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## **THE STATE OF DEMOCRACY IN PAKISTAN**

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### **ABSTRACT**

*Pakistan's political crises continue to deepen. The country is in the midst of crises that redound negatively to itself and the world. These crises accrue largely from the absence of democracy on Pakistan. Be it the recent ouster of its Prime Minister, Yusuf Raza Gilani, or the various political convolutions of the state of Pakistan since its inception and founding, the cause(s) can be attributed to the lack of democracy in Pakistan. This in turn is predicated upon the nature and ideological premise of Pakistan, state formation and state society relations. The question is: What accounts for Pakistan's lack of democracy and the attendant political crises and instability? And given the historical record and its current existential crisis, is there hope for a salubrious democratic future for the country?*

**KEY WORDS:** Democracy; Security, Political Decay, Weak States, Authoritarianism, Oligarchical Elite, Patrimonialism; Ideology

### **INTRODUCTION**

The nature, evolution and trajectory of Pakistan are critical to global security and even world order. A nuclear armed state that has been deemed by many on the edge of state failure or tottering on the verge of collapse, at odds with some of its neighboring states and pursuing a foreign policy that redounds negatively to itself and the world constitute reasons for alarm for both Pakistan and the world at large. It can be contended that these set of conditions or state of affairs accrue from the nature and ideational premise of Pakistan, its convoluted and torturous history and trajectory, institutional morass and confusion, state formation, the warped nature and wielding of power, the dysfunctional civil military relations, misaligned state society relations and the attendant, lack of pluralism and social, political and economic apathy. The critical variable or lacuna that undergirds these is the lack of democracy and democratic governance in Pakistan. The void generated by this is filled intermittently by what has been held to be the real power in Pakistan: the Army and the Intelligence agencies. On account of these structural

anomalies, it could be asserted that Pakistan has gradually and inexorably morphed into what Samuel Huntington called an 'oligarchic patrimonial state' where the army developed institutional interests of its own and becomes a political elite in collusion with other social elites or interest groups like the bureaucracy, feudal lords and technocrats(Huntington,1968). This form of authoritarianism goes against the gravamen of democracy and democratic governance and among other things fosters instability, chaos and even violence. Cumulatively, these set of conditions point out to a condition which Francis Fukuyama has called political decay (Fukuyama,2011). 'Political decay occurs when political systems fail to adjust to changing circumstances and is caused by the disjunction between existing institutions and present needs'(Fukuyama,2011:7). Pakistan may also be said to be suffering from the democracy transition and consolidation dilemma. That is, a state of affairs where its transition to democracy has never been consolidated. As such it occupies, what Thomas Carothers has called the 'gray zone'- a condition where a country is neither fully authoritarian nor meaningfully democratic (2002:5-21).It then stands to reason that delineating the state of democracy in Pakistan be carried out not only for the consequences of potential of Pakistan's democratization on global security and world order but for intrinsic reasons as well. It is to this 'stock taking', that this paper devotes itself to. The main hypothesis and central assertion of this paper is that Pakistan's morphing into a substantive democracy faces immense structural obstacles and that this accrues mainly from the nature of the Pakistani state- a weak state whose encounter with modernity has been warped and immense structural anomalies largely flow from this condition Pakistan given the contradictions that define it may never evolve into a substantive and mature democracy given that the antidotes to its structural anomalies - patrimonialism, praetorianism which accord it a semi authoritarian character- are so structurally embedded that its core institutions may be indelibly colored by these features. Add to this the competing and clashing ideas of Pakistan, the picture that emerges is not salubrious, to say the least. Any change-especially of the democratic variety- requires comprehensive rejigging of core institutions. 'Institutions are stable, valued and recurring patterns of behavior' (Huntington, 1968:12).

The break up of the erstwhile Soviet Union may be a classic example of this. Unless and until these core institutions and the linkages that bind them together break up or fracture, a polity may never change. Superficial change, which is of the nature of tinkering merely affects the texture or politics not its gravamen. It is our contention that the changes that have occurred in Pakistan over the last decade or so are indeed superficial. The core institutions remain untouched. As such, Pakistan merely enjoys a façade and patina of democracy which can, on account of stresses, like, for instance, the institutional clash going on these days may once again lead to intervention of the army in the polity. Even if, the various stresses and strains accruing from institutional clashes may not overwhelm Pakistan, the military and its ancillary intelligence agencies continue to loom large over Pakistan and its politics. This, to repeat, is a structural feature that binds the idea and state of Pakistan. And among other things, it may explain the United State's implicit support for dictatorships in Pakistan over the course of its history. So is the exercise for assessing

