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by Naveeda Khan

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Statement by the Editorial Advisory Committee

Zia Mian, *Princeton University*

Saba Gul Khattak, *SDPI, Islamabad*

Shahnaz Rouse, *Sarah Lawrence College*

Kamran Asdar Ali, *University of Texas-Austin*

Itty Abraham, *University of Texas-Austin*

Veena Das, *Johns Hopkins University*

In November 2007, eight years after he first seized power in a coup, and six years after declaring himself president of Pakistan, General Pervez Musharraf declared a state of emergency, suspended the Constitution and basic rights, and dismissed the Supreme Court. Musharraf claimed that the emergency was needed to stem the growing Islamic militancy in Pakistan. But his Proclamation of Emergency was a litany of complaints about the Pakistani courts, the only branch of government that the general and his army did not control, for having “weakened the writ of the government.” Musharraf also banned independent television and clamped down on the print media, because he said it was “demoralizing the nation.” Washington was alerted to Musharraf’s impending action. Admiral William Fallon, the head of US military forces in West Asia, met Musharraf in Islamabad the day before the coup, and is reported to have warned the general against declaring an emergency. US officials said that

“General Musharraf had been offering private assurances that any emergency declaration would be short-lived.”

Musharraf’s actions incited protests across the country, led by lawyers, human rights and democracy activists, students and civil society groups. These have been met with tear gas, beatings and mass arrests. The government admitted to detaining over 5000 people. After 42 days, Musharraf gave up the post of Chief of Army Staff, announced the ‘lifting’ of the emergency and said the constitution was being restored. The restored constitution has been amended by decree to protect Musharraf from legal challenge and gives him enhanced powers as president. He has also appointed a new Supreme Court, established a law to allow military courts to try civilians, and imposed restriction on the media specifically preventing criticism of him and the army.

Pakistan has been here before, as have many of its neighbours in South Asia. Insecure and undemocratic leaders, weak regimes, a society that cannot hold its state machinery in check. It is far from certain that these steps will give Musharraf the unchecked power or the legitimacy that he and the army seek. The crisis in Pakistan may be too deep and too fundamental for such easy solutions.

The test for Musharraf, his supporters, and his opponents will come with the January 2008 elections. The Musharraf government is widely expected to rig these elections if only to ensure that its opponents do not win a clear majority and threaten Musharraf’s continued role as President. Washington has already accepted that “It’s not going to be a perfect election.” A recent poll found that 70 percent of Pakistanis

believed the Musharraf government did not deserve re-election and 67 percent wanted Musharraf to resign immediately. The protest movement against Musharraf and the army may gather new momentum. But Pakistan's civil society is poorly equipped for a long and difficult struggle against a determined military regime. It will need to find ways to mobilise large numbers of ordinary people, for whom the real concerns are not elections but the economy and the problem of making ends meet amid rising inflation.

The essays gathered here open a small window onto the drama unfolding in Pakistan. They seek to illuminate some of underlying political, social and economic issues that are shaping the crisis. The essays include both current writing and work of historical importance. They cover, among other topics:

- The politics of the emergency and Pakistan's elites;
- The hidden narratives of oppression, discrimination and the subaltern;
- Change and continuity in the economy;
- The politics of Pakistan's 'war on terror' and the role of the United States.

December 21, 2007

Rule Of Force Vs. Rule Of Law In Pakistan

By Zia Mian and A.H. Nayyar

In a desperate bid to stay in power, General Pervez Musharraf staged a coup against the rule of law in Pakistan in November this year. His declaration of martial law, suspension of the constitution and basic rights was aimed at overthrowing Pakistan's Supreme Court.

Faced with choice of being president and being bound by the constitution or chief of the army and ruling by diktat, Musharraf chose khaki and force. His coup announcement is titled "Proclamation of Emergency declared by Chief of the Army Staff General Pervez Musharraf" and ends "I hereby order and proclaim that the Constitution of the Islamic Republic of Pakistan shall remain in abeyance."

Musharraf's proclamation is a litany of complaints about the courts. The Supreme Court was the only branch of government Musharraf and the army did not control. In the eight years since his October 1999 seizure of power, Musharraf has rigged parliamentary elections to give himself a majority, hand-picked his prime minister, and replaced many senior generals. His control, and through him that of the army leadership, over government and the state was nearly complete. But none of this was enough to give him either the unchecked power or the legitimacy that he wanted.

Supreme Court

Musharraf complained in particular that Pakistan's courts, and especially the Supreme Court, were subverting the administration. His proclamation claims that the Court's "constant interference in executive functions, including but not limited to the control of terrorist activity, economic policy, price controls, downsizing of corporations and urban planning, has weakened the writ of the government." It laments "the humiliating treatment meted to government officials by some members of the judiciary on a routine basis during court proceedings."

A particular concern was the Supreme Court taking up the cases of the hundreds of people picked up in recent years by law enforcement agencies without warrants and held in custody, without charge or trial. The demands for due process and habeas corpus proved fruitless as officials simply lied to the courts about the people they were holding.

The Human Rights Commission of Pakistan was finally able to convince the Supreme Court to act. The Court began to summon senior officials and demanded the government produce the detained people in court. It threatened senior law enforcement officials with contempt of court and jail if they did not comply and was considering calling the chiefs of the armed forces to answer to the court. The system cracked and the disappeared started appearing.

Iftikhar Chaudhry, the chief justice of Pakistan's Supreme Court, emerged as a key figure in confronting the arbitrary exercise of power

by the government. General Musharraf responded earlier this year by firing him, triggering a national movement led by lawyers for the justice's restoration. It attracted a lot of public support, reflecting the widespread disenchantment with the eight years of Musharraf's rule. Across the country, large crowds lined the roads and assembled to see and hear the chief justice. The other judges of the Supreme Court declared that the chief justice must be reinstated and Musharraf had to back down.

The Court has returned to the cases of illegal detention. It also sentenced seven senior officials to suspended jail terms for manhandling the chief justice during the campaign for his reinstatement.

