

Pakistan in Transition Towards a Substantive Democracy

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Abstract

The democratic dispensation in Pakistan is viewed as stunted. An illustrious civil rights lawyer Aitzaz Ahsan calls it a “bonsai democracy” which is cultivated but neither have deep roots nor wide branches, a showcase exercise for western consumption. The recent smooth transition of power from one political government to another is a positive emerging trend in the political history of Pakistan. This happened inspite of the security challenge the country faced pre, during and post elections. These developments indicate that the democratic dispensation in Pakistan is passing through the consolidation phase, where all contenders of power, despite challenges and deficiencies, a practice not prevalent in the past, a close view of events show judiciary and media emerging as the critical drivers of democracy. The chances of the process sliding back minimized if these emerging trends are facilitated. The three major trends identified are:-

- The strengthened Democratic Institution of Pakistan specially the judiciary and the media.
- The realignment of its civil military relations
- Pakistan relations with India and US.

Key Words: Democracy, Transition, Consolidation, Judiciary, Media.

Introduction

Pakistan held its 8th elections on 11th May, 2013, with an unprecedented turnout of 60% with both youth and women participating.

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It is also first time in Pakistan's history since partition that an elected government completes its term to hand over power to another elected government. This is seen by many as a potentially game changing milestone in Pakistan's political and constitutional history largely because previous attempts towards democratic transition of power resulted in Martial Laws, Military coups and even assassinations.

According to Huntington's submission, the process of democratization is composed of two phases. The first phase is power transition and the second is consolidation of the democratic achievements. Democratic consolidations are far more challenging than the phase of transition. In a given society, it requires:

- Well-functioning democratic institutions.
- An improvement of social and economic condition
- A flourishing civil society

All three concepts are very fluid. This is the reason why there is no universally accepted definition of democratic consolidation. However all agree free and fair elections are a prerequisite for consolidation. For a country like Pakistan, Andreas Schedler definition could suffice atleast for now it says consolidation of democracy is a condition in which probability of a democracy's breakdown is reduced to the "point where [one] can feel reasonably confident that democracy will persist in the near (and not-so near) future."²

Democracy is also not static, it is an evolving concept. It is much more than simple majoritarianism. Unalloyed majoritarianism can be undemocratic. The six principles of a settled or consolidated democracy are: political choice; loyal opposition; free media; reliable bureaucracy; impartial judiciary and civil society. Taken together these features will produce what the political scientists Linz and Stephen called a *constraint-embedded state*, which are people centric in character. The paper will attempt to answer the following questions.

- Is Pakistan moving toward a broader transition from a procedural to substantive democracy?
- Is Pakistan experiencing democratic coming of age?

² Andreas Schedler. 1998. "What is Democratic Consolidation?" *Journal of Democracy* 9(2): 91-107

- Has its relations with US and India had an impact on its democratic transition and consolidation?

The past five years of democratic rule in Pakistan has witnessed a very fragile democracy, where the democratically elected government constantly struggled with crisis of survival. The developing countries even when they are established practicing democracies face indigenous democratization challenges which remain under represented and marginally discussed in the political science community. Moreover, Security challenges, War on terror, Economic Recession, the Spring of Middle East have all had an impact on how issues of democracy, governance and national unity are perceived today. In countries like Pakistan where the democratic deficit has always remained high because of various historical and contemporary issues the debate on democracy has become more complicated.

However there are three major paradigm shifts that have taken place in the polity of Pakistan which may have a long term effect on the process of transition, leading to consolidation, stability and substantiveness of democracy.

These are:-

- The strengthened Democratic Institution of Pakistan specially the judiciary and the media.
- The realignment of its civil military relations
- Pakistan relations with India and US.

The Strengthened Democratic Institutions of Pakistan

Democracy has not come easily to Pakistan. It still constantly struggles for its sprit. A transition towards democracy has happened how substantive it is? That remains to be seen. May, 2013 election is seen by many as constitutional and historical land mark in the politico-democratic journey of Pakistan. They were also perhaps the bloodiest elections Pakistan has ever witnessed. Public campaign was not possible in 3 out of 4 provinces of Pakistan. 60 candidates and workers belonging to different political parties were killed in the prelude to the elections.