the state of democracy in Pakistan a vain one? Is it a mere academic exercise that accrues from interest in a pivotal and strategic state like Pakistan? Or can we hope against hope and believe that sometime in the undefined mists of the future; Pakistan may indeed morph into a substantive democracy? The answers to these questions may not be definitive. The exercise of peering into the future of Pakistan is a fraught one and may be akin to peering into the Nietzschean abyss. The skeptic's or perhaps even the cynic's view and note is very obvious here and an astute reader will gauge the thrust of this paper from this very assertion. However, all said and done, the assessment and stock taking is well worth the endeavor. If nothing else, it may shed some light on the current state of affairs of Pakistan and help formulate policy and direct scholarly attention to an area where it may be needed most. It is to this that we devote the rest of the paper.

It becomes exigent towards this end to first illustrate and highlight the meaning of democracy and then counterpoise it against the 'real and existing' nature of democracy in Pakistan. The aim is highlight the divergence between the two, tease out the reasons for this divergence and draw concepts and terms that could be said to represent the nature of democracy in Pakistan. A conceptual and chronological tour into the nature of Pakistan is then taken, followed by a brief narrative that lays out the torturous political and institutional trajectory of Pakistan undertaken. (The focus here will be on the developments in the last decade or so). A brief detour is also taken into the nature, existence and dynamism of political parties in Pakistan, their links to the Pakistan's power structure, independence and their role in either consolidating the status quo or potential change in the state's power dynamic. Terms and concepts like praetorianism, semi authoritarianism and patrimonialism and their relevance to Pakistan may hopefully become clear here. This is then overlaid by political developments that occurred in Pakistan after the defining events of 1999-the bloodless coup led by General Pervez Musharaf and overlaid onto the contemporary state of politics and democracy in Pakistan. The nature of Pakistan's civil society is also attempted to be understood and put into perspective. In the final analysis, an attempt will be made to understand the power structure and more importantly the state of democracy in Pakistan given these conditions and structural anomalies. The analysis will be concluded by some prognostications- an exercise fraught with peril- over the nature and trajectory of democracy in Pakistan.

## **DEMOCRACY AND ITS CONTENTS**

The concept and practice of democracy is vast and broad. Elaborating upon it is beyond the scope of this paper and a minimalist definition of democracy is propounded here. (There are variants of democracy. It is liberal democracy that we are referring to in this paper). Liberal democracy, according to, Francis Fukuyama, is more than majority voting in elections; it is a complex set of institutions that restrain and regularize the exercise of power through law and a system of checks and balances (Fukuyama, 2011:4) While free and fair elections are the sine qua non of democracy, it lacks substance if the electoral

process is not coupled with the supremacy of the Constitution, the rule of law, civil and political rights and freedoms of the people(www.democracy-asia.org). ‘The state must practice the principle of equal citizenship to all irrespective of religion, caste, ethnicity and regional background. It must also ensure equality of opportunity to all for advancement in social, political and economic domains and guarantee security of life and property of its citizens’ (www.democracy-asia.org).

Democratic systems and polities are usually more legitimate in the eyes and beliefs of the citizenry. It is almost a truism now that most states in the contemporary world take recourse to democracy as a legitimizing practice even though for some this is merely rhetorical. Legitimacy is of two kinds: Vertical and Horizontal. ‘Vertical legitimacy establishes the connection, the ‘right to rule between society, political institutions and regimes. It is the belief by the population in the rightfulness of the state and its authority’(Ohlson & Soderberg, 2002:7).’Horizontal legitimacy concerns the limits of and criteria for membership in the political community that is ruled. It refers to the nature of the community over which formal rule is exercised, to the attitudes and practices of individuals and groups within the state to each other and ultimately to the state that encompasses them. If the various groups and communities within the state accept and tolerate each other, horizontal legitimacy is high’ (Ohlson & Soderberg, 2002:7)

In sum vertical legitimacy refers to responsible authority and voluntary subordination and horizontal solidarity refers to mutual acceptance and tolerance at various levels (Ohlson & Soderberg, 2002). These two interact and are interlocking: one is incomplete without the other and constitutes almost an equation. The absence of horizontal legitimacy within society may lead to dissipation of loyalty to the state and its institutions. The discussion over legitimacy blends into the nature of the state in contention. While the paper does not allow is to probe deep into state typologies, it, however, is germane to point out two categories of states that have a bearing on the discussion. That is, strong and weak states. Strong states typically have a high degree of legitimacy whilst weak ones suffer from what is called the legitimacy gap. Strong state legitimacy accrues from the social contract between key groups in society. ‘In strong states, approved mechanisms for adjustment, change and transfer of power exist and command sufficient support so that they are not threatened from within the state. The idea of the state, its institutions and its territory are all clearly defined and stable in their own right’(Ohlson & Soderberg, 2002:6). Weak states, by contrast are characterized by the following features:

