**The constitution wins**

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Friday, Apr 08, 2022

The Supreme Court has spoken. The Doctrine of Necessity remains buried six feet beneath the ground. Many thought the Court wouldn’t go all the way – that the deputy speaker’s actions would be declared unlawful, but that early elections would perhaps be called. But yesterday, the constitution won.

There will, of course, remain questions. And for the decision to be understood and accepted, they will have to be patiently answered. So let’s begin with this: why was it important for the Supreme Court to go all the way? Alternatively, what’s so wrong with early elections?

The argument for elections goes: the electorate is divided and many support the ‘dismissal’ of the vote of no-confidence, as well as the dissolution of the National Assembly. In a democracy, the people should get to decide. Why bank on defecting politicians or unelected judges for the determination of our future?

As tempting as it may be to begin with the law, few seem keen on speaking its language at present. So, let’s begin with politics. What would the PTI gain from early elections? Obviously, they would avoid the potential ignominy of being the first party to have a PM removed through a vote of no-confidence. Second, having quite successfully reframed the debate as one of national security, the PTI has largely diverted attention from its actual performance. This would be about as good a time as any to head to the polls. Third, the PTI would get to go into elections under an electoral setup that would potentially allow it to tap into its vast support overseas.

As for the opposition, they now potentially get to see Imran Khan formally voted out of office. But, of course, given the public fetish for martyrdom, the optics of this could go either way. Second, they get a shot at their much-paraded electoral reform. What, exactly, this would entail has largely been left to the imagination. And many believe their principle to be pretence: this may mean little more than blunting the PTI’s edge by undoing voting for overseas Pakistanis and electronic voting. However, this threat may be overstated.

Practically speaking, a new prime minister won’t change the composition of the Assembly: legislation will still require consensus. Of course, that consensus will be much more free-flowing than voting on no-confidence because, under Article 63-A, unless electoral reform is brought about by way of a constitutional amendment, Parliamentarians will be free to vote according to their conscience. So, if the tide has turned against the PTI from within, whether organically or otherwise, the opposition may just get its way.

And then, there are the more nebulous possibilities. Such as longevity through the grant of an extension. This, some whisper, may even ease a favourable transition away from born-again neutrality.

But now, the real question: what do the people of Pakistan gain? First, the two new-entrants: sticking it to the US, and sticking it to defecting politicians. With each passing day, the bathos of The Letter’s narrative spin-off becomes more and more obvious. Even in their moment of apparent constitutional violation, the speaker and deputy speaker were only able to point to an ‘apparent’ link. The NSC’s statement falls short of even this. There’s also no evidence of actual causality. And as to defecting politicians, the only way to identify and punish them is after they have actually voted.

Now, there is value, of course, in a party getting to accomplish the rare feat of completing its five-year term. But as the government, itself, wants to head into fresh elections, that is rendered moot.

So, we move on to the will of the people. If the fulcrum of the debate is the mandate of the people, then the government’s is a self-cannibalising argument. There are two steps where the wishes of the people come into play. One is at the time of the elections. But the other is in deciding whether or not to head into the elections at all. The opposition represents about 70 percent of the actual popular vote. So, if it’s about the will of the people, why should the PTI, or even judges, get to decide that elections are more important than atonement?

Because, in the end, what it boils down to is answering for what seem to be clear violations of the constitution. The elections will happen. If there is popular support, we will see it. But were General Musharraf to simply seek another referendum after his Declaration of Emergency, would this absolve him of treason?

This isn’t to say treason has necessarily been committed here but, rather, that there is value in consequence. If the ruling of the speaker was unconstitutional, then everything that stands upon it must also be so. This includes the dissolution of parliament, which means also that the vote of no-confidence against the prime minister must be revived and be voted upon. That is what the constitution says, and any contrary outcome will legitimize a constitutional violation. The Supreme Court has, in the past, held a dissolution to be unlawful without restoring the Assembly. But, five years later, it also regretted that restoration of the National Assembly ought to have followed.

But we’ve seen a lot of contempt for the constitution recently. Disgruntled PTI supporters have argued that a constitution that has apparently failed to prevent horse-trading isn’t worth the paper it’s written on. Others argue that the hand that wrote it was that of a man; it wasn’t drafted in the heavens. Others still point to Necessity (tm) : sometimes, it’s okay to look the other way in the ‘national interest’.

But even while kicking the Constitution to the curb, PTI supporters still seek Article 5 as a cloak of validity. It is the constitution, itself, that bars horse-trading. And it is the constitution that provides the consequences. It was under the constitution that Nawaz Sharif was disqualified. It was the constitution that led to the government’s very formation.

In the end, the constitution will ensure that elections will happen. Governments may change, and politicians may party-hop, but the constitution will remain.

That is why this decision is a triumph. Had we looked the other way, we would have accepted that one man can trump the will of hundreds of others, representing the votes of millions. This would apply to every parliament that follows – including one chosen through early elections.

That may not seem like a terrible idea right now, but just ask yourself one question. If, tomorrow, the protagonists were reversed would you still stand by your position? Because there would be nothing left to fall back on.

Long live the Constitution.

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