

## **Legitimacy crises in Pakistan (A comparative study of political behavior)**

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### **Abstract**

This paper presents a thorough review of legality of governments in Pakistan. It suggests that how non-political rulers have legalized their authority within the political system of Pakistan. This paper analyses the behavior of dictators and their supporters and even opponents which legitimize unconstitutional actions taken by dictators. Analytical and political interaction approach is adopted in this paper. Another object of this discussion is to analyze the behavior of politicians and the judiciary about the legitimacy of dictators' rule.

Key words: legitimacy, political interaction approach, oligarchy

### **Contextual Analysis**

Legitimacy means the popular perception on the part of large numbers of people that the government, its leaders, and its policies are valid, right, just and worthy of support. A political regime is legitimate when it is accepted by the majority of its citizens as right and proper enough to be obeyed in most instances. Legitimacy can be achieved through all sorts of means, including propaganda, clientelism, and coercion.<sup>1</sup> Legitimacy is as such a dimension of modernization, which can not be assessed and judged in a scientific way, because it is predominantly related to attitudes and sentiments. It directly relates to authority and its distribution among various claimants. Legitimacy builds legal and normal bridges between the governors and the governed. Lack of trust or disbelief in the utility of institutions could generate crises of legitimacy. Legitimacy is basically a moral problem and a subjective issue.<sup>2</sup> Oligarchy means government by a small group. Political interaction approach is an eclectic method that presents ideas from a variety of contemporary thinkers and theories. Through the use of comparative method we seek to describe, identify, and explain trends--in some cases, even predict human behavior. Those who adopt this approach, known as comparatives, are interested in identifying relationship and patterns of behavior and interactions between individuals and groups.<sup>3</sup>

### **Historical background**

During the early years of Pakistan, the replacement and dismissal of governments was a usual phenomenon. In the case of Pakistan, legitimacy always remained a crucial question even after passing 60 years of independence. Pakistan, most of the time faced illegitimate or defacto rulers at the helm of the affairs, such as Ayub Khan

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in 1958, Yahya in 1969, Zia in 1977 and Pervez Musharraf from 1999 till today.<sup>4</sup> On 21<sup>st</sup> March 1955, the federal court's majority decision upholding Governor General Ghulam Muhammed's dismissal of the Constituent Assembly devastated the political structure of Pakistan. On 24<sup>th</sup> October 1958, the appointment of Commander-in-Chief Ayub Khan as a Prime Minister by the Governor General (Major General Iskandar Mirza) strengthened the distress. On 27<sup>th</sup> October, Ayub Khan forced Mirza to resign and the latter was exiled to London.<sup>5</sup> After this the state power in Pakistan has been concentrated in the hands of a military-bureaucratic oligarchy. That oligarchy has had, on the whole unsuccessfully, devise ways to legitimize its rule. The rise of regional movements and ethnic politics has been only one factor in the challenge of power of the military-bureaucratic oligarchy.<sup>6</sup> General Ayub Khan (1958-1969) was considered to have no political entanglement with the various power forces in Pakistan. Ayub Khan's distrust of parliamentary democracy shows its behavior towards authority and he legitimized it through basic democracies system through vote though it was just a rural economic development and social welfare program. At the end of 1959, Ayub Khan asked the Basic Democrats for a vote of confidence. Almost 95% of them declared their confidence in him and legitimized his presidentship. Mohtarma Fatima Jinnah (Quaid-e-Azam's sister) supported Ayub Khan's takeover in an interview with the Morning News, 29 October 1958, as "A new era has begun under General Ayub Khan and the armed forces have undertaken to root out the administrative malaise and anti-social practices, to create a sense of confidence, security and stability and eventually to bring the country back to normalcy. I hope and pray Allah may give them the wisdom and strength to achieve their objective."<sup>7</sup> In January 1965, Ayub Khan nominated for President by his party Convention Muslim League and won 64% of the votes, compared to Miss Fatima Jinnah's 36%. After winning the election, Ayub Khan enjoyed both legitimacy and power and it ends in the shape of General Yahya Khan, a new Chief Martial Law Administrator whose era ends on the separation of East Pakistan. Ayub Khan was welcomed by the nation due to political instability in the country but the state and ruling elites must be accepted as legitimate if their integrative efforts are to receive popular support.<sup>8</sup> Hamza Alavi comments on this dominant military-bureaucratic era, as, "Apart from the lure of office, it has little to attract it to the democratic process. Conversely, changes in form of state powers and its institutions, including resort to the electoral process, have been forced on the dominant military-bureaucratic oligarchy by its consistent failure to construct a stable basis for the legitimating of state power. Coercion alone has not been sufficient to maintain its hold on it but, nevertheless, its search for legitimacy has been elusive".<sup>9</sup>

