

ELECTIONS, DEMOCRACY AND STABILITY IN PAKISTAN

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ELECTIONS, DEMOCRACY AND STABILITY IN PAKISTAN

EXECUTIVE SUMMARY AND RECOMMENDATIONS

President Musharraf faces the most serious challenge to almost eight years of military rule. Opposition has gathered momentum following his failed attempt to remove the Chief Justice of the Supreme Court of Pakistan. Moderate political parties, all segments of civil society and the public at large are vociferously demanding restoration of democracy and rule of law and the military's withdrawal from politics. The choice is not whether a transition will come but whether it will be peaceful and orderly, through free and fair elections, or violent. Musharraf and the high command are tempted to retain their power at all costs. Several of their options – particularly emergency – could portend disaster. Rigged or stalled elections would destabilise Pakistan, with serious international security consequences. Especially the U.S., needs to recognise its own interests are no longer served by military rule (if they ever really were) and use its considerable leverage to persuade the generals to return to the barracks and accept a democratic transition through free and fair parliamentary, followed by presidential, elections this year.

Bent on gaining another presidential term and retaining the office of army chief, Musharraf wants the present national and provincial assemblies (collectively the presidential Electoral College), which are themselves the product of the rigged 2002 polls and end their own five-year terms this year, to re-elect him. Opposition parties, including the main civilian contenders, Benazir Bhutto's Pakistan People's Party (PPP) and Nawaz Sharif's Muslim League (PML-N), reject that. They also rightly fear that elections for new assemblies, if held at all, are likely to be rigged.

However, Musharraf can no longer count on a pliant judiciary endorsing his re-election by the current, stacked assemblies, his retention of the dual offices of president and army chief or any other unconstitutional act. Another stolen election would be strongly resisted by the opposition parties and civil society and could possibly lead to a violent confrontation between the military and protestors.

A rigged election would also not serve international interests. Now, as before, Musharraf has little choice

but to support the Islamist parties to counter his moderate opposition. The pro-Taliban Jamiat Ulema-e-Islam (JUI)'s help is essential to him, particularly in Balochistan, where the staunchly anti-military Baloch nationalist parties would likely win a free and fair poll. In the national parliament too, Musharraf would need the Islamists' support to get renewed approval of his dual hats. If the Islamist parties gain five more years of power in Balochistan and Northwest Frontier Province (NWFP), their militant allies – Pakistani, Afghan and transnational – will benefit, and the moderate parties, which still retain the support of the vast majority of the population, will lose.

With his military government fast losing all claims to public support and legitimacy, Musharraf could decide to compromise with the national-level moderate parties, reaching, for instance, a power-sharing accord with Bhutto's PPP, which would likely win a free and fair election. Speculation about such a compromise was revived by their meeting in Abu Dhabi on 27 July. By agreeing to hold such an election and give up his army post in return for the PPP supporting him for president, he could retain some legitimacy and policy-making influence. Given the momentum of the pro-democracy movement, however, this option may no longer be viable. Even if Bhutto is still amenable, Sharif's PML-N rejects any further role for Musharraf, in or out of uniform, and the Supreme Court might be reluctant to give him a pass on the two-year constitutional bar on a retired general standing for public office.

Musharraf and the high command could still refuse to see the writing on the wall and impose a state of emergency, suspending democratic rights and freedoms postponing general elections for a year and in effect imposing absolute military rule. Citing the threat of heightened militancy as a pretext for the action, he could then use the emergency powers to postpone national elections. This would fuel pro-democracy protests and civil disobedience, forcing the military either to back down or resort to violence. Such repression would cause citizens, especially in those regions such as Balochistan that have already suffered from

military excesses, to lose belief that political change can come through peaceful and democratic means.

In the face of such unattractive options, it is also possible that the generals would conclude that a democratic transition is their best course. This would require them to withdraw their support from Musharraf and agree to genuine elections. Whether they reach such a decision, however, depends importantly upon how the international community uses its considerable leverage with the high command.

It is vital, therefore, that the international community understand its interests are best served by a stable, democratically-governed Pakistan. Since the 11 September terror attacks, the U.S. has provided the bulk of \$10 billion in aid to the military, believing that the military is their reliable partner and the only institution with the capacity to govern and to combat militants. On the contrary, by excluding moderate parties, military rule has fanned extremism; by alienating the smaller provinces and virtually blocking all institutions and channels of meaningful participation, it threatens to destabilise a country of 160 million people in a strategic and volatile neighborhood. By permitting the Taliban insurgents, aligned with jihadi political parties, to operate from Pakistani sanctuaries, it has endangered the fragile democracy in Afghanistan.

The U.S. should use its considerable influence to persuade the generals to give up power, offering political and material incentives if they do so and threatening sanctions if they thwart democratic change. A free, fair and transparent election this year is the first, necessary step in the peaceful political transition that is needed to bring Pakistan to moderate, democratic moorings.

RECOMMENDATIONS

To the Government of Pakistan:

1. Hold timely, free, fair and transparent national and provincial assembly elections this year, before presidential polls, so that assemblies with a new popular mandate can serve as the presidential Electoral College.
2. Appoint a neutral, caretaker government formed in consultation with the main opposition parties in parliament, once the election schedule is announced, to supervise the general elections.
3. Ensure the independence and autonomy of the Election Commission of Pakistan (ECP) by:

- (a) appointing a new Chief Election Commissioner in consultation with the parliamentary opposition parties; and
- (b) empowering the ECP to enforce its Code of Conduct, especially provisions relating to the use of government resources for election campaigning, including the announcement and/or inauguration of public sector development schemes that might influence votes.

4. Suspend the current local governments once the election schedule is announced and appoint administrators to serve until the elections are held and results announced.
5. Forbid involvement of intelligence agencies at any stage of the electoral process and refrain from using the civil administration to influence the outcome.
6. Provide a level playing field by:
 - (a) releasing political prisoners;
 - (b) allowing the unconditional return from abroad of political leaders and repealing the bar on a prime minister serving more than two terms; and
 - (c) affording all political parties freedom to organise public rallies and mobilise voters and giving them equal access to state media.
7. Share preliminary electoral rolls with all political parties and ensure that potential voters are given ample opportunity to exercise their right of franchise.
8. Ensure the security of domestic and international election observers and provide them unfettered access to the electoral process.

To the Political Parties:

9. Pool resources to expose electoral malpractice and fraud.
10. Do not accept military support during the election process or in the process of government formation.
11. Agree on and adhere to a common code of conduct for the elections.

To the United States, the European Union and Other Members of the International Community:

12. Strongly and publicly warn against imposition of emergency rule or any other measure to stifle constitutionally-guaranteed freedoms of speech, association, assembly and movement.
13. Urge the military high command to accept a return to democracy, including by concurring in the following steps:
 - (a) return of exiled party leaders;
 - (b) free and fair general parliamentary elections before a new president is selected;
 - (c) the new assemblies acting as the presidential Electoral College; and
 - (d) separation of the posts of president and army chief.
14. Assist the democratic transition by:
 - (a) sending adequately resourced and staffed election observation missions at least three months in advance of the elections to assess whether the polls are held in an impartial way and meet international standards;
 - (b) conditioning military assistance to the government on meeting international standards for free, fair and democratic elections and making such assistance after the elections conditional on the military accepting the supremacy of civilian government; and
 - (c) providing strong political and financial support to an elected civilian government.

Islamabad/Brussels, 31 July 2007

ELECTIONS, DEMOCRACY AND STABILITY IN PAKISTAN

I. INTRODUCTION

As President and Army Chief General Pervez Musharraf completes his five-year presidential term and the National Assembly also ends its term this year, two crucial elections are due. Popular resistance to military rule has reached new heights following Musharraf's failed attempt to remove the Chief Justice of the Supreme Court, and the end of his military regime is now a matter of time. The manner in which the presidential and parliamentary voting is held, however, will determine if there is a peaceful, orderly democratic transition through free and fair elections or a violent transition, with the attendant costs for a fragile polity.¹

Musharraf and the military have kept power for almost eight years by suppressing democratic forces and rigging national and local elections. To marginalise its moderate civilian opponents, the regime has manipulated electoral processes and empowered Islamist parties, which are dependent on the military's patronage since they lack broad domestic support.² Due to the military's manipulations, the six-party Islamist alliance, Muttahida Majlis-i-Amal (MMA), governs two of Pakistan's four federal units, Northwest Frontier Province (NWFP) and

Balochistan,³ the latter in partnership with Musharraf's national ruling party, the Pakistan Muslim League-Quaid-i-Azam (PML-Q).

The Islamist parties have repaid the military by backing Musharraf's constitutional and political distortions in parliament, including retention of the dual posts of army chief and president.⁴ If there is another rigged electoral process, the military will likely support them again to counter its civilian opponents. Free and fair elections, however, would return those moderate, national and regional-level parties to power which have borne the brunt of military rule and, against all odds, have retained the overwhelming support of the country's moderate majority.⁵

The absence of democratic avenues for bargaining and consultation has widened political fissures and fuelled internal conflict in the multi-ethnic, multi-regional state. While elections do not equal democracy, they are a necessary precondition for democratic functioning

¹ Crisis Group warned that imposition of rule by emergency decree or flawed elections would seriously destabilise Pakistan. See Crisis Alert, *Pakistan: Emergency Rule or Return to Democracy?*, 6 June 2007.

² For previous Crisis Group reporting on Musharraf's rigged national and local elections, see Asia Reports N°40, *Pakistan: Transition to Democracy?*, 3 October 2002, and N°77, *Devolution in Pakistan: Reform or Revolution?*, 22 March 2004; and Asia Briefing N°43, *Pakistan's Local Polls: Shoring up Military Rule*, 22 November 2005. For the military's partnership with the Islamist parties, see Asia Reports N°36, *Pakistan: Madrasas, Extremism and the Military*, 29 July 2002; N°49, *Pakistan: The Mullahs and the Military*, 20 March 2003; N°73, *Unfulfilled Promises: Pakistan's Failure to Tackle Extremism*, 16 January 2004; N°95, *The State of Sectarianism in Pakistan*, 18 April 2005; and N°130, *Pakistan: Karachi's Madrasas and Violent Extremism*, 29 March 2007.

³ Pakistan is formally a federal parliamentary democracy with four units: Balochistan, Northwest Frontier Province (NWFP), Sindh and Punjab. Internal conflict in Balochistan and the Pashtun belt is discussed in Crisis Group Asia Reports N°119, *Pakistan: The Worsening Conflict in Balochistan*, 14 September 2006; and N°125, *Pakistan's Tribal Areas: Appeasing the Militants*, 11 December 2006.

⁴ Article 41 (2) of the constitution states that a presidential candidate should be qualified to stand for parliament; Article 63 (k) disqualifies a government official from standing for the National Assembly "unless a period of two years has elapsed since he has ceased to be in such service".

⁵ In the past, the Islamist parties failed to gain more than 5 to 8 per cent of the popular vote. In 1990 PPP and Muslim League-led alliances won almost 73.5 per cent. In 1993 the PPP and PML-N gained 90 per cent; in 1997 their total was 68 per cent. Even in the 2002 rigged polls, in which they benefited from military patronage, the Islamist parties collectively obtained only 11 per cent of the vote, compared to the PPP's 25.01 per cent, and the PML-N's 11.23 per cent. Crisis Group Report, *The Mullahs and the Military*, op. cit., p. 17. See also Crisis Group Report, *Transition to Democracy?*, op. cit., p. 14, and Crisis Group Asia Report N°102, *Authoritarianism and Political Party Reform in Pakistan*, 28 September 2005.

since they create legitimate political authority for governance. As Pakistan approaches national elections amid mounting popular resistance to military rule, President Musharraf and his fellow generals should be searching for an exit strategy and an orderly political transition. Instead, the military government seems keen on retaining and consolidating power by insisting that the lame-duck parliament re-elect Musharraf president before the people can express their will by voting for the new parliament.⁶ Likewise, Musharraf's intention to remain army chief both undermines the prospects of an impartial election and hampers a transition back to the genuine parliamentary democracy envisaged in the 1973 constitution.

However, a distorted electoral process will not ensure regime stability, let alone consolidation. The parliamentary and presidential elections are crucial for Pakistan's long-term viability as a democratic state. If they are free and fair, they will restore public faith in state institutions and constitutional and legal ways of changing governments. But "if this opportunity is squandered", warns Pakistan Muslim League-Nawaz (PML-N) leader Ahsan Iqbal, "the people of Pakistan are likely to view regime change through the ballot as an illusion. This can only help extremists who would like violence to replace elections".⁷

In the face of growing domestic opposition, the military government could even attempt to put the electoral process on hold. Opposition leaders fear that under the pretext of heightened militant threats to national security, Musharraf might impose a state of emergency, extending the life of the present legislature for one year, suspending all constitutionally-guaranteed fundamental rights and imposing what for all practical purposes would be martial law. This extreme step would only postpone the inevitable, while costing the government all claims to public support and its remaining vestiges of legitimacy.

