

# Pakistan's 'Sustainable Democracy': Army as the Political Architect

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## Abstract

*Any study of political developments in Pakistan cannot be complete without examining the role of the Army. Though it might seem incompatible to talk of military and democracy in the same breadth, Pakistan provides an example of how the military has been able to govern the country as successfully as a civilian government. It has its own view of democracy, political stability and governance. It feels it has a political role which stems from the national security paradigm of the state. Recent amendments to the Pakistan Constitution under the rubric of 'sustainable democracy' is a reflection of the Army's expanding area from military security to economy and governance. This article is an attempt to analyse the Army's role and the future of democracy in the context of the 17<sup>th</sup> Amendment.*

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## Introduction

The Pakistan Army has played an important role in the constitutional development of the country. The Army's interference in politics, both directly and indirectly, has shaped the state structure where it has been an important player. Its role has been quite significant throughout the history of Pakistan though the judiciary has equally played an important part in providing legality to Army regimes. The Army's version of 'sustainable democracy' now seeks to perpetuate its role in the political system. While tracing historically the Army's version of 'sustainable democracy', the paper would examine some of the recent constitutional amendments introduced by General Pervez Musharraf in detail to understand their implications for future civil-military relations, the emerging power structure, the decision-making structure and the future of parliamentary democracy. It is fair to say that, without the protection of the Army's institutional interests, no democracy

in Pakistan can be sustainable. In this context, it is important to analyse the Pakistan Army's version of democracy.

### **The Ayub Khan Regime, 1958-69: Introduction of Basic Democracy**

The military has always tampered with the Constitution to introduce what it defines as democracy that is suitable for Pakistan. Moreover, it always wanted a role in the decision-making process. This is obvious from the political role that the Army played between 1952 and 1958 when Ayub Khan asked Iskander Mirza to abrogate the Constitution dissolve the National Assembly and appoint him as the Chief Martial Law Administrator<sup>1</sup> on the plea that the politicians were inefficient, power-hungry and corrupt. Ayub was quoted to have said, "The Pakistan Army... (would) not allow the political leaders" or the people of Pakistan to "get out of hand". Protecting the country from internal catastrophes and external threats is "a large responsibility" of the Army.<sup>2</sup>

Thus, the military tailored a Constitution to secure its interests as well as to introduce its own version of democratic governance. Ayub, therefore, described the 1962 Constitution as a "combination of democracy with discipline"<sup>3</sup> which was needed in the context of the anarchical power struggle that preceded Ayub's take-over. He was of the opinion that parliamentary democracy did not suit Pakistan with its high rate of illiteracy.<sup>4</sup> He introduced various provisions to 'cleanse' the system of 'corrupt politicians'. Provisions in EBDO (Elective Body Disqualification Order) were applied to legislative members to suppress political dissatisfaction.<sup>5</sup> At the same time, he revived the Public Representative Office Disqualification Act (PRODA), which was abolished earlier, and applied it retrospectively to 1947. Under this Act, politicians who were guilty of misconduct were banned from holding office for 15 years. He also banned political parties as he thought that a party-less system was best suited to Pakistan. He introduced a system termed as basic democracy. The basic democrats formed an electoral college and elected Ayub as President in 1960.

Interestingly, the Commission formed to frame the Constitution in suggested that a presidential form of government with unelected ministers since elections would make them corrupt. However, the ministers appointed to Ayub's cabinet were asked to resign from the House. What is more significant is that, reportedly, everyone whom Ayub chose to consult on the Constitution arrived at this conclusion as well.<sup>6</sup>

Political parties were revived only in 1962 when Ayub was certain that they would not pose any political problem to him. He, however, held the view that if, “we can run politics without the party system, we shall have cause to bless ourselves.”<sup>7</sup> He also said, “they were the cause of disruption and demoralization in the country.”<sup>8</sup> Ayub’s failure can be attributed to the widespread dissatisfaction in East Pakistan due to various issues, especially the demand for autonomy. In the Western wing, the Democratic Action Committee headed by Nawabzada Nasirullah Khan demanded abolition of the one-unit formula, introduction of federal system, establishment of parliamentary democracy and direct elections on the basis of adult franchise. The newly constituted Pakistan People’s Party also spearheaded a movement to oust Ayub. Interestingly, Ayub himself abandoned the constitutional path while transferring power to his successor. In a letter to Yahya Khan on March 24, 1969, he had no option but to “step aside and leave it to the defence forces of Pakistan which today represent the only effective and legal instrument to take over full control of the affairs of the country.”<sup>9</sup>

### **Yahya Khan’s Regime: 1969-71**

Yahya Khan did not have much role to play because he took over power in a tumultuous period. However, there is no doubt that he wanted a centralised political system without much provincial autonomy. This was the immediate cause that led to separation of East Pakistan. It is important to mention here that when Yahya Khan agreed to hold the 1970 elections, he had passed the Legal Framework Order (LFO) to protect the interests of the military. The LFO gave Yahya the power to veto any document produced by the elected National Assembly which he did not approve. This was done to pre-empt any attempt by a civilian government, after the elections, to marginalise him or the Army. At the same time the military had presumed that no political party would have a majority in the elections to challenge the authority of the Army. Though his regime was short-lived due to the separation of East Pakistan, his tenure suggests that the Army was not ready to get marginalised or allow anyone to challenge the centrist state in the name of provincial autonomy. This was borne out of the historical perception of the armed forces about the politicians.