1. Lack of societal cohesion and consensus on what organizing principles should determine the contest for state power and how that power should be executed:
2. Low capacity or low political will of state institutions to provide all citizens with minimum levels of security and well being:
3. High vulnerability to external economic and political factors;

4. Low degree of legitimacy accorded to the holders of state power by the citizenry (Ohlson & Soderberg, 2002: 6-7).

Substantive democracy, strong states, and high legitimacy-both horizontal and vertical- go together and form a salubrious fit. Weak states and low levels of democracy or non existent democracy, au contraire, comprise the other extreme. And it could be inferred that weak states usually lend themselves to some form of authoritarianism, praetorianism and patrimonialism or a combination thereof. While there may not be a robust causal and empirical relationship between these, the evidence towards this is borne out by the experience and trajectory of post colonial experience and trajectory of most states in the Third World. Pakistan falls along the continuum of the weak state and thus displays classic features of semi authoritarianism or a semi democracy where the inherent weakness of the state combines with other features and conceptual underpinnings that cumulatively render the state inhospitable to democracy and democratization. It suffers from both a lack of horizontal and vertical legitimacy. The real, existing democracy in Pakistan thus is at odds with the thrust and gravamen of democracy The Pakistani state and its various convolutions suggests it falls low on the legitimacy scale or continuum. There is no coherence to either the state or the nation of Pakistan and various groups have over time vied for offering a competing narrative for Pakistan. In the process, extant state weakness which the state was born with has led to a crisis of legitimacy. The natural concomitant to this condition is weak or more accurately the intermittent attempts to impose some degree of coherence to both the state and the nation. This top down attempt inevitably leads to a fragmented polity where the commitment to democracy is largely rhetorical and other actors and groups like the army step in to fill the void. The polity then exhibits characteristics and features of praetorianism „patrimonialism and semi authoritarianism which may be the logical corollary to incoherence and dichotomy between the state and nation, weak state structures and crisis of legitimacy.

## **WEAK STATES AND PATRIMONIALISM**

Weak state's drift into patrimonialism or repatrimonialization may be inevitable. The term Patrimonialism was coined by the doyen of social and political scientists, Max Weber. It denotes a situation or condition where the objective interests of the state meld with the subjective interests of the regime in power(Ohlson & Soderberg,2002) 'In patrimonial systems, leaders predicate their claim to power on powerful but informal structures of vertical patron client relationships with rewards going top down and support going bottoms up' These states often display a hybrid political system in which the customs and patterns of patrimonialism prevail alongside with the modern state features'(Ohlson &Soderberg, 2002:9). Patrimonial state structures, broadly speaking, foster political decay and more specifically distort the system of incentives and misaligns them impinging on the polity and the national interest negatively. They are exclusive and cannot inherently bring the entire population or citizenry under its purview. Some are excluded from the polity and power structures and thus rendered

voiceless. And in the Hirschmanian formulation, patrimonial systems become prone to conflict or even violence. Given the limited scope and remit of patrimonial systems, loyalty and obedience have a premium over efficiency and productivity and corruption therefore becomes a structural feature of these systems.

### **DISAGGREGATING THE NATURE OF THE PAKISTANI STATE: PATRIMONIAL, PRAETORIAN OR SEMI- AUTHORITARIAN?**

At the risk of sounding tautological, it may be posited that the historical and contemporary situation and condition of Pakistan lends itself to the assertion that Pakistan displays strong features of not only patrimonialism but also praetorianism and semi authoritarianism. It is, to use the Huntingtonian phrase, ruled by an ‘oligarchic praetorian elite’ with the military at the forefront. ‘The military in Pakistan, according to Talat Masood, has historically co-opted a cross section of the political elite and shared office but not power with them to give a democratic façade to the regime. These politicians enjoy the benefits of being in office but do not exercise real power and have to accept the rule of the President and the army’ (2007:3). Political parties in Pakistan then operate under structural constraints imposed by various military regimes. And this condition has fostered a degree of lassitude and paralysis wherein these parties. Instead of interest articulation and aggregation, they take recourse to clientist networks and indulge in patron client relationships. This impacts the state as the state is viewed as a source of largesse and this largesse is in turn doled out to clients or patronage networks. This condition then renders the elections and the electoral process rather infructuous and not reflective of genuine and substantive democracy and genuine power rotation. In fact, the leverage exerted by the oligarchic praetorian elite over political parties and the political parties links to the power structure of Pakistan renders these into a tool in the hands of the army- a situation that , as we shall see, reflects semi authoritarianism. So what are the features of semi authoritarian regimes?

