law and no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament" (Albert Dicey, 1885). The doctrine was upheld by Lord Reid (Madzimbamuto v. Lardner-Burke (1969) 1 AC 645). Contrarily in 2004, the doctrine was again interpreted by the court in relation to the Asylum and Immigration Treatment of Claimants Bill (<http://politics.guardian.co.uk/constitution>). In the course of legal proceedings House of Lords in 1990 laid down that "the maintenance of rule of law is in every way as important as the democratic franchise (X.Ltd. v. Morgan Grampian Ltd. (1990 2 AER 1). Whatsoever meanings may be given to the term parliamentary sovereignty that may not confer a status beyond the scope of public authorization. Indian Supreme Court has ruled that Parliament has to observe certain limitations (Surendra Malik, 1973: 1007). People can claim sovereign status. People write down the mode of exercise of their functions under the constitution. Sovereignty primarily vests in the nation, which is delegated in different forms to different organs of state. Conventional Parliamentary subjugation to a large extent has been modified. Judicial review has offered important regime for ascertainment of constitutionality of parliamentary actions (Ringhand, 2005: 865). Legislative Supremacy as Waldron has seen is a democratic regime and is side by side of judicial review (Waldron, 2006: 1346).

Sovereignty of People in Pakistan

Since independence of Pakistan transfer of power under sovereign transaction from ruling class to general population did not take place. Muslim league movement under transitional phase made possible the transfer of power from British to local leaders under Indian Independence Act 1947. It was a formal transfer of power from colonial power to provisional administrative set-up. The transfer of power as sovereign representative feature had to take place over a length of time by adopting process under the constitution to be framed by the Constituent Assembly. Constitution had to provide pattern of institutions mode of representation and election empowering elected representative government to familiarize the population with sovereign responsibilities. This did not happen as it should have happened in continuity of the process of freedom movement launched by the Muslim League. There occurred a gap between Muslim league movement leaders and representative to be elected afresh through elections. The gap was

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purposely created and filled by members of establishment performing political functions of state. The services of establishment for some political functions were involved in good faith by *Quaid-e-Azam* as a stopgap arrangement. Establishment taking benefit of death of *Quaid* blocked the process of transfer of power to population by several means. Death of the founding father shattered the energies of political leaders involved in formulating proposals of constitution. The power ambitious executive obstructed future legal course of action and independently exercised state sovereign functions. The establishment after consolidating its position postponed regular political course of action. They made superficial promises and vague administrative decisions regarding development of democratic rule in the country.

Pre-requisites of Sovereignty

There were certain pre-requisites for attainment of sovereignty of people in the country. This was capacity building process amongst public in general to organize that for participating governing system of the state. Since independence limited number of people obtained this opportunity. State system with its resources in the possession of elites has been promoting this opening for the elite class. General public was not mobilized and capacitated to assume national responsibilities. Rather people were deliberately deprived of fundamental rights and social amenities. Material resources were not utilized for development of state economy and generating prosperity to support social uplift programmes. Martin is of the view that as a country grows richer and its citizen more prosperous they are more involved in democratic process and demand more freedom and larger say in how they are governed (Martin, 1959: 69). Prosperity and liberty promotes consciousness. That is why society in general was deprived to develop capacity and mobility to perform its democratic function and in return no popular governing system unfortunately could develop in the country since 1947, which would have transferred opportunity of exercise of sovereign rights to people of Pakistan. Roderic says that proper political and economic governance leads to greater economic prosperity (2004: 131). The prosperity so achieved strengthens social justice system in the country. For a government to operate peacefully citizens must trust it not to act against their interests and above all, to respect their political and economic rights. These are the conditions that produce democratic culture in the country.

The operating system under the Indian Act of 1935 was opposite to all characteristics as described above. People of Pakistan and the outgoing government had no intention to perpetuate the existing system. Paula Newberg has evaluated the situation in these words;

“The 1935 and 1947 Acts were preparatory and constitutive laws to provide interim government until a new constitution

was framed. They were not constitution substitutes: they were not designed to help the Country confronts its massive state-building challenges, and one can argue that their structures could not provide an adequate basis for satisfying Pakistan's needs” (Paula, 1995: 57).

People of Pakistan after attaining independence had to abandon the existing Imperial system and develop a new sovereign polity. The leader of nation in his effort to develop national entity and honor of sovereignty had to step back particularly as far as people of Pakistan would be able to exercise the right of constitution making themselves. By introducing the honor and prestige of liberty the leader of the nation (*Mohammad Ali Jinnah*) offered an opportunity to the nation of understanding the concept of their social, moral and political responsibilities for the purpose of building a capacity to lay the foundation of the new social contract based on sovereignty of people. *Mohammad Ali Jinnah* was a constitutionalist by nature and practice (Wasti, (n.d.): 365). The constitutional compulsions had made him to believe and practice the real concept of sovereignty in the affairs of Pakistan after independence. G.W. *Chaudhri* describes imagination of *Mohammad Ali Jinnah* on sovereignty of people as he declared that Governor General is accountable to the public” (Chudhry, 1995: 31).

