

A Comparative Analysis of the Functioning of the Senate in USA and Pakistan

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Abstract

This article aims to compare analytically the functioning of the senate in USA and Pakistan, through a case study approach. Both the Senates, with some variations, perform the functions of making laws, raising and spending money, representing the federating units, overseeing the administration and providing advice and consent. These are five major functions but their preeminent role is concerned with legislation. They perform all these functions through their well-developed procedures and the rules of business. Most of the legislative work in both the Senates is done through committees which are known as ‘little legislatures’. Although, the US constitution does not provide for the creation of the committee system, the committees have become an integral part of the legislative process of the US Senate. This article argues that the US senate is a very powerful upper chamber. Although it has equal constitutional powers with the first chamber it takes precedent over the House of Representatives in certain matters. Moreover, its committees are powerful, their decisions are almost binding on the government and they can thoroughly influence the legislative, investigative and administrative oversight function of the senate. In case of Pakistan the senate committee system is catching momentum but their decisions and suggestions are merely recommendatory in nature. Neither rules nor the precedents are supreme in governing the conduct of business of the Pakistani Senate: it is the executive, which is supreme, and can mould and shape the behaviour of the Senate.

Key words:

Introduction

Congress in session is Congress on public exhibition, whilst Congress in its committees-rooms is Congress at work’

Woodrow Wilson.

‘Senate rules are tilted towards not doing things...House rules if you know how to use them are tilted towards allowing the majority to get its will done’.

Speaker Jim Wright

Federalism and bicameralism go hand in hand. There are 63 federal states in the world and not a single of them has defied the principle of bicameralism. Their federal chambers are increasingly becoming the popular chambers. So much so, the trend of bicameralism is increasing even among the unitary states because the concentration of the legislative authority in one chamber may lead to the constitutional autocracy. Therefore, to avoid hasty legislation and in order to have a multiple checks on government the need of second chamber is increasingly recognized. It is imperative for all federal states that their parliaments should provide an adequate representation to the whole nation. That is why the federal states opt for two chambers, one providing for proportional representation and the other providing equal representation to all federating units. So far little effort has been made in the field of comparative politics to compare the functioning of the representative lawmaking institutions of USA and Pakistan to evaluate their performance. This study aims to fill this gap. This is a highly descriptive and analytical study. It is a pioneering effort which seeks to compare the functioning of the Senate of Pakistan, a struggling democracy, with that of the United States, the world's leading democracy, through a case study approach. Several question regarding the functioning of the tow Senates arise. What is the respective place of the Senate in the constitution of the Pakistan and that of the United States? What are their respective constitutional powers and how they affect their functioning? What are the differences in their committee systems and how they perform? Lastly, what are the differences and similarities in the legislative functions of the tow Senates?

The 'how and why' questions, according to Robert K. Yin, a leading authority on case study approach, can best be explored by using case studies as a vehicle of analysis. Such questions are explanatory and can be more appropriately addressed through case studies and histories. (Yin R. K., 2003) Besides the type of questions to be explored the rationale for doing case study research is that 'the investigator has access to a situation previously inaccessible to scientific observation.' A multiple case design is more in tune with comparative politics approach. Yin explaining the difference between single and multiple case designs says that a single case study is the one which comprises a single case, for example, one issue, one event or one situation. This is 'analogous to a single experiment'. However, 'the same study may contain more than a single case. When this occurs, the study has used a multiple-case design, and such designs have increased in frequency in recent years.' (Yin R. K., 2013) The present study employs multiple-case design in the sense that it compares the functioning of two law making institutions i.e the Senate of USA and the Senate of Pakistan. Yin, preferring the multiple-case design writes that they give a 'stronger platform for your findings than if you had relied on only a single case.' (Yin, *The Case Study Anthology*, 2004) Yin considers both single and multiple case designs as two variants of case study method. However, he argues, that some disciplines such as anthropology and political science have established sharp distinctions and they refer to multiple case

designs as ‘comparative studies’ but in reality it is just a difference of design to be used ‘under the case study method’. (Yin, *The Case Study Anthology*, 2009) The advantage of multiple-case design is that ‘the evidence from multiple cases is often considered more compelling, and the overall study is therefore regarded as being more robust.’ (Yin, *The Case Study Anthology*, 2009) Therefore, the multiple case design suits best for our comparative study of the Senates.