The first time ever general elections were held on 7 December 1970 on the principle of 'one man, one vote'. The elections gave the Pakistan People's Party led by Zulifkar Ali Bhutto, 81 of the 138 seats in West Pakistan and Mujib's Awami League won 160 out of the 162 seats in East Pakistan. Mujib's Awami League had a majority in the National Assembly but Bhutto announced boycott of National Assembly unless Mujib accepted an agreement about power-sharing.<sup>10</sup> The crisis of legitimacy of power ends in the form of separation of East Pakistan. Pakistan had multicultural nations as Bengalis, Punjabis, Pathans, Sindhis and Balochs. Demand of separation of East Pakistan was on Bengalis base. Whether a legitimate right of self-determination for the Bengalis existed? Responding on this issue, S. Ghazanfar Ali writes in his research paper with the reference to the International Commission of Jurists as, "The people of East Pakistan did not have a legitimate right of separating from Pakistan."<sup>11</sup>

The separation of East Pakistan (1971) came as a huge shock to the people of West Pakistan. On 20 December 1971, Zulfikar Ali Bhutto became President and Chief Martial Law Administrator. Mr. Bhutto enjoyed both legitimacy *and* power. He was conscious of the role of the military-bureaucratic oligarchy, which he set about to rescind, breaking the power of the bureaucracy through his administrative reforms. However, the military had already prostrate in the aftermath of the debacle in Bangladesh, for it had lost all credibility and capacity to take over state power.<sup>12</sup> In 1977, Bhutto called a general election. He was confident that he would be able to retain legitimate authority. Opposition parties combined to form the Pakistan National Alliance. The results of the election showed a landslide victory for the PPP. Of the 200 seats contested it won 154, against the PNA's 38. PNA challenged the legitimacy of Bhutto's power and started a countrywide agitation against the government. Bhutto turned to the army for help and on 19 April 1977, he declared a state of emergency, placing Pakistan under martial law. For the democratic political base which must be strong to bring the military-bureaucratic oligarchy under firm political control. Indeed, he created conditions that gave the oligarchy, under Zia, an opportunity to return to power.<sup>13</sup> His government was dislodged by an army takeover led by Gen. Zia-ul-Haq and carried out by General Faiz Ali Chishti on 5 July 1977. Bhutto was arrested on the charge of murder of a political opponent. He was tried in a regular court of law, which convicted him and awarded death sentence, which was carried out on 4 April 1979.<sup>14</sup>

Zia had been specially chosen by Bhutto for the Chief of Army Staff post. Zia's appointment had been controversial, as he was junior to several other generals and had no distinguished service record.<sup>15</sup> Jamaat-i-Islami supported Zia's action and helped to legitimize his authority through some ministries. One of them, Prof. Khursheed Ahmed (Zia's federal minister for statistics) legitimized Zia's action in these words "It was a warning to all politicians, including us, that if we overstep over limits there is a way to get things redressed."<sup>16</sup> Zia legitimized his authority through political parties except PPP. Accountability and Islamization were major issues to legalize his authority. The Supreme Court of Pakistan accepted the legitimacy of the 1977 coup on the 'doctrine of necessity' grounds.<sup>17</sup> After Bhutto's exit from power, the PML (Pagaro Group) co-operated with the martial law regime.<sup>18</sup> The need to establish some international and domestic legitimacy for his government persuaded Zia to continue with the proposals. A referendum was held in December 1984. The referendum asked voters if they supported the Islamization process and if they wished Zia to continue it. Say 'yes' and 'yes' vote would constitute a vote of confidence in Zia, who would then remain President for another five years. What a way to deceive the people in the name of religion for legitimacy?. The turnout for this referendum was more than 10 percent of the population and it proved an embarrassment for the regime.<sup>19</sup> Zia frequently used the slogan of Islam for exploiting the politically inexperienced people's emotions. It has proved to be highly efficient and very convenient tool in his hands right from the beginning of his regime. He used 'Islam in danger' tool to legitimize his authority.