There were reasons preventing growth of spirit of sovereignty of people in governing system of state. Some of these were taking roots from unrealistic constitutional basis. The state was given the right to make necessary alteration in Government of India Act 1935 and in the Independence Act 1947. The option was misused and prolonged beyond necessary limit. The promulgation of Constitution of 1956 revealed general pattern of center province relations as was in the Government of India Act, 1935. The lawmakers mixed the principles of parliamentary democracy with autocracy under the pretext of familiar system of Government of India Act 1935 and tried to produce mixture of monarchy and parliamentary insolvency in constitution. The sweeping executive powers were created for the head of state in parliamentary system as Viceroy of India use to have in pre-partition times. These circumstances perpetuated the velocity of constitutional issues for the people of Pakistan for times to come.

Colonial Legacy in the Constitutions of Pakistan

Constitution of a country paints the picture of affluence along with extent of people's sovereignty its nation enjoys in the mind of the person who has a chance to look inside the constitution. It contains proper exposures of dignity of nation influenced under the system of rule of law the country succeeds to secure for its people. Constitutional history depicts that legislatures hardly made sincere efforts to articulate or upgrade the scheme of constitution to look like a constitution of distinguished features for our nation. Analysis of substance of the corresponding

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Articles of constitutions of Pakistan with Government of India Act 1935 have confirmation to demonstrate the fact that constitution making process ended in a futile exercise. The second Constituent Assembly produced a restructured version of Government of India Act 1935 in 1956. Almost ninety Articles of the Constitution of 1956 obtained substantive foundation from equal number of Sections of the Government of India Act 1935. The quintessence of twelve sections of the Government of India Act 1935 contravening parliamentary spirit has so far been maintained in all constitutions of the country. Theme of all these sections originated from several Indian Acts of administration starting from 1858. Essences of the sections represent the controversies regarding supremacy of nominated executive heads over elected heads of federation and provinces. The provisions borrowed from Indian Acts mainly contain gist of sections relating to following subjects.

1. Qualification and disqualification of members of legislatures¹.
2. Supremacy of Executive organ over representatives of people².
3. Dissolution of Representative Institutions by Heads of states³.
4. Provincial Governors to be chosen and to hold offices as determined by Federation⁴.
5. Right of president and governors to send messages to Chambers/cabinets⁵.
6. Significance of assent on legislative Bills⁶.
7. Mode of conduct of business of provincial governments⁷.
8. Criteria of division of business of legislation in three lists⁸.
9. Enforcement of emergencies suppressing provincial autonomy etc⁹.

The nature of themes focused above need attention of the legislative institutions for reconciliation of the issues according to the values of sovereignty of people. It seems possible way to get rid of the system supporting undemocratic forces having roots in alien system of deprivation.

Participation of peoples in state affairs is fundamental right as well an indispensable obligation of each individual of the nation. Pakistan's position stands unique in the sense that its people lost most of democratic rights after having attained independence by democratic movement. The usurpers managed their way to denounce sovereignty of people in the manner as described below.

Suppression of People's Sovereignty by Usurpers

In Pakistan many systems were evolved to usurp sovereignty of people and sovereign status was reduced both through extra-constitutional and constitutional means. Conspicuous incidents of usurpations are produced below:

1. President *Iskander Mirza* abrogated the Constitution of Islamic republic of Pakistan on 7 October 1958. Proclaiming Martial Law throughout the

country. He dissolved the National and Provincial Assemblies and abolished the political parties. To govern state system without constitution the President appointed General *Mohammad Ayub Khan* to function as Chief Martial Law Administrator of the country (Presidential proclamation 1958).

