

HYPOTHETICAL VIEWS OF HORSE MAN ABOUT POLITICAL SYSTEM

*Zahid Yaseen; Tahir Mahmood Butt; Mohammad Riaz

Govt. Post Graduate College for Boys, Satellite Town, Gujranwala.

*Corresponding Author; Zahid Yaseen, mr.scholar5455@gmail.com Cell # 03456644953

ABSTRACT: *This work explores the curiosity of the military in politics. The military coup of General Pervez Musharraf was not due to political instability in Pakistan. But it was the institutional response against the decision of the government of Pakistan to change the military command without proper channel. General Muhararf's slogan was a 'pure democracy' not a 'shamed democracy'. He also could not be succeed to introduce the pure democratic reforms in the country. He amended the constitution according to his own anxiety to strengthen his tenure. It is tried to answer some queries in this research like: Why could General Musharraf not implement pure democracy? Why did he amend the constitution of Pakistan? What were the problems for General Musharraf to hold the designation of president as well as Chief of Army Staff? The research is based on the analysis of the authentic material in the form of literature in comparative politics, institutional theory, as well as military dealings with political region are discussed. Through the conceptualization of the data, this article developed the stance that military must never interfere in political affairs if it is forced to intervene; it must play its neutral role, after conducting elections it must go back in barracks.*

KEY WORDS: Provisional Constitutional Order (PCO), Doctrine of Necessity, Legal Frame Work Order (LFO).

INTRODUCTION:

After the death of General Zia-ul-Haq, a paralyzed (troika) democratic system was introduced. This system envisaged the fourth martial law. Prime minister of Pakistan Mian Mohammad Nawaz Sharif replaced chief of army staff General Jahangir Karamt, when he claimed about the national Security Council (an idea was given by the president of Pakistan Farooq Ahmad Khan Lughari). P.M.Nawaz Sharif rehabilitated the status of prime minister with 13th amendment in the constitution of Pakistan. The controversy between the prime minister and the chief justice leading to the resignation of the chief justice, the electing of the new president, all these activities made the prime minister bold. These activities were carried on; in the meanwhile Prime minister of Pakistan invited the Indian Prime Minister Atal Bahari Vajpai for establishing the cooperative relationship between states. This practice was disliked not only by the army but also by the right wing political parties of Pakistan. Civil government was busy in its works. The kargil (disputed area between India and Pakistan) episode started. Pakistan military occupied kargil sector. US president put pressure on the Prime Minister Pakistan to call back the forces. Government claimed unawareness about the military activities but military replied that all the activities were carried on with the consultation of Prime minister. Government made its mind to take action about the relevant officers of kargil issue through an enquiry. It was so horrible for the military (like the ojhri camp incident in General Zia era). Due to these disinterests, Prime Minister Nawaz Sharif wanted to appoint a new chief of army staff General Zia-ul-Din Butt (DG-ISI) after removing General Pervez Musharraf (key player of kargil episode). Tussle was carried on between the prime minister and the military, chief minister of Punjab Mian Mohammad Shahbaz Sharif (brother of prime minister Mian Nawaz Sharif) and federal Minister Nisar Ali Khan tried their best to bridge up the differences but all in vain. One day on October 12th, 1999 Chief of army staff General Pervez Musharraf was on official visit to Sri Lanka when prime minister tried to replace him. Chief of the Army Staff General Pervez Musharraf was scheduled to return from Colombo. Army always came in Pakistan with political instability & economic crisis; it was the common practice all over the third world states. But the situation in 1999 was totally unexpected, a tussle between the government & the

military, with removing the Chief of Army Staff an institutional response came and military intervened and suspended all the political institutions

First Address of General Pervez Musharraf to the Nation:

After completing all the essential matters General Musharraf addressed the Nation on 14 October 1999: "My dear countrymen the political & economic situation of Pakistan was much poor. Federation was going towards the disintegration. The credibility of the institutions lost & the economy was crumbling".