The study attempts to explore these questions in different political settings in which the Senates function i.e. parliamentary and presidential political systems. However, the major focus of the study is on their performance and functioning in the light of their respective constitutional powers and the rules of procedures, which they have framed from time to time and the precedents which have eventually become part of the procedures. The study is based on archival research and benefits both from primary and secondary sources. The primary sources include the reports prepared by the research wing in the secretariat of the Senate of Pakistan. They also include the articles written by the US senators. Secondary sources include research journal, newspapers, magazines and different books written on the US Senate. In case of Pakistan Senate, originally there was much discrimination in the constitution against its role and powers, which were removed from time to time by various presidential orders. This study explains its expanding role from merely a revisory and deliberative body to an institution having a meaningful share in the parliamentary structure of Pakistan. On the other hand the Senate of US can affect the lives of Americans directly not only by passing laws but also by conducting investigations or by influencing the operation of the executive branch. This study also focuses on the legislative as well as executive powers of the Senate. Besides portraying the place of the Senate in the respective constitutions of the US and Pakistan this study compares and contrasts their committee systems and legislative functions. First we turn to their constitutional status.

Constitutional Status of the Senate

The place of Senate in federal states is advantageous in many respects. It ensures effective representation of all the federating units in the central legislature under the principal of parity of representation. Since the concentration of the legislative authority in one chamber may lead to constitutional autocracy, therefore, the presence of the second chamber enables both to act as a check on one another. It also makes possible that a bill is thoroughly examined and more effective deliberation is made during the legislative process. After examined by two chambers an issue becomes clearer. The Senate also performs its traditional role of revising the bills and rendering its proposals. Both the previous constitutions of Pakistan provided for unicameral legislature. Both the defunct constitution of 1956 and 1962 did not provide for the establishment of the Senate. The constitution of 1973 established it for the first time. According to the article 59 of the constitution, the Senate was to compose of 63 members and had a term of four

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years. Later in 1895 this article was amended through a Presidential Order (No. 14) and its membership was raised to 87. (Pakistan, 1973) The Senate being a permanent chamber cannot be dissolved. Americans, too, had to tinker with the constitution in order to create the Senate

To begin with, the Americans, under the Articles of Confederation (adopted in 1781), established a single House Congress. The Confederation government, because of its weak centre, was soon embroiled in difficulties. The Articles of Confederation became impracticable and were replaced by a federal constitution in 1789. This was bicameral in nature according to the wishes of Founding Fathers. In fact they wanted to follow the example of English parliament which had two houses. In this regard, success came their way after the defeat of New Jersey plan, which provided for a single house legislature. So, a compromise between large and small states was reached leading to the adoption of the constitution. (Pritchett, 1977) The United States Senate was established by the Article I, Section 1 of the Constitution, which stipulates, 'All legislative powers here in shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives'. (State) There are different method of elections for the Senate of US and that of Pakistan.

In case of Pakistan, provincial assemblies elect the Senators on the basis of proportional representation and by means of single transferable vote to fill the seats reserved for the respective provinces. (Pakistan G. o.) By this electoral method smaller political parties may have proper representation. Under the principal of proportional representation the candidates for the Senate's seats shall have to secure the vote of the provincial assemblies in proportion to the total strength of the provincial assembly concerned. For example, in case of the Punjab Assembly, which has 240 members, each candidate to be elected by it for Senate shall have to get 13 votes of this assembly, where as in case of Balochistan Assembly, every candidate has to secure only one vote. The candidates for the Federal capital are to be elected by all the members of the National Assembly. The newly elected members of the National Assembly shall elect the senators for the three seats reserved for the Federal capital. In the original constitution the senators representing Federal Capital were to be the Presidential nominees (Pakistan G. o.) but this contingency has been removed by the Eighth Amendment. (Assembly) Eight seats reserved for the Federally Administered Tribal Areas (FATA) are to be filled by the candidates elected by the members of the National Assembly from the respective areas. The term of office for the Senator is six years but one-thirds of them retire after every two years. So long tenure promotes stability and continuity in the legislative process. According to the Constitution of the United States, each state has to elect two senators for a term of six years. Their election procedure changed with the span of time. Before 1913, respective legislatures of the states elected the senators. In 1913, under the Seventeenth Amendment a provision was made for the direct elections of the senators. In this way they came to be elected by the people they represent rather than being chosen by their respective

legislatures. (Dumbauld, 1965) The term of office for the Senator is six years and one-third of them retire after every two years.

