Saving Democracy from the Democrats in Pakistan Ashutosh Misra

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After sixty years of independence, Pakistan is still far from becoming a stable and representative democratic state. For half of its existence it has endured a succession of military dictatorships, interrupted by periods of rule by weak civilian regimes. Between 1947 and 1958, Pakistan was governed by a strong oligarchy between the bureaucracy and the military which was never interested in establishing a democratic order. In the years 1971-77, 1988-99 and 2002-2007 democratically-elected governments did come to power but on close scrutiny they were never truly democratic in decision- and policy-making and in terms of legitimacy. Pakistan has witnessed several variants of democracy mooted from time to time by military and civilian leaders to suit their particular interests. In this context, it is useful to examine how and why different forms of democracy have been envisaged from time to time, in order to understand what hinders the development of democracy in Pakistan.

The Five Variants of 'Democracy'

1956-69: The first variant, often referred to as Pakistan's 'basic democracy', was established under Field Marshal Ayub Khan. In this model, approximately one hundred thousand representatives were elected at the local level and comprised an Electoral College to elect the president. There was, however, no direct role for the people in forming government. Ayub's hostility toward political parties and leaders was fairly evident when he accused them of "bringing the country to its knees through their misuse of power, corruption and factional intrigue". In 1959 he banned all political

parties and purged 'troublemakers' through the *Public* (Disqualification) Order (PODO) and Elective Bodies (Disqualification) Order (EBDO). After abrogating the 1956 Constitution, Ayub redesigned the 1962 constitution as a centralised presidential system concentrating arbitrary powers in the president's hands. The system eventually collapsed due to its excessive reliance on the bureaucracy for the implementation of state policies.

1971-77: The second variant of democracy was created by Zulfigar Ali Bhutto under whom the legislature was formed through party-based general elections for the first time. In 1973 the constitution introduced a bicameral system, proclaimed Islam as a state religion (Article 227), constrained the president through the 'binding' advice of the prime minister (Article 48), and strengthened the system of parliamentary democracy. The Constitution also defined the role of the military in state affairs. Article 245(1) explicitly directed that "[a]rmed forces shall, under the direction of the Federal Government, defend Pakistan against external aggression or threat of war, and subject to Law, act in aid of civil power when called upon to do so."2 Article 6 further specified that "[a]ny person who abrogates or attempts or conspires to abrogate, subverts or attempts or conspires to subvert the constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason."3 Article 69(3) prescribed the death penalty for anyone committing acts prohibited by Article 6.4 Bhutto established Pakistan's first parliamentary democracy and was instrumental in creating constitutional safeguards against military misadventures. However, blinded by his political success, in practice Bhutto himself began to display authoritarian tendencies. The Prime Minister became the supreme arbiter of defence policies and tried to tame the military and bureaucracy without parliamentary debate. The contradictions in Bhutto's policies and his disrespect for the Constitution by repeatedly resorting to section 144 (disallowing public gatherings), suppressing the opposition and exercising emergency powers following electoral reverses undermined his regime popularity. Similarly and 'Punjabisation' of the army and prime ministerial 'interference' in its internal matters did not auger well with the military. 6 Ultimately, the appearement of the *ulema* for religious legitimacy failed to rescue his dwindling popularity and the Islamists joined the Pakistan National Alliance (PNA) against him. In the wake of nationwide protests in early 1977 over allegations of electoral fraud, General Zia overthrew Bhutto on 5 July, 1977 and in 1979, Bhutto was executed.

1985-88: The third variant of democracy was created by General Zia, who was a key figure in undermining democracy and pushing Pakistan toward the path of Islamisation. Zia was the cornerstone of the Afghan Jihad with American financial and military support. He backed the establishment of Nizam-e-Mustafa "Order of the Prophet" through a series of Islamic reforms. Under Zia's rule, thousands of Jihadis prepared for the Afghan war and the military-Jihadi-intelligence (Inter-Services Intelligence) nexus was created to expand Pakistan's regional influence. To consolidate his domestically, Zia promulgated the Provisional Constitutional Order (PCO) on March 24, 1981, which rendered the courts completely marginalised and ineffective. The press was banned and all newspapers were shut down through "press advice" and "press-censorship" measures. In 1984 he held a referendum as a stamp of approval for his autocratic rule, which gave rise to democratic opposition under the Movement for the Restoration of Democracy (MRD). Under pressure, Zia devised a democratic guise and held elections in February 1985 followed by the Revival of Constitution Order (RCO) on March 2, 1985, which altered the basic tenets of the 1973 Constitution. A powerless Prime Minister Mohammad Khan Junejo was forced to accept the Constitution as a trade-off for the lifting of Martial Law and thus approved the draconian Eighth Amendment article giving the president the powers to dissolve the national and provincial assemblies when in his opinion the government was not able to function constitutionally. The president reserved the right to nominate the prime minister, governors of the provinces and judges of the High Courts and Supreme Court, including the chief justice. The system ended in 1988 with General Zia's death in a plane crash.