He further mentioned that Pakistan had no pure democracy, it had shamed democratic era, a new era of democracy would be started. Constitution of Pakistan as well as the Parliament, Senate & Provincial Assemblies was suspended. Its example was given by him that the Nation was like a body and constitution was like a limb. If limb was cut body could be saved and if body was wasted limb had no importance. He exclaimed that he saved the nation from disintegration.

He mentioned that in past governments ruled over the people but now the governments would serve the people.

He said that wrong policies being pursued by the Nawaz Sharif government had jolted the very foundation of the country. P.M. Nawaz's government tried to interfere with the armed forces, the last remaining viable institution in which the nation take so much pride and took tip to at all times for stability, unity and integrity of our beloved country [1]. He further stated that he had wished to inform you that the armed forces had moved in as a last resort to prevent any further destabilization.[2].

Provisional Constitutional Order of October, 1999:

After the imposition of emergency, the Army Chief General Pervez Musharraf suspended the Constitution to the extent of its impact on the military action and issued the Provisional Constitutional Order on October 15, 1999. General Pervez Musharraf adopted for him the designation of Chief Executive because he had filled the gap left by Prime Minister who was also chief executive of the country. The main points of provisional constitutional order of 1999 were as under:

- This Order might be called Provisional Constitution Order No. 1 of 1999; it was extended to the whole of Pakistan and came into force at once.

- No judgment, decree, writ order or process whatsoever would be made or issued by any court or tribunal against the Chief Executive or any authority designated by the Chief Executive.
- Notwithstanding the abeyance of the provisions of the Constitution of the Islamic Republic of Pakistan. Hereinafter these were referred to as the Constitution. Pakistan was the subject to this order and any other order made by the Chief Executive is governed as nearly as might be in accordance with the Constitution.
- Subject as aforesaid all courts in existence immediately before the Commencement of this Order were continue to function and for exercising their respective power and jurisdiction Provided that the Supreme Court or High Courts and any other court had no power to make any order against the Chief Executive or any person exercising powers or jurisdiction under his authority.
- The Fundamental rights conferred by chapter I of Part II of the Constitution, Not in conflict with Proclamation of Emergency or any Order made there under from time to time should be continue in force.
- Under the provisional constitutional order of 1999 the President and provincial Governors could act on, and in accordance with the advice and instructions of the Chief Executive.
- No court, tribunal or other authority could call or permit to be called in question the Proclamation of Emergency of 14th day of October, 1999 or any order made in pursuance thereof.

Seven Point Agenda of General Musharraf:

In his policy address to the nation on October 17, 1999 General Pervez Musharraf announced his seven point agenda which signified that Pakistan would be a progressive, modern and moderate Islamic state, poised to take its place amongst the developed nations or the world, the country's development not exclusively in the economic sense, but rather in a more holistic manner to include social, cultural and political dimensions, Pakistan to grow in terms of national unity and social cohesion. [3]. His Agenda consisted of seven points:

1. Re-build national confidence and its morale.
2. Strengthen the federation, Remove inter-provincial disharmony and restore national cohesion.
3. Revival of the economy and restore investor's confidence.
4. Ensure law and order and dispense speedy justice.
5. Depoliticize the state institutions.
6. Devolution of power to the gross root level.
7. Swift and across the board accountability.

It was basically the views which carried out and crystallized by General Pervez Musharraf about the future course to be adopted in Pakistan. The key objective of his agenda was to bring the country out of socio-economic and moral chaos.

National Security Council:

A National Security Council was announced by Chief Executive in his first address to the nation on October 17, 1999. The National Security Council was the consultative body which headed by Chief Executive General Pervez Musharraf and comprising six other members.

Packing of the Ex Prime Minister:

Prime Minister Nawaz Sharif was kept under the house arrest. In December 2000, as a result of an agreement signed between General Pervez Musharraf's government and Nawaz Sharif the ex P.M. was exiled to Saudi Arabia, along with his family members. Saudi-Arabia took serious efforts to save Nawaz Sharif, Hussain Nawaz (son of Nawaz Sharif) also requested the prime minister of India Atal Bahari Vajpai to save his father, this practice was disliked by the masses of Pakistan[4].