This report identifies key civilian and military actors and institutions that will play a role in the electoral process, analyses steps taken in preparation for the national and presidential polls and suggests mechanisms for minimising the risks of electoral manipulation. It also assesses the international community's role and the implications of flawed or postponed elections for domestic and regional stability.

⁶ The National Assembly and Senate along with the four provincial assemblies form the presidential Electoral College, 1973 constitution, Article 3, second schedule.

⁷ Crisis Group interview, 19 February 2007.

II. MILITARY INTERVENTIONS

A Pakistani political analyst notes that "in the last few decades, the politicisation of the bureaucracy, coercion of rival politicians, manipulation of the electoral process, and the use of state machinery in pursuance of 'desirable' results gradually became part and parcel of the conduct of elections".⁸ Yet, the rigging of elections has a much longer history and is rooted in the state's main dichotomy – the military's ability to intervene at will but its inability to gain legitimacy for a political role, given widespread popular support for democratic representation and constitutionalism. Military governments are forced to create democratic facades, which they then attempt to legitimise and perpetuate by distorting the constitution and rigging elections. During periods of civilian rule, the military has attempted to exercise power from behind the scenes through electoral manipulation aimed at undermining civilian rivals, rewarding political allies, and putting pressure on elected governments.

The high command became directly involved in electoral manipulation under Pakistan's first military ruler, General Mohammad Ayub Khan. Having abrogated the 1956 constitution, he created an elaborate network of local bodies, the "Basic Democracy" plan, to provide an appearance of democratic representation.⁹ Besides serving on the local councils, the Basic Democrats formed the Electoral College for the presidency. In 1960, Ayub used this new institution to gain confirmation as president for five years through a referendum in which he obtained 95.6 per cent of the vote. At the end of this term in 1965, he was re-elected, defeating his principal civilian opponent, Fatima Jinnah, the sister of the country's founder, Mohammad Ali Jinnah, in a contested but badly flawed election.

In 1969, facing countrywide opposition to military rule, Ayub stepped down but only to hand over power to Army Chief General Mohammad Yahya Khan, who oversaw the first national election in December 1970. It was held in a bid to neutralise broad support for a democratic transition and in the belief it would result

⁸ Mohammad Waseem, *Democratisation in Pakistan: A Study of the 2002 Elections* (Karachi, 2006), p. 189.

⁹ The country was divided into 80,000 wards (single-member constituencies of 1,000 to 1,200 persons each) to elect a "Basic Democrat" on a non-party basis. Local councils were created at the district and sub-district levels. Roughly half the members of local councils were appointed, not directly elected. See Crisis Group Report, *Devolution in Pakistan*, op. cit.

in a hung parliament. It was unacceptable to the military, however, that Sheikh Mujibur Rehman's Bengali nationalist Awami League swept East Pakistan and gained an absolute majority in the National Assembly. Refusing to transfer power to the Bengalis of the East wing, the West Pakistan-dominated military disregarded the results and used indiscriminate force against Bengali dissidents, sparking an all-out civil war. Indian military intervention on behalf of the Bengali secessionists in 1971 hastened the country's break-up and Bangladesh's independence.

In the truncated country, the military high command reluctantly handed over power to Zulfikar Ali Bhutto, whose Pakistan People's Party (PPP) had won a majority in West Pakistan. The 1973 constitution, the first that was democratically crafted, established a federal parliamentary form of government, but Bhutto's failure to respect democratic norms undermined his legitimacy and gave the army the opportunity to seize power again. In 1977, the PPP swept the national elections but the right-wing opposition, the Pakistan National Alliance, alleged heavy rigging.¹⁰ Just when Bhutto and the opposition were on the verge of peacefully resolving the deadlock, the military, under General Zia-ul-Haq's command, ousted and subsequently executed Bhutto.¹¹

Under Zia (1977-1988), electoral manipulation reached new levels. Facing domestic resistance spearheaded by the PPP, he repeatedly postponed national elections. In 1984, Zia, who had appointed himself president in 1978, extended his term for five years through a rigged referendum. Like Ayub, Zia created a democratic facade, relying on local bodies to legitimise military rule. Those bodies served as the military government's civilian base in return for economic and political benefits, while local government was used to extend patronage to pro-military politicians. This new and pliable local elite was also employed to weaken regime opponents and played a major role in ensuring that the military regime obtained the results it sought in non-party-based elections.¹² It formed the core of Zia's rubber-stamp parliament that ratified distortions of the 1973 constitution, including the provision that gave the president, the indirectly elected head of state, the

power to dismiss elected governments.¹³ But Zia's authoritarian manipulations failed to silence organised political dissent.¹⁴

A. DEMOCRATIC TRANSITION AND MILITARY INTRUSION

When Zia died in a midair explosion in August 1988, the high command opted for a democratic transition after weighing the domestic and external costs of retaining direct power.¹⁵ In return for its role in the anti-Soviet jihad in Afghanistan, the military government had received considerable international, particularly U.S. support, which had enabled it to prolong its rule. With the cold war ending, however, the international environment was no longer as favourable. Since military rule would also have faced civilian resistance and undermined their domestic standing, the generals transferred power formally to civilians, while protecting their institutional interests through pressure on elected governments. The indirectly elected president, the head of state, acted as their proxy.

The high command was particularly unwilling to risk a free and fair election in November 1988 from which the PPP, by then headed by Bhutto's daughter, Benazir, could have emerged with a comfortable majority in the national parliament, enabling it, with the support of like-minded partners, to repeal Zia's constitutional amendments. The military manipulated the electoral rules¹⁶ and cobbled together a right-wing alliance, the Islami Jamhoori Ittehad (IJI, Islamic Democratic Alliance), headed by Nawaz Sharif's Muslim League and a number of Islamist parties, including the Jamaat-i-Islami (JI).¹⁷ The IJI won 53 of the 217 seats in the

¹⁰ The PPP received 58.1 per cent of the vote and won 155 of the 200 contested National Assembly seats. The PNA won 35.4 per cent and 36 seats. Hasan Askari Rizvi, *Military, State and Society in Pakistan* (Lahore, 2003).

¹¹ Tried and sentenced to death on trumped-up murder charges, Bhutto was hanged on 4 April 1979.

¹² Crisis Group Report, *Devolution in Pakistan*, op. cit., pp. 4-5.

¹³ The Eighth Amendment Act of 1985, clause 58 (2) B, gave the president the power to "dissolve the National Assembly in his discretion where, in his opinion, a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary".

¹⁴ See Mohammad Waseem, "Pakistan's Lingering Crisis of Dyarchy", *Asian Survey* 32, 7, July 1992, p. 620.

¹⁵ In May 1988, intending to continue as president and army chief for another five years, Zia dismissed Mohammad Khan Junejo, his handpicked prime minister, dissolved parliament and announced non-party elections for that November.

¹⁶ For instance, voters without national identity cards were barred, a decision that disproportionately affected the PPP, many of whose supporters were from the lowest classes and lacked this documentation.

¹⁷ At the directive of the army chief, General Mirza Aslam Beg, the ISI reportedly helped organise the IJI's election campaign and distributed \$7 million (Rs.140 million) to key IJI parties.

National Assembly, the lower house of the national legislature.¹⁸ The PPP, with 92, was short of a majority, so entered into a coalition with smaller, regional parties. Acting President Ghulam Ishaq Khan¹⁹ invited Bhutto to form a government but only after she accepted him (the military's candidate) as president. Her power-sharing arrangement with the military also included acceptance of its internal autonomy and control over domestic security and foreign policy.²⁰

Relying on bribery, coercion and electoral manipulation, the military repeatedly disrupted democratic functioning between 1988 and 1996. The president dismissed three successive civilian governments at the military's behest. No elected government was allowed to serve its full five-year term.²¹ The courts sanctioned every military intervention except the attempt to oust Nawaz Sharif in 1993 (even then Army Chief General Abdul Waheed Kakar forced the prime minister to resign). Even in those brief periods when a Bhutto or Sharif government was allowed to function, the military's intelligence services, especially Inter Services Intelligence (ISI), worked to destabilise it.²²

Caretakers were installed following the dismissal of each elected government to ensure the electoral defeat of the ousted ruling party. In 1990, for instance, the military orchestrated the PPP's defeat through an electoral strategy, repeated successfully throughout the 1990s, which relied on "partisan caretaker governments, prosecutions of the members of the ousted party, and 'result' reversal in certain selected

constituencies".²³ The military also used its close working relationship with the JI and other Islamist parties to create and support right-wing electoral alliances and deny the PPP majorities in the 1990 and 1993 elections.

The PPP and Nawaz Sharif's PML-N,²⁴ the main national-level moderate parties, dominated government and opposition during the 1990s but succumbed to the military's divide-and-rule policies. Each sought the generals' support to gain or retain power and hence enabled the high command to intervene at will. In 1997, the Sharif government and the PPP opposition finally joined hands to strengthen the democratic transition, passing the Thirteenth Constitutional Amendment that repealed the provision allowing the president to dismiss an elected government.²⁵ In October 1999, however, General Musharraf, then chief of army staff, substituted direct military rule for covert military intervention, ousting the elected government in a coup d'état.

B. CONSTITUTIONAL MANIPULATIONS AND ELECTORAL MANOEUVRES

Like Zia and Ayub, Musharraf has relied on constitutional manipulation and electoral rigging to retain power. Regime consolidation has come at the cost of constitutionalism and rule of law. His constitutional distortions have concentrated power in the office of the president, the unelected and symbolic head of the federation,²⁶ while rendering the prime minister, the head of government, and indeed the legislature itself powerless in Pakistan's federal parliamentary democracy. Like his predecessors, Musharraf has manipulated national and local polls to undermine civilian opponents and reward allies. Following Zia's example, he has also relied on the Islamist parties to marginalise his moderate political opposition. While the leaders of the mainstream, moderate parties, Nawaz Sharif and Benazir Bhutto, have in effect been kept in exile, the Islamist parties in the six-party Muttahida Majlis-i-

¹⁸ The JI won the election and formed the government in Punjab, Pakistan's largest and politically-dominant province.

¹⁹ Under the 1985 amendment of the constitution, if the office of president fell vacant by reason of death or resignation, the chairman of the Senate (upper house of the national parliament) was to act as president until the election of a successor. Khan, a former bureaucrat, was Senate chairman at the time of Zia's death.

²⁰ Crisis Group Report, *Transition to Democracy in Pakistan?*, op. cit., pp. 8-9.

²¹ Prime Minister Benazir Bhutto's first PPP government lasted from 1988 to 1990, the second from 1993 to 1996. Prime Minister Nawaz Sharif's first government lasted from 1990 to 1993, the second from 1997 until ousted by Musharraf's October 1999 coup.

²² In October 1989, for instance, ISI officers were responsible for Operation "Midnight Jackal", designed to bribe PPP legislators to vote "no confidence" in Bhutto. The ISI's capacity for surveillance and covert operations expanded during the 1980s, when Pakistan was the CIA's main base for covert operations against the Soviet presence in Afghanistan. See Hussain Haqqani, "Pakistan: Between Mosque and Military", Carnegie Endowment for International Peace, Washington DC, 2005.

²³ Aitzaz Ahsan, "Why Pakistan is Not a Democracy", in Meghnad Desai and Aitzaz Ahsan (eds.), *Divided by Democracy* (Delhi, 2005), p. 138.

²⁴ The Muslim League, Pakistan's founding party, is divided into several factions. In 1993, the Nawaz Sharif-led faction was named Muslim League (Nawaz) (PML-N) after its leader.

²⁵ The repealed provision was clause 58 (2) B of the Eighth Amendment (1985), see above.

²⁶ According to Article 41 of the constitution, the president "represents the unity of the Republic". Article 48 states that the "President shall act on and in accordance with the advice of the Prime Minister and such advice shall be binding on him".

Amal (MMA) alliance have been the main beneficiaries of military rule.

Every election has been deeply flawed. In April 2002, Musharraf ignored the Electoral College, composed of the national and federal legislatures, which the constitution provides to elect the president, using instead a rigged referendum to extend his self-assumed presidency for five years.²⁷ Before the parliamentary elections he issued a decree barring former prime ministers from serving a third term, which was aimed specifically at Bhutto and Sharif. The government impeded the campaigns of opposition parties and candidates, particularly the PPP and PML-N, through either overt repression or denying permission for their rallies. Violation of election rules by officials and their selective application to the opposition substantially undermined the legitimacy of polls which the European Union Election Observation Mission called “deeply flawed”.²⁸

With the MMA’s legislative support, he used the Seventeenth Amendment to radically distort the constitution’s federal parliamentary structure, giving himself as an indirectly elected president the power to dismiss an elected prime minister and national parliament; to dismiss provincial governments and legislatures; and to appoint service chiefs and governors. An act of parliament allowed Musharraf to retain the dual offices of president and army chief; a parliamentary vote of confidence extended his presidency until 2007.²⁹

Creating clients much like Ayub and Zia before him, Musharraf also centralised control over the local levels of government through the creation of pliable bodies. These have served their military masters well and are likely to do so again in the 2007 national and presidential elections that will determine whether Pakistan remains under military rule or moves towards a meaningful democratic transition.