‘Semi authoritarian regimes are political hybrids. They allow little competition for power, thus reducing government accountability (Ottaway, 2003:5). However, they leave enough political space for political parties and civil society organizations to form and for an independent press to function to some extent and for some political debate to take place (Ottaway, 2003:5).

More importantly, semi authoritarian regimes are not flawed democracies; rather they are carefully constructed and maintained alternative systems (Ottaway, 2003:5). The most important characteristics of semi authoritarian regimes is the existence and persistence of mechanisms that effectively prevent the transfer of power from incumbents to a new elite or organizations. These mechanisms of blocking power transfers function despite the existence of formal democratic institutions and the degree of political freedom granted to the citizenry. There is little room for debate on the nature of political power in society, where that power resides and who should hold it. Elections, in this schema are not the source of the regime’s power(Ottaway:2003:13). Power flows and accrues from other sources like the military or the

institutional complex generated and perpetuated by the military and their allies like the co opted political parties defined by clientism and patrimonialism. As such, the political system becomes distorted. Elections under such conditions are merely a fig leaf to conceal real power and accord a patina of legitimacy to the incumbent regime. According to Jennifer Gandhi and Ellen Loust-Okar, 'authoritarian elections are usually an institutional tool that dictators use to co-opt elites, party members or larger groups within society. Elections may also serve to co-opt the opposition'(2009:3). In most cases of authoritarian elections, the authors add, the emerging picture is that elections are not uncompetitive exercises, simply returning preselected candidates but rather an exercise in competitive clientism wherein candidates vie for the privileges of acting as intermediaries in patron client relations and incumbents manipulate such a system to insure their prolonged rule (Gandhi & Loust -Okar, 2009:5). In such electoral and competitive authoritarianism regimes, elections and other democratic institutions offer a medium through which political parties may seek power and influence even though highly circumscribed. Elections are, by and large, rendered as instruments of authoritarian rule than instruments of democracy. The political system of Pakistan displays classic features of semi authoritarianism, praetorianism and patrimonialism. This is validated and borne out by the intermittent and recurring break down of the constitutional and political order in Pakistan, weak political institutions and processes, expansion of the role of the military bureaucratic elite, military elite and military dominated civilian governments and narrow based power management(Rizvi, 2005) The Army, as is well known , is the real political arbiter and power and it co-opts political parties who in turn indulge in patronage and take recourse to patron client relationships to perpetuate and justify their existence. Elections are rather shambolic and correspond to the 'competitive clientism' paradigm, and offering no real opposition to the incumbent regime. In the process, the Pakistani polity is badly damaged and transitions to democracy are either botched and democracy never really consolidated. This condition or set of conditions may said to accrue from the disjointedness of the idea of Pakistan, its disconnection from the state of Pakistan and weak institutionalization.

## **THE IDEA OF PAKISTAN AND ITS DISCONTENTS**

Conceived as a homeland for Muslims of South Asia, where they could live safely and securely and reach efflorescence, Pakistan, it could be said, has not lived up to its promise. The reasons may lie in the dichotomy between the ideational premise or the slogan of Pakistan and the nature of the entity(state), that its founder, Muhammad Ali Jinnah , had in mind. Islam was sought as the slogan and the rallying cry for both the Pakistan movement and the Pakistani state to weld it into a coherent nation. 'Establishing Islam as the state ideology was a device at defining Pakistani identity during the country's formative years. Indeed Pakistan's leaders started playing on the religious sentiment as a means of strengthening the country's national identity shortly after Pakistan's creation (Haqqani, 2004-5:5).

However, as Cohen rightly points, out the , the Idea of Pakistan was and has been in flux since it was first promulgated in the 1930's(2012:22). 'Different ideas of Pakistan are held by the establishment, the army, different ethnic and linguistic groups and Pakistan's precariously situated minorities(Cohen, 2011:22).'Pakistan's unique feature is not its potential as a failed state but the intricate interaction between the physical, political, legal entity known as the state of Pakistan and the idea of the Pakistani nation. The Pakistani state often works at cross purposes with the Pakistani nation (Cohen, 2002:1). 'From its inception, Pakistan has been fundamentally internally conflicted' (Cohen , 2002:4). The conceptual morass and confusion that adherence to an abstract yet illusive Islamic state rendered space open for accoutrements and apparatuses of the state to fill in the void left by the state and nation dichotomy.' As one military leader followed another, the army's vision of Pakistan began to define the state' (Cohen, 2002:5). However, even though the army's vision vies for hegemony, there are competing and contending visions of Pakistan.' Indeed, the most important conflict in Pakistan is not a civilizational clash between Muslims and non Muslims but a clash between different concepts of Islam, particularly how the Pakistani state should implement its Islamic identity' (Cohen, 2002:5).