In Pakistan Senate the members of the Senate from among themselves elect chairman and deputy chairman of the Senate. Under the Eighth Amendment of the constitution both of them are to be elected after every three years at the time of reconstitution of the Senate. (Assembly) However, in the case of US, the vice president of the United States is legally the president of the Senate. In the nineteenth century he used to regularly preside over the Senate sessions. But in the second half of the twentieth century vice presidents are preoccupied with administrative matters and are more identified with president's administration. Therefore, President Protempore, who is a member of the majority party, presides over the Senate in his absence. He can give his ruling over a point of order and has the authority to decide when the vote has to be taken during the deliberations. Traditionally, he remains above party politics. However, an appeal can be made against his decisions to the House. In this regard the verdict of the House would be final.

It is a common practice that most of the federal states normally have a bicameral legislature. The upper house has the necessary powers to protect the interest of the smaller federating units against the encroachment of their rights by the bigger ones. That is why the principle of parity is strictly observed in its creation. Furthermore, in the Federal Constitution of Pakistan there is a division of subjects between the federation and provinces. There are two lists of the subjects: the federal legislative list and the concurrent list. The federal legislative list has two parts. The subjects in the first part are reserved to the federal government. The second part comprises subjects such as mineral oil and natural gas, railways, development of industries under federal control, and institutions, establishments and corporations administered by the federal government, including water and power development authority, and all corporations and undertakings owned solely and partially by the federal government, and the council of common interests. The subjects not specified in the federal list are included in the concurrent list and fall within the legislative competence of the provincial assemblies. Regarding the subjects enumerated in the two federal lists parliament has the exclusive power to legislate. Regarding the subjects in the concurrent list both parliament and a provincial assembly are competent to legislate. However, a law made by the parliament over-rides a provincial-law made in that field. In case the matter is not mentioned in the two lists, the parliament is competent under article 144 to legislate if two or more provincial assemblies request the parliament to do so. (Pakistan G. o.) However, in that case a provincial assembly may repeal or amend such a law. No house acting alone can pass a law and the cooperation of both houses is necessary in this regard. Recently more autonomy has been given to provinces and their role has been increased in such subjects as health and education.

The US Senate is at par with the House of Representatives in terms of legislative powers. So, its role is not merely that of a revisory body. In fact,

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majority of the bills originate in the Senate. The lower chamber normally passes such bills also. The members of the lower House hold the verdict of the Senators in high esteem as they are generally the senior party members. (Baker, 1983) In financial matters the Senate seems to hold an inferior position as money bills can only originate in the House of Representatives. But the Senate has the complete power to reject the money bills as well as to change them to the extent that they may become totally different from the original ones.

On the other hand in the case of Pakistan, Fiscal legislation is an exclusive domain of the National Assembly and the Senate has been deprived of any direct role in this. All such bills originate in the National Assembly and after being passed by it, without being transmitted to the Senate, are sent to the President for assent. Annual Budget and other money bills are not referred to the Senate at all which is the most significant limitation on its powers. The power of the Senate is further restricted in the sense that the question whether a particular bill is money bill or not is decided by the speaker of the National Assembly whose decision is final. The argument behind this limitation on the power of the Senate is that the control over the finances should be the discretion of the popularly elected house. Senators, however, by criticizing the policies of the government and by passing condemnatory resolutions can indirectly influence the financial legislation. National Assembly has the exclusive authority to remove the cabinet by passing a vote of no-confidence against it. The Senate cannot initiate any confidence motion against it. The Senate has control over the executive, as it is answerable to it, but it does not enjoy the legislative oversight in the manner as the American Senate does. The US Senate has also impeachment and confirmation powers as well as to ratify the treaties.