1988-99: The fourth variant of democracy functioned between 1988-99 in which the parliament lacked autonomy in decision and policy making. During this period Benazir Bhutto served as Prime Minister from 1988-90 and 1993-96 and Nawaz Sharif was Prime Minister from 1990-93 and 1997-99. In addition to constitutional curbs, democracy also suffered from the bitter animosity between Bhutto and Sharif. Both of them consistently interfered in the appointment of Army and Naval Chiefs, Supreme and High Court Judges and Governors of Provinces. Corruption and nepotism became rampant and public faith in parliamentary democracy began to wane. Consequently, when one was overthrown by the President, the other did not oppose the sacking. Such political disunity and mistrust among its leaders is one of the main impediments for democracy in Pakistan. Time and again political parties and leaders aligned with the military at the slightest sign of strain on the democratic system rather than addressing its problems collectively. This decade of democracy ended with a military coup in October 1999.

<u>2002-07</u>: The fifth variant of democracy, known as "guided democracy", was created by General Perez Musharraf in the run up to the October 2002 elections. He created the Pakistan Muslim

League-Quaid-e-Azam (PML-Q) also known as the "King's Party" out of the defectors from the Pakistan Muslim League-Nawaz Sharif (PML-N) who chose a portfolio over prison in a bargain with Musharraf. He also helped the Islamist parties, the Muttahida Majlis-e-Amal (MMA), to win over 60 seats in the national assembly and to rule outright in two provinces. The mainstream parties, PML-N and PPP, were marginalised by disqualifying many candidates on technical grounds and Bhutto and Sharif were refused permission to return to Pakistan. In this guided democracy, the Prime Minister (initially Zafarullah Khan Jamali and later Shaukat Aziz) merely implemented the diktats of President Musharraf and the PML-Q legislators, and the MMA facilitated his tampering with the Constitution by passing the Legal Framework Order (LFO or the seventeenth amendment). The LFO augmented the president's powers and entrenched the Army's role in politics further by creating the National Security Council, a supra-national body to monitor the government's functioning. General Musharraf held twin posts as President and as Army Chief and ran his authoritarian regime under the façade of guided democracy. Another factor which sustained this system was Pakistan's alliance with the United States in the war on terror.

The Two Variants of Democrats

From the discussion above, it can be discerned that Pakistan's armed forces have only granted sufficient space for democratic forces to pacify public opposition to authoritarianism. The view of the international community, apart from the US, has never been of much concern. Thus, every time a coup occurred Pakistan was suspended from the Commonwealth, but it meant little to the military regime. Ongoing US support has always been the key for military regimes in Pakistan and is considered more useful than

democracy. This left the dictators only to manage domestic pressures, over which the US had marginal control. As a result the different variants of democracy were envisaged primarily for a domestic audience.

From the five variants of democracy discussed above, two types of democratic leaders can be identified in Pakistan. The first includes military dictators - Field Marshal Ayub Khan, General Zia ul Haq and Pervez Musharraf - all of whom promoted the interests of the armed forces under the garb of democratic accountability. The military itself has always been apprehensive of democratic movements which preceded the ouster of Ayub Khan, Yahya Khan, Zia-ul Haq and Pervez Musharraf. This suggests that the rise of democratic forces is contingent upon the loosening of the military's hold over power.