130 people were killed in bombing and shooting during the campaign. 130 attacks were reported; these resulted in the death of a 150 people in the month before elections.³

Election Day violence was also very high by the time the polls closed there were 62 security related incident reported resulting in 64 deaths. There was a blast outside a political office in the port city and several such attacks were also prevented by the law enforcement agencies.⁴

Even days before election; all were skeptical if election will take place at all. The challenge to democracy coming from the militants this time who vowed to prevent the holding of elections in Pakistan. Constantly targeting and attacking political rallies, candidates and offices.

The 5 years government of Mr. Zardari left more people disillusioned than committed to the delivering capacity of democracy. In spite of this and the militant threat Pakistan witnessed a 60% turnout, women and youth coming out and voting in large numbers even in rural and troubled areas of Pakistan including Baluchistan, hoping to bring about a change through the ballot. This is a new trend. The people registered their discontent and the rejection of the militants through the ballot. The former ruling PPP and its alliance PML-Q and the ANP faced a bitter defeat. MQM was also seen on the back foot challenged by PTI in its stronghold city Karachi. The first time contestant party PTI had enough numbers to form a government in Khyber Pakhtunkhwa and was successful enough to be categorized as a third largest political party in Pakistan. Making Pakistani elections decidedly multi party.

Moreover the Pakistan People's Party and its allies may have failed at the energy, economic and political governance for which the people of Pakistan penalize them. However they were able to deliver on the front of institutional strengthening. Pakistan's democratic accomplishments under the PPP government are often marginalizing in the discussion to the strengthening of democracy.

³ Since 11 April, there were 41 attacks in KPK and another 41 in Baluchistan, as well as 26 attacks in Sindh, 9 in Punjab and 6 in FATA. ANP was at the center with 34 attacks, followed by MQM with 17 attacks. There were 14 on independent candidates, while PML-N was targeted 12 times, PPP 8 times, and JUI-F 6 times. Numerous other parties including NP, JI or PTI had five or fewer attacks.

⁴ "Election Observation Mission Preliminary Statement," eueom, May 13, 2013, <http://www.eueom.eu/files/dmfile/eom-pakistan-preliminary-statement-13052013-en.pdf>

It addressed long standing constitutional and political issues that threatened the federation, laid the bases of a non partisan electoral system, restored the Chief Justice which resulted in its independent yet co-equal branch of the government, created mechanisms for the transfer of power from the office of the President to the office of the Prime Minister. Civilian oversight of the military has also been largely formulized. Civil liberties stand restored. Inclusion of FATA into the political mainstream is another milestone. The media and the judiciary functioned with complete impunity in the 5 years of PPP government.

Pakistan is in the process of democratic-self examination where it is constantly working towards exposing and preventing the abuse of those in power. The culture of exposure leading to accountability has never worked the way it functions in Pakistan today. The exposure is done by the median and accountability is taken up by the judiciary, the infamous suo moto notice. No one is spared. The holy cows of the past are under the knife of the media and the judiciary. These trends are the building block for a substantive democracy.

Senator John McCain in a speech in December, 2012 said; "The great benefit of democracy is that it allows for self-correction. It allows imperfect human beings to strive; nevertheless, to live up to the high standards of our own values, which are perfect and eternal."⁵

Role of Media in Strengthening Democracy

Thomas Jefferson once said that if he had to choose between a government without newspapers or newspapers without governments, he would pick the later. The right to information is in integral part of any functioning democracy. The 1973, constitution of Pakistan through article 19 guaranteed the right of freedom of speech and expression and it also guaranteed the right to freedom of press. In 2002, Pakistan became the first country in South Asia to promulgate the freedom of information ordinance. Later on article 19-A introduce through the 18th amendment further consolidated it.