Functioning of the Senate

American constitution envisages a strong federal government based on the concept of 'separation of powers'. Legislature was created by the article 1, section 1 of the constitution stating that 'all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives'. Besides enactment of the legislation, the legislative branch is entrusted with other powers, regarding treaties and nominations. For example, the Senate has power of advice and consent. However, the most important function of the legislative branch is concerned with legislation. (Baker, 1983) The concurrence of both chambers, the House of Representatives and the Senate, is required to enact a law, though their goals, procedures and traditions are different.

There are several sources of legislation. The constitution provides that the president 'shall from time to time give to the Congress information of the state of the union, and recommend to their considerations such measures as he shall judge necessary and expedient'. (Dove, 1997) When the ideas are enacted the executive agencies have the authority to implement them. Through the state of the union

message the president announces his agenda at the beginning of each year. (Schneider, 2014)

Recently executive communication has become the frequent source of legislation. It is in the form of a message or a letter from the president or from a member of his cabinet or from the head of an independent agency. Such a communication transmits a draft of the proposed bill to the president of the Senate. Most of the executive communications reach the Senate after the president's message to Congress on the state of union. Then such communications are referred to the appropriate committees, having jurisdiction, for necessary action. (Johnson, 2007) There are many other sources as well. Individual members propose legislation regarding the promises they made during their campaign. Committees and sub-committees can also generate legislation. Then there are informal groups, which study the issues of their interests and lobby for the enactment of specific policies. For example, 'congressional black caucus and congressional caucus for women's issues are active in promoting causes and initiating legislation'. (Johnson, 2007)

The state and local government also seek congressional assistance in solving the local problems. The assistance may take the shape of monetary help or federal regulation, which affect the local activities. For example, 'in case of safe drinking water act the needs of the localities are met through legislation providing funds, but also requesting that certain national standards be met'. (Johnson, 2007)

Supreme Court is also a source of legislation. For example, 'the Congress attempted to enact a civil rights bill to address issues raised by several Supreme Court decisions. Then there are the sources like advocacy and lobby groups and press, which also provoke ideas for legislation. (Johnson, 2007)

In case of Pakistan Senate, though it enjoys parity in terms of legislative powers with the National Assembly, it is practically a revisory body. Moreover, the sources of legislation are not as diverse as that of the US Senate. Executive communications do not play the role of providing a rich source of legislation. It is very rare that the prime minister would address the Senate or a joint session of the parliament. Legislation is mostly generated in the lower house through government bills. Such legislation is carried out which represent the interest of the government. Legislature is considered subservient to the executive and the government can bulldoze any legislation it wants. Since the cabinet is also part of the parliament legislative accountability cannot be practiced in its letter and spirit.

Pakistan has witnessed a mushroom growth of media in the recent years. It could have provided a rich source of legislation by providing insights into the problems of general public. But the media has become a hotbed of political bickering and point scoring. Senators and parliamentarians are part and parcel of talk-shows as they are regularly invited to debate on political issues of the country. Politician promises can be a rich source of legislation but the media does not play its role positively in this regard. Media is also not completely independent as it is controlled by the government quota of advertisement. Politicians hardly propose any legislation regarding the promises they made during their election campaign

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and media can hardly hold them accountable for this. In case of Pakistan the sources like lobby groups and press cannot provoke ideas for legislation. They hardly generate any response in the parliament. Even if they do so, it is the incumbent government which is the main initiator of all the major legislation.

Forms and designation of legislative business

In addition to the ratification of treaties and nominations, bills and resolutions form the major portion of the business of the US Senate. The preeminent concern of the Senate is with the legislative business. All formal actions of the Senate and proposed legislation take the shape of bill or resolution. Legislative proposal of a general nature are called a bill, which may be public or private. Public bills are more numerous than private bills. The scope of private bill is limited to individuals or groups of individuals. Bills account for the major portion of the legislative proposals of the Senate. The Senate numbers its bills in sequence. For example, the bill number 1 in the Senate is written as S. 1. (Dove, 1997) When bills are passed by the both chambers in identical form and receive signature of the president, they become laws. (Congress, 2001)