Islamic Militancy

General Musharraf has also claimed that the courts are hampering his efforts to stem the Islamic militancy in the tribal areas, the creeping talibanization of Pakistan's northwestern province, and the suicide bombing that have erupted across major cities over the past few years. But the Courts have only insisted on the rule of law. Musharraf's failure to effectively counter the militancy springs from more other causes.

The most important problem has been the military regime itself and its policies towards the Islamic political parties and militants. In need of some kind of political cover after seizing power in 1999, Musharraf and his generals cobbled together an alliance of opportunistic politicians, defectors from other parties and the Islamist political parties. This

included the most radical and violent militant groups, which the army, led by Musharraf, had organized and used in the war against India in the Kargil region of Kashmir in the spring of 1999. This military-mullah alliance in Pakistan stretches back over 30 years, and was central in the U.S.-backed jihad against the Soviet Union in Afghanistan of the 1980s and the Kashmir insurgency of the 1990s.

When not offering direct support, the Musharraf regime has preferred neglect and appeasement of Islamist political parties and militants. Islamic laws are allowed to stay on the books. Militant groups are grudgingly banned in public and privately allowed to operate. Whether in the tribal areas of Waziristan or the militant take-over of the Red Mosque in the heart of Islamabad, Musharraf and his generals preferred to ignore it, and then make concessions to the militants in the vain hope that the problem would go away.

Second Coup

The government has responded to the militancy only when domestic and international demands to do something became overwhelming. But instead of a legal, politically measured, and thought-out response that is part of a long-term policy to counter the militancy, Musharraf and his generals have responded time and again with a spasm. They unleash a dramatic show of force including artillery, helicopter gunships and air strikes, which inevitably result in large numbers of civilian deaths and injuries, inflame public opinion, and stoke the militancy.

At the heart of Musharraf's second coup, and what has determined its timing and character, is not an activist court, illegal detentions or the militancy. The Court had begun to hear challenges to Musharraf's role as both chief of army Staff and president of the republic. Pakistan's constitution explicitly forbids holding both positions. A showdown was imminent. It has been claimed that a Supreme Court judge told the government that the court was set to rule against Musharraf.

Musharraf ended this threat by removing the chief justice and most of the rest of the Supreme Court. Before they were bundled out of the Supreme Court building, seven of the justices, including the chief justice, issued an order declaring Musharraf's proclamation of emergency to be unconstitutional and called on government officials and the armed forces to refuse to obey it. In a message to the country's lawyers, the chief justice called for opposition.

The target of the coup is also obvious from the list of those who have been the first to be detained in the police raids: leaders of the Human Rights Commission of Pakistan, prominent lawyers, and pro-democracy activists. The goal is clearly to prevent a movement for democracy and rule of law that could confront General Musharraf and the larger structure of army rule in Pakistan.

Sharif and Bhutto

Protests have started across the country, led by lawyers and civil society groups. They have been met with tear gas and brute force. Thousands are reported to have been arrested. It is likely to be a determined campaign, building on the experience of the mobilization earlier this year. But Pakistan's civil society, while heroic, is fragile. It

is poorly equipped for a long and difficult struggle against a military regime. Central to any prospect of success will be Pakistan's major political parties, Benazir Bhutto's Pakistan Peoples Party and Nawaz Sharif's Pakistan Muslim League.

But both the Peoples Party and the Muslim League are led from the top-down. They are populist vehicles for their leaders, both of whom are former prime ministers, rather than well-rooted democratic political parties with resilient local structures. Further, the leaders of both parties are deeply compromised. With U.S. and British support, Bhutto recently made a deal with General Musharraf to drop all corruption charges against her and enable her return from exile to join a Musharraf-led government. She has summoned her party activists to the barricades, but she may be willing to negotiate terms with the General on power sharing.

Sharif was overthrown by Musharraf in his 1999 coup and agreed to go into exile in Saudi Arabia. His party will willingly join the fray but many in his party abandoned ship to join the rag-tag group of politicians assembled by General Musharraf as a fig leaf for his rule. Sharif also tried to return from exile but was bundled into a plane and sent back, despite a clear Supreme Court ruling that Sharif had the right to return to Pakistan. There were no major protests.

With the government at odds with the people, the police being tasked to crush pro-democracy activists, and chaos in the streets, the Islamic militants may try and take advantage of the unrest. They have already spread their influence far beyond the tribal and border areas and now control three major towns in the Swat valley, a few hours

drive from Islamabad. Government forces simply surrendered and handed over their weapons. Pakistani flags have been replaced by jihadi banners on public buildings. Across the country, there have been attacks on soldiers and police. The bombing that killed over 100 people in a Karachi rally welcoming Bhutto may be a sign of things to come.

Where's Washington?

Washington was alerted to the coup in advance. Admiral William Fallon, the head of U.S. forces in the Middle East met General Musharraf in Islamabad the day before the coup and is reported to have warned Musharraf about declaring an emergency. According to the *New York Times*, administration officials said "General Musharraf had been offering private assurances that any emergency declaration would be short-lived."

The Bush administration's response has been predictable thus far. General Musharraf's aides told the *Times* that in the crucial first few days after the coup there had been no phone calls from President George W. Bush or other leading U.S. officials demanding an immediate end to the martial law. The newspaper quotes Pakistan's minister of state for information as saying the United States "would rather have a stable Pakistan—albeit with some restrictive norms—than have more democracy." In short, Islamabad expected, rightly it turns out, that Washington would wring its hands, offer platitudes about restoring democracy, perhaps a token slap on the wrist, and keep on supporting General Musharraf. When President Bush did call, he told General Musharraf that "you ought to have elections soon."

Washington has invested heavily in General Musharraf and will not want to write this off. Since September 11, 2001, the United States has given enormous political and diplomatic support and over \$10 billion to Pakistan to buy General Musharraf's support for its "war on terror." It is a doomed policy.

The United States has supported all of Pakistan military dictators, politically and with guns and money, starting as long ago as 1958. In the 50 years since then, it has failed to learn that supporting Pakistan's generals and the army they command does little for Pakistan's people. Under American tutelage, the army has grown in size and developed a fierce appetite for high-tech expensive weapons, which now include nuclear weapons and ballistic missiles, and a habit of seizing power while people continue to struggle with grinding poverty and failing institutions. It is no wonder that the United States is deeply unpopular in Pakistan. A 2007 poll found that only 15% of Pakistanis had a favorable attitude towards the United States. This hostility toward the United States will only worsen as Pakistanis see the United States set aside democracy and the rule of law in favor of a general and his army.