### **Zia’s Regime, 1977-88: An Era of Experimentation**

General Ziaul Haq, who assumed power through a military coup, had understood the Pakistan political system well due to his close interaction with the government and the opposition leaders during the Pakistan National Alliance

movement. He, exploited the cleavages that existed between various personalities and parties to consolidate his position. The judiciary gave legal sanction to the military regime under the infamous ‘doctrine of necessity’ and grudgingly allowed only extremely necessary amendments. However this was misused to acquire an unbridled authority to change the basic structure of the Constitution<sup>10</sup>. During his rule he found willing supporters among the Jamaat Islami and other fortune-seeking politicians who provided him much needed political support. He was not in favour of political parties and, therefore, held a partyless election in 1985. He tailor-made the Constitution by introducing substantial changes that gave enormous power to the President and got himself elected as the President in a fraudulent referendum held in 1984. Like his predecessors he centralised power. His distrust of the civilian Prime Minister was quite evident in foreign policy and defence matters.

The Eighth Amendment introduced changes to Article 48 by inserting an additional clause where the President had the power to return the recommendations made by the Prime Minister regarding the appointment of judges to the Federal Court and the High Courts. He desired omission of the clause that ‘such advice would be binding.’ Moreover, Article 48 (2) barred the court from having the power of judicial review on actions taken by the President. A President had the discretionary power to refer any issue of national importance to a referendum or he could do so on the advice of the Prime Minister. Appointment of the Governor was based on his discretion, after consultation with the PM. However, the 13<sup>th</sup> Amendment under Nawaz Sharif’s regime changed it to ‘on the advice of the PM’. Before transferring power to the civilian government, General Zia introduced a clause to Article 270 as 270(A) through Provisional Order 14 which gave indemnity to amendments and acts he introduced since he came to power.

### **1988-99: The Phase of Guided Democracy**

It is important to mention here that Benazir Bhutto was not administered the oath of office for two weeks till an informal agreement was reached between her and the Army on foreign policy and nuclear issues. After the restoration of democracy, the military retained its leverage through Article 58(2b). At the same time, it tacitly retained its pre-eminence in the sphere of foreign and defence policy matters.

With the restoration of a multiparty system democracy, the military also tried to establish a form of controlled democracy where the Army, along with the intelligence agencies, would play an important role. Soon after Zia’s death, the Army engaged itself as Kingmaker. It played an important role in forging alliances

of political parties. It tried its hand in forming political coalitions and funding the election campaign of its political offspring. It also contributed money and muscle power to see that its favourites getting elected.

Some of the former officials of intelligence agencies did not hesitate to boast publicly about their role in the formation of political parties. Lt Gen Hamid Gul praised the contribution of the ISI in creation of the Islamic Jamoohri Ittehad. Recently, Ch Shujaat Hussain of PML-Q confirmed that he and his brother Pervez Elahi were offered millions of rupees in 1991 by former Army Chief General Mirza Aslam Beg.<sup>11</sup> The Army's contention was that it could not trust the PPP in power. It was also apprehensive that the judicial enquiry into the murder case of Zulfiqar Bhutto would be opened up. Lt General Assad Durrani, former Director of the ISI, has revealed through an affidavit to the Supreme Court that 60 million rupees was distributed by the former COAS Gen Mirza Aslam Beg, to ensure the defeat of Benazir Bhutto.<sup>12</sup> The case was pending for hearing before the Supreme Court when the military took over in 1999. The intelligence agency has played a key role in this exercise by keeping a close tab on the politicians during the long period of military rule. It was reported that in 1989, ISI was used to subvert the loyalties of PPP members. This case was exposed when audio tapes were submitted to the COAS which led to the dismissal of two officers in the operation codenamed "Midnight Jackal".

#### **Fourth Military Takeover: 1999-onwards**

General Pervez Musharraf, like his predecessor General Zia, has his own view of 'sustainable democracy' in which the COAS, as the President has a role for himself. To quote him, "I am involving myself in politics in the interest of democracy, maturing democracy and consolidating democracy".