Joint resolutions in the Senate are designated as S. J. Res., together with their numbers. Like bills, they also require their identical approval of both Houses and the signature of the president. Joint Resolutions are also used to amend the Constitution in which case the presidential signatures are not required. On the approval of two-thirds of both houses and ratification by three-fourths of the states they become a part of the constitution. (Congress, 2001) Concurrent Resolutions in the Senate are designated as S. Con. Res., together with their numbers. They only deal with the operations of the both Houses. They have to be approved by the both Houses in identical form. They neither require the signature of president nor do they have the force of law. (Congress, 2001) Simple Resolutions in the Senate are designated as S. Res., together with their number. They deal with the rules, the operation, or the opinion of the single House. They are to be approved only by the House in which they have originated. (Johnson, 2007)

Business in the Pakistan Senate is divided into two categories i.e. official business and private business. The government or official business includes all those bills and resolutions which are introduced by a minister; whereas the private business includes all the bills, privilege motions and resolutions introduced by the ordinary members of the Senate. So, an interesting difference to note between the Senates is that in the case of the US Senate it is the subject matter of the bill which underpins its classification in terms of public or private. However, in case of Pakistan Senate it is status of the initiator that determines the nature of the bill. A bill will be called private bill if initiated by a senator and would be called government bill if introduced by a minister.

Same criterion applies to the resolutions in the Pakistan Senate. If it is introduced by a senator it would be considered as a private resolution and if introduced by a minister then it would be considered as government resolution. In

case of the US Senate there are joint and concurrent resolutions but in the case of Pakistan there is no practice of such resolutions. This reflects upon the scope of legislation carried out on the floor of the Pakistan Senate which seems to be highly restricted as compared to the US Senate.

Bill referral

After the introduction of the bills, they are referred to one or more than one of the committees of the US Senate having an appropriate jurisdiction of the subject matter. Subject matter varies from committees to committee based on the past precedents.

In the Senate, however, a single senator can reshape the legislation and the whole bill can be rewritten on the floor. Committees, therefore, play a lesser role as compared to the House committees. More than one committee may have jurisdiction of the bill or parts of the bill. For example, for Clinton's Health Plan the key committees were the Senate Finance Committee, and the Labour and Human Resource Committee. The Finance Committee has jurisdiction over public health, biochemical research and medical education. Senate Judiciary Committee also had its stakes in the Clinton Health Plan because it has jurisdiction over malpractice and antitrust issues. (Rubin, 1993)

However, in case of more than one subject matter of the bill, the Senate practices the principle of primary jurisdiction. Accordingly, the committee having the majority of the subject matter under its jurisdiction gets the entire bill for processing. The Senate Parliamentarian decides the subject matter of the bill. (Rubin, 1993)

If a senator believes that his bill will go to an unsympathetic committee he can circumvent the standing committee system and can put the bill directly on the Calendar of Business. Such a bill would have the same formal status as if it had been subject to the committee consideration.

If a committee does not act on a bill it may die: but the proposal it made may remain intact. The senator sponsoring that bill can introduce a new bill having the same proposal and can place it directly on the Calendar. In both cases the committee that has been bypassed, by unanimous consent or by motion, can oppose bringing the bill from the Calendar to the floor. But here the fate of the bill has to be decided by the whole Senate and not by a committee. However, the senators take committee circumvention as a last resort for two reasons. Firstly, it jeopardizes the committee system as a whole and secondly, the senators do not like to practice the thing that can undermine their own committees.

In case of Pakistan Senate, its rule 86 states that on introduction of any bill, it would automatically be sent to the concerned standing committee. It is interesting to note that just like the US Senate such referral may be done away with. The difference is that there it is the prerogative of an individual senator. In Pakistan Senate it is mostly the minister who can dispense with the necessity of committee referral and may ask for the bill's immediate consideration. (Pakistan G. o.,

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Pakistan, Parliament, Senate, Rules of Procedure and Conduct of the Business in the Senate Secretariat, 1980) Standing committees cannot be comprised of less than 6 and more than twelve members. The concerned minister is automatically included as ex-officio member of the concerned committee. Subjects are allocated to the committees according to the rules of allocation and transaction of business of government.