⁵Senator John McCain, "Human Rights Summit," December 5, 2012, http://www.mccain.senate.gov/public/index.cfm?FuseAction=PressOffice.Speeches&ContentRecord_id=6bf4624f-db22-1948-eeed-478d3a8c78a0&Region_id=&Issue_id= (accessed on December 5, 2012)

2002 onwards private media entered the landscape of Pakistan's information infrastructure. As of today there are over 200 privately own daily newspapers, about a 100 T.V channels and 166 F.M radio stations. However the state owned Pakistan Television (PTV) and Pakistan broadcasting (PBC) have a monopoly. Between 2002 and 2012 television viewership went up from 4 million to 124 million.⁶ This spread particularly of the electronic media has turned it into a tool not only for dissemination of information and opinion building but also where journalists have become agents of the public. They not only keep an eye on government performance but also propose reforms, criticize governmental decisions that are not pro people and also give new ideas. They expose politicians and allow public to make informed decisions. This is largely because literacy level in Pakistan are one of the lowest in the world and electronic media now because of its accessibility has becomes the only source of reliable information.

Media thus has a fundamental role in both strengthening and deepening democracy in Pakistan. The 21st century is media driven. Pakistan is no exception. The media in Pakistan has gradually and slowly become a critical driver of democracy.

Election 2013 was actually fought in the media. The PPP government holds the antagonistic media responsible for its bad performance in the election. The land mark lawyer's movement that turned the tide of the democracy in Pakistan was also successful because of media coverage. The alleged mishandling of the chief justice by law enforcement agencies and it candid coverage by the media turned public opinion against the dictator. This paved the way for the democratic transition Pakistan witnessed in 2008.

Role of Judiciary

The democratic deficit of Pakistan is often attributed to its palpable and weak judiciary. The infamous "doctrine of necessity" provided the necessary legal umbrella to the military's political adventurism. Right from Ayub Khan's Coup on 7th October, 1958 to Musharraf's Coup in May, 2002.

⁶"Failing to measure up?," Aurora, July 27, 2012, <http://auroramag.wordpress.com/2012/07/27/failing-to-measure-up/>

The military rulers were able to manipulate the judiciary into compliance and those who refused were made to retire. A case in point is Zia ul Haq's promulgation of his own provisional constitutional order (PCO) and General Musharraf executive order for a fresh oath by the judges under his PCO. Six justices of the Supreme Court and nine judges of the high court, who refused to comply, were forced to retire. There was no public hue and cry over this and the civil society was a silent spectators.⁷

However when General Musharraf tried to do the same in 2006-2007. He faced stiff resistances. Chief Justice Iftikhar Chaudary who had taken an oath of an allegiance to him under the PCO of 1999 refuses to obey him. This was an open challenge to the military supremacy. Chief Justice defiance of a military dictator and his refusal to validate the continuity of his rule was immediately taken up as a cause by the lawyers, media and the entire civil society. This is for the first time in the history of Pakistan that the street of Pakistan protested against the military decision.

The restoration of the Chief Justice is a game changer in the constitutional history of Pakistan and a very important step towards Pakistan transition towards a substitutive democracy. An independent judiciary is perhaps one of the most important democratic institutions.

Pakistan cannot move towards a substantive democracy without the consolidation of its institutions, which include the bureaucracy, political parties, Judiciary and the media.

The judiciary and the media have evolved as the two most critical drivers of democracy in Pakistan. The recent revival of democracy in Pakistan after 7 years of military rule of General Pervaiz Musharraf is seen by many as an accomplishment of these two institutions.

Civil Military Relations of Pakistan

Strong military can actually prevent the consolidation of democracy even when transition takes place as seen in many Latin American and South-East Asian countries.