This disconnect between the idea of Pakistan and the state of Pakistan was overlaid by the inability of the Pakistani elite to consolidate the state of Pakistan and craft it according to the preference of its founder, Jinnah, who explicitly favored a secular, democratic and plural Pakistan. This failure led to Pakistan's still born and warped encounter with modernity and the crystalization of the attendant trajectory and institutional design of Pakistan. 'Pakistan's early rulers did not pay much attention to the democratization of the political process because their major concern was how to ensure the survival of the state, in view of internal and external challenges. The fear of state collapse reinforced authoritarian governance and political management' (www.democracy- asia.org). 'The history of Pakistan's politics is one of failure to establish enduring and credible political institutions. This political instability also manifested in Pakistan's failed efforts to establish a functioning institution or hold regular and consequential elections. In fifty five years, Pakistan has had three constitutions - created in 1956, 1962 and in 1973- and in 1985 when Zia ul Haq fundamentally altered the constitution with his introduction of the Eighth Amendment establishing a president dominated executive. National elections in recent years were held in 1985, 1988,1990, 1993, and 1997 and 2008 but no elected Pakistani government has succeeded another so far-all have been deposed by the military or dismissed by presidential fiat'(Cohen, 2002:4)

The inability to form genuine political parties, which could form and aggregate interests , separately from the power structure of Pakistan was another fatal flaw. 'The Muslim League that led the independence movement failed to transform itself from a national movement to a national party. The political parties or their coalitions that exercised power since the mid 1950's were either floated by the establishment (the oligarchical patrimonial and praetorian elite) or enjoyed their blessings'(www.democracy-asia.org).The repeated assumption of power by

the military and its desire to shape the Pakistani polity in accordance with its preferences has undermined the steady growth of democratic institutions and processes. 'Military rulers either abolished the constitution or superseded it to acquire supreme legislative and administrative powers'. They engaged in constitutional engineering either by introducing new constitutions or by making drastic changes in the existing constitutions to protect the interests of the military regime'(www.democracy-asia.org). 'On four occasions, despite the constant rewriting of its constitution ostensibly to pave the way for sustained democracy, generals seized power directly, claiming that civilian politicians were incapable of running the country. Even during periods of civilian government, the generals have seized political influence through the intelligence apparatus (Haqqani, 2004-5:3). 'Pakistan continues to be governed by a civil military oligarchy that sees itself as defining and also protecting the state's identity, mainly through a mixture of religious and militant nationalism'(Haqqani,2004-5:5).

The picture that emerges from this chaotic and conceptual morass is not salutary and has contributed to state weakness and more importantly crystallized a hybrid regime that displays semi authoritarianism, praetorianism and patrimonialism. The question that arises now is whether developments in the recent past- the departure of Pervez Musharaf, the 2008 elections, the activist mantle adopted by the judiciary and the longevity and survival albeit hobbled of the present regime, vigorous media -will restore equilibrium to Pakistan's polity. That is to say, can these developments break the warped linkages that comprise the state of Pakistan? And will these set it on the path of substantive democracy and democratization. The answer to this question, by its very nature has to be tentative and hesitant. The embeddedness and endurance of semi authoritarianism, patrimonialism and praetorianism and historic institutionalism-institutions, beliefs and actions of the past constrain the choices of actors in the present- in the Pakistani polity give reasons to pause and err on the side of caution. The power structure is so structurally embedded in Pakistan that it may be well nigh impossible to dislodge it short of a cataclysmic event or a set of events in combination. However, for academic purposes and scholarly interest, it may be prudent to lay out the developments that have taken place in the recent past and tease out their implications.

## **THE DEATH OF POLITICS IN PAKISTAN**

It may be, instead of, delineating a chronological sequence of Pakistan's political convolutions dating from Pakistan's inception be more germane and apposite to lay out the salient political developments of the past decade or so. This may help us put into perspective the potential for democracy in Pakistan and also assess its prospects. Alan Konstradt's assessment of the nature and drift of Pakistan has a contemporary resonance. He posits 'Pakistan's political setting remains fluid, with ongoing power struggles between the executive and the judiciary which could lead to renewed military intervention in the political system' (Konstradt, 2010:2). Even though a degree of peace prevails between various institutions of the Pakistani state at this point in time,