To get out of this crisis, the international community must demand that General Musharraf immediately end his emergency, restore the constitution and Supreme Court, and fulfill his commitment to step down as chief of army staff. Having lost what little trust was vested in him by the country, Musharraf should also stand down as president. An interim administration could hold elections and let Pakistanis choose lawful leaders.

No one expects elections and a shift to civilian rule to be a panacea. And though Pakistanis have had bitter experiences with democracy, they still prefer it to the army. Elections can mark the start of the long and difficult task of building democratic institutions and creating a system of accountability and trust between government and people, state and society. This can bring Pakistanis some hope for the future, and foster confidence that democracy and the rule of law can deliver the justice that has so long been denied to them.

About the Authors

Zia Mian is Director, Project on Peace and Security in South Asia at Princeton University's Program on Science and Global Security.

A.H. Nayyar is the Executive Director of Developments in Literacy, a non-profit organization in Islamabad, Pakistan.

Musharraf and His Collaborators

By S. Akbar Zaidi

So much for President General Pervez Musharraf's policy of moderate enlightenment. Or was it, enlightened moderation? One forgets.

Whatever it was, it is probably buried under the events of the past few months following the announcement of the Emergency/Martial Law in Pakistan. It is not just that an Emergency has been enforced in Pakistan which is of importance, but its nature and form, are also of considerable interest.

The fact that the Supreme Court has been attacked by General Pervez Musharraf, and the Judges removed and/or asked to take a new oath, was perhaps the most expected response to any potential extra-constitutional move to be taken by the General. With the Supreme Court expected to rule on whether President General Musharraf was eligible to contest the election for President of Pakistan (after he had actually done so, one must add), there was growing speculation, that the Court could rule against him. There are few people if any, laypersons or analysts, who believe that Musharraf has imposed the Emergency for any "national interest," as he proclaimed, and there is agreement that this step was taken exclusively to save his own skin, and uniform.

The fact that the lawyers, who have become the vanguard in a popular struggle against Musharraf, would be targeted, was also probably expected. After 9 March this year when the Chief Justice of Pakistan was first removed, the main opposition in the streets of Pakistan, came from the lawyers all across Pakistan. That movement from March to September, was a popular protest against the interference of the President-General in the affairs of the highest judiciary. The lawyers first protested the removal of the Chief Justice, and occasionally the movement began to verbally attack the military as well. Importantly, political parties did not play a role of any significance in the lawyers' protests, and hence their movement always remained popular rather than political.

Occasionally, in the protests this year, the heavy handed arm of the military state also fell upon the media, particularly the electronic media which was reporting live, almost every public event of the Chief Justice and all his meetings. Media persons were roughed up and some television stations were ransacked by the police, all captured live on television. All forms of protest in the country were being beamed live for all to participate in. The current clampdown has this major difference, that for at least the first eight days, all private television channels, including those broadcasting news and analysis, sports, music, and even food programmes, were completely banned. Even international news channels have been blocked.

This attack on the media by the General-President affirms two things. Firstly, that this is an intolerant, dictatorial, repressive, regime, which has no patience with dissent, and for whom moderate

enlightenment has very different meanings than it does for most people. And, secondly, the recognition that the media now plays a major role in reporting events, and perhaps even forming public opinion. The electronic media has certainly arrived, and plays a critical role in the public sphere in Pakistan. Hence, it too, must now be controlled. How it emerges from the stringent fetters being imposed on it, will be one of the many interesting sites of struggle that will mark the immediate future of Pakistan.

The last eight years, certainly till March this year, had made many well-intentioned Pakistanis forget that President Pervez Musharraf was actually a General who is the Chief of Army Staff and that Pakistan was ruled by the army. Musharraf's demeanour and his clever posturing, both at home and particularly abroad, as the champion at the frontline state in the war against terrorism, resulted in the so-called Pakistani liberal elites supporting a President in uniform. They were quick to put aside the fact that Pakistan was ruled by an anti-democratic military General, on the grounds that he was a "liberal", and was a westernised and enlightened man. In October 1999, when Musharraf overthrew a democratically elected Prime Minister, many of Pakistan's "civil society" representatives rushed to welcome him with open arms, and many even collaborated and joined his cabinet. Following 9/11, all contradictions for civil society in supporting a military general, were quickly replaced by his so-called "liberal" credentials in the fight against Talibanisation and fundamentalism, both on Pakistan's border, but importantly, also at home.

The present crisis in Pakistan's politics, and it is indeed quite severe and on multiple fronts, has not been caused by the military or by General Musharraf alone. One expects the military to behave undemocratically and dictatorially. It does not represent civil society and nor does it have any ambitions or need, to bring about a real democratic transition. That is the task of civil society, liberal and most importantly, political actors and parties. Pakistan's civil society and its liberal elite has been concerned only with Musharraf's "lifestyle" liberal policies, and in the process, have ignored his antidemocratic, highly politically illiberal, stance. The choice for them has been "liberalism", where their lifestyles are protected, at the cost of democracy. This large, articulate and influential segment has been a key constituency in support of General Musharraf for much of these last seven years and a key factor in his largely untroubled longevity.

The Emergency has revealed the truth not just about Musharraf's moderate enlightenment, but also about Pakistan's liberal elite, as much as it has about the collaborationist and political leaders of Pakistan, most importantly, the antidemocratic leaders of the most popular political party, the Pakistan Peoples Party. At a time when General Musharraf's regime was on its knees during the lawyers' movement earlier this year, the leader of the Peoples party, Ms Benazir Bhutto, was cutting deals with General Musharraf in order to ensure her political future and fortune, a deal which was supposed to have rescued assets worth \$1.5 billion through a "reconciliation" Ordinance promulgated by Musharraf. The popular lawyers movement failed to become political precisely because Ms Bhutto preferred to enter the political arena through the back door.