⁷ Aqeel Shah, "The Transition to 'Guided' Democracy in Pakistan", <http://www.apcss.org/Publications/Edited%20Volumes/RegionalFinal%20chapters/Chapter13Shah.pdf> (Last accessed on 27 February 2012)

The debate on the democratic transition of Pakistan is also incomplete without a discourse on its civil military relations. In a democratic setup the construct of healthy civil military relations would mean supremacy of the elected civilian government over the military. However the situation in Pakistan had been quite different Pakistan has actually remained under military control for more than half of its existence.

Pakistan's constitutional lethargy was also a contributing factor. Pakistan finalized its first constitution in 1956. Its twin India did it 1949. The delay in framing the constitution set the tone for authoritarian set up largely because it allowed the authoritarian rule of the governor General for seven years i.e. from 1947 to 1956. Furthermore the first general elections in the country were held in 1971, though they were due in 1951. This again contributed towards the consolidation of authoritarian tendencies and giving supremacy to military and civil bureaucracies over other institution.

On the international front the Cold war politics further contributed to the strengthening of military dictatorship in Pakistan. Even prior to that, Generals in Pakistan have always had an international crisis to strengthen and support their rule.

General Ayub Khan took over in 1958 and opened the pathway of American intervention into Pakistan internal affairs; he was allowed to rule Pakistan with an iron hand for ten years. General Zia-ul-Haq over threw the democratically elected Government of Mr. Zulfiqar Ali Bhutto and ruled for eleven long years. General Musharraf took over in October 1998; this time over throwing Mr. Nawaz Shareef's democratically elected government and found international legitimacy by joining the American war in Afghanistan and ruled for seven years.

The four military coups of Pakistan happened because of the pro-military international environment but largely also because the institution had acquired a functional supremacy for itself and had grown at the expense of democratic institutions like political parties and the parliament. This allowed the military of Pakistan to acquire respect and recognition both domestically and internationally as the only all powerful trustworthy, discipline and delivering institution of Pakistan. Political parties saw them as political brokers the masses saw them as there saviors and the international community banked upon their clout to deliver. The military capitalized on all of this to indulge in one military adventurism after another.

This perhaps is changing. It is observed that there is an element of political maturity that is being displayed by the now generals of Pakistan, but it is also largely because the domestic functioning environment has drastically changed. Both the military and the civilian leadership now are conscious of avoiding the conduct of the past. Military shuns political adventurism and remains committed to the continuation of democracy. Post the political musical chairs of the 1990s the mainstream political parties of Pakistan are wise enough to avoid approaching the General Head Quarters, of Pakistan military, for dispute settlement a common practice of the past.

The last five years of politically elected government witnessed several such moments where political pundits predicted military takeovers. Observers of Pakistan's situation will second the fact that Pakistan military on the pretext of threats to national security has intervened and disrupted the political process and dislodged political governments for far less in the past. It is interesting to note that the alleged corruption of electoral government hardly ever triggered that dismissal, on the contrary civilian governments were thrown out only after they crossed red lines drawn by the military.

The October 1999 dismissal of the Sharif government is a case in point. Upon assuming power once again in 1997 with a resounding majority, the PML-N under Nawaz Sharif repealed article 58 (2) B, eliminating the president's power to dismiss elected governments.⁸ Acutely aware of Pakistan's precarious economic situation, Sharif was keen to divert the country's limited economic resources from defense to development. By entering into a substantive dialogue with New Delhi, the prime minister had also hoped to ease bilateral tensions and sideline the military internally. Not unsurprisingly, the army sabotaged his peace overtures to India by sending troops into Kargil. Wary of the army's discontent, Sharif made a futile attempt to remove General Musharraf when the former was on a trip to Srilanka. The army then seized power, dismissed the Prime Minister, and suspended the parliament and the constitution.

The last political government (2008---2013) of Pakistan People's Party (PPP) has crossed several such lines and has survived with new dates of dismissal being identified every other day.

⁸ Opcit, Aqil Shah, pg. 7. Also repealed was article 112(2)(b) that empowered governors to dismiss provincial governments

The nation in general, political analyst, pundits and lobbies, that benefit from the military takeover, waiting for the inevitable to happen. The political militancy of the Pakistan army is on the decline and may be on its way out.