Doctrine of Necessity:

Pakistan Muslim League filed a suit in the supreme court of Pakistan and challenging the military coup on November 22, 1999. The petition was filed by the 12 persons including the former speaker of National Assembly, chairman senate Elahi Baksh Sumroo, Raja Zafar-ul-Haq a PML (N) leader. On May 12, 2000 court justified it under the 'Doctrine of Necessity'; further court gave three years to the military to restore the democracy in the country. [5].

Devolution Plan (2000):

General Pervez Musharraf was under tremendous international pressure about the restoration of democracy especially from SAARC & commonwealth. Before the arrival of two days of US president Clinton on March 23, 2000, General Pervez Musharraf addressed that Democracy in Pakistan would be rehabilitated in the end of this year. Military government came out with fairly detailed proposals regarding a new system and structure for local bodies on March 23, 2000. That was aimed at transfer of administrative and financial powers to the local Governments. The devolution Plan, envisioned building the genuine democratic institutions, to empower the people at the grassroots level, that system allowed public participation in the decision making and ensured the provision of speedy justice. Under this system the elections were held on non-party base [6]. The vote age was reduced to 18 years from the previous 21, while fifty percent seats were reserved for women in union council and joint electorates were proposed for minorities in order to address long-standing demands and rights from women and minorities.

District Government or the District Assembly:

Under this plan the district government included, the Zila Nazim and Naib Zila Nazim, the Zila council and district administration. The Naib Nazim was the speaker of the council and the Zila Nazim was not its member. The Zila Nazim was the Executive head of the district administration and the police was responsible to him.

City District:

The program of local government was given an outline of raising the government structure at the district levels which had been introduced in Pakistan for the first time. The city District was comprised on a number of towns divided on the basis of population and having characteristics of an urban area. The newly formed towns of the city district had powers and authority to perform municipal functions and provided facilities to the residents of the area [7].

PCO & Musharraf as a President (2001):

Chief Executive General Pervez Musharraf assumed the office of the President under the provisional Constitutional Order by removing Rafiq Tarar who was due to complete his five year tenure on June 20, 2001 and also decided to retain

the office of the chief executive (Fazal Elahi resigned from his office but Tarar was removed). He immediately dissolved the suspended senate, National and the four Provincial Assemblies and sack the Chairman of senate and Speaker of National assembly. He implemented order to retake oath to Supreme Court and relevant Hi-Court judges under Provisional constitutional order (PCO). Some of them refused to do so, those judges refused to do so they were as they were dismissed on 26th January 2000 including chief Justice Saeed Zaman Siddique. Mr. Justice Saeed-ul-Zaman Siddique was replaced by Mr. Justice Arshad Hassan Khan. Chief justice Irshad Hussan Khan Administered the oath to new president. After the ceremony, General Musharraf said that his decision to take over as President was led by constitutional, political and economic consideration. He said that he held national interests supreme, he had a job to do here and therefore he couldn't and would not let the nation down. He kept his word to restore democracy and Supreme Court ruling directing to the Government to hold general elections by October 2002 was very clear [8].

Referendum 2002:

In 2002 President General Pervez Musharraf announced that referendum would be held to restore democracy in the real sense. He said that "I have no wish to remain on the chair of president but I want to restore democracy in Pakistan. So this compelled me to take part in politics. For this purpose referendum is the cry off the day", the same slogan of General Zia (Dawn, 18 October 1999). On April 14, 2002 a meeting was held under the Chief Election Commissioner to discuss the issue related to referendum, CEC provided all the requirements, Ballot papers were issued all over the country [9].