Though the Supreme Court of Pakistan had entrusted the military government with authority to initiate only some necessary changes that will enable the military to achieve the goals set by itself while taking over power in 1999, it had made it clear that such amendments must not alter the federal and parliamentary character of the Constitution. An analysis of the changes introduced by the military government indicates that it has *substantially* altered the basic structure of parliamentary democracy. Article 270AA clearly enunciates that the validity of any provision made, or orders passed under relevant provisions as mandated by the Supreme Court, shall not be called in question in any court on any ground whatsoever. At the same time these provisions "shall have effect notwithstanding anything contained in the Constitution or any other Order or law for the time being in force".<sup>13</sup> The

amendments were justified on the ground that restoration of democracy without addressing underlying flaws may continue to fail to provide good governance; and therefore would not be sustainable. Returning to the *status quo ante* would render futile exertions of the government over the past three years<sup>14</sup>.

The military successfully co-opted an important pillar of democracy that would have functioned as a watchdog with the fresh oath administered under the Provisional Constitutional Order (PCO) to the judges of the Supreme Court and High Courts. It is not surprising that the judiciary supported General Musharraf in his quest to entrench the military in the political sphere. It is worth quoting to quote the Federal Court in detail while ruling in the Syed Zafar Ali Shah case in 2000:

(i) All acts or legislative measures which are in accordance with, or could have been made under the 1973 Constitution, including the power to amend it; All acts which tend to advance or promote the good of the people; All acts required to be done for the ordinary orderly running of the State; and a such measures as would establish or lead to the establishment of the declared objectives of the Chief Executive.

(ii) That Constitutional amendments by the Chief Executive can be resorted to only if the Constitution fails to provide a solution for attainment of his declared objectives in ordinary orderly running of the State; and a such measures as would establish or lead to the establishment of the declared objectives of the Chief Executive.

However, the ruling emphasised that no amendment shall be made to the salient features of the Constitution, i.e., independence of judiciary, federalism, parliamentary form of government blended with Islamic provisions.”<sup>15</sup>

The Zafar Ali Shah case should be understood in the context of the PCO No. 1, 2000 to fathom the arguments of the military government. It reads, “Whereas Pakistan is to be governed, as nearly as may be, in accordance with the Constitution, the Chief Executive has and shall be deemed always to have had, the power to amend the Constitution.”<sup>16</sup> Before the civilian government was installed it was the Army that modeled the Constitutional architecture. The judges of the superior courts were given three years extension as a *quid pro quo*.<sup>17</sup> However, as a matter of political settlement to make the LFO a part of the Constitution, the judges who had got extension took retirement according to the amendments that were brought into the Constitution.

A brief analysis will bring out some salient features of the military’s conception of sustainable democracy. These are the issues that have been highlighted by almost all the military regimes in the past.

## **Pakistan Military's Concept of Democracy: The Case of the National Security Council**

The concept of a National Security Council is not an innovative idea. Ayub had constituted a National Advisory Council to provide a civilian mask to his decision-making process. It was the *khaki* which dominated. Gen. Yahya Khan had also formed an NSC, though the actual decision-making capability vested with the Army. Zia had incorporated Article 152-A in the Constitution for establishment of the NSC. But he abolished it later and preferred Article 58-2b to have leverage in the decision-making process.<sup>18</sup>

Gen Zia wanted to *share* power rather than transfer it to the civilian government when he proposed the Eighth Amendment to the Constitution. It is interesting to note that to please the military patrons — without which some of the politicians would not even be able to be elected or to hold on to power — the politicians have been supportive of the idea of NSC as a consultative body. In 1984, at a conference of MLAs, a proposal was made for a Military Council as a crisis management body to deal with political impasse. Its members would be the Prime Minister, the Chief Ministers of the four provinces, leader of opposition, the service chiefs and the Chairman of JCSC.<sup>19</sup> Due to the opposition to formalising a role for the Army by making it a part of the Constitution, Article 58(2b) was passed. It served the purposes of the Army. The blame of misgovernance and corruption was often placed on the civilian governments and the Army took 'credit' for ensuring political stability. This is evident from the many occasions when this Article has been evoked.

During Mairaj Khalid's caretaker government, in 1997, the formation of a Council for Defence and National Security was announced (January 6, 1997) through an ordinance. It gave meaning to the role of President, as Supreme Commander of the Armed Forces, in ensuring that there would be no friction or misunderstanding between the President and the Prime Minister in the future.<sup>20</sup> L

Later, Nawaz Sharif's government, let the Ordinance lapse. Moreover, Sharif knew the Army already had a dominant role through Article 58 (2b) till he repealed it in 1997. The civilian government's intolerance to such a concept which envisaged a formal role for the Army can be gauged from the fact that General Jehangir Karamat was asked to resign after he expressed his opinion on the necessity of the NSC. The civilian government preferred the Defence Committee of the Cabinet to take decisions only on matters pertaining to defence. But these meetings were rarely held. According to Nasim Zehra, before the October 1999 military coup, a

blueprint for the Cabinet Committee on Defence and National Security was prepared. Gen. Musharraf agreed to it.<sup>21</sup>

The present National Security Council is a non-executive consultative forum. It comprises of the President as Chairman of the NSC, the Prime Minister, the Senate Chairman, the Speaker of the National Assembly, the leader of Opposition, four Chief Ministers, Chairman of JCSC and the three service Chiefs. The role of the National Security Council is broad. Its mandate is to deal with matters pertaining to Islamic ideology, national security, sovereignty, integrity and solidarity. The scope includes matters relating to democracy, governance and inter-provincial harmony. The President has discretionary power to take decisions. The role of the NSC would be advisory and not binding. The NSC would have consultative power to offer recommendations to the federal or provincial cabinets on dissolution of National and Provincial Assemblies and the proclamation of Emergency.