Also during the times of high political crisis, the civil and military leadership of Pakistan has made a conscious effort to be on the same page, especially with its relationships with the US. The government publicly defended the military in face of criticism from the media and political parties. However, post '*Memogate Scandal*', we saw the PPP Prime Minister Mr. Yousuf Raza Gilani, publicly reprimanding the military by calling it 'state within a state'. An open public position that has never been taken before; he not only took it but also survived it. More recently the Abbottabad commission report on Osama's killing in Pakistan was leaked to the media and once again there were heated debates for the accountability of the military and the Inter Services Intelligence (ISI). The open criticism of the military, a culture of accountability of its conduct by the media and political parties are all new trends in the polity of Pakistan.

Pakistan Relations with India and US

Pakistan is an Indian centric, pro-US state. This foreign policy construct has also had a direct impact on its democratic credentials. The strategic thinking in Pakistan is characterized by the traditional concepts of power and national security, it until recently used largely unreconstructed views of strategic defense and national interest. Its relationship with India is largely shaped by military insecurities and perceived power differentials. The entire focus is on the control of territory. All of the unresolved disputes between India and Pakistan are over territory, Kashmir being the most contentious.

In this preview the security paradigm governing the strategic thinking in Pakistan is very traditional and state centric, nudging it towards alliances with the US and the growth of its security infrastructure institutions at the expense of democratic institutions. The US support for Pakistan came without any moral or value judgment. In fact all military ruling spells in Pakistan happened because of US support. This allowed the military institutions to expand their clout inside the country and indulge in military adventurism on its eastern borders.

The military aid to Pakistan from the US also substantiates this. As per statistics between, (1954 to 2002) US provided a total of \$12.6 bn to Pakistan of this \$9.19 bn were given during the military rule where as only \$3.4 bn was provided to the civilian government.⁹ This is not inclusive of the most generous aid provided to Pakistan post September, 2002 to a quasi military government of General Musharraf.

Perhaps a more damaging dimension of the military intervention in the polity of Pakistan which has had a direct impact on its democracy is the alliance between the military and the Islamist. This resulted in the building up of the Jihadi infrastructure in Pakistan, once again supported by the international community now responsible for rising religious extremism, intolerance and radicalization of the Pakistani society. Some of these Jihadi networks now operate regionally and globally, emerging as a security threat to Pakistan the region and the world.

The military right from General Ayub Khan to General Musharraf have not only patronized and accommodated the religious groups but have also used them to perpetuate their control on the polity of Pakistan and to indulge in cross border adventurism. General Ayub Khan was the first to recognize the usefulness of injecting Islam into the body politic of the country to his own advantage. Though he presented himself as a liberal, moderate, progressive General, his policies pushed Pakistan further along the road of a state sponsored ideology. While General Yahya who headed the second military spell in Pakistan, not only co-opted the Islamists in the state machinery but also made the Islamist and the military the guardians of state ideology. The East Pakistan debacle caused embarrassment, humiliation, and marginalization of the army. A condition that was somewhat altered by Bhutto. He attained secular civilian ascendancy but failed against the onslaught of the Islamists who worked in concert with the military to oust him.

After Bhutto, Zia-ul-Haq not only attained power because of Mulla-Military alliance but worked assiduously to strengthen it for the next 11 years. Zia's legacy of introducing extremist trends in the polity of Pakistan continues to haunt Pakistan. The constitutional amendments (17th amendment), introduced by him have done irreparable damage to the democratic polity of Pakistan. They stand partially rectified through the 18th, 19th, 20th and 21st amendment by a democratically elected government after a gap of 7 years.

⁹ Tariq Fatemi, "Spread of fundamentalism and democracy", *Dawn*, 4 July 2005.