President General Pervez Musharraf visited to every corner of the country to take the people in confidence. He assured that he was working according to his own agenda and he want to introduce new reforms (like president Ayub who visited the country in train),(The Daily Nation, April 15, 2002). President claimed that general elections would be held in October 2002. All of the major political parties, except PML (Q), were against the President Referendum as it was against the Constitution of Pakistan 1973. Maulana Fazlur Rehman rejected the Presidential referendum. He said that president General Pervez Musharraf was legitimizing his rule through unconstitutional acts. He requested all the political and religious forces to boycott this move of the military regime, Aamir Jamat-e-Islami also protested against the presidential elections. Jamat-e-Islami, Muttahida Majlis-e-Amal, challenged the conduct of Referendum' in the Supreme Court of Pakistan. According to the Supreme Court decision referendum was considered a lawful and constitutional matter (as usual). So the referendum was held on due date April 30, 2002. The chief election Commission of Pakistan used the resources to facilitate people's voting in referendum. There were 87,000 polling stations. The referendum result was announced on PTV, 1May 2002. About 97.97% votes were cast in favor of General Musharraf to remain on the chair of president for the next five years .The Nazim and councilors were threatened to withdraw from their posts if they were not going to support for referendum within their constituencies.

He said that the reforms process would continue with full

devotions and all the development projects would also continue [9].

Legal Framework Order 2002:

Chief Executive General Musharraf issued the Legal Framework Order 2002, On August 24, 2002 General Musharraf said he had been empowered by the Supreme Court of Pakistan for amending constitution of 1973. It was assumed to be an integral part of the Constitution and would come into force, the legal frame work order or any part of it could not be questioned in any court of law for its legal validity through this order imposition of emergency, provisional constitutional order, referendum order 2002, laws, appointments, orders, instructions and all ordinances issued by General Pervez Musharraf from October 12 to August 2002 were declared legal and constitutional safeguards.

The General Elections 2002:

After three years of military rule, the General Election for the National and Provincial Assemblies were held in October 2002 about seventy (70) major and minor political parties contested the eighth national parliamentary elections [10]. The major parties contested the elections; these were Pakistan People's Party Parliamentarians (PPP-P), Pakistan Muslim League-Nawaz Group, Pakistan Muslim League-Quaid-e-Azam (PML-Q) [11].

The Seventeenth Amendment (2003):

It was basically a modified form of legal framework order 2002. After an astonishing deal between PML (Q) and MMA it became part of the 1973 constitution after the conventional confirmation of president Musharraf, it enable General Musharraf to pack Prime minister and dissolving parliament by decree.

- Article 58(2) (b) was added in the constitution of Pakistan 1973, with the help of it, president was given the powers to dismiss the assemblies (parliament). This article was deleted from the constitution of Pakistan 1973 under 13th Amendment but it was reinserted by General Musharraf. This time with a slight difference it was produced like within fifteen days of dissolution of national assembly the president of Pakistan could refer the dissolution matter to the Supreme Court of Pakistan. The Supreme Court decision was final in all circumstances. In other words, the power of dissolving the national assembly was made operational with president [12].
- General Zia-ul-Haq inserted the article 152-A for the establishment of National Security Council. But under elected representative pressure he did not press for the National Security Council setting up. The 17th Amendment completely omitted this article through an act of parliament. The first ever meeting of this council was held on June 21, 2000.
- Article 172A: this article states that all laws made between 12 October 1999 and the date on which its article came into force, had been duly made or accordingly affirmed, adopted and declared valid by the competent authority and could not be called in any court or forum on any ground whatsoever.
- Article 243: Prior to the 17th Amendment, the president of Pakistan was empowered to appoint in his discretion the

chairman, joint chief staff committee, the chief of army staff committee, the chief of army staff, chief of naval staff and the chief of air staff, and could determine their salaries and allowances. After 17th Amendment, the words in clause (3) substituted with the words 'in consultation with the Prime Minister'.