The second type of democrat consists of the civilian forces, mainstream parties, and leaders whose political misconduct when in power has harmed the interests of democracy. In the formative years of Pakistan, for example, the Muslim League's sole concern was the creation of a separate Muslim state, unmindful of any concrete plan for effective governance. Having a weak political base and organisation, the League was led by powerful factional leaders from the urban professional class whose political base was in India. After Pakistan's independence, landlords with sweeping inherited privileges were uncomfortable with the procedures of decision-making through debate, discussion, compromise and majority vote. The ruling elites were uninterested in strengthening the electoral process and allowed the military under Ayub Khan to grab power on the pretexts of economic crisis, soaring prices, shortage of essential commodities, smuggling, maladministration and corruption.8 The two constituent assemblies of 1947-54 and 1955-56 spent eight years discussing the role of Islam, the nature

of an Islamic state, the appropriate distribution of powers between the provinces, representation in the federal legislature, and the electoral structure.9 A highly centralised system of governance evolved, leaving the bureaucracy reliant on the military for assistance in civilian administration matters dealing with natural disasters, the maintenance of law and order and coping with socioeconomic problems. In the 1970s, when parliamentary democracy was finally established, political leaders played a key role in undermining its consolidation and development. For example, in his pursuit of absolute power, Bhutto trampled on the principles which are at the core of democracy. Gross electoral manipulation, of Article 144 (banning public gatherings), imposition appeasement of the ulema, using the ISI to spy on political adversaries and his disregard for electoral outcomes made Bhutto unpopular and prevented democracy from taking deeper root. Equally, his daughter and the second popularly elected prime minister in Pakistan, Benazir Bhutto, failed to grasp the essence of a democratic polity. During her tenures as prime minister her energy was spent more in undermining the PML-N opposition and less on providing efficient governance to the people. Interference in military's affairs, appointment of judges and governors made her unpopular with the presidency, military and judiciary. Above all, accusations of corruption and economic mismanagement directed toward her and her husband Asif Ali Zardari, dented the popularity of her regime and of democracy in general. Her political opponent, Nawaz Sharif, was hardly an improvement.¹⁰ After a decade of bungling and mismanagement from 1988-99, democracy failed to evolve into a vibrant alternative to military rule. In the end, both leaders were ousted from the country by the military, leaving their parties disoriented and leaderless.

Ignoring Lessons of History

Showing some intent to learn from their past mistakes, in June 2006 Benazir Bhutto and Nawaz Sharif signed a 36-point Charter of Democracy. It consisted of four parts including constitutional amendments, a code of conduct, free and fair elections and a charter for civil-military relations. The Charter called for making the prime minister the real chief executive with full powers and authority, and determining clear rules and guidelines for the selection of the chief election commissioner, chief justice and judges of the superior courts. The Charter also called for restoring the 1973 Constitution and the repeal of the LFO and the Seventeenth-Amendment bearing the provisions related to the creation of a joint electorate, reserved seats for women and minorities, and lowering of the voting age. The Charter emphasised the need for democratic forces to unite against military rule and refrain from aligning with the military in all situations. Just when a substantial opposition had begun to have the desired effect on General Musharraf's regime, political expediency again convinced Benazir Bhutto to reach a deal with Musharraf to facilitate her return to Pakistan in October 2007. leaving the Charter and the opposition out in the cold. The deal included receiving immunity from the president prosecution, contesting elections and supporting Musharraf for another five years as president. The deal eventually failed when Benazir Bhutto was assassinated on 27 December 2007 and Nawaz Sharif forced himself back into the country in preparation for the elections. The deal nonetheless revealed the vulnerability of the democratic leaders to political opportunism.

Resisting Change: Democrats Yet to Understand Democracy

Today, parochialism and political expediency still prevent the rise of democracy after eight years of dictatorship. In the February 2008 election, in spite of a wave of sympathy, the Pakistan Peoples Party (PPP), led by Benazir's widower Asif Ali Zardari, could not secure a majority. The PPP got 120 seats, PML-N 90 and Musharraf's PML-Q 51 seats. The only positive feature of the election was that the Islamists (MMA) were routed with only 6 seats and so was the King's Party. In the tribal areas, no political party won any seat with all seats going to independent candidates: this gives a fair idea of the alienation of the people and the influence of extremism there.