A reason behind the Constitution of National Security Council as stated in the LFO is that the council would provide a forum to the President to influence the “federal and provincial governments to consolidate and continue the reform process”. According to General Tanvir Naqvi, Chairman of the National Reconstruction Board who finalised the LFO, “The Army has a role, which is a *de facto* role” and “that role should disappear”<sup>22</sup> with the NSC coming into being. There was opposition to formalise the NSC. As a compromise between the ruling party and the MMA, a bill has been introduced in the National Assembly with the word ‘crisis management’ in its scope. This would enable the Pakistan President to appoint any number of governors, democrats, bureaucrats and technocrats to the proposed NSC.<sup>23</sup>

MMA’s decision to support passage of the LFO as a part of the Constitution is clearly seen by other opposition parties as a sell out. Other liberal, secular parties did not want the Army designed amendments to be part of the Constitution without being a debate in the National Assembly. There are many political parties willing to do the Army’s bidding. Moreover, even with cosmetic changes to the earlier amendments brought in by General Musharraf’s regime, it is clear that with or without the National Security Council the Army continues to be the most significant political player in Pakistan.

### **President’s Prime Minister**

The President would have the power to select any member of the National Assembly as the Prime Minister, who in his opinion, is most likely to command

the confidence of the majority of the members under Article 91(2A). But the President would retain the power to decide whether the cabinet is abusing its authority, failing to check corruption, compromising on national security or violating the Constitution. This is because checks are necessary to put checks on the powers of the Prime Minister if there is clear conflict of interest.<sup>24</sup> Currently, the National Assembly would stand dissolved within 48 hours after the PM renders such advice to the President.

The Government has reintroduced Article 58 (2b) to empower the President to dismiss the Prime Minister and the Cabinet at his discretion; where, in his opinion, “a situation has arisen in which the government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary”. A new Article has been added presumably, to prevent the President from acting in an arbitrary manner. According to this provision any application of Article 58 (2b) would be referred to the Supreme Court within 15 days of dissolution and the Court is to give its judgement within 30 days after the matter is referred to it. The decision of the court would be final. Given weak institutions and political nature of appointments judiciary, would be seen as immune to politics of Pakistan. It is not clear how a reference to the Supreme Court would be a protective shield against the misuse of Article 58 (2b).<sup>25</sup> Though the retirement age of the judges has been reduced unless and until their appointment and tenure are free from political manipulation, it would be difficult for the judiciary to emerge as a protector of civil and constitutional rights. However, a significant part of the Pakistani political culture is that, with or without constitutional approval, the Army is the sole arbiter of the politics and defines the power of civilian governments.

The power of the Prime Minister to appoint Service Chiefs has been withdrawn. However, the discretionary power has been changed to consultation with the Prime Minister as a compromise with the Opposition. Article 243 has a new clause which reads, “The President shall in consultation with the Prime Minister, appoint (a) the Chairman JCSC; (b) the Chief of the Army, Navy and the Air Staff and shall determine their salaries and allowances.”<sup>26</sup> The President would have the power to dismiss them “in consultation with the Prime Minister”, the Chairman of the Joint Staff Committee, all the Service Chiefs and the provincial governors.

In Article 101, Clause 1 in appointing Governors, the President does not have to act “on the advice of the PM”. It is modified to “consultation with” the Prime Minister. However, their functioning and survival depends on the pleasure of the President. Article 112-2B has been restored. This would give power to the Governors to dissolve the Provincial Assembly after consulting the President. An

additional Sub-Clause 3 is enjoined in the reference of the matter to the Supreme Court.

General Musharraf said that with the revival of the Constitution, everything is going to be reviewed by the National Security Council. But this would be achieved only after the NSC bill is passed by both houses of the National Assembly. To quote him, "I have approved NSC despite its opposition."<sup>27</sup> MMA feels that it has got a major victory. Moreover, the General's decision to give up the post of Army Chief by the end of this year is also cited as a victory. It is important to mention here that the Government took almost a year to reach an agreement with the Opposition on the contours of the LFO. At the same time, the Opposition was lured to support the Government. MMA has its own political compulsions to make a deal with the military.

### **Blasphemy Law and Joint Electorate System**

One of the significant aspects of the recent amendments is the restoration of the joint electorate system. However, the challenges to exercise political freedom by minorities would be constrained by the existing blasphemy law. The agitation for enacting the blasphemy law started in the 1980s. It was felt that the Penal Code chapter on offences relating to religion did not provide for punishing those who insult the Holy Prophet. Matters related to hurting religious sentiments were incorporated through Sections 295, 296, 297 and 298 of the Penal Code of 1860 and later in 1927, a new Section was added (295-A) which intends to deal with 'deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religious beliefs'. However, the orthodox clerics pressed for a more radical blasphemy law.