2. On March 25th 1969 *Ayub Khan* unconstitutionally handed over the state administration to Army Chief General *Agha Mohammad Yahya Khan*. He on assuming status of Chief Martial Law Administrator of the country placed the state under Martial law with immediate effect. In his Proclamation he announced abrogation of the Constitution of Pakistan 1962 and dissolved the National and Provincial Assemblies (P.L.D 1969, Central Statutes, 42).
3. General *Zia-ul-Haq* in pursuance of the Proclamation of fifth day of July 1977 (PLD1977, Central Statutes 326) and as Chief Martial Law Administrator held the Constitution in abeyance and issued Laws Continuance in Force Order No. 1 of 1977. (PLD 1977, C. S, 327). The Chief Martial Law Administrator later on issued Provisional Constitutional Order 1981. Under the PCO the General accumulated sweeping constitutional powers. (PLD 1981 C.S. 183). The Army Chief imposing military rule all over the Country took over the administration and dissolved National and Provincial Assemblies of the state (P.L.D 1977, C. S, 326).
4. On May 29, 1988 General *Zia-ul- Haq* dissolved National Assembly and dismissed the government of Prime Minister *Mohammad Khan Junejo*. The President acted so by exercising powers under Article 58 (2) (b) of the constitution made available to the president under amendment introduced by him. This act of President was followed by dissolution of the Provincial Assemblies by the Governors of respective provinces (P.L.D 1988 Lahore 725. cited at 756-7).
5. The President *Ghulam Ishaq Khan* dissolved the National Assembly of Pakistan on 6th of August 1990. He on 18-4-1993 again dissolved the National Assembly and dismissed the Prime Minister by exercising powers under Article 58(2) (b). President *Farooq Ahmed Khan Laghari* dissolved the National Assembly, four provincial Assemblies along with dismissal of Federal government of *Benazir Bhutto* on November 5, 1996 (PLJ 1998 SC 61).
6. General *Pervez Musharraf* by proclaiming emergency on 14th of October 1999 created and assumed the office of Chief Executive of government of Pakistan. This time the takeover by Armed Forces was given a new style. The Chief Executive announced dissolution of the Assemblies and Senate (P.L.J S.C.2000 1183).

Dissolution of the representative institutions is central dilemma against development of people's sovereignty in the country. Political analysts have pointed out repercussions of dissolution of representative institutions. By such means usurpers have always tried to demoralize political leaders (Talbot, 2002:

311-28). Such draconian function exercisable against representative's bodies by an individual having no apprehension of personal repercussions cannot serve positive function other than producing the state of absolutism in the country. Some of the leaders exercising such functions may have desired improvement according to their logic. But in national affairs individual ambitions have no place. Desires are individual, whereas reason is considered to be universal (Fida.M, 2001: 45). Collective wisdom must always prevail which is gathered from deliberations of the representative institutions.

Compromising People's Sovereignty by Granting Legitimacy to Illegal Take-Over

Pakistan under the aforementioned circumstances found the judicial institution the continuity of imperial legacy. Ruling executive influenced the Supreme Court and court failed to perform as guardian of the civil society. Some decisions of the Superior Courts on vital constitutional issues have been disagreeable in many respects. Because of the outcome of such cases, constitutional structure of the state suffered political instability. The nation was deprived from what the judiciary had to provide through blessings of sovereignty. The dissolution of Constituent Assembly by the proclamation of Governor General was the most disrupting occurrence of constitutional history. Supreme Court in (*Moulvi Tameez-ud-din* Case PLD 1955 FC 240) compromised sovereignty of representative Assembly on a fragile argument regarding assent of Governor General. The Constituent Assembly was a sovereign body. That was not subject to restraints and restrictions. The Assembly could make any kind of law even though that was against the law of England, against the 1935 Act, against any future Act of British Parliament or even against the Independence Act itself (Independence Act 1947 S. 6- (2).

Contrarily the Supreme Court in constitutional cases decided to explore history of imperial options on assent of Governor General for legislation of the divorced dominions. The Court overlooking the factual constitutional position scrutinized by the Chief Court *Sindh* (PLD 1955 Sindh 102) worked out an unaccompanied proposition and tried restoration of feeble relation between the Crown and the Dominion. Meanwhile dissolution of the Constituent Assembly proved so devastating for political system that state has yet to recover from the consequences. This act furnished in future basis for uprooting the rule of people by executive of the country and undermined sovereignty of people in Pakistan. The process of dissolution is still in practice on the same pattern with same accusation through illegal proclamations.

Supreme Court basing its judgments on law of necessity delivered controversial judgments in constitutional cases. Dealing with principle of state necessity in Reference of Governor General (PLD 1955 FC 435) Justice Munir interpreted legal maxims for their application in constitutional issues in erroneous

manners. The judge said that Lord *Mansfield* and other juristic say that subject to the condition of absoluteness, extremeness and imminence, an act of any nature that would otherwise be illegal becomes legal if it is done under the stress of necessity. He liberalized *Chitty's* statement that necessity knows no law and interpreted the Maxim cited by *Bracton* that necessity makes lawful which otherwise is not lawful. The law of necessity so introduced was used in (*Dosoo* case in 1958) in (*Nusrat Bhutto Case* in 1977) and in (*Zaffar Ali Shah Case* in 2000). All such decisions indirectly inflicted harm to sovereignty of people.