At a moment when the Musharraf regime is again weak and vulnerable, this time with criticism from western countries as well, the one person who can rescue him and his regime, is Ms Benazir Bhutto. So far, Ms Bhutto has moved rather softly in her criticism against President General Musharraf. She has made the right kind of noises against the imposition of the Emergency, but one week into it, nothing confrontational against Musharraf. Their earlier deal, now probably with higher stakes, required Musharraf to give up his military post if Benazir would become his Prime Minister. Beyond repeating that demand, she has gone no further. There has been nothing said against the military or the state, nothing against a retired Musharraf as President. Benazir Bhutto is the only politician of any stature who is free in Pakistan today, with all minor and important politicians detained. All roads are still open for a deal between the two, the military General, preferably retired, and a so-called democratic politician. Pakistan's politics and its society, is about collaboration, not confrontation.

It is clear that both the General and the Prime Ministerial aspirant, are playing the waiting game, hoping that one gives in before the other, raising their own stakes. With Parliament to be dissolved and the Supreme Court to give its decisions about the Presidential elections, events will decide who plays what game. Ironically, despite collaborating with General Musharraf over the last few months and despite the antidemocratic stand taken by her, the choice rests more with Ms Bhutto than it does with General Musharraf. Ms Bhutto can agree to save General Musharraf's political future by agreeing to cut another, better, deal with him and perpetuate military rule under a

new arrangement. Or, she can, quite out of character, lead a truly democratic struggle, not just against the Emergency, but against General Musharraf and against military rule. However, whatever option she, or anyone else, chooses, Pakistan's present political crisis is unlikely to be addressed in the short term.

The Emergency/Martial Law is a temporary measure, the presence of the army, a permanent problem. What is sad, is that most Pakistanis have now come to accept the state of military rule in Pakistan. Since 1999, things have moved comfortably for Musharraf, and only earlier this year, did he make his first big mistake. Prior to his sacking of the Chief Justice, there was virtually no opposition to Musharraf or his military government. General Musharraf could not have survived his tenure so smoothly without a large number of collaborators.

The crisis of Pakistan is not its Emergency or Martial Law, neither is it that a military man in uniform has ruled Pakistan as a comfortable authoritarianism without much protest or opposition. The tragedy of Pakistan is that its supposedly liberal and enlightened classes and even its political classes, are collaborators. For the liberals their concern is more with a lifestyle liberalism which Musharraf has promoted, rather than with a political liberalism, and for supposedly democratic, political actors, what matters is that somehow they get access to power. How they get there, is irrelevant.

About the Author

S. Akbar Zaidi is a social scientist based in Karachi, Pakistan.

Political Crisis On A Silent Street

By Ali Cheema

The renowned sociologist Saskia Sassen, having witnessed the suspension of Pakistan's Constitution during her recent trip to Lahore, raises a critical question in her *Guardian* article: will the street rise? Based on her experience of the street in Lahore she concludes that "(m)y experience...was of bustling shops and bazaars: no closed shops, no drawn shutters." In brief her categorical answer to the question, which I agree with, is that no the street in Lahore will not rise. Unwittingly Professor Sassen's *Guardian* article raises a question and a concern that continues to befuddle the good General: why is he in a deep political crisis given that food and shopping remain the mantra of the urban street; and is there something behind the surface of the street that may yet strike him down?

These are non-trivial questions. There was no teleological certainty that would have predicted General Musharraf's deepening political crisis. Musharraf was hailed as Caesar by all hues of Pakistan's urban middle class and its urban elite—then as now the street remained silent. He was hailed as the embodiment of personal sincerity and honesty, a statesman with a sense of purpose and for his constituency this was enough—as for the street it maintained its silence. He was hailed as the economic savior and it did not matter whether Pakistan's macroeconomic crisis had been averted because of the 9/11 windfall or

in spite of it—as for the street, business began to stir but otherwise it remained silent. He was hailed as the deliverer of prosperity as massive inflows of money into property, banking and stocks created an unprecedented economic and consumer boom—the street, well, business boomed but it maintained its silence.

A head count of protesters out on the street during the past year would certainly not indicate that the good General should have been politically fearful, the Chief Justice's long drive from Islamabad to Lahore and the weekly protests of the brave lawyers community notwithstanding. As Professor Sassen puts it, "(e)ven today, there has been no massive demonstration in any major Pakistani city... there are also diffuse millions of Pakistani citizens reluctant.....to rise on their own account." Why then has the good General suspended the Constitution, sacked a large number in the Superior Judiciary and brutalized and incarcerated thousands? Why has the good General, like Saturn, eaten his progeny, the free media? Why then has the good General broken the promises he made to his dear friend President Bush, to his constituents and to the Pakistani Diaspora?

I believe Pervaiz Musharraf when he says that he is no Dr. Jekyll and Mr. Hyde, he is the same blunt, no-nonsense, straight talking person that he was in 1999—albeit somewhat prone to corporal punishment against powerless citizens! I completely agree with General Musharraf that these acts have been forced upon him, although in my view it is not the fickleness of promises made by corrupt politicians that is to blame, instead it is the simple fact that his regime and the State he governs are in an acute political crisis. The question, however, remains

unaddressed—why is there an acute political crisis given that the silence of the street continues to haunt cities like Lahore?

In my view three related factors, which are structural to military rule in Pakistan, explain the deepening crisis of governance faced by the Musharraf regime: the inability of his regime to win the popular vote in a free and fair election; the necessity of gaining political legitimacy for his Presidency; and the need to repeatedly turn to extra-constitutional measures. The tragedy for rulers like General Musharraf is that democratic constitutions that draw political legitimacy from the people, do not allow rulers to rule in the name of the Monarch, the Gun or God. The initial violation of a democratic constitution causes a crisis of political legitimacy, while the uncertainty to win a majority vote forces extra-constitutional measures that exacerbate this crisis in spite of a silent street. It is important for Pakistani citizens, state functionaries and the global political community to realize that today the country stands at the precipice of a monumental crisis of legitimacy that is likely to erode the governance ability of the state even in the short-run.