Thus, a new Section (295-C) prescribing the death penalty for blasphemy against the Prophet<sup>28</sup> was added after 1985. The Bill was challenged in the federal Shariat court and the court upheld death penalty after criminal intent is established. It also called for an addition to Section 295-C to make blasphemous utterances/gestures against other prophets liable to the same punishment. The Government is reluctant to repeal the law.

In May 1994, Benazir Bhutto's cabinet gave approval to two amendments in the Blasphemy Law 295-C to safeguard it against any misuse.<sup>29</sup> The police could only register a case under this law after a competent court had ascertained and confirmed that there was enough substance to warrant such registration. Secondly, anyone making false allegations would be liable to severe punishment of a ten-

year prison term. This is one of the most abused laws.<sup>30</sup> Even small quarrels involving land are implicated under the Blasphemy Act to settle a score that has nothing to do with religion. In this context, restoration of the joint electorate system would not help because the minority would be constrained to express their views openly.

### **Elitist Democracy**

The introduction of graduation as the minimum educational qualification to contest in elections to the National and Provincial Assemblies will affect the poor people who do not have access to education. Pakistan does not boast of a high literacy rate and this qualification would introduce an elitist paradigm. According to the Economic Survey of Pakistan, access to higher education is 2.6 per cent. The national education budget which was 2 per cent in 1995-96 is reduced to 1.7 per cent of the GDP in 2002-2003.<sup>31</sup> While Pakistani society is highly feudal, the voters could be manipulated to vote for particular candidates. The Supreme Court has upheld the requirement for a candidate to be a qualified graduate. However, the implementation of this decision would disqualify some 41 per cent of those in the last Parliament.

### **Strengthening Democracy: Other Amendments**

The Political Party Act introduced by Gen. Musharraf has created problems for the leaders who have Charisma. The graduate requirement has debarred many veteran politicians from contesting while madarassa education was put at par with university degrees. But the clause that debar a person who is facing charges or is convicted by the courts of Pakistan on charges of corruption, etc., to lead the Party in the election is politically motivated. This created problems for major political parties like the PPP and PML (N) and MQM. The motive has been to encourage second rung leadership to dismantle the hold of leaders like Benazir, Nawaz and Altaf Hussain and drive a wedge in the party. It is not surprising that the military was able to break the PPP (Parliamentarian) that re-emerged as PPP (Patriot) which cast their vote in favour of Jamali in the crucial confidence vote in December 2002.

Chapter 1, Clause 9 of Chief Executive Order No. 18 of 2002 states that the holder of public offices<sup>32</sup> shall not hold any official position in any political party. This makes it imperative for the holder of the public office to be sensitive to the demands and expectations of the political parties to have a control over the party. However, it is likely that the person who would be the chairman of the party can be manipulated to rise against the elected member. One important aspect that has

been introduced, however, is vote of conscience under the 14<sup>th</sup> Amendment of the Constitution, which frees a member to act independently. This can lead to the manipulation of the elected members to serve the interests of the regime.

Another significant change is that the Senate is made more powerful in money bills. In previous parliaments it did not have a role. The present amendments have made it mandatory that a copy of the money bill would be presented to the Senate and the Senate can make recommendations within seven days. However, it is the prerogative of the National Assembly to incorporate the recommendations before it is presented to the President for his assent. The Senate has been given an equal role in other legislation. It also has been given double weighted votes in joint sittings and for the election of the President. A Mediation Committee of equal members from each House has been established to iron out differences between the Senate and the National Assembly.

### **Army's 'Sustainable Democracy': Problems and Prospects**

The Supreme Court's approval of the Army's intervention through the 'doctrine of necessity' has, in practice, become a legitimising principle for the Pakistan Army. The new political dispensation is too weak to challenge the military establishment. Many of the political actors in Pakistani politics today are mere proxies who have provided a democratic face to General Musharraf. Being vulnerable to manipulation, Pakistan's democracy would be sustainable as long as the military wants it.

Since the coverage of national issues by the NSC is vast, the President's discretionary powers are also a matter of concern. The NSC is expected to provide a forum for the President to influence the "federal and provincial governments to consolidate and continue the reform process." These broad all-encompassing functions of the NSC would take away the legitimate power of the Prime Minister.

Regarding stability, the PM in connivance with the Army Chief can act against the President, or the President in league with the Army can destabilise the Prime Minister. However, the troika system suggests that the President would heed the Army Chief rather than the Prime Minister and the NSC could lead to structural politicisation of the Army. According to an analyst, "it sends signals to all future military commanders regarding their political role."<sup>33</sup> As General Musharraf himself said, "Include him (the Army Chief) to exclude him."<sup>34</sup> Perhaps this is the operative principle in Pakistan till democracy is institutionalised with checks and balances. The pretext to interfere has always been protection of the national interest as perceived and defined by the Army.