III. ELECTORAL OPTIONS

While Musharraf clearly wants to retain power, it is uncertain whether the high command will support him. If the domestic and international costs of forcing election of the next president by lame duck legislators or imposing emergency rule are too high, it could, as in 1988, decide to transfer power to civilian hands through at least a relatively free and fair parliamentary election.

A. PRESIDENTIAL VERSUS PARLIAMENTARY POLLS

1. Electoral timetable

The electoral timetable has yet to be announced. In Pakistan’s parliamentary democracy, the directly elected parliament elects the prime minister, the head of government, who represents its majority in the national legislature. The president, the head of state, is chosen not by popular vote but by an Electoral College consisting of the bicameral national legislature – the National Assembly (the lower house) and Senate (the upper house) – and the four provincial assemblies.

Article 41 (4) of the constitution states: “Elections to the office of the president shall be held no earlier than 60 days and no later than 30 days before the expiration of the term of the president in office, provided that, if the election cannot be held within the period foresaid because the National Assembly is dissolved, it shall be held within 30 days of the general election to the Assembly”.

The national legislature has a five-year term, dating from the first day of meeting “and stands dissolved at the end of the expiration of its term”.³⁰ However, it can also be dissolved in a number of ways before then. The president can do so on the prime minister’s advice. The president can also dissolve the National Assembly “in his discretion” if, following a vote of no-confidence against the prime minister, “no other member of the National Assembly is likely to command the confidence of the majority of members of the National Assembly”, or “a situation has arisen in which the government of the Federation cannot be carried out in accordance with the provisions of the constitution and an appeal to the electorate is necessary”.³¹

The government insists that Musharraf ends his five-year presidential term in November and that the

²⁷ Official results put turnout at 71 per cent, with 97.5 per cent approval; independent observers estimated turnout at 10 per cent. Crisis Group Report, *Transition to Democracy?*, op. cit., p. 20.

²⁸ “European Union Election Observation Mission Final Report on Pakistan Election”, 10 October 2002.

²⁹ Crisis Group Asia Report N°73, *Unfulfilled Promises: Pakistan’s Failure to Tackle Extremism*, 16 January 2004, p. 2.

³⁰ Constitution, Article 52.

³¹ Ibid, Article 58.

assemblies will be dissolved on 15 November, when they complete their five-year life. This means that general elections would be held only after the next president is already selected. Musharraf or Prime Minister Shaukat Aziz might not be constitutionally obliged to dissolve the national assembly at an earlier date to permit more timely elections, but if the next president is elected by the present assemblies, whose own legitimacy is questionable from the manner in which they were formed five years ago, the process will lack legitimacy.

2. In search of shortcuts

If the presidential choice is made by the lame-duck national and provincial legislatures, Musharraf's ruling party, the Pakistan Muslim League-Quaid-i-Azam (PML-Q) and its political allies, themselves the beneficiaries of the rigged 2002 elections, could deliver him another five-year term. He would then be in a position to oversee national elections and ensure that, with state patronage, his civilian allies, including the Islamist parties, win. On 18 May 2006, in a televised interview, he said that the existing assemblies, not newly elected ones, would "elect (him) president for a second term", that there was "no ambiguity in (the) constitution to this effect", and constitutional provisions dictated that the presidential election would be held between 15 September and 15 October 2007, one month before his term expires.³²

Musharraf has performed the functions of president since 20 June 2001, when he assumed them under the Proclamation of Emergency. His supporters say, however, that his current term began on 16 November 2002, when he received a vote of confidence from the National Assembly, following the Seventeenth Constitutional Amendment. He can also simultaneously serve as army chief until 16 November 2007, in view of the Two Offices Act.³³ By this logic, the sitting assemblies, which were administered oaths on 16 November 2002, can form the presidential Electoral College.

³² "Re-election by current assemblies: Musharraf: 'No ambiguity in constitution'", *Dawn*, 18 May 2006. Minister of State for Information and Broadcasting Tariq Azim said the present assemblies could elect the president, constitutionally and legally, between 16 September and 16 November. "Assemblies' term can be extended: Tariq", *Dawn*, 26 July 2006.

³³ President to Hold another Office Act 2004, 30 November 2004. The law, which came into force on 31 December 2004, specifies that it is "valid only to the present holder of the office of president".

Musharraf's plan to seek re-election from the present assemblies, however, has evoked opposition from across the political spectrum, including the moderate political parties, the print media and civil society organisations. Commenting on his game plan and calling instead for parliamentary elections to precede a decision on the next president, an influential national daily noted that he received his vote of confidence from a National Assembly that was the product of an "engineered election" and asked: "Why not let the voters decide who is to be the victor?"³⁴ Opposition leaders argue that conducting the presidential selection process first would deprive the holder of the office of any vestige of legitimacy and could well provoke civil unrest and violence countrywide.³⁵ No moderate opposition party can afford to support Musharraf's re-election by the present assemblies without risking serious harm to its own legitimacy. If Musharraf insists on this order of the polls, opposition legislators have threatened to resign from the national and provincial assemblies to dramatise its impropriety.

Legal experts believe that large-scale resignations from the national and provincial assemblies would disrupt the electoral timetable since by-elections ought then to be held to fill out the presidential Electoral College.³⁶ Musharraf's parliamentary affairs minister, Sher Afghan Niazi, however, insists that he can be re-elected by the existing assemblies even if all opposition legislators have resigned, since only a majority of participating electors is required.³⁷ But the government knows well that the opposition's absence would seriously taint any decision.

3. Dual hat

Musharraf's objective includes retaining the position of army chief, thus maintaining his personal and the military's institutional dominance for another five

³⁴ "The president's re-election", *The News*, 5 July 2007.

³⁵ Denouncing Musharraf's insistence on retaining his army post and holding the presidential polls before general elections, Human Rights Watch Asia Program Director Brad Adams said: "Musharraf intends to bypass the democratic process again by staging an illegal presidential election ahead of the parliamentary vote. Pakistan needs legitimate parliamentary and presidential elections to get back on the path of genuine democratic rule. Anything else would be a sham". "Pakistan: Musharraf proposes sham election plan", press release, Human Rights Watch, Washington DC, 1 May 2007.

³⁶ Crisis Group interviews, lawyers, Islamabad, January 2007.

³⁷ Ashraf Mumtaz, "Minister says resignations not to affect re-election", *Dawn*, 10 July 2007.

years. This would block any transition to democracy.³⁸ Without his uniform, however, Musharraf, who lacks any civilian constituency, could no longer exercise effective control over an elected civilian government and would also lose his control over the armed forces.

According to the constitution, the president must not “occupy any office of profit in the service of Pakistan or occupy any other position carrying the right to remuneration for the rendering of services”.³⁹ The Two Offices Act violated this provision so that Musharraf could remain army chief and president until the end of his current presidential term in mid-November. The extension of Musharraf’s term as army chief expires in December 2007. The opposition has vowed to take the issue to the Supreme Court if he attempts to retain his uniform and the presidency again. A PML-N member of the National Assembly (MNA), Khwaja Mohammad Asif said: “We will not allow the government to make a mockery of the constitution... such illegal moves will be resisted”. Former PPP Senator Farhatullah Babar said: “Doing this will be unconstitutional and illegal and will be resisted by the Pakistan Peoples Party”.⁴⁰

4. Electoral challenges

Musharraf would face multiple challenges if he risked free and fair elections. His PML-Q party enjoys a comfortable majority in the national legislature, controls the Punjab government and is the main coalition partner in the Balochistan and Sindh provincial governments. But this domination is fragile, sustained more by military patronage than a social base or organisational network. PML-Q President Chaudhry Shujaat Hussain speaks the language of accommodation, not political confidence, when he advises that “the army can throw the civilians [out of power], but civilians can’t revolt against them”.⁴¹ Hussain’s cousin, Punjab Chief Minister Pervaiz Elahi, has pledged that his party will “elect General Musharraf not for one but for two terms as president-in-uniform”.⁴² However, “the PML-Q is a concoction”⁴³ composed of defectors, mainly from Sharif’s PML-N,

but also from the PPP and some smaller parties, faction-ridden and unable or unwilling to pull together as a cohesive force. It would have little prospect of winning genuine elections on its own in the present climate.

The judicial crisis, discussed below, has brought disaffection into the open but opposition to military rule predates it. Worsening economic conditions, growing social unrest, rising anti-army sentiment in the smaller provinces, particularly Sindh and Balochistan, combined with a deteriorating security environment are just some of the signs that the military government has outlived its welcome. Free and fair elections would almost certainly lead to victory for the civilian opposition. Even when political and economic circumstances were more favourable for the military in 2002, Bhutto’s PPP polled more votes than the PML-Q.⁴⁴ Under present circumstances, most analysts believe the PPP would probably carry Punjab and Sindh, with the PML-N a close second and running strongly in the urban centres of Punjab.⁴⁵

In Balochistan, the government’s main adversaries are the Baloch nationalist parties. Liberal, secular and democratic, those parties oppose military rule and demand that Islamabad return a rightful share of political and economic power to the poorest, but richest in resources of Pakistani provinces. To offset the opposition, which has taken the shape of a province-wide insurgency, the military has backed its traditional allies, the Islamist parties, in particular the Jamiat Ulema-e-Islam (Fazlur Rehman-JUI-F).⁴⁶

The JUI-F represents Pashtun Deobandi orthodoxy and is the Afghan Taliban’s main mentor and supporter. In the coalition government with Musharraf’s PML-Q, its powerful ministers use their access to resources to weaken the support bases of not only the Baloch nationalists but also their Pashtun liberal rivals, represented most notably by the Pashtoon Khwa Milli Awami Party and the Awami National Party (ANP).⁴⁷ With Baloch alienation at an all-time high, the nationalist parties would likely win a free and fair election. Baloch and other opposition politicians say the ISI and the provincial governor, who represents Musharraf, are actively involved in pre-election rigging.⁴⁸ The military’s overt campaign to coerce nationalist leaders, manifested most vividly in the arrest and trial of

³⁸ Retention of both posts “blurs the distinction between military and civilian authority that is fundamental to a democratic system”. “Statement of the NDI Pre-election Assessment Mission”, National Democratic Institute, 17 May 2007.

³⁹ Constitution, Article 43.

⁴⁰ Crisis Group interviews, Islamabad, January 2007.

⁴¹ Ashraf Mumtaz, “Be realistic, Shujaat tells politicians”, *Dawn*, 26 June 2006.

⁴² “Two terms for president in uniform: Pervaiz”, *Dawn*, 25 July 2006.

⁴³ Crisis Group interview, Shafqat Mahmood, former senator and federal and provincial minister, Lahore, 29 December 2006.

⁴⁴ Crisis Group Report, *The Mullahs and the Military in Pakistan*, op. cit., p. 17.

⁴⁵ Crisis Group interviews, March-April 2007.

⁴⁶ For a detailed analysis, see Crisis Group Report, *The Worsening Conflict in Balochistan*, op. cit.

⁴⁷ Ibid, also Crisis Group Report, *Appeasing the Militants*, op. cit.

⁴⁸ Crisis Group interviews, Quetta, January 2007.

former chief minister and Balochistan National Party leader (BNP) Sardar Akhtar Mengal on terrorism charges, is well underway.⁴⁹ In interviews with Crisis Group, BNP and Jamhoori Watan Party leaders stressed that their physical security is at risk, and participation in a “manipulated” election is secondary.⁵⁰

While the Islamist JUI-F remains the military’s party of choice, without widespread rigging the mullahs are unlikely to repeat the electoral gains of the 2002 elections even in their NWFP stronghold. PML-N would likely regain ground in the non-Pashtun-speaking belt. The MMA damaged its credibility by supporting the Seventeenth Constitutional Amendment legalising Musharraf’s self-assumed presidential powers. Nor has the Islamist alliance’s performance in government been impressive. Even MMA legislators have accused their cabinet ministers of corruption.⁵¹ A JI⁵² national parliamentarian from the NWFP said: “The JUI-F has been a failure in terms of governance, law and order and economics, which tarnishes our party’s reputation too because we have an alliance with them”.⁵³

B. SEEKING ACCOMMODATION

The country’s major, national-level, moderate parties, the PPP and the PML-N, whose competition in the 1990s had repeatedly created the pretext, if not the actual conditions, for military intervention, signed a “Charter of Democracy” on 15 May 2006.⁵⁴ Offering a blueprint for democratic civil-military relations, it includes pledges to respect democratic norms, uphold the rule of law and depoliticise the military.

This partnership could be derailed if one of the parties chooses to work with and through the military again,

even if its end goal is restoration of democracy. The PPP has been exploring such a course. Some sources claim the U.S. and UK, motivated by desire to reduce the military government’s reliance on the Islamist parties, persuaded Musharraf to seek an electoral accommodation with Bhutto’s PPP.⁵⁵ For Musharraf, agreement on a democratic transition with the PPP would serve two purposes. If the PPP, the party with the largest popular base, supported his re-election, he could remain in power for another five years, but with far more legitimacy. Such an accommodation would also give him a far more credible civilian alternative to the internally divided, narrowly supported PML-Q.