the fact remains that there is an underlying tension and clash between these with the judiciary and the executive at loggerheads with each other. The genesis of this institutional clash may be traced to the moment when former president Pervez Musharaf seized power in a bloodless coup in 1999. It may not be inaccurate to say that Musharaf essentially choked and killed in Pakistan 'From 1999 to 2008, Army General Pervez Musharaf ran the government after leading a bloodless coup unseating the elected government of Nawaz Sharif (Konstradt, 2010:57). 'Musharaf assumed the presidency and later oversaw the passage of the Seventeenth Amendment to the Constitution greatly increasing the power of that office' (Konstradt, 2010:57). 'The proximate cause of Musharaf's action appears to have been Nawaz Sharif's attempt to remove him from army leadership and prevent his return from abroad, but widespread dissatisfaction with Sharif's authoritarian and allegedly corrupt regime are believed to have been important broader factors'(Konstradt, 2005:16). 'Under a 'Provisional Constitution Order (PCO)', Musharaf declared a state of emergency, suspended the Constitution, and by special decree ensured that his actions could not be challenged in any court' (Konstradt, 2005:16). 'In August 2002, Musharaf took unilateral action in announcing a 'Legal Framework Order(LFO)' of constitutional changes. The most important of these provided greatly enhanced powers to the Pakistani presidency' (Konstradt, 2005:17). The major constitutional change was a provision that allowed the president to dismiss the National Assembly. Other controversial clauses meant presidential appointments of military chiefs, and the formation of a military dominated National Security Council (NSC) authorized to oversee the country's security policies as well as monitor the process of governance and democracy in the country(Konstradt, 2005). 'Following the 1999 coup, the Pakistani Supreme Court ordered that elections be held in a period of no more than three years and the president set and held a poll date of October 10, 2002' Opposition parties and many independent observers called the elections deeply flawed: widely asserted was that the military regimes machinations substantively weakened the main secular parties'(Konstradt, 2005:18). 'Musharaf continued to remain concurrently as both president and chief of the army staff(Konstradt, 2005:23).' Under Musharaf, Pakistan was converted from a Parliamentary democracy into a dictatorship where decision making was confined to a single person' (Fruman, 2011:7). Musharaf co-opted a range of parties that included the Islamists and given the United States preoccupation with the 'war on terror, his reign enjoyed the tacit blessings of the sole superpower. Undercurrents of disaffection and alienation with Musharaf's rule were however building up. ' The first signs of organized opposition to Musharaf's government emerged in 2005 with the formation of the Alliance for the Restoration of Democracy which united fifteen political parties including the Pakistan People's Party(PPP) and the Pakistan Muslim League(Nawaz),the two largest. A critical turning point came when the two former prime ministers and leaders of the PPP and the PML(N), Benazir Bhutto and Nawaz Sharif signed the Charter of Democracy(CoD)'(Fruman, 2011:12). 'The opening for the two parties to launch their anti Musharaf campaign came on March 9, 2007, when Musharaf demanded that Iftikhar Choudhary, chief justice of the Supreme Court of Pakistan, resign. Choudhary's refusal unleashed a wave of opposition

that had steadily been growing and then found a cause that transcended partisan differences: the independence of the judiciary’(Fruman, 2011:13).’ From March 2007 to February 2008, an opposition movement of tens of thousands of Pakistani’s undermined Musharaf’s authority and eroded his support. The political parties were soon in the mix and led the quest for the return of democracy with the cause of institutional supremacy’ (Fruman, 2011:13).’ On November 28, in what was seen as a victory for the forces of democracy, Musharaf was forced to relinquish his role as the chief of the army and General Ashfaq Kayani took over as chief of the army staff’ (Fruman, 2011:13). In this melee, Benazir Bhutto was assassinated. However elections took place regardless and political parties widely accepted the results (Fruman, 2011). ‘The PPP secured enough votes to form a coalition government at the centre and be part of coalitions in all provinces.

The PML(N) won the most seats in Punjab, the country’s largest and most powerful province. Musharaf tried to cling to the presidency even after the elections but, ultimately, rather than wait for a vote on impeachment, he resigned as president on August 18, 2008. On September 6, PPP co-chairman Asif Ali Zardari was elected president of Pakistan by the elected assemblies and the Senate’(Fruman, 2011:13). ‘In the fractious political climate that prevailed after Musharaf’s 2008 departure, the primary institutions of the state-the government, the opposition, the judiciary, and the military -battled each other for supremacy’(Matthews, 2011:2). The Zardari government operated in a ‘siege environment’ with vigorous opposition coming from the military, the opposition, the media and the judiciary(Konstradt,2010). ‘The Lawyers Movement, as it came to be known, was the first time that a mass movement succeeded in ousting both a dictator and electing a democratic government’ (Fruman, 2011:14).