The need to draw legitimacy from the people has haunted Generals Ayub Khan, Zia-ul-Haq and now Musharraf. Consider what the fortune of General Musharraf's political party was in the 2002 General Election. It won no more than 34% of the general seats and could only win 27% of the popular vote. It did not win a majority of the popular vote. Mind you this was at a time: when the good General was actually popular and boasted of a vibrant constituency; when the military was administering the country; and when the supposedly unpopular

leaders of the two main political parties were in exile. All this did not give the General's party anywhere near a workable electoral mandate. It appears that the quiet on the street may have entailed a double-edged sword for General Musharraf. It is worth asking why a ruler with a popular agenda; in control of the military and civil machine; and faced with political parties that were leaderless and unpopular could not ensure an electoral win for his political party.

The answer is that the patronage networks offered by mainstream political parties act as an essential intermediation device for citizens confronted by an oppressive, fractured and dysfunctional state. The challenge for military rulers is that they have not been able to reform state institutions in a way that would substitute them for these patronage networks. Moreover, their strategy of using establishment-dependent politicians to effectively compete away mainstream political parties has not worked. Historically the establishment-party may compete away some part of the network of mainstream parties but it has not been enough to ensure the Generals' continued control over the office of the President. Like his predecessors, it is electoral uncertainty that continues to haunt General Musharraf in spite of the quiet on the street. What puzzles the good General is that in his gut he knows that economic growth in itself is not a panacea for the political and electoral conundrum that he is facing. His electoral trepidations also indicate that he is aware that the mainstream political parties will get votes even if they cannot mobilize the street. The good General's secret assignations with Mohtarma Benazir Bhutto and now with Mian Nawaz Sharif are evidence of this awareness. It appears that the power of the vote matters even if it

cannot entirely substitute for the muscle of the street, a point under-emphasized by Professor Sassen as well as by other analysts of Pakistan.

The uncertainty of electoral politics and the inability to secure absolute majorities forces military rulers, like General Musharraf, to make constitutional compromises and to take extra-constitutional steps in order to retain power. In this spiral, power can only be legalized by nominated judges and by collaborative legislatures and to achieve this control over the gun has to be maintained. However, the more extra-constitutional measures that the ruler takes the more political legitimacy is lost by the President, Government, political parties, judiciary and parliament, in short the state, even if the appointed judiciary legalizes these measures. This is because the rule of law and constitutionalism matters to citizens.

A vast majority of the citizens of Pakistan, some silently and some rather vocally, but all non-violently, today stand in opposition to General Musharraf's regime because its actions during the past year give an appearance of a grave disregard for the organs of the State and the rule of law. While it is debatable that his act of filing a reference against the Chief Justice of Pakistan was constitutional, what is not debatable is that the sight of a police officer dragging Justice Chaudhry by his hair will be seen by citizens simply as the unadulterated exercise of the State's coercive powers. What is not debatable is that the act of removing superior court judges, who had taken oath of office under General Musharraf's own Provisional Constitutional Order (1999), simply because they disagreed with his

legal assessment, will be seen by citizens as indicative of personalized rule. What is not debatable is that his assertion that the creation of the National Security Council will put an end to extra-constitutional actions by Military Chiefs will be seen as a statement of political expediency. What is not debatable is that the suspension of the Constitution and fundamental rights at the end of a period of five years of his government will make constitutionalism appear arbitrary to citizens, to be invoked and removed without limitation at the behest of the executive.

In short, in Pakistan today it appears to citizens that all rules of the game, even those promulgated by General Musharraf himself, are expendable at his personal whim. This undermines the political legitimacy of the state and exacerbates the crisis of governance as it brings citizens into direct and silent opposition to the state and promotes the rule of expediency, which does not bode well as it will erode the remaining vestiges of a functioning state. The opposition will manifest itself in a multitude of ways that include: street protests; swing voting; criticism of government actions; growing support for anti-government anarchic forces; lack of credibility of government—all these will have one chant in common: the state is not of the people, by the people and for the people.

About the Author

Ali Cheema is an Associate Professor of Economics at the Lahore University of Management Sciences.

The Governance Related Repercussions Of Constitutional Deviation

By Arif Hasan

The present political crisis has been discussed to death in the press, and before it was curbed, in the electronic media. However, its governance related repercussions still need to be analysed. The process of trying to legitimise “constitutional deviation” is more destructive of the institutions of governance that affect the lives of common citizens, than “constitutional deviation” itself. This is because the only tools available for legitimising the usurpation of power are lies, deceit, coercion, buying and selling of loyalties and the support of turncoats, opportunists and sycophants, in short all those who have no interest in the well-being of society. So how can anything vaguely ethical or beneficial for society emerge from or survive such an onslaught?

The search for legitimacy also leads to manipulating existing governance institutions, ostensibly for getting rid of corruption. However, the real reason is to curtail their autonomy and make them subservient to the illegitimate power structure. As a result, they become ineffective. For the same reasons new governance systems are created which have nothing to do with the real needs of society or with existing social and political relationships. These institutions are not created through a normal process of rules and regulations and so their

only loyalty is to those who have usurped power. As such, these institutions do not take root, their continuity is always questioned, and by their very nurture, seeped in their origins, they promote corruption and nepotism. This has been the story of Ayub's basic democracy, Zia's Majlis-e-Shoora and education and legal "reforms," and more recently of Musharraf devolution plan.

The search for legitimacy is also sought through the development of high profile projects unrelated to the needs of the people and to building grand monuments that serve no purpose. All the previous generals who have usurped power have indulged in promoting grandeur as an alternative to genuine progress. False propaganda, which even becomes farcical at times, is promoted and if one reads between the lines, it is not even believed by the sycophants to those in power. The present ruling elite's thesis that Pakistan is rich and prosperous because of the number of cars and mobile phones that have been purchased, is a case in point. That education and health systems have collapsed and people have no access to housing does not seem to matter. This tendency to fabricate increases as the failure to legitimise usurpation increases with time, and ultimately it is only the ruler and his court who believe in it. The ineffectiveness and corruption of the institutions of governance on the one hand and the disbelief of people in what the state says on the other, promotes opportunism, cynicism and/or alienation at all levels in society.