Bills coming from National Assembly do not automatically find their way to Senate standing committees rather a motion has to be carried out in this regard. The bill stands referred if the motion is successfully carried. (Pakistan G. o., Pakistan, Parliament, Senate, Rules of Procedure and Conduct of the Business in the Senate Secretariat, 1980) For the examination of matters a committee can create further committees or subcommittees. (Pakistan G. o., Pakistan, Parliament, Senate, Rules of Procedure and Conduct of the Business in the Senate Secretariat, 1980) Just like the US Senate committees, they prepare reports and chairman of the committee submits them to the floor of the Senate including the minutes and notes of dissent. The bill goes into first reading if the move for its consideration is carried out. Most of the debates take place at this stage and only general provisions of the bill are discussed. Germane amendments to the clauses are dealt with in the second reading. After this it is put before the house. In the third reading only formal or verbal amendments are disposed of. Majority of the present members by voting pass the bill and the decision is communicated to the second house.

Committee consideration

The fate of the most of proposals is determined by the standing committees, which act as 'little legislatures'. Committee member are experts in the subjects under their jurisdiction. So the bill comes under the sharpest scrutiny at the committee stage. (Congress, 2001)

The US Senate rules do not place a requirement on the committees to act on a bill. However, the Senate rules allow a senator to enter motion to discharge a bill from further consideration by a committee, but it rarely happens. Bills can also be discharged from one committee and assigned to another by unanimous consent. (Dove, 1997)

Committees have excessive workload and cannot process all the bills. Chairman of the committee, in consultation with other senators on the committee, decides which bills should be scheduled for consideration and which shall be ignored. In agenda decisions, the chairman cannot be arbitrary because a majority vote of the committee is required to report a bill to the floor. Although it is not required, yet most of the committees start considering a bill by holding public hearings. Hearings are held on all major controversial legislations. The number of witnesses testifying or the time available to a committee determines the length of the hearings. (Dove, 1997)

Hearings may be held for a specific bill or different bills relating to the same subject matter. They may also be held on any subject matter without considering a

specific legislation. Apart from the legislative purposes they are held to investigate scandals or alleged malpractices in office. Sometimes they are oversight in nature and hence are intended to supervise executive branch actions. Therefore, they are considered as a 'part of the checks and balances of the American Governmental model'.

An instructive example of hearing is the one conducted by the Senate Special committee on Aging regarding two General Accounting Office reports on Medicare and Medicaid. 'In the hearings William J. Scranton, director of GAO's Health Financing and Public Health Issues testified that although, Medicare managed care enrollment' had doubled since the passage of 1997 balanced budget Act but there were major problems in the information provided to the beneficiaries by some of the managed care organization. It was expected that the Senate would give greater control to the Health Care Financing Administration, which is a part of the Department of Health and Human Services, regarding its oversight of the Medicare and Medicaid.

After the completion of hearings, if the committee decides to proceed with the legislation, it holds a mark-up session. In mark-up sessions the members of the committee introduce amendments to the language of the bill by which they can insert new language, delete the existing language or replace it with new text.

The second choice for the committee is to do away with the existing bill and come up with a new one based on what they have learned in the hearing process. Such a bill is known as clean bill. Then the committee takes the vote whether or not to report the clean bill to the Senate floor. If the decision is in affirmative the committee will write report to accompany the bill explaining their actions and comparing it with the current law. Such reports are discretionary. However, most committees prefer to report the bill with an accompanying report. After the bill has been reported it is scheduled for floor consideration.

Just like the committees of US Senate the committees of the Pakistan Senate have complete power to carry out hearings, call for witnesses and get the help of the experts in the subject matter under consideration. But the major difference is that their recommendations or alterations in the proposed measures are not binding. Their suggestions are merely of recommendatory nature. There is a great need to further strengthen them like their counterparts in the US Senate.

Debate and Amendment

Considering the deliberative role of the US Senate it is very difficult to end the debate in the Senate. Rules and procedures of the Senate place no restriction either on the length of the debate or on number of amendments to it. Since invoking cloture to end the debate is difficult, the majority leader negotiates voluntary consent agreements to limit debate on a bill or specific amendments that are known as time agreements.