Bhutto, some sources say, was motivated to negotiate with Musharraf in order to return home and lead her party without fear of arrest on corruption charges or deportation. Other sources insist her willingness to make a deal, including a post-electoral arrangement with Musharraf, was motivated primarily by the desire for an orderly transition from military to democratic rule.⁵⁶ Bhutto said, “there are contacts because we want transparency, but we don’t say the deal has been done; there might be a deal and there might not be a deal”.⁵⁷

Acknowledging that cohabitation with the general would damage her “political credibility”, she has justified negotiating with the military government as the “best option for restoration of democracy, the rule of law and development” and the only way to counter rising extremism in Pakistan.⁵⁸ She and her party leaders also insist that the PPP’s main demand is a level playing field for the elections. Sherry Rehman, the party’s central information secretary and a member of the national parliament, said, “there is no question of any deal. We want free and fair elections under a neutral set-up as the first and most crucial step in the process of transferring power to the legitimate representatives of the people”.⁵⁹ Bhutto has stressed that “a president in uniform and democracy cannot go together...we want the military to go back to barracks”.⁶⁰

The prospects of an accord between Bhutto and Musharraf appeared to have faded in the aftermath of the government’s attempt to dismiss the Chief Justice of the Supreme Court and attacks on PPP workers by

⁴⁹ “Akhtar Mengal detained”, *Dawn*, 29 May 2006.

⁵⁰ Crisis Group interviews, Quetta, January 2007.

⁵¹ Crisis Group interviews, Peshawar, January 2007.

⁵² The JI is the second largest MMA party.

⁵³ Crisis Group interview, Peshawar, 6 January 2007.

⁵⁴ Among other guidelines for a sustainable democratic transition, the charter envisaged the following constitutional amendments and administrative changes: restoration of the 1973 constitution as it stood on 12 October 1999 before the military coup; the appointment of governors, the three services chiefs and the chairman of the joint chiefs of staff by the prime minister; abolition of the military-dominated National Security Council; military expenditures to be presented to parliament for debate and approval; the political wings of all intelligence agencies to be disbanded; the ISI, and military intelligence and other security agencies to be made accountable to the elected government, with budgets approved by the cabinet’s defence committee. See “Text of the Charter of Democracy”, *Dawn*, 16 May 2006.

⁵⁵ Crisis Group interviews, Islamabad, December 2006.

⁵⁶ Crisis Group interviews, PPP leaders, Islamabad, April 2007.

⁵⁷ “Benazir urges Musharraf to quit Army”, *Dawn*, 5 May 2007.

⁵⁸ Rauf Klasra, “Benazir defends deal with Musharraf”, *The News*, 5 May 2005.

⁵⁹ Crisis Group interview, Islamabad, December 2006.

⁶⁰ “Benazir urges Musharraf to quit Army”, op cit.

the military government and its political allies.⁶¹ However, their meeting in Abu Dhabi on 27 July revived speculation of an impending accord on power-sharing, which would include PPP support for another five-year presidential term for Musharraf, dismissal of corruption charges against Bhutto and her return to Pakistan.⁶² While Bhutto said some progress had been made in the talks, she denied there was a breakthrough on two crucial issues: Musharraf's dual status and the election schedule. Bhutto insisted Musharraf must give up his position as army chief if he is to remain president. "We do not accept President Musharraf in uniform", she said. "Our stand is that, and I stick to our stand". She also said her party would oppose Musharraf's elections by the sitting parliament and take the issue, if need be, to the Supreme Court.⁶³

While there is still speculation that another meeting could result in the PPP accepting Musharraf's re-election by the new assemblies if he were first to quit the post of army chief,⁶⁴ such an agreement could mar the party's prospects at the polls. Many PPP leaders are concerned that accepting Musharraf even as a civilian president would tar the party with an unpopular military dictator's brush. Having been dismissed twice in the 1990s as prime minister by army-backed presidents, Bhutto must also recall the dangers of sharing power with the military. Her governments were dismissed, with the generals using the Islamists to create disruptions, even after the PPP had entered into power-sharing arrangements that included acceptance of the military's internal autonomy and control over domestic security and foreign policy.

The Charter of Democracy explicitly stipulates that no party will "join a military regime or any military sponsored government...[or] solicit the support of [the] military to come into power or to dislodge a democratic government".⁶⁵ PPP leaders might argue that nothing in the document prevents them from discussing the parameters of a democratic transition, but their negotiations with the government have certainly intensified tensions with Sharif's PML-N, which refuses to accept Musharraf in any post-election scenario. Nawaz Sharif has repeatedly stressed that his party would oppose Musharraf's election to the presidency whether by the sitting assemblies or their successors, even if he were to give up his post of army chief and stand as a civilian. PML-N sources say Sharif was approached by the military to explore participation in a moderate, elected government presided over by Musharraf, but he turned down the offer and insisted on free and fair elections.⁶⁶

Although they remain partners in the Alliance for the Restoration of Democracy (ARD), and will likely remain so unless the PPP opts for a unilateral agreement with Musharraf, the military has also used the Islamists to divide the two largest moderate parties. In July 2007, the JUI-F and the JI, the MMA's main component parties, succeeded, despite PPP opposition, in convincing the PML-N to forge the All Parties Democratic Movement (APMD). Critical of the MMA's partnership with the military and opposed to its Islamist orientation and links to radical groups within and outside the country, the PPP has not joined this second alliance. It insists that the ARD remains intact⁶⁷ but the mullahs and their military patrons may have seriously subverted it.

⁶¹ With public sentiment rising against the military government, in May, Bhutto said that "power is slipping out of General Musharraf's hand very quickly. His authority has been badly damaged by the suspension of Pakistan's top judge. And I share the view that it is only a matter of time before he leaves government". Anwar Iqbal, "Time not right to talk about deal: Benazir", *Dawn*, 18 May 2007.

⁶² Federal Minister for Railways Sheikh Rashid Ahmed said that the two had "held a successful meeting". Rohan Sullivan, "Pakistan's Musharraf, Bhutto meet amid power-sharing rumours", Associated Press, 28 July 2007; Zahid Hussain and Peter Wonacott, "Musharraf explores alliance with Bhutto – Foes seek unity, power in Pakistan as violence grows", *Wall Street Journal*, 30 July 2007.

⁶³ Bhutto also stressed that: "The army must stop governing the country. The military must respect decisions of the government and be held accountable before the parliament". "Musharraf must give up army post: BB", *Daily Times*, 30 July 2007.

⁶⁴ "Another meeting in Abu Dhabi likely", *Daily Times*, 30 July 2007.

C. PROCLAIMING EMERGENCY

1. Judicial crisis

A few individual exceptions aside, the higher judiciary in Pakistan has often abdicated its constitutional duty to uphold the law by legitimating military rule and intervention.⁶⁸ The Supreme Court validated Musharraf's coup and authorised him to amend the constitution, albeit within the bounds of its federal, democratic,

⁶⁵ "Text of the Charter of Democracy", op. cit.

⁶⁶ Crisis Group interviews, PML-N leaders, December 2006 to January 2007.

⁶⁷ Ashraf Mumtaz, "Fahim to call ARD meeting soon: PML-N unsure whether to attend", *Dawn*, 14 July 2007.

⁶⁸ See Crisis Group Asia Report N°86, *Building Judicial Independence in Pakistan*, 9 November 2004.

parliamentary character. The present judges of the Supreme and High Courts took their oath of office under the Provisional Constitutional Order (PCO) 1999, which omits the reference to their duty to “protect, uphold and defend” the 1973 constitution.⁶⁹ However, Chief Justice Iftikhar Mohammad Chaudhry’s decisions in a number of cases raised the possibility that the Supreme Court might nevertheless rule in accordance with the spirit and content of the constitution on issues of particular sensitivity, such as Musharraf’s dual status as army chief and president or use of the lame-duck assemblies as the presidential Electoral College.⁷⁰

Apparently anticipating legal challenges to his plans, Musharraf decided to replace the chief justice, while at the same time conveying the military’s determination to crush judicial dissent in an election year.⁷¹ On 9 March 2007, he summoned Chaudhry to his office and, in the presence of the prime minister, the ISI director general, the director general of military intelligence, the chief of the general staff and the director general of the intelligence bureau, accused him of misconduct and pressured him to resign.⁷² When the chief justice refused, he was confined to his

house and declared “non-functional”, while the matter was referred to the Supreme Judicial Council, a constitutional entity authorised to investigate charges of misconduct against members of the higher judiciary, and an interim chief justice was appointed.⁷³ In his affidavit to the Supreme Court, Chief Justice Chaudhry said he was restrained against his will at the president’s office for several hours, threatened and pressured to resign by the three intelligence chiefs. He was then held, along with his family members, incommunicado and under house arrest, without access to his lawyers, until 13 March.⁷⁴

Chaudhry’s dismissal and his mishandling by security personnel sparked widespread public outrage, including protests from bar associations and councils countrywide and the resignations of a deputy attorney general, a judge of the Lahore High Court and several junior judges. Unwilling to back down, Musharraf repeated “his belief that the charges are very legal” and claimed that Pakistan would have been labelled a “failed state” had he not acted against the chief justice.⁷⁵

⁶⁹ Asked to swear an oath of allegiance to the military’s Provisional Constitutional Order, the chief justice and five other members of the Supreme Court resigned. The remaining judges accepted the new rules and swore allegiance to the military government in January 2000. The Supreme Court, headed by the new chief justice, then validated the coup on the basis of the doctrine of “state necessity”. Musharraf appointed Chaudhry Chief Justice in 2005. Crisis Group Report, *Transition to Democracy?*, op. cit., pp. 12-13.

⁷⁰ The chief justice, for instance, was responsible for the court’s proactive pursuit of *habeas corpus* petitions for “disappeared” citizens, instructing the government to disclose their whereabouts and chastising it for not following the law. The Human Rights Commission of Pakistan estimates that over 400 citizens have been abducted and detained countrywide since 2001. While some are suspected of links to terrorist groups, they also include political dissidents, journalists, and political workers. By far, the largest number of those missing are Baloch nationalists.

⁷¹ The Economist Intelligence Unit country report on Pakistan commented: “The president’s action has been widely interpreted as an effort to silence an independent-minded judge who had become a thorn in the government’s side and who potentially posed a threat to General Musharraf’s rule. As the head of the Supreme Court, Mr Chaudhry would have been in a position to hear constitutional challenges that were expected to be filed by opposition political parties against General Musharraf’s efforts to be re-elected as president before the next parliamentary election”. “Country Report Pakistan”, May 2007, p. 1.

⁷² Another official, reportedly the commander of the army’s tenth corps, was also present.

⁷³ The charges under investigation included irregularities in the use of official facilities and undue influence in the appointment of his son to the police service. Under Article 209 of the constitution, the Supreme Judicial Council consists of the chief justice, the two next most senior judges of the Supreme Court and the two most senior chief justices from the four provincial High Courts. If “on information from any source, the Council or the President is of the opinion that a Judge of the Supreme Court or of a High Court, may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or misconduct, the President shall direct the Council to inquire into the matter” (Sub-clause 5). “If, after inquiring into the matter, the Council reports to the President that it is of the opinion, that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and that he should be removed from office, the President may remove the Judge from office” (Sub-clause 6). “The proceedings before the Council, its report to the President and the removal of a Judge under clause (6) of Article 209 shall not be called in question in any court” (Article 211). The chief justice was made “non-functional” on the basis of Article 180: “At any time when (a) the office of Chief Justice of Pakistan is vacant; or (b) the Chief Justice of Pakistan is absent or is unable to perform the functions of his office due to any other cause, the President shall appoint [the most senior of the other Judges of the Supreme Court] to act as chief justice of Pakistan”.

⁷⁴ Text of the chief justice’s affidavit in *Daily Times*, 30 May 2007.

⁷⁵ “CJP reference sent to avoid ‘failed’ state tag”, *Daily Times*, 9 May 2007.