The compromise reached between the Government and the MMA regarding the Legal Framework Order resolved the deadlock in the Parliament. Constituent parties of the Alliance for Restoration of Democracy have accused the MMA of selling out the interests of democracy. Passage of the LFO with minor changes to the original draft attest to the fact indicates that the ruling PML-Q, a protégé of the military, has struck a deal with the MMA while sidelining the mainstream political parties.<sup>35</sup> Even the six-party-alliance MMA, which pitched its demands high, developed cracks from within if media reports are to be believed.<sup>36</sup>

MMA also received a setback when the Peshawar High Court refused to equate Madarssa sanads with graduation degree. The Attorney General said that a madrassa sanad is not equivalent to a bachelor's degree. Citing a 1973 National Assembly resolution he said, that madrassa sanads are only equivalent to graduation only for 'teaching' purposes. The matter is pending before the Supreme Court.

There exist differences over the authority of the provincial government and the nazims regarding the usage of developmental funds and transfer of officials. Though the provincial governments are not satisfied with the functioning of nazims, they cannot change the power structure without the consent of the President. This is because the LFO has placed the local government in Schedule 6 and such actions which require the President's approval.

While addressing newspaper editors and columnists on April 24, 2003, General Musharraf said that though he realises that the post of President and Army Chief should not be occupied by the same person, he is constrained due to the fact that Pakistan needs national solidarity under his leadership when the country is in a 'take off stage'. He continued: "In this transition, all institutions as well as Army and civil administration must show solidarity. I have a role in this solidarity. The essential point is that the whole nation has to be taken together. I will stay in uniform and there is no doubt."<sup>37</sup> However, he said that he would give up his uniform in December but there would not be much change in the primacy of the Army.<sup>38</sup> The Pakistani press is rife with speculation on whether he really intends to do so. In his meeting with the PPP (P) Members of Parliament on April 12, 2004, Musharraf categorically said, the decision to quit the post of COAS should be left to him.

Table-1 shows that military governments have been better in overall growth of the economy while democratic governments have had greater pro-poor programmes.<sup>39</sup>

The future of democracy in Pakistan would largely depend on political parties and interest groups, including civil society.<sup>40</sup> As Hasan Askari Rizvi points out, the responsibilities for military interventions lie with the politicians.<sup>41</sup>

**Table-1: Performance by Military and Democratic Governments in Pakistan, 1947-99**

Indicator	Performance By	
	Military Governments	Democratic Governments
Change In:		
Real per Capita Income* (% growth)	3.1	1.5
Employment (% growth)	2.2	2.5
Incidence of Poverty** (% growth)	-0.4	-0.4
Literacy Rate (% point)	0.5	0.8
Primary School Enrolment (% growth)	5.0	7.8
Female Primary School Enrolment (% growth)	7.7	9.8
Life Expectancy-Male (number of years)	0.8	0.4
Life Expectancy-Female (number of years)	0.9	0.4
Mortality Rate (number per 1,000)	-0.2	-2.1
Hospital Beds (% growth)	3.4	4.0

\* from 1949-50

\*\* from 1963-64

*Source:* Social development in Pakistan: Towards Poverty Reduction, Annual Review (Karachi: Social Policy and Development Centre, Oxford University Press, 2000), p. 122.

*Note:* Military led governments from 1958 to 1971 and from 1977 to 1985; democratic governments from 1947 to 1958, from 1971 to 1977, and from 1985 to 1999.

Though the media has played an important role in generating opinion, it needs to be supported by civil society and the political parties. The future of Pakistan's may lie in a system guided by the military where political parties would play the role defined for them by the Army. And, Pakistan's political system would remain vulnerable to manipulation by the military. The military in all the four instances of taking over powers, has tried to 'civilianise' the Army<sup>42</sup> and introduced a system

of government that would not challenge its primacy. Moreover, it has been protective about its institutional interest at the cost of democracy. While the political space is contested between the Army and the civilian government, the military has the acumen, cohesiveness and an image of efficiency. It is also perceived as uncorrupt. This is the sphere that the Army has been able to occupy in peoples' minds and this is where its legitimacy lies to an extent.