Non-party elections were held in February 1985. A former PPP member from Sindh, Muhammad Khan Junejo, was selected as Prime Minister. The Eighth Amendment (1985) legitimized Zia's martial law and gave the President the power to dismiss the Prime Minister and National Assembly without recourse to the Prime Minister. Junejo was ready to use wider political support and legitimacy for his measures and called an

all party Round Table Conference in March 1988 to discuss about peace plan in Afghanistan. All parties supported Junejo's policy. On the Ojhri ( army munitions dump) explosion inquiry, army reacted and Junejo was dismissed and the National Assembly dissolved on 29 May 1988 by Zia.<sup>20</sup> The General announced to the astonished newsmen that he had just dismissed his Prime Minister. A puzzled and unsuspecting Mr Junejo was thus unceremoniously returned to the political obscurity whence he had come. Zia also dissolved the National Assembly, which was elected in February 1985 under rules dictated by himself, on a non-party basis to provide a semblance of representative Government as a legitimating cover for military dictatorship.<sup>21</sup> Zia set a date of October for the elections, but no one knew whether he would honour the date.<sup>22</sup> Zia's action highlighted the dilemmas and contradictions that have bedeviled successive regimes in Pakistan. The thread that runs centrally through the history of Pakistan is a tension between the locus of power and legitimate authority.<sup>23</sup> The statement by Zia to justify his action against Junejo was not justifiable, he explained why Junejo was dismissed "The National Assembly has failed to make a move towards the Islamization objectives and could not provide protection to the life and property of the people of Pakistan."<sup>24</sup>

Surprisingly, instead of using the occasion to expose the hollowness of Zia's caricature of 'representative government' the political opposition, including Benazir Bhutto, acclaimed his action in dismissing Junenjo. Benazir also declared, gratuitously, that Zia had 'acted constitutionally', a statement that by implication legitimized Zia's illegal 'Constitution' issued originally by his personal decree, which concentrated all powers into hands of the President: a strange way to describe an action taken under an illegal law of a military usurper who had turned the 1973 Constitution upside down.<sup>25</sup>

On 17 August 1988, exactly 90 days before the elections were due to take place, Zia died in an air crash, when his aeroplane blew up in mild air, killing everyone on board. The Chairman of the Senate, Ghulam Ishaq Khan, became acting President<sup>26</sup> Ghulam Ishaq Khan announced the imposition of emergency in the country. However the present federal and provincial cabinets asked to continue the function. The cabinet promoted the Vice Chief of the Army Staff, Aslam Beg to the office of the Chief of the Army Staff. Ghulam Ishaq Khan assured the nation that the general election will be held according to program on November 16 and will be completely fair and impartial. He appealed to the people to extend their support to him (another style of legitimacy) on fulfilling constitutional obligation.<sup>27</sup> A return to elective parliamentary democracy after the General Elections of November 1988 resolved the crisis of legitimacy into which the Pakistani political system had been plunged by Zia's action in dismissing his Assembly; indeed that crisis had already been building up because the 'Party less' Assembly had lacked credibility and the policy of so-called 'Islamisation' had failed.

The PPP, the leading party of the opposition, on the other hand, already won the mantle of legitimacy before its victory in the elections, after a trip to the United States in 1984 when she was assured of influential support. Its electoral success gave it a national mandate. Miss Bhutto bowed to the pressure from the army and the US to retain Sahbzada Yaqub Khan (Zia's Foreign Minister) as Foreign Minister<sup>28</sup> Benazir Bhutto, ' by packing superior judicial positions with party activists, and using

intelligence and investigation agencies for narrow political ends, the government was stepping beyond its legitimate mandate<sup>29</sup>

Benazir government was dismissed in 1990. Nawaz Sharif was elected as a new Prime Minister. He succeeded through the votes of anti PPP voters and Zia's supporters. After dismissing of Nawaz' government, Benazir get Prime Premiership in 1993. In 1996 elections, Nawaz Sharif got huge mandate. Nawaz Sharif was a brainchild of the army establishment of the 80s headed by general Zia-ul-Haq with whom he was cozy. He designed, tailored and promoted him into a political scenario of Pakistan to carry out the agenda that best suited the then establishment. He established military courts which formed no legitimacy from the constitution.<sup>30</sup> Nawaz Sharif used religion as a tool of power. Shahid Anwar opines as, "Nawaz Sharif, in his second term actually used the religious card and attempted to become amir-ul-momineen through an abortive constitutional amendment. What a way to deprive the Islamists of the religious cards?"<sup>31</sup>