Apparently desperate to quell the rising tide of protest which accompanied the chief justice's public appearances,⁷⁶ the government's main coalition partner in Sindh, the Muttahida Quami Movement (MQM), used indiscriminate force to prevent the opposition from holding a rally to welcome him in Karachi on 12 May. More than 40 persons, mostly party workers of the PPP, the Awami National Party and PML-N, were killed and over 100 injured. Paramilitary forces and police stood by as armed MQM workers attacked the opposition. An eye witness, PML-N's acting president in Sindh, Saleem Zia, said:

The police [were] totally unarmed with a few [bamboo] sticks in their hands. This is something that is highly unusual for Karachi police and something I have not seen in years. The [paramilitary] Rangers that we saw would not move an inch, regardless of what we said to them and however much we tried. They said they were under orders not to interfere; therefore they could not help or assist us in any way.⁷⁷

The leader of the opposition in the Sindh Assembly, the PPP's Nisar Khoro, said, "since the MQM has openly declared that they would fight for General Musharraf, this is exactly what they did in Karachi.... The government's intention on 12 May was to subjugate the court".⁷⁸

Holding the presidency and the MQM responsible for the violence, the Human Rights Commission of Pakistan noted: "It was a militant act to deny people their freedom of expression and association. The blocking of roads, arming MQM militants who took up positions at strategic roadblocks, ignoring the directions of the Sindh High Court were all carried out by the government".⁷⁹ Musharraf defended the MQM, saying "what happened in

Karachi was mainly because of the chief justice, who went there ignoring the advice of the government".⁸⁰

The efforts to forcibly curb protests as well as to silence the broadcast media only fuelled public anger. The chief justice's public appearances turned into a public vote of no confidence against the Musharraf government. The increasingly vocal opposition, spearheaded by the bar associations and supported by the moderate parties and all segments of civil society, including human rights groups and the media, channelled public resentment to military rule and transformed the case into a political battle for the restoration of democracy and rule of law that unified all moderate, pro-democracy forces. The defence lawyers were confident that the government's actions clearly showed that its intentions were malicious.⁸¹ One of them, Munir Malik, president of the Supreme Court Bar Association, said:

Everything portends that we shall win. The people in Pakistan are democratic. We [the lawyers] have reminded them that the land of Pakistan belongs to the people, not the generals; this is a battle for the minds of the people, let them be the final judge.⁸²

On 20 July, the Supreme Court ruled unanimously against Musharraf's suspension of the chief justice, calling it "illegal". The presidential reference was also invalidated, and the chief justice was reinstated by a 10-3 majority decision.⁸³ Pro-democracy advocates called the judgement a victory for democracy, independence of the judiciary and civil society. HRCP's chairperson, Asma Jahangir, said "it is very clear that guns and intimidation will not bow down civil society or civil institutions in Pakistan".⁸⁴

Expectations are now high that the judiciary will rule against any extra steps by the military government to

⁷⁶ In his speeches before bar councils and associations, the chief justice repeatedly stressed the need to uphold democratic functioning by maintaining the separation of powers among the executive, legislative and judicial branches of government, called judicial independence a "bulwark against abuse of power" and condemned authoritarian rule. "The nations and states based on dictatorship, instead of supremacy of constitution, rule of law and protection of basic human rights, are destroyed", he warned on one occasion. "States cannot survive under dictatorship: CJ", *Dawn*, 7 May 2007; Nasir Iqbal, "Authoritarianism prone to abuse of power: CJ", *Dawn*, 27 May 2007.

⁷⁷ Crisis Group interview, Karachi, 8 June 2007.

⁷⁸ Crisis Group interview, Karachi, 23 May 2007.

⁷⁹ "HRCP calls for disarming MQM", *Dawn*, 14 May 2007; "Karachi bleeds, nation weeps", *Daily Times*, 13 May 2007.

⁸⁰ Ihtashamul Haq, "Musharraf blames CJ for violence", *Dawn*, 13 May 2007.

⁸¹ A day before the Supreme Court pronounced judgement, Chaudhry's chief counsel Aitzaz Ahsen said that the government's action "shows malice on his (Chaudhry's) refusal to resign. This is vindictive". "Reference: Mother of all evils: Aitzaz", *Dawn*, 20 July 2007.

⁸² He added: "We have in fact changed the mindset of the higher judiciary. The A-team of the people of Pakistan cannot be the B-team of the army". Crisis Group interview, Karachi, 13 June 2007. There was an armed attack on Malik's Karachi home in May.

⁸³ "Supreme Court restores Pakistan chief judge", *Dawn*, 20 July 2006.

⁸⁴ Steve Graham, "Pakistan court reinstates top judge", Associated Press, 20 July 2007. Asma Jahangir is a member of the Crisis Group Board.

retain power. With the bar associations and his political opposition threatening to challenge Musharraf's re-election plan from the existing parliament or before the two-year constitutional bar on a retired general standing for public office ends,⁸⁵ the beleaguered president could well decide, out of desperation, to impose a state of emergency, postponing general elections and reimposing what would for all purposes be martial law.

2. Imposing emergency rule

Despite widespread concerns about rigging, a number of opposition parties, including the PPP and the nationalist parties in Balochistan and NWFP have expressed their intention to contest the elections. The leader of the opposition in the Senate, the PPP's Raza Rabbani, said, "we will fight it out to expose the government's claims of holding free and fair elections".⁸⁶ The rationale is simple, the ANP leader, Asfandyar Wali Khan, explained, "we cannot and will not leave the playing field open to the military government and its allies, as the tangible benefits of a boycott are far outweighed by its costs".⁸⁷ Musharraf, however, has refused to clarify the timetable for presidential and parliamentary polls. PML-Q party leaders have even hinted that the elections might be delayed or cancelled. Prime Minister Shaukat Aziz has pointed out – accurately if ominously – that the constitution permits the government, if need be, to impose a state of emergency.⁸⁸

Article 232 (1) states: "If the President is satisfied that a grave emergency exists in which the security of Pakistan, or any part thereof, is threatened by war or external aggression, or by internal disturbance beyond the power of a Provincial Government to control, he may issue a Proclamation of Emergency". Article 232 (6) states: "While a Proclamation of Emergency is in force, Parliament may by law extend the term of the National Assembly for a period not exceeding one year and not extending in any case beyond a period of six months after the Proclamation has ceased to be in force".

With demands for a transfer of power to civil hands mounting, Musharraf might decide to postpone elections and impose a state of emergency on the grounds of heightened threats to national security, citing, for instance,

conflicts in Balochistan and the Federally Administered Tribal Areas (FATA), the deteriorating security situation in NWFP and most recently, heightened militancy, following the bloody end to the standoff at Lal Masjid (the Red Mosque), a jihadi madrasa complex in the heart of Islamabad, which left more than 100 security officials, militants and civilians dead and over 250 injured in July.

The government was largely responsible for the growth of a minor confrontation at Lal Masjid in January 2007 into a full-fledged crisis within six months. It failed, as in FATA, to use law enforcement when students from the madrasa formed vigilante groups, kidnapped police and those they accused of immorality, in a bid, the madrasa managers said, to impose Sharia (Islamic law). It chose instead to appease the militants, not only repeatedly giving in to their demands, but also failing to act even as the madrasa managers and their jihadi allies armed and fortified. On 3 July, the militants confronted paramilitary troops, provoking the clash that then resulted in a full-fledged military operation. The aftermath has included deadly attacks by Islamist radicals on security forces and civilians, particularly in NWFP.⁸⁹

On 18 July, PPP leader Bhutto attributed an attack on her party workers at a pro-chief justice rally in Islamabad which killed some eighteen and wounded 60 to "hidden hands", a term used in Pakistan for the intelligence agencies. Saying that an attempt to create anarchy was aimed at paving the way for the imposition of emergency rule, she called on the government to resign and hold free and fair elections and warned that the disruption of the election process would alienate moderate, pro-democracy forces and fuel civil unrest.⁹⁰

In a lead editorial on State Minister for Information Tariq Azeem's statement, coinciding with the Islamabad attack, that a state of emergency was "one of the options before the government", an influential daily said that the possibility could not be dismissed lightly and commented:

One often hears from government quarters that the life of the existing assemblies could be extended by another year and the election postponed. It is not clear in what way a declaration of emergency will help improve law.... The longer the delay in announcing the program for the election, the greater will be the sense of uncertainty and crisis. A state of emergency will make no difference to the situation. Are there, for instance, any measures

⁸⁵ Munir Malik, president of the Supreme Court Bar Association warned that the association would challenge Musharraf's re-election bid before the Supreme Court. "Musharraf's re-election move to be challenged", *Dawn*, 26 July 2007.

⁸⁶ Crisis Group interview, Karachi, 9 January 2007

⁸⁷ Crisis Group interview, Peshawar, 29 December 2006.

⁸⁸ "Aziz refuses to rule out emergency", *Daily Times*, 7 May 2007.

⁸⁹ As of 30 July 2007, there had been more than 200 deaths, many the result of suicide attacks.

⁹⁰ Amir Wasim, "Benazir sees plot to impose emergency", *Dawn*, 18 July 2007.

which the government cannot take today without imposing emergency? Hardly.⁹¹

Although a state of emergency may be proclaimed if the pro-democracy movement seriously threatens regime stability, Musharraf's preferred option remains retention of his military post and re-election by the lame-duck assemblies, followed by national polls that he can then manipulate. Insisting that only a "unified command" can tackle the threat of militancy and denying his intention to impose emergency, he told a press conference in July 2007 that he would remain in power, in uniform and through elections by the sitting assemblies, since the presidential poll had to be held by mid-October, before general elections were due. He did not acknowledge that he (or his prime minister) has the authority to dissolve the assemblies before October.⁹²

IV. PREPARING FOR ELECTIONS

A. CRITERIA FOR FREEDOM AND FAIRNESS

The integrity and credibility of the electoral process will depend on whether it represents a transition to democracy and reflects the popular will. The criteria for assessing the freedom and fairness of the polls include the freedom to exercise civil and political rights and the fairness of electoral laws and their implementation.⁹³ At a minimum, freedom of expression, movement, and assembly are required, as well as the right of all adult citizens to seek public office, a level playing field for all parties, the ability of all candidates to campaign without coercion and free media. If Musharraf continues to refuse to allow the former prime ministers, Bhutto and Sharif, to return to Pakistan, lead their parties and contest the polls, the process can hardly be termed free and fair.⁹⁴

The fairness of election laws is crucial but so is their impartial implementation. An independent election commission with the administrative powers and autonomy to implement its decisions without interference from the executive is indispensable, as is an independent judiciary. Fairness and legitimacy also require independent observation, by national and international monitors, before, during and after the elections.

A level field for all parties involves the ability to monitor violations by officials of the Election Commission of Pakistan's "Code of Conduct", including reporting the misuse of public funds and other resources for partisan electioneering; equal access to and coverage of all political parties in the state media and freedom to assemble and campaign. A credible voters list, discussed below, is likewise important. Fairness on polling day requires an impartial election staff and law enforcement agencies to prevent ballot stuffing. Monitors should be able to expose vote buying and multiple voting. Official intimidation of opposition candidates and their supporters, as well as violence before and during the polling process needs to be prevented.

Following the election, the acceptance or rejection of outcomes by the major political parties will be one measure by which to assess the credibility of the process. Monitoring of the ballot count until final results are

⁹¹ "A state of emergency?", *Dawn*, 19 July 2007.

⁹² "Yes, I will remain the way I am", he said, pointing to his uniform. 'Only a 'unified command' can fight militancy.'" "Musharraf says re-election for present assemblies. No emergency. Polls on time", *Dawn*, 19 July 2007.

⁹³ For a detailed analysis of international standards for free and fair elections, see Eric Bjornlund, "Elections in a democratising world", at http://usinfo.state.gov/dd/eng_democracy_dialogues/elections/elections_essay.html.

⁹⁴ Musharraf has been quoted as saying, "they (Bhutto and Sharif) cannot return before elections". See "Benazir, Nawaz can't return before polls", *Dawn*, 18 May 2007.

announced is essential, as are procedures for speedy and impartial disposal of complaints by election tribunals and of appeals by the higher courts.

1. Caretaker administration

Much will depend on whether Musharraf uses the discretion the constitution gives him to appoint a neutral, caretaker government to oversee elections after the schedule is announced and the assemblies are dissolved.⁹⁵ The Alliance for the Restoration of Democracy, led by the PPP and the PML-N, has called for such an entity because it does not believe any election held under Musharraf's tutelage would be free and fair. "When Musharraf is addressing political rallies, asking for votes and even distributing party tickets, there should be no room for any illusions of propriety regarding the coming elections. Even a blind man can see, (if held under Musharraf), they will be completely rigged", an opposition politician said.⁹⁶

2. Local government

The potential for free and fair elections also depends on the role played by local government. Crisis Group reporting has highlighted the significance of local governments for the military's divide-and-rule tactics.⁹⁷ Like its military predecessors, the Musharraf government has sought to decentralise patronage and governance through non-party local bodies. Unless preventive steps are taken now, *nazims* (mayors), using state resources, can be expected to initiate development projects to influence election results and direct local authorities to favour chosen candidates.

During the 2005 local elections in Sindh, where the PPP has overwhelming support, the provincial government divided several districts to split that party's voter base and give the resulting enclaves to its own allies. Similarly, Hyderabad was redrawn along ethnic lines to benefit the MQM, the PML-Q's main coalition partner in the Sindh provincial government.⁹⁸ In Punjab, Pakistan's largest province,

control of which is synonymous with control of the national government, Rawalpindi, Faisalabad, Gujranwala and Multan were declared city districts in June 2005 and the number of towns (previously *tehsils*) was raised. Opposition politicians claim this was meant to create more opportunities for patronage and to accommodate more PML-Q party members as *nazims*. As a result of the rigged election, all but one district *nazim* supports the ruling PML-Q.

In the run-up to the 2007 national elections, the military government is channelling state resources through local governments and/or pro-government politicians in key electoral constituencies, particularly in Sindh and Punjab. At the same time, funds for opposition national parliamentarians have been stopped or delayed. If the elections are to be free and fair, the current local governments should be suspended as soon as the schedule is announced, and administrators should be appointed to serve until the votes are in and the results announced.