## **THE RETURN OF POLITICS?**

The formation of the government by the Pakistan’s People’s Party in coalition with other parties’ begat hopes that a genuine democratic transition was taking place. They took measures that amounted to rollback of policies initiated and made by Musharaf.’In April 2010, the National Assembly fulfilled a long standing PPP vow to overturn non democratic constitutional amendments made under Musharaf. On April 8, the body unanimously passed the 18th Amendment bill, which President Zardari signed in as law’ (Konstradt, 2010:60). ‘Among the most notable of the 102 clauses of the bill were those removing the president’s power to dismiss the prime minister and Parliament, transferring to the Prime Minister the lead role in appointing armed services chiefs, ending the court’s abilities to suspend the Constitution; limiting the President’s ability to impose Emergency rule; removing the bar against prime ministerial candidates who had previously served two terms, changing the name of the North Western Frontier Province to Pakhtunkhwa; and ceding four new Senate seats for non Muslim minorities’ (Konstradt, 2010:60). However, in the scheme of things, this amounts to tinkering as the same old power structure and the institutions underpinning it remain entrenched.

‘The February 2008 elections enabled a transfer from the military to civilian rule but the result amounted to change within the prevailing patronage networks more than a shift from one political ideology to another. More over, the policy making autonomy of the PPP dominated legislature remained seriously circumscribed by the military and the judiciary’ (Matthews, 2011:3). ‘There were reasons to believe that the situation was qualitatively different from previous transition patterns (Fruman, 2011:25). ‘However, one again, the transition versus consolidation dilemma resurfaced: while the politicians created a coalition durable enough to overthrow and incumbent, they could not hold it together once the incumbent was ousted’ (Fruman,, 2011:25). Of late, there have been new developments which are held to be as an augury of democratic transition in Pakistan. Activism and intervention into domains of politics by the judiciary of Pakistan constitute the thrust of these developments. The question is: can this judicial activism be a prelude to substantive democracy in Pakistan?

### **JUDICIAL ACTIVISM: A PRELUDE TO CONSOLIDATION OF SUBSTANTIVE DEMOCRACY OR THE CATALYST FOR INSTITUTIONAL CLASH?**

The empowered judiciary in Pakistan, of late has been using its suo moto power and intervening in a range of matters that are usually the prerogative of the Executive. Some hold this to be a salubrious check on the power structure of Pakistan while others deem this judicial activism to constitute ‘judicial dictatorship’. Institutional balance is important and a critical predicate for a healthy polity. An imbalance of power among institutions can lead to a warped polity impinging negative on democratization and governance. ‘Pakistan is , on account of this development, experiencing a steady attempt by the Supreme and the High Courts to expand their domain of action’. Sensing tension between the judiciary and the PPP led government, the opposition parties have endeavored to turn the judiciary into an area of contestation with the PPP’. They have gone to court on a number of purely political issues that should have been settled through political interaction or through the Parliament’ (Rizvi, 2012). This overt politicization of the judiciary augurs ill for the polity and potentially creates space for the intervention of the military into the politics of Pakistan. As such, it cannot be held to be the panacea for Pakistan’s ills and constitute the bed rock for its democratization. The domains in which the judiciary has intervened into belong to the domains of politics that require negotiations. Does this mean and imply that the situation is so bleak that the prospects for democracy in Pakistan are dim or nonexistent? Would other components of a vibrant democracy-civil society and the media- fill in the void? It is to a discussion of these we turn to.

### **CIVIL SOCIETY IN PAKISTAN: A FORCE FOR DEMOCRATIC CONSOLIDATION IN PAKISTAN?**

Pakistan's civil society is not well developed and exists in an embryonic form. According to A.S R Baig, 'civil society in Pakistan is characterized by hybrid forms, multiple inheritances and the unresolved practices and values of pre-capitalism society and new modes of social life, between authoritarian legacies and democratic aspirations. Its cultural manifestations appear as a collection of incoherent voices, conflicting world views, and opposing interests' (2001:4). Even though some space is accorded to civil society organizations, this space is cluttered and a cacophony of voices and civil society organizations whose agendas are not always benign. Christine Fair posits that 'the ways in which civil society organizations are evolving in Pakistan augur more-not less division across Pakistan'(2011:96). The diversity of civil society is amazing but the agendas are conflictual and the nature of these ranges from one extreme to another. Some civil society organizations and human rights organizations and the lawyers movement which have pressed for greater adherence to democratic practices enjoy very limited base of support in Pakistan. Others are civil society organizations that are avowedly anti liberal and pursue an explicitly Islamist agenda. They use the rhetoric of democracy to undermine democracy (Fair, 2011). Others do not even entertain the rhetoric of democracy and explicitly state their goal of Islamizing Pakistan. The types of future of Pakistan these forces are fighting are orthogonal to each other' (Fair, 2011:96). It can be safely inferred from this that civil society in Pakistan can neither be a countervailing force for democratization nor offer alternative policy paradigms in partnership or contradistinction to the state. If civil society in Pakistan is disparate and disjointed and their agendas are conflictual and does not, as such, have critical mass to be a political force, what other alternatives exist? Is the media or the liberalized media that can take the cudgels for democracy?