For the last few decades, Bhutto-Zia spectrums had entered into the politics of Pakistan. It fostered the feelings of Party ID on the lower cadre of electoral college.<sup>32</sup> On 12 October 1999, General Pervez Musharraf took the government and detained Nawaz Sharif. After Nawaz Sharif's banishment, majority of his party members joined the new government and legitimized General Pervez Musharraf's action through sharing little power. General Pervez Musharraf became the Chief Executive of Pakistan. The function of such a Chief Executive is not mentioned in the constitution. Supreme Court legitimated his authority with uniform later. General Pervez Musharraf faced so many challenges like Afghanistan and Iraq issues, Al-Qaida and Taliban, and the war against terrorism in his tenure which is still continuing. He played his role as a partner of USA against the terrorism and succeeded to get international legitimacy. He claimed to wipeout domestic extremists, terrorist attacks and suicide bombings. After the Lal Masjid operation (11 July 2007), attacks in NWFP and Balochistan troubled the government. In such circumstances Zubeida Mustafa analyses the using of religion as a tool of power, as,

It is time that those who rule Pakistan, be they soldiers, politicians, bureaucrats or whatever, stop using Islam as a crutch to perpetuate themselves in office. If they have got away with this, it is not because the people believe what they say about the religion and the state. It is because the people of Pakistan are powerless. They have been kept in a state of ignorance to deprive them of their potential to organize and wield control over their own life. Hence, by default, the leaders can obfuscate issues and flaunt religion as a tool of their own power to silence the people.<sup>33</sup>

On 9 March 2007, General Pervez Musharraf restrained the Chief Justice, Justice Iftikhar Muhammed Chaudhry from acting as the Chief Justice. He referred the charges to the Supreme Judicial Council to legitimize his action, and sent him on leave. On 20 July 2007, the Full Court of the Supreme Court set aside the reference and reinstated the Chief Justice. The Presidential orders directing the Chief Justice to be on leave and restraining him from acting as Chief Justice were both set aside as having been passed without lawful authority. (PTV, July 20, 2007). Validity of the

order of the President dated 9.3.2007 and of the order of the same date of the Supreme Judicial Council restraining the Chief Justice of Pakistan from acting as a Judge of the Supreme Court and/or Chief Justice of Pakistan. Both these orders are, unanimously, set aside as being illegitimate.<sup>34</sup> In the constitutional history of Pakistan it is the first verdict against a military ruler. General Pervez Musharraf is struggling for legitimacy of his authority. Various political parties including PPP (PPP signaled to support General Pervez Musharraf with certain provisions. DAWN, 20 July 2007) seem ready to support and choose him for the next term. It could be a tough task for a Prime Minister or President to gain legitimacy deep down in the population.

## **Conclusion**

The Pakistani nation share a particular political culture in which political leaders support non political powers and their authority but it does not mean that the people agree with the attitudes of their political leaders and on all of the important issues of politics and governance. Military rulers tried to legitimize themselves through elections and referendum but autocratic ways, and through Supreme Court. Every ruler tried to become the center of power through the system in parliamentary or presidential form of government. Rulers used different tools to legitimate their authority. Like other developing states, Pakistan is facing so many problems in the field of legitimacy. Rulers, through war heroes, *Roti, Kapra aur Makan* (bread, cloth and shed), Islamization, partyless assembly, biradarism, referendum, Islam in danger, terrorism and moderation have exploited the people of Pakistan. In sum, politicians support dictators to get little share in the power. The state power in Pakistan has been concentrated in the hands of a military-bureaucratic oligarchy and the people of Pakistan are powerless. Dictators achieved legitimacy through all sorts of means, including propaganda, clientelism, and coercion. Politicians' behavior towards dictators and non-political powers is not functional, not to speak of its being an ideal. They get authority through them instead of democratic ways. Public frustration is running against such dictators and institutions. Opportunities for democratic advancement in Pakistan have been sadly missing. Prime Minister in Pakistan has heavy responsibility but enjoying little power. It is happening due to illegitimate actions being legitimized through coercion and the supporting behavior of so-called politicians. In the result this political behavior gives the impression of static conditions. Legitimacy predicament will remain in present condition as long as political parties are encircled by non-political powers and people are not given opportunity to legitimate the authority of rulers. Lack of trust or disbelief in the utility of institutions could generate crises of legitimacy in Pakistan. It will remain as long as political behavior of politicians is changed. The decision of Supreme Court on Chief Justice Reference (20 July) is a starting point of trust in institutions and a check on illegitimate actions. Reactions of the people speaks volumes of the government's legitimacy, whether people accept its decisions or not.

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