The greatest damage of "constitutional deviation" however, is that it suspends all consensus making mechanisms and reduces all political activity to a one-point agenda for the restoration of democracy in

which there is no place for discussion on development and progress. This has a fourfold effect. One, it fragments society to the extent that centrifugal forces set in and keep increasing in geometric progression with the passage of time; two, that by suspending the political process, a new political leadership does not emerge and people have to turn to their clan, tribal or ethnic organisations for support to the extent of solving their personal and property disputes and intervening in their dealings with state organisations; three, in the absence of a dialogue between different points of view inappropriate and often disastrous policy decisions are taken; and four, since maintaining power through illegitimate means becomes a priority, a ruthless game of divide and rule takes precedence over all other things. We have seen all this happen in our last eight year period of “deviation.”

In the case of Pakistan, the propaganda justifying “constitutional deviation” has in the last sixty years, constantly used the excuse of “Pakistan is in danger.” The major repercussion of this process is the disconnect between the rulers and the ruled and the depoliticisation of the elite, who for their own vested interests see no option but to side with the rulers. It also leads in our case to a questioning, often irrationally, of the viability of our state and its origins, especially by the better educated of our younger generation.

Given the serious repercussions of “constitutional deviation” on the institutions of governance, among other issues, it is necessary that it should never happen again. The proposed elections in the present circumstances in Pakistan, are in themselves a constitutional deviation. As many commentators have said, they will not solve

Pakistan's constitutional crisis and will not bring about stability, legitimacy or reform. They will only make the crisis fester longer and lead subsequently to further fragmentation of society. The main victims of this will be the people of Pakistan who will increasingly have to seek illegal means or the support of self-servicing patronage to solve their problems and the problems of the settlements in which they live. Therefore, it is in the larger interests of the political parties, to not only boycott these elections but to come together to promote and struggle for a future election process that guarantees a proper election and hence a future legitimate set-up. The million dollar question is, why are they not doing this? Perhaps in the answer to this question lies the real political crisis in Pakistan.

About the Authors

Arif Hasan is an architect, planner, and researcher based in Karachi, Pakistan.

Unarmed Pathans

By Mukulika Banerjee

There are good reasons why civilizations need to remember and celebrate their history, even when it is made by insignificant subalterns or away from the centres of power. Any reluctance to incorporate these smaller and sometimes divergent movements into the nationalist historiography can create a picture of the nation that is uni-dimensional, rigid and eroded of its rich cultural archive. Yet, when the unexpected happens and the country is laid to siege by forces beyond the control of individual people, it is precisely these historical resources that allow for new and energetic responses to the current predicaments. In Pakistan, the example of the now largely forgotten *Khudai khidmatgar* movement, which flourished in the NWFP for seventeen years from 1930 until 1947, is a case in point.

The *Khudai khidmatgar* movement was a largely Pashtun (Pathan) movement which was arguably the longest lasting civil disobedience movement anywhere in the world. It was guided by a whole new ideology made up by combining elements of its existing culture. Thus, this anticolonial movement was inspired by suras from the Q'uran in facing the colonial oppression with patience and non-violence, its members drew on their manly Pashtun virtues of honour and courage to face the enemy armies unarmed and it resurrected a Pashtun identity which was last in evidence in the revolt against the Mughal Empire. It is salutary to remind ourselves today when the mention of

words “Pathan” or “NWFP” immediately conjures images of fanaticism and violence, that in the same villages and mountains of the Frontier, only a few decades ago, the most successful demonstration of political protest through civil disobedience was in full flow. Then, during the days of the Great Game, like today, the enemy was as much imperial as it was internal and yet it managed to bring them both to their knees. Then too, religious leaders threatened any alternative interpretations of Islam, specially those which called for a moderate response that required introspection before confrontation.

As a critique of the governmental neglect of basic welfare programmes in education, sanitation and health, Khan Abdul Gaffar Khan and his colleagues, started a movement of self-reform which included cleanliness drives in every village, the setting up Azad schools which delivered primary education and the picketing of liquor shops. But for these activities, the *Khudai khidmatagrs* were branded *kafirs*, they were forced into saffron clothes to prove that they had turned Hindu and they were threatened with an afterlife in hell for daring to educate their children. But having sworn their allegiance to the movement on the Q’uran, its participants managed to stand their ground. In all of these, the top leadership of the movement led by example. Badshah Khan’s own sons studied in Azad schools, he stopped covering his head to prove that he was neither a long-haired Sikh nor a Hindu and advised his followers not to enter into debates with religious leaders but work on the rightness of their own actions. To do this, Badshah Khan walked for miles everyday visiting people in their villages to talk to them about the movement, he ate frugally and always shared what he had in front of him. The ostentatious standards of Pathan

hospitality were shunned for a larger heart towards one's opponents instead.

While such virtues of asceticism and humility seem anachronistic in today's world, it is striking that it was these qualities that drew an impoverished Pathan population to join the movement in the thousands and the ones that people talked about avidly up to the early 1990s. Every village I visited in the Frontier had stories to tell of this charismatic man, who dressed like a *fakir* but had the leadership of a Badshah, who gave the Pathans back their self-respect by letting them take the reform of their society into their own hands through simple measures ensuring basic hygiene and education. In today's world too, when the NWFP and other regions are controlled by religious leaders, it is the responsibility of the Pashtuns to ask themselves if those agendas bring any real benefit to their basic and fundamental human needs: the welfare of their children, the health of their people or the prosperity of their villages. The *Khudai khidmatgars* showed that the best way of serving *Khuda* was through *khidmat*, humble service towards one's own people. An inner jihad, a *jihad-i- akbar*, the inner struggle of an individual to develop a true commitment to Islam and cultivate the spiritual qualities which the Q'uran cherishes, was a harder but more worthwhile struggle than a *jihad-i- asghar* which relates to legitimate military struggle and "holy war" against injustice.