B. ELECTORAL MACHINERY

1. Election Commission of Pakistan and Chief Election Commissioner

The subservience of the Election Commission of Pakistan (ECP) to the executive is a main obstacle to free and fair elections.⁹⁹ The ECP has failed to control abuse and fraud during any elections held on Musharraf's watch, including the 2002 national polls. Politicians and analysts believe that, if unreformed, it will again rubber stamp the military government's manipulations. A senior PML-N leader said, "we have no illusion about the inherent weakness of the Election Commission and its utter vulnerability to the dictates of the Musharraf regime".¹⁰⁰ The director of the Human Rights Commission, I.A. Rehman, agreed: "The ECP [as presently composed] has lost all its credibility, and a free election under its auspices is highly unlikely".¹⁰¹

The MQM, a coalition partner in the PML-Q provincial government, wrested back control of the district and several town governments from its archrivals, the JI in Karachi and the PPP in Hyderabad.

⁹⁹ The Election Commission of Pakistan (ECP) is composed of the Chief Election Commissioner (CEC) and four Provincial Election Commissioners (PECs), appointed by the president. The CEC should be or "has been a judge of the Supreme Court or is or has been, a Judge of a High Court." All four PECs are drawn from the High Courts of each province. Constitution, Articles 213, 218.

¹⁰⁰ Crisis Group interview, Peshawar, 5 January 2007.

¹⁰¹ Crisis Group interview, Lahore, 29 December 2007.

⁹⁵ Article 224 of the constitution states: "The President, in his discretion, or, as the case may be, the Governor, in his discretion but with the previous approval of the President, shall appoint a care-taker cabinet". According to Article 48, when the president dissolves the National Assembly, he can "in his discretion" appoint a caretaker government.

⁹⁶ Crisis Group interview, 19 February 2007.

⁹⁷ See Crisis Group Report, *Devolution in Pakistan*, op. cit; and Briefing, *Pakistan's Local Polls*, op. cit.

⁹⁸ The new Hyderabad district was divided into Hyderabad city and *tehsils* Latifabad, Hyderabad (rural) and Qasimabad.

In theory, the ECP is an autonomous, constitutionally-sanctioned entity entrusted with holding the national, provincial and, since 2002, local government elections. "It shall be the duty of the Election Commission...to organise and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against".¹⁰² Its responsibilities include preparation of the schedule and polling schemes, delimitation of constituencies, appointment of polling personnel, assignment of voters and arrangements for maintenance of law and order.¹⁰³ The ECP claims it works "independently of all government control...and performs its electoral functions without interference of the executive".¹⁰⁴ But it even lacks fiscal independence: its budget is allocated by the federal finance ministry, over which it has little influence.¹⁰⁵ The "executive authorities in the Federation and in the Provinces" are only required "to assist" in the discharge of its functions.¹⁰⁶

The constitution stipulates that a "Chief Election Commissioner shall be appointed by the President in his discretion", whose duties include "preparing electoral rolls for election to the National Assembly and the Provincial Assemblies, and revising such rolls annually, organising and conducting election to the Senate or to fill casual vacancies in a House or a Provincial Assembly; and appointing Election Tribunals".¹⁰⁷

Musharraf appointed the current CEC, Justice (ret'd.) Qazi Mohammad Farooq, without consulting opposition parties despite promises to do so.¹⁰⁸ They place little faith in the CEC's assurances he will ensure free and transparent elections, conducted on time by a caretaker administration,¹⁰⁹ and have demanded his replacement by a consensus candidate. Farooq needs to resign if the ECP is to regain credibility but that change alone would be insufficient, since the CEC's conduct and ECP reforms are integrally linked to the broader issue of subordinating state officials to the rule of law. PML-N's Ahsan Iqbal asked: "When the prime minister and

parliament are powerless, and when the country is so completely under the rule of a solitary individual, how can one expect the CEC to be independent?"¹¹⁰

2. Electoral rolls

A complete and accurate voters list is the first necessary step if elections are to be free and fair. The ECP, with donor help, has prepared computerised electoral rolls in order to prevent fraudulent registration and voting. The process has three phases, two of which are complete. The first involved a door-to-door enumeration but only persons with national identity (ID) cards issued by the National Database Registration Authority (NADRA) were included on the draft list. In the second phase, the draft preliminary electoral rolls were displayed at 45,000 centres countrywide, until 18 July, so that claims for inclusion and applications for correction or objections could be received. According to the ECP, the third phase "will commence with the Final Publication of the Complete Electoral Rolls in September 2007, which will continue till the announcement of the schedule for general elections", during which time eligible persons will have the opportunity of enrolling on the list if they have ID cards.¹¹¹

The process of creating the new lists has been highly controversial. The opposition believes that 27 million voters have been disenfranchised, mainly from opposition constituencies.¹¹² According to one election expert, this is the result of "a deliberately partisan and flawed electoral registration process with problems ranging from lack of adequate training, low remuneration to officials and logistical problems in obtaining ID cards from the NADRA".¹¹³ The registration process was certainly flawed in opposition strongholds. In Sindh, Crisis Group heard allegations that pro-MQM enumerators in Karachi wilfully ignored potential voters in opposition constituencies. The open involvement of *nazims* and district administrations was another frequent complaint there.¹¹⁴

The data entry process was also controversial. The opposition Alliance for the Restoration of Democracy wrote to ambassadors in Islamabad: "We view with

¹⁰² Constitution, Article 218(3).

¹⁰³ ECP website, at www.ecp.gov.pk.

¹⁰⁴ Ibid.

¹⁰⁵ The finance division, according to the requirements of the Election Commission, provides lump-sum funding for preparation of electoral rolls and the conduct of elections and by-elections, *ibid*.

¹⁰⁶ Constitution, Article 220.

¹⁰⁷ Constitution (appointment), Article 213, (duties), Article 219.

¹⁰⁸ "Opposition to be consulted for new CEC", *Daily Times*, 4 January 2005.

¹⁰⁹ "Polls under caretaker set-up, says CEC: Election on time", *Dawn*, 25 April 2006.

¹¹⁰ Crisis Group interview, Islamabad, 19 February 2007.

¹¹¹ "Mohtarma Benazir Bhutto informed by CEC about the procedure of preparation of computerised electoral rolls", press release, Election Commission of Pakistan, 14 July 2007.

¹¹² "Bhutto asks PPP workers to expose voters lists", *Daily Times*, 24 June 2007; "30 per cent eligible voters left out of electoral lists, alleges PPP", *Dawn*, 9 November 2007.

¹¹³ Crisis Group interview, 20 April 2007.

¹¹⁴ Crisis Group interviews, January 2007.

alarm the award of the contract to a consortium of three companies, the main and technical component of which is 'Expert Systems', headed by a relative of the Punjab chief minister" and the president of Musharraf's PML-Q.¹¹⁵ ECP and UN Development Programme (UNDP) officials told Crisis Group the contract was awarded after a competitive bidding process supervised by a steering committee of UNDP, the International Foundation for Electoral Systems (IFES) and the ECP. Questioned about the possibility of a conflict of interest between the PML-Q government and one of the companies, an international adviser responded: "How are we supposed to know? Everyone is a relative of someone in this country. We determined the contracts in consultation with the ECP on merit, giving [it] to [the] parties with the lowest bid".¹¹⁶

Nevertheless, public and party confidence in the new computerised lists depends on the extent to which the process is open and transparent.¹¹⁷ The performance of the 45,000 centres at which preliminary lists were displayed has left much to be desired. The ECP has refused to share the draft computerised version with the parties. "The onus is on the individual voter to check the lists; the ECP can [then] claim it did all it could to ensure accurate lists and blame it all on voter apathy or some other such nonsense", said an observer.¹¹⁸ Opposition leaders believe new computerised lists were unnecessary, that discrepancies in the old rolls should have been removed by simply updating the 2002 lists. They have recommended using multiple sources of identification, since many eligible voters, particularly in rural areas, do not have national identity cards. CCE and NDI have, however, recommended that NADRA data be used, with mobile door-to-door teams, in coordination with NADRA, to register voters.¹¹⁹

The opposition parties have also asked the ECP to put the computerised lists on its website, so they could do a thorough review. "Denying the parties access to copies of the preliminary list simply reinforces distrust of the institutions and processes involved", said a political party expert.¹²⁰ The ECP insists the law does not require sharing drafts with parties.¹²¹ "If the goal was transparency", said the PML-N central information secretary, Ahsan Iqbal, "the outcome is a 'black box' operation with little input from political parties or

even civil society, undermining the credibility of the whole exercise".¹²² A political party expert agreed: "The lack of interaction between parties and the ECP and the mistrust it generates is bad news for the credibility of elections. Parties can legitimately claim that they have no input in the process and allege that the ECP has cooked the books to ensure government victory".¹²³

Faced by ECP inaction, the parties took legal action. Responding to a petition by Bhutto against the draft electoral rolls,¹²⁴ the Supreme Court on 26 July concluded that the new list would disenfranchise millions and instructed the ECP to ensure the registration of all eligible voters.¹²⁵ It ordered a fresh exercise to enrol missing voters, adding that the use of ID cards should be re-examined and amended if necessary. The ECP has now directed the Provincial Election Commissioners to work out the modalities of another exercise to register voters through countrywide, door-to-door enumeration.¹²⁶

3. By-elections

The pre-election litmus test for ECP impartiality came during the 10 February 2007 by-elections in Sindh, for a National Assembly seat in Karachi and a Provincial Assembly seat in Dadu district. Pro-government candidates from the MQM in Karachi and the PML-Q in Dadu won amid reports of widespread malpractice, including blatant use of state resources and intimidation of opposition workers by the provincial government.¹²⁷

¹²² Crisis Group interview, Karachi, 4 January 2007.

¹²³ Crisis Group interview, Islamabad, 3 January 2007.

¹²⁴ In her petition, Bhutto also asked for the preliminary computerised electoral list to be placed on the ECP's website.

¹²⁵ The Supreme Court observed: "The ECP should inform the president that the condition of the computerised national identity cards for registration is not only against the constitution but also contrary to the earlier orders of the Supreme Court". It also reminded the government that the Lahore High Court had annulled the ID card requirement for voting in 1989. Nasir Iqbal, "Apex court ask EC to register all voters", *Dawn*, 27 July 2007.

¹²⁶ The Election Commission secretary, Kanwar Muhammad Dilshad, said: "We have started work in compliance with the Supreme Court's direction. The commission will meet on 1 August to look into proposals forwarded by the provincial election commissioners". "EC seeks proposals to upgrade voters list", *The News*, 28 July 2007.

¹²⁷ Dr Sikander Shoro, the losing candidate in the Dadu by-election, insisted that rigging "started well in advance of the election itself when the provincial authorities installed sympathisers in key positions. For instance, the district coordination officer, who should have been in charge of elections, was transferred on health grounds, and his powers were transferred on a temporary basis to the executive district officer, who is a favourite of the ruling party". The

¹¹⁵ Amir Wasim, "ARD sees flaws in voter registration", *Dawn*, 12 December 2006.

¹¹⁶ Crisis Group interview, January 2007.

¹¹⁷ Crisis Group interviews, April 2007.

¹¹⁸ Crisis Group interview, Islamabad, 7 January 2007.

¹¹⁹ *Ibid.*

¹²⁰ Crisis Group interview, Islamabad, April 2007.

¹²¹ ECP press release, op. cit.

The ECP seemed unwilling or incapable of redressing complaints. A PPP delegation had met with the CEC in advance to register concerns about voting lists, counting procedures, polling stations and the intelligence agencies. It also urged deployment of security forces outside sensitive polling stations, all to little avail.

Polling day complaints also fell on deaf ears. According to the party information secretary, “we sent 60 faxes to the ECP on the day of the by-election [in Karachi] between 11 am and 4 pm but there was no response all day, and by midday armed MQM members took over most polling stations in Karachi, harassed our workers and forced them out”.¹²⁸ The ECP claimed it informed the PPP of its actions but most evidence of rigging it received was insufficient to act on.¹²⁹

Despite its concerns, the PPP says, it contested the by-elections because “we wanted to give the ECP the benefit of the doubt. But its unwillingness to ensure justice and the rule of law in the conduct of this election has left us with no doubt at all now regarding its partiality and susceptibility to governmental pressure”.¹³⁰ According to Nafis Siddiqui, the candidate who lost in Karachi, “this election constituted a test case...it has now been proved that this regime cannot and will not hold free elections”.¹³¹ A PML-N leader concurred: “The writing is on the wall. Even a blind man could see that the by-election was blatantly rigged”.¹³² MQM’s victorious candidate, Ikhtlaque Hussain Abidi, however, insisted: “There were no irregularities in the by-election. We won the election because we had a very strong campaign”.¹³³

The Human Rights Commission of Pakistan (HRCP), which observed the Karachi by-election, criticised the security arrangements at polling stations, including the presence of armed activists, pressures on polling station presiding officers by polling agents, ballot stuffing,

senior police official was also transferred. Shoro added: “All government resources, including premises and machinery, were used to help the government candidate”, while the police, on polling day, “actively prevented voters from getting to the polling station”. Crisis Group interview, Karachi, 6 March 2007.