The election result is the beginning of a new round of democratic experimentation in Pakistan. The PPP and Pakistan Muslim League have formed a coalition government. Asif Ali Zardari is the President, with a PPP candidate as Prime Minister in place as well. Unfortunately, the PPP-PML-N alliance fell apart over the issue of the restoration of the Supreme Court Chief Justice Iftikhar Chaudhary, with Asif Ali Zardari refusing to reinstate the judiciary which was purged by Musharraf's brazen proclamation of emergency on 3 November 2007. The PPP commands the Senate, the National Assembly and three provinces and yet Zardari craved more influence. His move to disqualify Nawaz Sharif and his brother Shahbaz Sharif, the Chief Minister of Punjab, from contesting elections and the dissolution of the popularly elected Punjab Assembly recalled the political vendetta that had once characterised PPP-PML-N relationships. The move was aimed at pressuring the Sharif brothers to approve the extension of the sitting Supreme Court Chief Justice Abdul Hameed Dogar in return for revocation of the disqualification order. The move backfired and the Sharif brothers did not compromise, leading to one of the largest political mobilisations in recent years against Zardari's democratic autocracy. Eventually, on the good advice of the Prime Minister Yusuf Reza Gilani, Zardari approved the reinstatement of the former Chief Justice Iftikhar Chaudhary and other judges. But he is still reluctant to abolish Article 58(2)(B), ironically an issue on which there is a consensus across the political divide that it is detrimental for democracy. Yet when there is an opportunity to get rid of it, the self-styled "saviours of democracy" are yet again unable to rise above their personal interests and yearning for absolute power.

It baffles observers of Pakistani politics that political leaders fail to take lessons from history. Zardari too has fallen prey to the allure of political supremacy. People expected Zardari to undo his past image and justify his role as the successor of Benazir Bhutto, and provide much-needed impetus to democracy - but he acted otherwise. He has alienated not only his PPP supporters but his own Prime Minister Yusuf Reza Gilani and Cabinet Ministers. Sherry Rehman, a close confidante of Benazir Bhutto, resigned as the Minister for Information and Broadcasting in the wake of curbs ordered on the media by Zardari. He is also accused of constantly interfering in the daily workings of the Prime Minister. Does this mean that Nawaz Sharif is a better option? It is ironic that Nawaz Sharif has gained moral ascendancy following the reinstatement of Chief Justice Chaudhary and other judges given that he made a mockery of the Supreme Court in 1997 by imprisoning the Supreme Court Chief Justice who had agreed to hear corruption cases against him. Whether he is prepared to learn from past mistakes is yet to be seen. On the basis of Asif Ali Zardari's conduct, it can be construed that democracy is yet to be fully understood by the so-called saviours of democracy who only believe in the rhetoric of democracy and are reluctant to follow it to the letter and the spirit. If democrats do not value democracy,

it is hard to blame the military and Islamists for their conduct. If democracy has to be saved in Pakistan, it must be by the democrats.

¹ Ian Talbott, Pakistan: A Modern History, (New Delhi: Oxford University Press, 1998), p 127.

 $^{^2}$ Makdoom Ali Khan (ed.), The Constitution of the Islamic Republic of Pakistan. 1989. Pakistan Law House; p. 202.

³ ibid, p.7.

 $^{^4}$ Hassan Abbas, Poleaxe or Politics of the Eighth Amendment 1985-1997. 1997. Watandost. Lahore p. 34.

⁵ ibid.

⁶ Saeed Shafqat, Civil Military Relations in Pakistan From Zulfiqar Ali Bhutto to Benazir Bhutto. 1997. West View Press; Colorado. p.177.

⁷ Makdoom Ali Khan (ed.), The Constitution of the Islamic Republic of Pakistan. 1989.Pakistan Law House; p. 39-40.

 $^{^8}$ Hasan Askari Rizvi, Military, State and Society in Pakistan. 2000. St. Martin's Press, New York. p. 69.

 $^{^{9}}$ Hassan Abbas, 1997, p.18.

¹⁰ See Shahid Javed Burki, Pakistan Fifty years of Nationhood. 1999. Vanguard Books; Lahore. p.79., & Ian Talbot, Pakistan A Modern History. 2003. Oxford University Press; Oxford. P. 326. & Maleeha Lodhi, Pakistan's Encounter with Democracy. 1994. Vanguard Books; Lahore. pp 244-247.