The added attraction of joining the *Khudai khidmatgar* movement was also its uniform, the *surkh* posh. Made from hand-spun *khadi*, tightened with Sam Browne belts and mirroring and mocking the

colonial armies' opulent red broadcloth uniforms, "every youth looked like a flower!" said one veteran. At the heart of the *Khudai khidmatgar* movement's success lay the recognition that discipline was the most important asset of a mass organisation and to this end, it had two main branches: the civil and military wings. The former did all the organisational work, handled parliamentary politics when they won electoral power of the provincial government three times, published the weekly newsletter, maintained minutes from every meeting while the military wing engaged in the civil disobedience activities that so unsettled the British government. Each wing has its office bearers: President, Secretary etc. for the civil wing and General, Subedar etc for the military. The movement experimented with democracy, electing the office bearers on the basis of Badshah Khan's philosophy of "give it to the man who wants it least." Training camps were held where regular drills, parades and the manoeuvres of mass protest were rehearsed. It was these "soldiers" who then picketed courthouses, liquor shops, and government buildings and stood steadfast and courted arrest when faced with armed troops. The colonial government had to specially build the Haripur Jail in NWFP to house these new and unexpected protesters! This required discipline and courage, both of which were helped by being in uniform as it was by their inner strength of character, cultural and ideological traditions.

In today's discussions on Pakistan when "being in uniform" has become such a high profile and contentious issue, it is worth remembering that uniforms have been used in the history of the same country in creative and positive ways: to instil discipline and courage

in the wearer, foreboding in the enemy and camaraderie among the freedom fighters—but all in an entirely non-violent fashion. Generals who are non-violent and look like flowers could make for great statesmen!

In the early 1990s I had the opportunity to spend several months, over three visits, in various towns and villages of the North West Frontier Province. No other Indian to my knowledge has had so much contact and immersion in Pakistan society in the absence of any kin or religious ties there. As a doctoral student, a young Indian, Hindu woman, I was eager to experience and embrace a culture which could boast of such an interesting historical experiment—a non-violent Pathan movement. In many ways, those visits were a life-changing experience. Traveling the length and breadth of NWFP in search of the forgotten freedom fighters, I met thousands of Pathans and Afghans, slept in innumerable houses, befriended many women and men and spent hours with venerable old revolutionaries of the *Khudai khidmatgar* movement when I finally tracked them down.

I found them usually in a state of impoverishment having had their lands and possessions taken away, weak in health after years of imprisonment most of which occurred *after* Independence than during the colonial period. They had been branded “traitors” in the new nation of Pakistan for having opposed partitioning of the sub-continent and the violence that would inevitably bring. Living in silence, obliterated from history, they were keen to talk, to describe their movement, its novel ideology, its successes and their struggles with both the British and their own people for daring to upset all stereotypes and question

the authority of the state and religious establishment alike. They had demonstrated that it was possible to be brave even when the enemy looked invincible and stressed that it was only compassion, discipline and patience which can give the courage which no gun can. But they also stressed that they were able to remain non-violent because the colonial government despite its hostility also responded over time with its own sense of honour and non-violent techniques to control the protestors. Non-violence only works when the enemy also has a sense of shame and responsibility, they used to say. These old revolutionaries wanted the future generations and future governments of South Asia to hear the story of the *Khudai khidmatgar* movement to learn about politics, protest and governmental control.

We have erased this story from our history books and this may be our loss more than it is theirs. Most of those brave and noble Pathans have now passed on; the stories they narrated were their swan song. It is now our duty to listen and learn for the future.

For a fuller account of the Khudai khidmatgar movement see Mukulika Banerjee, The Pathan Unarmed: Opposition and Memory in the North West Frontier (London, Santa Fe, Karachi and New Delhi: James Currey, SAR Press and OUP, 2000).

About the Author

Mukulika Banerjee is a Reader in the department of Anthropology at University College London.

The Speech Of Generals: Some Meditations on Pakistan by way of Subaltern Studies

By Naveeda Khan

In this brief paper, I analyze the speech of Generals in Pakistan to bring to light the different ways in which the idea of a people is evoked to suggest the possibility of multiple selves of Generals that, in turn, mirror their relation to the multiple selves through which the promise of Pakistan is to be realized. Looking at the difference between “the People” warns us to think of the movements between dictatorship and democracy not as repetition of the same but as showing the subtle ways in which each such oscillation gives signs of the newness with which Pakistan is confronted and confronts itself.

In what follows I illustrate my point through studying fragments of the speech of Pakistan’s generals, notably Ayub Khan, Zia-ul Haq, and Pervez Musharaff as they tried to transition out of an extrajudicial position of military leadership into that of civilian leadership. This was not only a tricky legal maneuver entailing tortuous moves to make oneself legitimate within a system of law which one has abrogated and whose reinstatement immediately renders one illegitimate. It also entailed a certain staking of oneself against other versions of oneself,

previous selves, the self in relation to a people under construction, the self as viewed by posterity, and so on and so forth. Entire series of selves spring up through their words. The struggle was to keep the speaking self as sovereign over these series. The outcome in each case has yet to be determined.

Field Marshall Muhammad Ayub Khan, the most secular and modernist of Pakistan's military leaders, came to power through a coup in 1958 and stayed on as the President of Pakistan until 1969. In 1967 he spoke a book, as he says in the introduction to his *Friends not Masters*, in which he tried to give a correct account of his legacy for Pakistan. Calling his coup a "revolution," he wrote "revolutions take long and painstaking preparation, detailed planning, clandestine meetings, and country-wide movement of troops. In our case there was little preparation. It was handled as a military operation" (71). Further on he writes about the swiftness with which he moved from imposing martial law to drafting and implementing a constitution (the 1961 Constitution of the three that Pakistan has had so far). It is worth quoting him on the reception of his plans as here we find the self as staked to a "people" that fragments:

Many people thought at the time that I was moving too fast and that I should allow sufficient time for the reforms to take root...An English friend asked me, "Why are you in such a hurry to bring in a Constitution?" I said, "I thought you were a democratic people." ... At home, too, there were certain people... who were convinced that the vested interests who had been badly hit by our reforms, such as landowners, politicians, and

similar groups, would combine in an all-out attempt to unseat me and to destroy whatever had been achieved in the past few years. I knew the feelings of the people at large also. Many thought I was throwing them back to the wolves and that, once again, there would be no respect for law, that corruption and jockeying for power would return, with all the other ugly features of our political life in the past.... Nevertheless, I came to the conclusion that it was better to take the risk, even if all our reforms had not yet taken root, and to let the people carry on from that point... (211).