According to Fair, 'the wild card in mobilizing Pakistanis is the press' (2011:96). Pakistan's private media, on the face of it appears to be vibrant and cacophonous and on many measures this evaluation is fairly accurate. However, on issues of national security and contentious domestic issues, Pakistan's media is guilty of self censorship and is deeply implicated in the establishment with st links to the military and intelligence agencies (Fair, 2011). 'In some cases they are explicitly paid by the Inter Services Intelligence Directorate. Therefore, their ability to resolve some of these issues may be limited by design' (Fair, 2011:96). The liberalization of the media in Pakistan thus has an underside (Cohen, 2011). 'In the contemporary media landscape, both the medium and the messages are ambiguous. Pakistan is being flooded with confusing and contradictory images (Cohen, 2011:33). This leads to incoherence and a sustained message aimed at mobilizing people for liberal values and democracy is lost in the process. And more importantly, 'any mobilization in Pakistan need not be for greater liberalism; it is likely to be geared towards greater Islamism of the state and society. And whether or not mobilization, liberal or its obverse, can effectively pressure Pakistan's political and governance institutions remains an important empirical question for the near, mid and even long term' (Fair, 2011:97). Therefore, both the civil society and the media cannot be a force for substantive democracy in Pakistan, given that both are delimited by the state, are by and large incoherent and their

agenda's are at cross purposes. This cancels them out as a force for democratization and liberalism in Pakistan.

What can be culled from the delineation of political developments in Pakistan is that the current government, even though it , to paraphrase Konstradt, operates in a 'siege environment' and the results and consequences of its continued tussle with the judiciary remain an 'unknown

unknown', has attempted to roll back the changes brought by the Musharaf regime with some success. The energies of the current government have been consumed by this and the security problems that engulf Pakistan and consequently little attention has been paid to rejigging the nature of the state and polity in Pakistan.(Perhaps, this can never be done).. And in the final analysis, these changes amount to tinkering, leaving, in the process, intact the extant power structure of Pakistan. This is a set of conditions that corresponds to political decay and may well nigh be impossible to reverse. As such, these cannot and should not be held as a harbinger of substantive democracy in Pakistan.

The reasons are manifold. The most salient are the durability, longevity and continued survival of core institutions that have taken root in Pakistan. These institutions validate and replicate praetorianism, patrimonialism and semi authoritarianism and can be said to be path dependent. Unless and until, core characteristics of the Pakistani state change and mutate, it will be 'plus ca change, plus c'est la meme chose' for Pakistan. And the state of Pakistan will merely 'muddle along' with periods of relative calm punctuated by political instability. This is not merely the case of the democratic transition versus consolidation dilemma but accrues from deeply rooted structural characteristics which we have delineated in the piece. For substantive democracy to take root in Pakistan, its core institutions or the linkages between these, to repeat, have to fracture and a new polity created from the ashes. This has to be both a top down and a bottom up process wherein the first condition to be satisfied is a consensus on the nature and idea of Pakistan. However, this may, in the scheme of things and given Pakistan's history and its contemporary condition, mean asking for the impossible. The 'state of democracy in Pakistan' may then mean a loaded assertion or statement where the answers are known before hand. Should this stop us from assessing democracy and its prospects in Pakistan? The answer to this question is definitive 'no'. Historical determinism- the locking up of a country into a single path of development- may not bear the scrutiny of history and the historical process. History is not a linear process. It is cyclical and disjuncture's and surprises are the stuff of history and the historical process. The west's own political trajectory is witness to this and the same may be true for Pakistan. What seems inconceivable may yet happen despite all the odds. And Pakistan-after convolutions or even revolutions- may morph into a genuine, stable and substantive democracy in the long duree scheme of things. If this is to happen then Pakistan's transition to substantive democracy will not be linear or sequential. It will be messy, chaotic and uncertain and amount almost to a Sisyphean endeavor. However, given the potential for transforming Pakistan into a salubrious entity at peace with itself and the world, the attempt is

worth it. While, for the immediate and even the long term, we see no substantive change in the polity of Pakistan, it by no means is a stretch that we stop hoping and praying for it.

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