General Musharraf, on the other hand, the architect of so called *Enlightened Moderation* introduced limited democracy in October 2002 by holding general elections. However, by sidelining main political parties and personalities, he allowed the religious parties to acquire a historic electoral win. They emerged as the third largest political force in the National Assembly and formed governments in two provinces (Baluchistan and NWFP). Something that had never happened in the political history of Pakistan, Islamists had always failed to acquire any political space for themselves before this. By virtue of being in power, they sabotaged all efforts towards Enlightened Moderation. Musharraf and his government is accused by the West and the liberals of Pakistan for not doing enough and appeasing and accommodating Islamists by backtracking on reforms. Because of the changing international environment and pressures, some reforms were introduced. Nevertheless, the Islamists remained a force to reckon with.

The extremist tendencies that are witnessed in the now Khyber Pakhtunkhwa province (NWFP) are a legacy of this.

Coming back to India the perennial threat from the east allowed a very narrow realist focus on the understanding of security. It further allowed the military to become the custodian of Pakistan's national interest, making way for military authoritarianism and subjugation of civilian infrastructure. It is not entirely paranoia. India even today has Pakistan on its striking radar. There are doctrines like operation cold start. India maintains 50% of its strike corps along the line of control, the international border or close to it. The Indian military posturing keeps Pakistan's military India centric. Furthermore Indian designs in Baluchistan and Afghanistan add to this threat.

C. Christine Fair of Rand Cooperation based on her discussions with Indian officials in Afghanistan and Zaheden, Iran insists that India ran operations against Pakistan from its missions in Mazar-e-Shareef and the other consulates that it has reopened in Jalalabad and Kandahar around the borders. India's more than \$1bn reconstruction economic aid to Afghanistan since January, 2002. Providence a free satellite services for Afghan telecommunication and information apparatus as well as Indo-Afghan cooperation in area such as intelligence as special policing adds to Pakistan's anxiety.¹⁰

¹⁰ Imtiaz Gul, "Correcting the focus," Dawn, May 18, 2009, http://www.imtiazgul.com/May_18_2009.html

Here also US has a role to play, the opaqueness of American policies where they realize Pakistan's importance for there exist strategy but at the same time encourage Indian presence in Afghanistan much against the sensitivities and sensibilities of Pakistan.

Pakistan relation with the US has followed the swing model. Pakistan has swung between being the most sanctioned ally to a non NATO ally; it is the third largest recipient of aid from the United States. However at the same time it is perhaps one of the most anti-American states in the world.¹¹ The new found resolve in the United States to build bridges with the people of Pakistan and invest in the societal improvement may change this.

Pakistan's relations with India and the United States have shaped its internal politics including its civil military relations. India's threatening posture and anti Pakistan propaganda and America's "use Pakistan and drop Pakistan policy" is also partially responsible for Pakistan's democratic deficits. There is a paradigm shift here also Pakistan wants better relations with India and an end of exploitation by the United States.

The elected government of Pakistan wants their terms of engagement with the US revisited. What US and India want from Pakistan can only happen if Pakistan now standing at crossroads to democratic substantiveness and consolidation is helped and not constantly blamed for what others are also responsible for.

Conclusion

Pakistan transition to democracy maybe considered complete where back sliding may be avoided. It is entering the consolidation phase. Linz and Stephan's thesis on consolidation of democracies support it, currently in Pakistan all contenders for power inspite of issues and problem are acting within the democratic sphere. Constitutionally also Pakistan seems pro democracy.

¹¹ U.S. Image in Pakistan Falls No Further Following bin Laden Killing, Global Attitudes Project, *Pew Research Center* <http://www.pewglobal.org/files/2011/06/Pew-Global-Attitudes-Pakistan-Report-FINAL-June-21-2011.pdf> (Last Accessed: March 2, 2012) America's overall image is viewed unfavorably by 73% of Pakistanis and favorably by just 12% while only 6% see it as a partner and 69% see it as an enemy.

The biggest challenger to Pakistan's democracy the military seems committed to exercise requisite restrained and the constitutional amendments also act as a restraining factor. The media and the judiciary see their new found independence and power an offshoot of democracy. The current trends therefore indicate a continuity of democracy.