There are no less than four types of people who are mentioned in this telling paragraph, a democratic people abroad who nonetheless desire the order of martial law in Pakistan, the people at home who warn him against his excesses, those at large who expect the worst of him and his leadership, and then there are the people with a capital P who will sally forth once he has put in place the conditions for their emergence. In each instance, a different self springs forth over which he has no control, the social engineering dictator, the one who is part of a vast rumor mill, the one who is intuitively in touch with the people at large, and then the one who will hopefully serve as the subject of future testimonials. And the fear the general has as he sees versions of himself proliferate is that of chaos and schism: "As a Muslim my sole anxiety has been to unite the people of Pakistan in the light of their faith and ideology" (ix). After the bitterly fought and narrowly won elections of 1965: "The interest and response of the people was most gratifying. The country has chosen stability against chaos, security against disintegration, progress against stagnation." (240). And

finally, “I thanked the people who had supported me and also those who had differed with me... I wanted the moment of vindication to become a symbol of lasting unity” (241). Yet his own multiplicities militate against such unity.

Let us now turn to General Muhammad Zia-ul-Haq who was the president and military ruler of Pakistan from 1977 till his death in 1988. He came to power through a coup against Prime Minister Zulfikar Ali Bhutto, becoming the third to impose martial law in Pakistan. He ruled as a military law dictator for a year before assuming the post of president of Pakistan in 1978. He fashioned himself as an Islamic leader and gave considerable place of importance to religious scholars in the administration of the country. And it was in his time that the perception that the mullahs bore the burden of responsibility for Pakistan’s dire state emerged very strongly. I quote from one of Zia’s speeches to the nation that attempted to address growing hostility towards the figure of the mullah:

People think that that they have cracked a big joke by branding Radio Pakistan or Pakistan Television as a religious school which will be greeted by peels of laughter by others. But alas, these people are a joke themselves. The people of Pakistan can discriminate between good and bad; they don’t laugh at them but they only feel sorry for them. They say what kind of people are they who have a grouse against the ban imposed in Pakistan on the performance of vulgar dances, on night clubs and dancing houses? Lashes are administered for drinking. Films are properly pruned and edited before they are shown on

television. The call for prayer reverberates from radio all the time. The Maulvi has got stuck on the T.V. screen; and let me tell you he will remain stuck there. (My emphasis, Inaugural address, Islamabad, 09 October, 1982: p. 25)

Although translated, these words provide us our first hint of the complex coordinates of the people. In speaking of those who joke about the maulvi, Zia referred to them as “people.” Yet further down he said that the “people of Pakistan” felt sorry for the “people” and wondered what kind of “people” were they who complained about the maulvi in the media. There are two sets of confusions here. First, it was unclear who the “people” were in each instance. Were the people of the first kind not people of Pakistan? Or was Zia hailing one and the same people, albeit as a split self, a private self that laughed and a public that shook its head at the private self? Secondly, what could have Zia meant when he said “the Maulvi has got stuck on the T.V. screen?” In one sense he may be quoting words attributable to those people who crack jokes. In another sense he may be saying that the joke was on the people for the maulvi was nothing but simulacrum. The onus lay on them to tell the good from the bad, that is, the real from the simulacrum.

Thus we see how Zia hailed Pakistanis as Muslims and implicated them in his worldview. Turned in upon themselves for daring to laugh or joke, they were culled into an uncertainty as to whether they were able to decipher real from simulacrum, to tell if the maulvi was actually stuck in the television or in their heads. The maulvi stuck in the television was of course none other than himself. As different

versions of him proliferated, Zia was able to turn each of these versions to his advantage. Yet his speech is saturated with his fear of ridicule. And so he should be, jokes of him are still in circulation.

Now we come to the third of our generals, the Chief of Army Staff and current President of Pakistan, Pervez Musharraf. In his speech to the nation in which he declared emergency he said, "The people are worried. The extremists are trying to take the authority and power of the government into their own hands. They want to impose their outdated religious views upon the people" (Speech to the nation). He followed up his speech to the nation with a speech to the international community in which he said the following:

Pakistan is on the verge of destabilization if not arrested in time and now without any further time or delaying the issue. The saddest part of everything which saddens me the most that after all we have achieved in the past seven years I see in front of my eyes Pakistan's upsurge taking a downwards trend. I personally with all my conviction and with all the facts available to me consider that inaction at this moment is suicide for Pakistan.

Finally, speaking to the *New York Times* correspondents in Islamabad on Nov 13, 2007 he complained that the domestic media did not know how to behave and has to abide by a code of conduct as befitting a civilized nation. Furthermore he complained about the western media saying: "In your media and your press the Pakistan Army and intelligence setup are being criticized, maligned to be maybe going around with Taliban, and Al-Qaeda, hiding Osama bin Laden."

Even a quick look at what Musharraf says suggests a self not yet fully staked upon the people. He rarely mentions the people of Pakistan as if to speak for them and never claims to be intuitively in touch with their desires and opinions. If as he says that people are worried (as quoted earlier), he does so only in the manner of reporting what is openly voiced. Rather his concern is much more with Pakistan as a geopolitical territory. If his self is staked upon anything, it is upon his version of reality, which is that of the military establishment. This is underlined by his repeated use of the trope of “seeing with my own eyes” or “in front of my eyes.” The fear of multiplicities is not over chaos and schism as in the case of Ayub Khan, or over ridicule as in the case of Zia-ul Haq, but over the split between reality and false reportage for Musharaff. Hence we see his widespread and hitherto successful efforts to clamp down on the domestic media and to present himself to the international media as much as possible so as to saturate their airwaves. I will hold back from prophesizing on the lives of the multiplicities that may come to haunt Musharaff.

I want to end by saying that I speak on the generals not to be timely. So the untimely reason for my seemingly timely commentary on Pakistan’s generals is to warn against thinking that Pakistan is in grips of the same, that political dysfunction is repeating itself again and again. Attention, scholarly, literary, ordinary, needs to be paid to the smallest differences between each historical moment so that we can not only understand and theorize the nature of repetition specific to Pakistan but also learn to amplify other possibilities in the realm of the potential.

About the Author

Naveeda Khan is Assistant Professor of Anthropology at Johns Hopkins University.