Moreover, there are no restrictions on the amending process in the Senate. Senators may offer as many amendments as they wish. They also may introduce

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non- germane amendments. In this way they present issues to the Senate for debate and decision, which are neither considered by the Senate committees nor scheduled by the Majority Leader. Requirement of germaneness is only for amendments to appropriations and budget measures. Otherwise, senators can propose any amendment on any subject related to any bill under consideration of the Senate.

In case of Pakistan the senators have no such freedom as accorded to their counterparts in the US. They cannot debate indefinitely and the speaker can curtail it according to the decorum of the house. Regarding amendments, it is the leader of the house who has the final authority. So, there is a limit on both i.e. on the debate as well as on the nature of amendments. If a debate or a motion becomes too lengthy the Chairman can enforce time limits for its conclusion. Moreover, only limited number of amendments can be introduced on the floor of the Senate. Senate rule 195 clearly stipulates that amendment 'shall not be moved which has merely the affect of negative vote'. (Pakistan G. o., Pakistan, Parliament, Senate, Rules of Procedure and Conduct of the Business in the Senate Secretariat, 1980) So it makes sure that only germane amendments are made. This shows that the US Senate assigns greater role, power and responsibility to its senators as compared to the Pakistani Senate. Pakistan Senate is less deliberative and puts more restrictions on its senators.

The Conference Committee

There are no conference committees in the case of Pakistan Parliament and both the Houses resolve their difference by the majority of the members in a joint session of the Houses. However, in case of Congress there is a proper mechanism. If both houses pass an identical bill it can go to the president for signature, but it happens rarely. Therefore, after the passage of similar versions of the same bill by both houses the differences have to be resolved, so that the legislation could be sent to the president for his signature. On matters of little controversy one chamber simply adopts the version of the other house.

More often than not the differences are resolved either by amendment process between the houses or through conference committee negotiations. In the amendment process the bill with amendments shuttles between the houses until one chamber accepts the other's version without change.

However, the method of conference committee negotiations is used more frequently. In the Senate the committee chairmen going to the conference have the sole prerogative of choosing the conferees. If the majority of conferees agree then the conference report is issued. It must be passed by a majority vote by both houses before it could go to the president. (Dove, 1997)

Conclusion

United States Senate is a very powerful upper chamber. Although, the US constitution endows equal legislative and financial powers to both the chambers, still the Senate in certain aspects enjoys supremacy. On the other hand, political system in Pakistan had a chequered history. Under both the defunct constitutions of 1956 and 1962 of Pakistan, the legislature was unicameral. So, the constitution of the 1973 by providing the second chamber for the first time added a novel feature to the constitutional history of Pakistan. Both the defunct constitutions did not provide the second chamber because the principle of parity was established between the two wings i.e. East and West Pakistan. Since the second chamber is meant for equal representation of the federating units, which was already ensured by the popular house, therefore, there was no need for the second chamber. After the abolition of one-unit in 1970 and the secession of East Pakistan in 1971 the framers of the constitution felt the need to provide true institutional mechanism for the proper ventilation of grievances and for proper accommodation of the aspirations of the federating units. Accordingly, bicameral legislature was provided in the constitution of 1973.

This study reveals that an inbuilt system of checks and balances is helpful for the proper functioning of representative law making institutions. The constitution of the US provides for the same in very clear terms. Each branch of the government serves as a check on the other. The executive can neither coerce the Senate to pass a particular legislation in which it is interested nor can press it for hasty legislation.

The US Senate has the powers of advice and consent regarding treaties and nominations. The president cannot act alone without winning the support and confidence of the senators. The Senate through its investigatory and supervisory powers holds a check on the executive. Moreover, the Senate is independent of the executive in the sense that the members of the president's cabinet do not hold any office in the Congress. The president is the only elected official representing the whole nation.

On the other hand in Pakistan there is no such strong inbuilt mechanism of checks and balances. As soon as the government is elected it takes for granted that it will be able to get necessary legislation to implement its major policy agenda. The legislature is subservient to the executive. Since the government is constituted from within the parliament, it assumes the double role as head of the executive as well as the member of Parliament. This erodes the concept of legislative accountability making it difficult for the electorate to decide whom to reward for policy success or whom to hold responsible for policy failure. So a parliamentary government transforms itself into a 'kitchen cabinet government' or to be more exactly into a 'Prime-ministerial' government. This leads to unbridled and hasty legislation.