### References/End Notes

- 1 Ayub asked the President to write a letter to the Prime Minister that he has taken the decision to appoint Ayub as President and CMLA. See Ayub Khan, *Friends not Masters*. 1967. Oxford University Press; London. p. 67.
- 2 Jalal, Ayesha, *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence*. 1999. Vanguard; Lahore. p.175.
- 3 Gauhar, Altaf, *Ayub Khan: Pakistan's First Military Ruler*. 1993. Sang-e-Meel; Lahore. p.191.
- 4 Khan, Ayub, no. 1, p. 58. For details regarding Army's view on democracy see Stephen Cohen, *The Pakistan Army*. 1998. Oxford University Press; Karachi. pp. 105-113.
- 5 The EBDO gave politicians who are charged of corruption with two options: either being tried for misconduct or being disqualified from engaging in political activities for seven years.
- 6 Gauhar, Altaf, no.3, p. 257.
- 7 Ayub Khan's broadcast to the nation March 1, 1972. *In Rais Ahmad Jafri Ed. Ayub: Soldier & Statesman*. 1966. Mohammad Ali Academy; Lahore. p.97.
- 8 Ayub's speech at the reception held in President's honour by the Lahore High Court Bar Association on April 27, 1962, see Rais Ahmad Jafri, *Ibid*, p.113.
- 9 As cited in A.L. Khatib, *Who Killed Mujib*. 1981, Vikas; Delhi. p.89.
- 10 Mahmood, Safdar, *Studies in the Constitution of Pakistan 1973*. 2000. Macmillan; Lahore. p.147.
- 11 The Mehran Bank scandal had cost Rs 9.92 billion to the national exchequer. For the report see Rauf Klasra, *Shujaat Says Beg offered him Massive Funds. The News*. April 23, 2003. Those who were accused of receiving Rs 140 million were Nawaz Sharif, Farooq Leghari, Jam Sadiq, Altaf Hussain, Yousaf Memon, Javed Hashmi, Liaquat Jatoi, Afaq Ahmad, Imtiaz Sheikh, Ajmal Khan, Jam Mashooq, Dost Mohammad Faizi and Adnan son of Sartaj Aziz.
- 12 Abbas, Zafar, *True Confessions? The Herald*. July 1996. p.15.
- 13 *Gazette of Pakistan, Extraordinary. Part-I. Publication Wing. Government of Pakistan*. August 21, 2002. p. 1033 and 1047.

- 14 Proposals of the Government of Pakistan on the Establishment of Sustainable Federal Democracy-Package Part-I. For Public Commentary by June 31, 2002, Government of Pakistan, June 26, 2002, p.2.
- 15 See [supremecourt.gov.pk/judgements/J10.htm](http://supremecourt.gov.pk/judgements/J10.htm)
- 16 Text of the PCO no.1. *The Herald*. February 24, 2000.
- 17 Chief Justice Irshad Hasan Khan who had upheld the military rule and had granted three year period to the Chief Executive was later made as Chief Election Commission of Pakistan. Justice Khokhar, was given an out-of-turn appointment as a Supreme Court judge even though he was a junior judge of the Lahore High Court (placed at no.13 in the seniority list). The out-of-turn appointment of Justice Iftikhar Chaudhry who succeeded Justice Falak Sher as Chief Justice of the Lahore High Court in February 2000 was also important to the political future of General Musharraf. He reciprocated the General's gesture by declaring that Gen. Musharraf could at once hold the offices of the President of Pakistan and the COAS under the Constitution. For details see Ijaz Hussain, "The Cancer in Pakistan Judiciary Metastasized". *South Asia Tribune*. September 7-13, 2003 (58) at [www.satribune.com](http://www.satribune.com)
- 18 The proposed NSC was to make recommendations relating to the issue of proclamation of Emergency, security of Pakistan and any other matter of national importance that may be referred to it by the President in consultation with the Prime Minister. This was later withdrawn in favour of Article 58 (2b).
- 19 Arif, K.M., *Working with Zia: Pakistan Power Politics 1977-1988*. 1995. Oxford University Press; Karachi. p.225
- 20 Khan, Roedad, *Pakistan: A Dream Gone Sour*. 2001. Oxford University Press; Karachi. p.215. The 1997 CDNS had the power to advise the Government on determination of national strategy and fixation of priorities, formulation of defence policy in accordance with national strategic objectives, coordination of defence policy with external and internal policies, definition of the task of armed forces of Pakistan, economic and financial policies affecting defence and national security, recommendations on matters relating to internal security, proclamations of emergency. For a detailed agenda of the NSC, see no. 14, and [www.pak.gov.pk](http://www.pak.gov.pk)
- 21 Zehra, Nasim, National Security Council. *The News*. July 26, 2002.
- 22 See the interview by Syed Ali Dayan Hasan with General Tanvir Naqvi, We Only Had Three Years of Democracy — From 1985-88. *The Herald*. July 2002, p.29
- 23 Klasra, Rauf, President to Have Power to Appoint NSC Members. *News International*. February 29, 2004.
- 24 no. 14, p.6.
- 25 All the military takeovers were upheld by the Supreme Court except for Gen Yahya Khan's. However, the Court declared Gen Yahya's Khan's military takeover as illegal after he had resigned and under changed circumstances. Similarly, Ahmad Khan Junejo's dismissal by Gen. Zia in 1987 was declared illegal after the death of Gen. Zia. This led to his son to boast publicly that this judgement would not have come

if his father had been alive. The only time the Supreme Court restored the government is when Nawaz Sharif was dismissed by President Ishaq Khan in 1993 which led to the resignation of the President and fresh election was ordered with Army's intervention.