¹²⁸ Information provided to Crisis Group by Sherry Rehman of the PPP.

¹²⁹ “By-elections held under the supervision of judicial officers in free and fair manner”, press release, ECP, 14 February 2007, at www.ecp.gov.pk.

¹³⁰ Crisis Group interview, Sherry Rehman, PPP, 9 March 2007.

¹³¹ Crisis Group interview, Nafis Siddiqui, general secretary, PPP (Sindh), 19 February 2007.

¹³² Crisis Group interview, 17 February 2007.

¹³³ Crisis Group interview, Karachi, 7 March 2007.

local government officials inside some booths and manhandling of candidates. It concluded: “Unless the Election Commission and various branches of the administration involved in the election process improve their performance many times over, it will be impossible for anyone to believe in their capacity to hold the next general elections in a free and fair manner”.¹³⁴

C. SECURITY AGENCIES AND CIVIL ADMINISTRATION

Interference by security and intelligence agencies such as the police, ISI, military intelligence and the intelligence bureau has characterised past elections during the Musharraf era. The civil administration, too, has been used to manipulate national and local elections, with officials reshuffled to ensure that those favourable to the military controlled polls in key areas; reluctant officials have been coerced into following the government’s directives.¹³⁵ As opposition to the military government mounts, and elections draw closer, arbitrary detentions and harassment of opposition politicians and the independent media have increased considerably. Scores of opposition politicians and activists have been detained, particularly in Balochistan. International media watchdog bodies say the past year has been the worst for journalists since Pakistan’s independence.¹³⁶

¹³⁴ “Karachi poll increases fear of unfair election”, press release, Human Rights Commission of Pakistan, 12 February 2007. Members of HRCP election monitoring teams told Crisis Group they saw ballot boxes stuffed with votes, armed persons entering polling stations and polling staff showing open bias against opposition candidates and voters and political agents, as well as presiding officers threatened not just by MQM workers but also by ministers. Crisis Group interviews, Karachi, March 2007. What the EU Observation Mission said about the ECP in 2002 rings ominously true in 2007: “The ECP failed to curb the authorities’ misuse of state resources...in favour of political parties, in particular, the PML(Q). The Election Commission also established a central Grievance Cell, but it was *de facto* not operational. Instead the CEC issued instructions ordering parties and government officials to adhere to the legal framework and the Code of Conduct for Political Parties, something they continued to flout with impunity”. “European Union Election Observation Mission Final Report on Pakistan Election”, 10 October 2002, p. 28.

¹³⁵ See Crisis Group Report, *Transition to Democracy*, op. cit, and Briefing, *Local Polls: Shoring up Military Rule*, op. cit.

¹³⁶ Following the May 2007 violence in Karachi, Musharraf’s MQM allies reportedly threatened journalists, including Mazhar Abbas, the secretary general of the Pakistan Federal Union of Journalists and Agence France-Presse bureau chief.

Opposition politicians, journalists and even bureaucrats told Crisis Group that intelligence agency officials are using both bribes and coercion to produce defections to pro-military parties. Several PML-N leaders in the Punjab said blackmail and physical intimidation was used against them.¹³⁷ PPP politicians in Sindh told similar stories and also accused intelligence and administrative officials of electoral manipulation at the local level. In the past, election results have been changed at the last minute by security agency intimidation of voters and polling staff. Unless such activities end, the 2007 elections could prove as flawed as those in 2002.

V. RIGGED ELECTIONS

A. DOMESTIC STABILITY AND REGIONAL SECURITY IMPLICATIONS

A rigged election would have serious consequences for domestic stability and regional and wider international security.¹³⁸ In 2002 the military government rigged the elections and was able to survive with its power, if not legitimacy, intact. This year opposition to centralised, authoritarian rule has grown considerably, particularly in the smaller provinces. To neutralise it, the military government will be more dependent than ever on the most problematic of its civilian partners. In Sindh, for example, it will have little alternative for countering Bhutto's PPP and its predominantly Sindhi constituency other than to use the electoral machinery to favour its MQM allies. This would further stoke Mohajir-Sindhi tensions, already high after the 12 May 2007 killings of PPP workers by MQM activists. A MQM government in Sindh, in coalition with Musharraf's ruling party, would not only fuel anti-military sentiments but could well also return the province to bloody ethnic conflict.¹³⁹

In Balochistan, where the military's attempts to crush demands for democracy and provincial rights have triggered a province-wide insurgency, the prospects for the Baloch regional parties to win a free and fair election and form the provincial government have increased considerably. Going by their record, the staunchly anti-military and anti-Taliban Baloch nationalists would forge a centre alliance with either of the two national-level moderate parties, the PPP or PML-N. If Musharraf were to rig the elections, he would inevitably fall back upon his MMA allies to marginalise them. Rigged elections could seriously

¹³⁸ The NDI pre-election delegation rightly observed that the upcoming general elections were "not important only to the people of Pakistan but to the international community as well. Pakistan is a nuclear power and an essential ally in the fight against terrorism. If the upcoming elections meet international standards and have the confidence of the people of Pakistan, they can provide the basis for returning power to civilian hands and the newly elected government can negotiate the proper role of the military's life. If the elections are tainted, they could lead to the strengthening of extremist forces, which can fill the void left by the marginalisation of the more moderate parties". "Statement", op. cit.

¹³⁹ Commenting on the 12 May 2007 violence in Karachi, the Human Rights Commission of Pakistan called for disarming the MQM, and warned: "The events in Karachi indicated that the government, in collusion with the MQM, wants to return Karachi to a state of ethnic hostilities". "HRCP calls for disarming MQM", *Dawn*, 14 May 2007.

¹³⁷ Crisis Group interviews, Rawalpindi, Lahore and Islamabad, January 2007.

strain the cohesion of the federation, even as they benefit the Islamist parties, particularly the pro-Taliban JUI-F. The Baloch nationalist parties already have an uphill task to convince their young workers political change can and should come through the ballot box, not the gun.¹⁴⁰ Should the election be rigged, that choice may no longer appear viable to many Baloch dissidents, who have borne the brunt of military rule for eight years.

In NWFP too, the military government will have little choice but to give the MMA free rein to manipulate the electoral process if it is to retain the mullahs' support not just in the province but also in the national parliament. This support is particularly important since Musharraf needs parliamentary assent to retain his dual hats of president and army chief. He also needs the MMA at the national level to help him counter the PPP, PML-N and other pro-democracy parties.

Should the JUI-F, the largest component in the MMA and the Taliban's main Pakistani helper, retain power for another five years in Balochistan and NWFP, bordering on Afghanistan's insurgency-hit south and east, the security implications would be serious. Its patronage and active support would enable the Taliban and other insurgents to continue to use bases from which to plan and conduct cross-border attacks against Western troops, and Afghan security and civil officials, destabilising that country's state-building enterprise. Within Pakistan's Pashtun-majority belt, particularly in the FATA, the mullah's militant allies would be the main beneficiaries of an MMA victory, able to use the political space created by the military's marginalisation of the moderate parties to extend their reach to NWFP's settled areas and beyond.¹⁴¹

Nationally, an opposition leader told Crisis Group, "our worst fear as a party is that if national elections are rigged, people will start losing hope in the efficacy of elections as a democratic method of bringing about regime change. Their confidence in democracy and in the principles around which democracy revolves may be eroded beyond repair".¹⁴² Since rigged elections would also fuel public opposition, the military would try to weaken the moderate, mainstream parties further, leaving the political field open to the Islamist parties.

As his government rapidly loses legitimacy, however, Musharraf might postpone elections altogether by proclaiming a state of emergency and suspending all

fundamental freedoms.¹⁴³ In that case, he might have to bring troops into the streets to suppress massive protests. This would immediately produce chaos and violence and ultimately increase the standing of Islamist groups. If the international community, particularly the U.S., supported the military government's move, anti-Western sentiment would grow.¹⁴⁴

Yet, these are not the only scenarios. Musharraf's attempts at pre-election rigging, including his move against the judiciary, have helped to create a democratic opening. The pro-democracy movement is gaining momentum, and domestic pressures are building on the military to return to their barracks. Musharraf and the military can no longer be confident that the courts would decide sensitive constitutional issues in their favour.

While a reinvigorated opposition will closely monitor and challenge electoral irregularities, the high command, too, is watching the fast-changing political scene and weighing the costs and benefits of backing an increasingly unpopular military ruler. Since it will factor in external considerations as well, signals from key international supporters, especially Washington, will influence the generals' decisions. The first rumblings of discontent within the military are already evident. Senior retired officers, no longer bound by service restrictions, have called for holding parliamentary elections under an impartial caretaker government before the next president is chosen; the appointment of a new CEC after consultations with all parties in parliament; and separation of the offices of president and army chief.¹⁴⁵ The very fact that Musharraf has had to seek a public commitment from the high command underscores his precarious standing within his home institution.¹⁴⁶

¹⁴³ On 6 May 2007, Prime Minister Shaukat Aziz implied emergency rule could be imposed, consistent with the constitution, if conditions and circumstances required. Ahmed Hassan, "Talk of emergency at PM's press conference", *Dawn*, 7 May 2007.

¹⁴⁴ See Crisis Alert, op. cit.

¹⁴⁵ In an open letter to the president on 8 July 2006, the Dialogue Group on Civil-Military Relations which includes four retired three-star generals, two of whom served as governors and another as ISI director general, said: "Besides being a constitutional office, the office of President of Pakistan is also a political post. Combining the Presidency with the office of the Chief of Army Staff politicises the latter post as well as the Army". On 16 May 2007, the group reiterated its demand for the separation of the two offices. "Call for general elections before presidential polls", *Dawn*, 17 May 2007; "Ex-generals, MPs want military out of politics", *Dawn*, 23 July 2006.

¹⁴⁶ On 1 June 2007, the 101st corps commanders' meeting issued a statement of support for Musharraf and his "pivotal

¹⁴⁰ Crisis Group interviews, National Party (Balochistan) and BNP leaders, Islamabad, May 2007.

¹⁴¹ See Crisis Group Report, *Pakistan's Tribal Areas*, op. cit.

¹⁴² Crisis Group interview, 19 February 2007.

B. THE INTERNATIONAL COMMUNITY

Crisis Group has written that:

[In Pakistan] democratic transitions stall if the international climate is conducive to continued military rule. Conversely, if the military believes that external costs, diplomatic and economic, will be unacceptably high, it revives the democratic process by either entering into power-sharing arrangements with the political elite or withdrawing to the barracks and transferring power to an elected government.¹⁴⁷

The international community but especially the U.S. has a crucial role to ensure there is a peaceful transition to democracy. The military high command is well aware how important U.S. support has been to Musharraf's position over the years. Should Washington signal now that it supports a democratic transition and use its extensive leverage, it could nudge the military back to the barracks.

Since 11 September 2001, the military government has benefited enormously from foreign political and financial support. The absence of international pressure has, in large part, enabled Musharraf and the military to prolong their rule. Yet, as Ahmed Rashid notes, Washington's "blind bargain after 9/11 with the regime ... ignoring Musharraf's despotism in return for his promises to crack down on al-Qaeda [and the Taliban] is in tatters", with the Taliban resurgent in Afghanistan and al-Qaeda operating out of Pakistani safe havens.¹⁴⁸ The Taliban resurgence has likely motivated recent U.S. concerns about Musharraf's reliance on the Islamist MMA alliance, dominated by the pro-Taliban JUI-F. Washington would prefer that he seek accommodation, as discussed above, with the moderate mainstream parties, preferably Bhutto's PPP.

Nevertheless, the U.S. still appears unwilling to put extensive pressure on Musharraf and to be hedging its bets on democracy. Openly at least it is silent about Musharraf's re-election plans, partly because of the pervasive, if largely unfounded fear that more pressure on him could destabilize an ally whose cooperation is needed to counter terrorism. U.S. policymakers are also concerned that elected civilian governments would need the military to cope with religious extremism, in Pakistan and in the region, and so tend to believe

Musharraf remains essential, whether in or out of uniform. The military high command, however, is far more likely to abandon its alliance with the Islamist parties, act against their militant domestic and foreign allies and allow a peaceful transition through free and fair elections if the U.S. matches its pro-democracy rhetoric with action, including setting clearly-defined conditions for continued military assistance.