In the US the only elected official representing the nation is the president, all the rest represent their states or the constituencies in their states. So the inherent

and an inbuilt system of checks and balances provided by the US constitution is responsible for the smooth and independent working of the US Senate. All the branches of the government jealously guard their powers. In Pakistan neither rules nor the precedents are supreme in governing the conduct of business of the Senates. It is the executive, which is supreme that can either bulldoze any legislation or kill any such move by moulding the behavior of the Senate through coercion.

The Senate of Pakistan like the parliament itself has a very short and chequered history. The Senate of Pakistan, therefore, has yet to become a viable and vibrant lawmaking institution. More often than not the parliamentary democracy has been strangled by the successive military regimes. For instance, General Musharaf's regime after capturing power on 12 October 1999 did not allow elections of the Senate, which were due in March 2000 resulting into an unnatural demise of the Senate for the time being.

As compared to the Senate of Pakistan the US Senate has very long and rich history behind it. With the years of experience and experimentation it has perfected its procedures and functioning and has expanded its powers and role. Although, it has only 42 standing rule contained in the Senate manual but it has a long list of precedents, which are the past rulings of the presiding officers and have become part of the Senate rules and procedure. The Senate of Pakistan has 242 standing rules but its history is not as replete with precedents as the history of the US Senate.

This study reveals that the US Senate is more deliberative body than the Senate of Pakistan. Its rules and procedures ensure that the rights of the individual senators be protected. There are no restrictions on the debate and a senator can speak as long as he wishes. There is no requirement that the amendments should be germane. Any senator using these tactics can block the legislation at any time. Hence the Senate rules, it can be said, are tilted towards not doing things. Therefore, it serves well the purpose of the Framers of the Constitution who designed the bicameral legislature to provide an inherent check against the tyranny of the majority rule. However, the Senate of Pakistan lacks such tools. Moreover, there are too much restrictions on the senators. Their right to debate and introduce amendments is limited. Therefore, the Senate of Pakistan relatively does not provide an efficient check against the tyranny of the majority rule and is also a less deliberative body.

The study also reveals that both of the Senates transact a great deal of their businesses through their committee system. But the committees in the US Senate are powerful, their decisions are almost binding on the government and they can thoroughly influence the legislative, investigative and administrative oversight function of the Senate. Whereas, in case of Pakistan the Senate committee system is catching momentum, but the committees' decisions and recommendations are merely of recommendatory nature. It is not binding on the government to honour

their recommendations, which are the outcome of the rich experiences of the technocrats and seasoned politicians.

The Senate of Pakistan has equal powers with the National Assembly in wide legislative arena, except the money matters. But due to its numerical disparity, vis. a vis. National Assembly the latter holds a superior status. In spite of the subordinate status of the Senate in several respects we should not underestimate its role. It has superior membership and performs the role of a bulwark to safeguard the interests of the federating units. Its role may be said to be revising and not initiating legislation but it extends valuable assistance to the popular chamber. Senators by criticizing public policies can mould public opinion in their favour. The presence of technocrats and other members on the reserved seats enhances the quality of its membership as compared to that of the popular house.

Deliberations in the Senate are done with relative calm, objectivity and free from emotionalism. Since party affiliations in this chamber are relatively weak and the fate of the government in this chamber is not involved, issues can be examined in a free atmosphere. Being an upper chamber it must uphold the political values of parliamentary democracy. The need is to further strengthen its role and make it a viable and vibrant representative law making institution of the country. For the better functioning of the Senate it is suggested that an inbuilt system of checks and balances should be provided and the principle of legislative accountability should be strongly enforced. There should be direct elections for the senators. The Senate should be given monetary powers. The seats reserved for the professionals should be filled by the votes of the respective professional community. Discretion of the leader of the House in the setting of agenda should be done away with. The committee system should be strengthened and the decisions and recommendations of the committees should be made binding. The investigations and findings of the committees should be made accessible to the press and thereby to the general public. The senators should be provided with the research backup facilities, which are almost non-existent at present.

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