- 26 Shaikh, Shakil, Article 58 (2b) Restored. *News International*. August 22, 2002.
- 27 NSC Approved Despite Opposition. *News International*. August 22, 2002.
- 28 "295-C, Use of derogatory remarks etc., in respect of the Holy Prophet: Whoever by words, either spoken or written, or by visible representation, or by imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (Peace be Upon Him) shall be punished with death, or imprisonment for life, and shall also be liable to fine". See I.A.Rehman, The Flaw of the Law. *Newsline*. June 1998. pp. 73-74.
- 29 The courage to introduce amendment however was born out of an incident which is worth mentioning Sajjid Farooq, who is a Hafiz-e-Quran (Knows Quran very well) was stoned to death by a mob after being accused of burning a copy of Holy Quran.
- 30 For example: In a case where a Hindu inspector of the tax department along with the Army monitor went to collect tax return form from the shop keepers in the Sadar area of Hyderabad in Sindh, the shopkeeper alleged that the Hindu inspector threatened them and told a shopkeeper to grab them by their beard resulting in the Inspector being lodged in the jail on Blasphemy charges. See Khaled Ahmed, Plight of Hindus in Sindh and Balochistan. *Friday Times*. May 14-20, 2004 at [www.thefridaytimes.com](http://www.thefridaytimes.com)
- 31 *Economic Survey of Pakistan 2003* at [www.finance.gov.pk/survey/chapters/11-education-pdf](http://www.finance.gov.pk/survey/chapters/11-education-pdf)
- 32 Holder of the public office refers to the President, Prime Minister, Governor, Chief Minister, Chairman Senate, Speaker, Deputy Speaker, Federal Minister, Minister of State, Provincial Minister, Advisor, Special Assistant to the Prime Minister or Chief Minister and holders of elective executive offices as may be modified by the federal government for the purpose. See Government of Pakistan, Ministry of Law, Justice, Human Rights and Parliamentary Affairs, Chief Executive Order No. 18, F.No.2 (4) 2002, p.9.
- 33 Siddiq, Ayesha, "NSC and After". April 16-22, 2004 at [www.thefridaytimes.com](http://www.thefridaytimes.com)
- 34 Bokhari, Farhan, Musharraf Says He Will Stay in Uniform. *News International*. April 25, 2003, See [www.jang.com.pk/thenews](http://www.jang.com.pk/thenews).
- 35 248 voted in favour and none against the amendments with the Alliance for Restoration of Democracy absenting during the voting. NA adopts 17th Amendment Bill. The News International. December 30, 2003. From the Opposition, S.M. Zafar, Senator, PML-Q Dr Sher Afghan, MNA-Patriots, Syed Safwanullah, MNA-MQM, A.R.Thahim, Senator-PML-F, Riaz Hussain Pirzada, MNA-National alliance. From the Opposition: Liaquat Baloch, MNA-MMA, Hafiz Hussain Ahmed, Senator MMA, Aitzaz Ahsan, MNA-PPPP, Chaudhury Nishat Ali Khan-MNA-PML-N, Sardar Latif Ahmed Khosa, MNA-PPPP. Later, the agreement was reached between the MMA and the Government, sidelining other political parties.

- 36 See Rauf Klasra's report, Sajid Mir Differs with MMA. *News International*. December 30, 2003. Sajid Mir is the Vice-President of the MMA.
- 37 *State of Democracy in Pakistan Report*. Revival of Democracy in Pakistan-Second Quarter. PILDAT. See [www.pildat.org](http://www.pildat.org)
- 38 Siddiq, Ayesha, Musharraf's Successor. *The Friday Times*. March 19-25, 2004. Also see Ijaz Haider, "To Survive, Musharraf Should Stay as Army Chief". April 1-July 26, 2002 at [www.thefridaytimes.com](http://www.thefridaytimes.com)
- 39 Social Development in Pakistan: Towards Poverty Reduction. *Annual Review*. 2000. Social Policy and Development Centre, Oxford University Press; Karachi. p.122. According to this study, poverty actually increased during Ayub's period though the industries saw growth. Bhutto's government saw low growth and high inflation but had pro poor policy because due to populist politics Bhutto tried to stabilize the prices of essential commodities. Remittances from the gulf played an important role during Gen Zia's period to boost economic growth. However, during Zia's period public debt increased. Democratic government could not do much as accumulation of debt reduced fiscal capacity for development expenditure and pre-empted expansion of public sector. Moreover due to Gulf war worker remittance was extremely low. pp. 122-124
- 40 For a detailed analysis see Smruti S Pattanaik, Governing a 'Security State': Prospects of Democracy in Pakistan. *Strategic Analysis*. July 2001, 411-435.
- 41 Rizvi, Hassan Askari, Military and Politics in Pakistan. 1976. Progressive Publishers; Lahore. p. 296.
- 42 Ibid., p.10.

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