Nevertheless, U.S. policy remains beset by contradictions. On 12 July 2007, Assistant Secretary of State for South and Central Asian Affairs Richard Boucher told a Congressional hearing that "we all think Pakistan would be better off, more stable with an elected government and that's why we're pushing so hard for free and fair elections this year.... We believe that democracy is a force for stability. We believe that an elected government that brings together the centrist parties would be a better base on which to fight extremism in the country.... So we all look for elections to be a force for stability". But Boucher also lauded Musharraf's leadership in transforming Pakistan into a modern society: "We certainly think that the fundamental direction that President Musharraf has been leading Pakistan is one that's compatible with our goals.... We're proud to work with him".¹⁴⁹ Although the U.S. has, on occasion, reminded Musharraf of his commitment to give up the post of army chief,¹⁵⁰ it has recently been far more guarded. During his June 2007 visit, Deputy Secretary of State John Negroponte said only "it is up to him".¹⁵¹

¹⁴⁹ "Pakistan at the Crossroads: Afghanistan in the Balance", hearing of the National Security and Foreign Affairs Subcommittee of the House Oversight and Government Reform Committee, 12 July 2007. In his testimony to the Senate Committee on Foreign Relations on 25 July 2007, Under Secretary of State for Political Affairs Nicholas Burns emphasised that the U.S. partnership with the Musharraf government was "successful and improving.... We applaud the efforts of Pakistan, ask for its continued support to defeat the extremists and commit our support in return". Text at www.state.gov/p.us/2007/89418.htm.

¹⁵⁰ "He [Musharraf] has made certain commitments in this regard [uniform] and we think it's important that he follow through on those commitments", Boucher said. "U.S. expects Musharraf to quit army post", *Dawn*, 22 March 2007.

¹⁵¹ "Musharraf to decide on uniform: U.S.", *Daily Times*, 17 June 2007. Commenting on the issue, Assistant Secretary Boucher, who accompanied Negroponte, said: "I don't believe that the whole issue of the election rises and falls on whether President Musharraf carries out whatever is appropriate under the constitution with regards to the two jobs. The issue of a free and fair election is much more fundamental than that". "U.S. officials back Musharraf", *Gulf Times*, 17 June 2007.

role" as president and army chief. Tariq Butt, "The message didn't bring the house down", *The News*, 5 June 2007.

¹⁴⁷ Crisis Group Report, *Transition to Democracy?*, op.cit, p. 4.

¹⁴⁸ Ahmed Rashid, "America's bad deal with Musharraf going down in flames", *The Washington Post*, 17 June 2007.

Washington has been evasive about the judicial crisis and violence against pro-democracy activists. The State Department spokesman, Sean McCormick, told a press conference: “We believe that the resolution of this matter should take place in a way that is completely transparent and strictly in accordance with Pakistan’s laws”.¹⁵² Commenting on the Supreme Court’s decision to reinstate the Chief Justice, after it called the government’s actions “illegal”, Tom Casey, the deputy spokesperson said, “it speaks positively to the political situation in Pakistan that these kinds of issues can be resolved through the established institutions, through the rule of law, and that they will, in fact, be accepted and honoured by all the various participants”.¹⁵³ It is not clear how the U.S. can square a concern for Pakistan’s laws with open support of a military dictatorship that has, for eight years, disregarded constitutionalism and rule of law. Musharraf’s attack on judicial independence and the subsequent public outcry, however, may have made it more difficult for the U.S. to give a rigged election a pass, as it did in 2002.

The U.S. Congress appears more sceptical about Musharraf’s willingness to tackle domestic extremism, more concerned about the Taliban and al-Qaeda presence and less tolerant of authoritarianism. It has passed legislation that conditions military assistance on Pakistan doing more to combat Taliban and al-Qaeda. Similar conditionality provisions on military aid but also to be “informed by the pace of democratic reform, extension of rule of law, and the conduct of parliamentary elections scheduled for 2007” have passed the House and the Senate. A reconciled bill, including the conditionality, will be sent to President Bush soon.¹⁵⁴

The U.S. could pressure Musharraf to hold free and fair elections by imposing conditionality on diplomatic and military help. It has given some \$10 billion in military and economic assistance since 2002. Of this, economic aid totals only around \$800 million. More than \$5.6 billion in Coalition Support funds, which are not closely monitored by Congress, in addition to

\$1.8 billion for security assistance, flows into the military’s coffers.¹⁵⁵ By conditioning military aid on a free and fair electoral process, as well as Pakistan’s performance against al-Qaeda and the Taliban, the U.S. would help Pakistan’s transition from military rule to civilian government. This would not only stabilise Pakistan but would also directly benefit the U.S., since elected civilian governments would have the legitimacy and support to counter domestic extremism and pursue friendly relations with Afghanistan and India.

By retaining conditionality after the elections, the U.S. would signal the high command to refrain from undermining the transition or hindering an elected civilian government’s efforts to reform domestic security and foreign policy. By providing strong political support, and enhancing financial assistance to an elected civilian government, the international community could also help stabilise the democratic transition.

Although international monitoring would make it harder for the military government to rig the polls, the EU has yet to decide to send a robust Election Observation Mission (EOM). If it wants a stable Pakistan in a stable neighbourhood, it must invest in a comprehensive mission, including pre-poll, voting day and post-election monitoring. It set an example in 2002, when its pre-poll observation team exposed the rigging that tilted the playing field against the opposition parties. The final EOM recommendations for electoral reforms remain valid.¹⁵⁶

The United States has given considerable support to the Election Commission. “We put \$20 million this year into supporting the Election Commission, doing basic poll watcher training, political party training, things like that”, Assistant Secretary Boucher told Congress.¹⁵⁷ Of that \$20 million, \$14 million to \$16 million has gone to development and implementation of the ECP’s computerised registration system.¹⁵⁸ As noted above, opposition parties have questioned

¹⁵² U.S. State Department daily press briefing, 20 March 2007, at www.state.gov/r/pa/prs/dpb/2007/mar/81963.htm.

¹⁵³ Casey added: “President Musharraf is a strong ally in the war on terror. He is committed to the process of democratic change in Pakistan, including, most importantly for us, the conducting of free, fair and transparent elections in Pakistan, which is in the interest of everyone”. U.S. State Department daily press briefing, 20 July 2007, at www.state.gov/r/pa/prs/dpb/2007/jul/88795.htm.

¹⁵⁴ Augustine Anthony, “Pakistan says U.S. bill casts shadow on relations”, *Washington Post*, 29 July 2007; Anwar Iqbal, “U.S. legislators tie aid to progress in war on terror”, *Dawn*, 28 July 2007.

¹⁵⁵ A senior U.S. military official said, “they send us the bill (for the monthly \$80 million from Coalition Support funds), and we just pay it. Nobody can explain what we are getting for this money or even where it is going”. David E. Sangar and David Rhode, “U.S. pays Pakistan to fight terror, but patrols ebb”, *The New York Times*, 20 May 2007; Nathaniel Heller, Sarah Fort and Marina Walker Guevara, “Pakistan’s Blank Check for \$ 4.2 billion blank check for military aid”, Center for Public Integrity, 27 March 2007.

¹⁵⁶ See “European Union Election Observation Mission Final Report on Pakistan Election”, 10 October 2002.

¹⁵⁷ Boucher’s 12 July 2007 Congressional testimony, op. cit.

¹⁵⁸ “SDEPP Phase II: CERS”, at www.sdepp-undp.info/Main.asp?p=IT/CERS. Technical support has been provided by the International Foundation for Electoral Systems.

whether new lists needed to be compiled from scratch and through a highly controversial process which bypassed them and other stakeholders. Many donors insist that the electoral registration process is the ECP's prerogative, and they can only provide the technical assistance requested. Nevertheless, by bankrolling a flawed exercise, they risk being perceived as complicit in election rigging.

The ECP has kept its distance from parties. According to Sheila Fruman, NDI country director, "the ECP's refusal to include and involve the biggest stakeholders, the political parties, is fuelling frustration, which is not good for building trust in the electoral system. The political parties are being forced into a position of suspicion, lack of confidence and public attacks because they have not been given any other option".¹⁵⁹ Some experts believe some donors are content with bypassing parties because they regard them as undemocratic and corrupt. "Without acknowledging the difficulties of operating in an environment of fear and state attack on parties", said one such expert, "donors instead see state repression as an excuse used by parties to avoid internal party reform".¹⁶⁰ This bias has translated into technically-oriented projects which engage the government and "civil society" but not parties; such democratic/electoral reforms cannot succeed if parties – the key stakeholders in the electoral process – are not involved.

With aid comes influence, and with influence comes leverage. Yet, donors stop short of using that influence for democratisation, opting instead for short term, politically safe technical assistance. This tendency is reflected in the rationale behind the multi-donor project "Support for Democratic and Electoral Processes in Pakistan" (SDEPP). Its explanatory document argues, without offering much evidence, that the weakness of democracy in Pakistan stems from "structural/operational deficiencies in public sector institutions, approachable through well-targeted technical assistance...one of the constraints to an effective electoral process in Pakistan is that it has yet to fully utilise modern technology to improve the speed, accuracy, openness and honesty of elections".¹⁶¹

¹⁵⁹ Crisis Group interview, Islamabad, 20 April 2007.

¹⁶⁰ Crisis Group interview, political party expert, January 2007.

¹⁶¹ Learning little from phase 1's non-impact, SDEPP II continues a narrow technical and operational focus on "assessment and improvement of the accuracy of the electoral register; development of LAN, website and ECP intranet and training of ECP staff in utilising and maintaining LAN, website and intranet; educate electorate on electoral processes to encourage increased participation and increase transparency of ECP activities. ECP staff re-profiling and

Democracy, in other words, is at least substantially a matter of getting the technology right. Providing technical or financial assistance on the ECP's terms, however, promises very little even for long-term institutional development.

Elections are an intensely political, not merely technical issue. They require an overall environment in which the rules of the game are democratic. The international community needs to put more than just money where its mouth is in Pakistan. It needs to step up its political commitment to democracy and institutional stability, both of which are fundamental in the long run to countering extremism and terrorism.

VI. CONCLUSION

The military's recent onslaught against the higher judiciary is the latest manifestation of a policy of subordinating countervailing state institutions which is producing a failing state that endangers its own and its region's security. The alternative is a country ruled by democratically-elected governments, with the legitimacy and popular support to take it back to its moderate roots. That country would be far less a threat to itself or to neighbours. A single free and fair election may not be sufficient to eliminate military autonomy and power over state and society but it is a necessary step in that direction.

Musharraf still hopes to keep his power, and the decision to withdraw to the barracks cannot be forced on the military. Given the extent of popular dissent, however, the generals would find it hard to sustain control unless they are prepared to crush dissent with brute force. The Pakistani military is a cohesive, hierarchical entity the inclination of which would be to continue to back its chief but he is increasingly becoming a liability. If the escalating popular protest and mobilisation for judicial independence and democracy is sustained, the high command may conceivably withdraw its support from Musharraf so as to safeguard the military's larger institutional interests.

Pakistan's internal cohesion requires an elected civilian government with the legitimate authority to resolve

ethno-regional and other political conflicts within the institutional framework of the state. By vigorously supporting a free and fair election which all political leaders are allowed to contest, the international community would earn the goodwill of the large majority of citizens who vote for moderate parties but whose democratic rights have been consistently denied by an unaccountable military.

Influential international actors, particularly the U.S. but also the EU, should rethink the wisdom of relying solely on the military. That policy is largely responsible for growing anti-U.S. sentiment among pro-democracy Pakistanis, who view Washington's support for Musharraf's authoritarian regime as hypocritical and unjustifiable. Full restoration of democracy would best serve the interests of both Pakistan and its Western friends. Supporting a deeply unpopular military regime is no way to fight terrorism and neutralise religious extremism. Pakistan's two most popular national political parties are pragmatic, centrist groupings, whose political interests dictate the diminution of militant forces in the country. They are the international community's most natural allies.

The choice in this election year is stark: support for a return to genuine democracy and civilian rule, which offers the prospect of containing extremism, or continued facilitation in effect of a slide into military-led, failing-state status prone to domestic unrest and export of Islamic radicalism domestically, regionally and beyond.

Islamabad/Brussels, 31 July 2007

APPENDIX A

MAP OF PAKISTAN



APPENDIX B

GLOSSARY OF ACRONYMS

ANP	Awami National Party
APMD	All Parties Democratic Movement
ARD	Alliance for the Restoration of Democracy
BNP	Balochistan National Party
CCE	Center for Civic Education
CEC	Chief Election Commissioner
ECP	Election Commission of Pakistan
EOM	Election Observation Mission
FATA	Federally Administered Tribal Areas
HRCP	Human Rights Commission of Pakistan
IFES	International Foundation for Electoral Systems
IJI	Islami Jamhoori Ittehad (Islamic Democratic Alliance)
ISI	Inter Services Intelligence
Ji	Jamaat-i-Islami
JUI	Jamiat Ulema-e-Islam
JUI-F	Jamiat Ulema-e-Islam (Fazlur Rehman)
MMA	Muttahida Majlis-i-Amal six-party Islamist alliance
MNA	Member of the National Assembly
MQM	Muttahida Quami Movement
NADRA	National Database Registration Authority
NDI	National Democratic Institute
NWFP	Northwest Frontier Province
PCO	Provisional Constitutional Order
PEC	Provincial Election Commissioner
PML-N	Pakistan Muslim League (Nawaz Sharif)
PML-Q	Pakistan Muslim League (Quaid-i-Azam)
PPP	Pakistan People's Party
UNDP	United Nations Development Programme
SDEPP	Support for Democratic and Electoral Processes in Pakistan