Critical Analysis

Pakistan is of course a sovereign state. However; state is facing certain deficiencies in characteristics of sovereignty. Its right of territorial jurisdiction has been badly impaired. State officials seem more committed to perform obligations assumed under secret agreements against territorial sovereignty. State is facing illegal interference in its exclusive internal affairs. State has lost its capacity to frame its policies according to its national priorities. Its parliament seems to have imperfect control over decision-making process. Parliament doesn't seem to have self-regulating capacity. The executive organ seems not accountable to the parliament. Public service system has lost its capacity to deliver national services and has converted the range of its obligations to its privileges. State economy indebted to national as well international monetary institutions to the tune of billions of dollars have rendered its economic independence vulnerable. State exchequer extracted out of its poverty-ridden population and territorial possessions is spent upon luxurious spending and have no return for its citizens. Judicial system has been made subservient to executive organ. Armed and resourceful sections of society have replaced system of rule of law with rule of force in the country. Consequently the state has been forced to survive as state of national defense rather a welfare state and is fighting war of survival at each front. The situation has caused direct harm over social wellbeing of the nation and population has largely been deprived of the fundamental rights. The privileged class controlling state proprietary and recourses raised against international guarantees is beneficiary of the system.

Conclusion

The state of affairs analyzed above has caused implications over sovereignty of people. In order to preserve politico-legal and socio-economic sovereignty of people, which furnishes foundation to territorial sovereignty, following measures are required to be ensured in the manner prescribed as under.

1. State fundamental organs have lost their working capacity and need re-organization. Civil society led by legal fraternity has realized its role. It

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- should be strengthened by all means to develop its capacity to support institutions to survive.
2. Political activities needs enhancement on the principle of mutual trust and tolerance to commence national reconciliation.
 3. The Constitution of 1973 has been fabricated by irregular amendments and needs juristic revision without effecting merited concurrence. Provisions of state constitution must have harmonious reading with principles of state manifesto i.e. (Objectives Resolution). There should be no inconsistency within the legal system offending its execution. Preservation of fundamental principles and basic features of the constitution should be top priority of parliament. These have been abolished by usurpers and need revival.
 4. Principles of federation should be honored to give way to provincial autonomy for building national trust among federating units.
 5. Independent judiciary is important for developing society of Pakistan. There should be no compromise on its legal and financial independence.
 6. Fundamental rights and obligations should be given meaningful implementation at all level. Broad perception on the benefit of its promotion at private level should be encouraged.
 7. Current deficit financial policies creating apprehensions of insolvency are refuge of establishment. These are supporting continuity of borrowed economic system. Their cost is disadvantageous for national economy. The system needs revision.
 8. State resources should be diverted to the benefit of general population through social welfare programmes to initiate capacity building movement in citizens of state.

Manifestation of People's Sovereignty

Blackstone has been quoted to say that sovereignty means the capacity of making laws directly or indirectly with the people at large, as it is the direct exercise of the people's sovereignty. The sovereignty of people is only rightly manifested when it results for well being and prosperity of the whole nation. The moment it fails to do this, the power ceases to be sovereign; and its sovereignty degenerates into deception (Bartlett, 1921: 505). Public rule is most forceful in countries with better economic conditions. Better economic conditions may be produced when people have the chance to take decisions on material public concerns. (Worski, Alvarez, 2000: 137). McGrath is of the opinion that in Pakistan public representatives were not allowed to lay a hand on monetary fraction in budget proposals. Whenever they had a chance political leaders introduced material changes (McGrath, 1996: 137). These steps of the public representatives offended those who happened to be the beneficiary of suppression of sovereignty of the people.

There is but one source as analyzed by Bartlett, by which the government can legitimize itself, and that is by securing the real consent of the people and thus becoming the true representative of their sovereignty. Whenever the power of people rises in its strength, recognizing its moral duties as its guide, then and then alone, one beholds the sovereignty of the people in its pristine glory (Bartlett, 1921: 513).

Notes

1. Section 69, 70 of The Government of India act 1935 compared with Article 45, 78 of Constitution of 1956 and Article 103 of Constitution of 1962.
2. Section 4,7,8 of The Government of India act 1935 compared with Article 39 of Constitution of 1956 and Article 31 of Constitution of 1962.
3. Section 62 of The Government of India act 1935 compared with Article 50 of Constitution of 1956 and Article 38 of Constitution of 1962.
4. Section 51 of The Government of India act 1935 read with Article 215 of Constitution of 1956 and Article 38 of Constitution of 1962.
5. Section 63, 64 of The Government of India act 1935 read with Article 85, 86 of Constitution of 1956 and Article 75 of Constitution of 1962.
6. Section 69, 70 of The Government of India act 1935 read with Article 90 of Constitution of 1956 and Article 77 of Constitution of 1962.
7. Section 59 of The Government of India act 1935 read with Article 47 of Constitution of 1956 and Article 81 of Constitution of 1962.
8. Section 99,100,107 of The Government of India act 1935 read with Article 105,107 of Constitution of 1956 and Article 131 of Constitution of 1962.
9. Section 45 of The Government of India act 1935 read with Article 191,192, 193 of Constitution of 1956 and Article --of Constitution of 1962.

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