National Accountability Bureau:

President Muhammad Rafiq Tarar promulgated the "National Accountability Bureau (NAB) ordinance 1999 for setting up accountability courts for speedy disposal of cases involving corruption, corrupt practices, misuse of power and misappropriation of property, the responsibilities of investigation and proceedings against the accused had been given to the NAB which could seek assistance of any law enforcing or investigation agencies to complete the task within 75 days.

National Reconciliation Ordinance (NRO):

After military coup General Pervez Musharraf started to negotiate with Pakistan People's Party, president Musharraf and Benazir Bhutto (BB) met in Abu Dhabi, Bhutto demanded to give up the post of Army Chief and to conduct the elections in monitoring of international observers, open to all individuals and political parties, setup an impartial election commission, remove the ban of third time on Prime Minister ship, remove all the pending cases on the politicians. The trialing courts of those cases were called Kangaroo courts by Banazir Bhutto. The supporters of Musharraf were called political orphans by Benazir Bhutto. In 2007 General Pervez Musharraf accepted all the demands of BB and introduced National Reconciliation Ordinance (NRO) and allowed to take part in the elections of 2008 [13]. In the manners of General elections president Musharraf adopted an opposite policy than General Zia; he conducted the elections on party basis. A day before the presidential election, President Musharraf promulgated the National Reconciliation Ordinance on October 5, 2007, for the purpose to remove the trace of victimization of the past.

Therefore, on these grounds National Reconciliation Order was challenged in the Supreme Court and High Courts of two provinces. Later on it was declared unconstitutional by the Supreme Court of Pakistan on 16 December 2009 [14].

Presidential Elections of 2007:

The tenure of the president Musharraf was due to expired on November 15, 2007. He announced that he would be re-elected from the current assembly. He made it clear that election would be contest under seventeen amendment which allowed him to keep both offices, i.e. Chief of Army Staff as well as the President at the same time, he mentioned that constitution allowed him to do so [15].

The Opposition parties strongly criticized this announcement and declared that they would never let General Musharraf to contest election. While on the other hand the ruling party Pakistan Muslim League (Q) asserted that General Musharraf would be re-elected by the current assemblies in uniform but it was compromised that Musharraf would left the designation of Chief of Army Staff and he left it on 28 November 2007. General Musharraf filed his nomination paper which was declared valid by election commission of Pakistan the opposition parties nominated Justice Rtd. Wajihuddin Ahmad; Pakistan people's party Makhdoom

Amin Fahhim.

President of MMA Qazi Hussan Ahmad and Imran Khan the Chairman of Pakistan Tehrik-e-Insaf filed a writ petition in Supreme Court, requested to disqualify General Musharraf as candidate in the coming election and also claimed that General Musharraf being an Army Chief could not contest election as it was in violation to the constitution of Pakistan 1973. But Supreme Court of Pakistan dismissed the petition challenging the eligibility of Musharraf and allowed him to contest election. Immediately, Supreme Court ordered that the election would be held on October 6, 2007. The presidential election was held on October 6, 2007. General Musharraf won the election and was elected for another five years. He got 96% (671) of the total votes polled 685 and over all he got 57% out of 1170 votes of the parliament and four provincial assemblies [16]. The opposition political parties criticized it thoroughly. President Musharraf requested the nation to reject the opposition's policies, not to support those who created turmoil in the country by calling protest and strikes and only to help the government in its efforts to bring the country on the path of development and progress [17].

State of Emergency 2007:

In November 2007 once again the law and order worsened, a suicidal bombing and while on the other hand Supreme Court of Pakistan delayed in announcing its decision on president Musharraf's candidacy also added fuel to fire. The situation was slipping out of hand and left the president Musharraf with no option other than to impose emergency in the country. General Pervez Musharraf declared a state of emergency on November 3, 2007 in Pakistan and issued a Provisional Constitutional Order (PCO) under which, the Constitution was suspended, the federal cabinet ceased to exist, and the justices were ordered to retake a fresh oath according to the new Provisional Constitutional Order. He also declared that those who failed to do so would be dismissed. He replaced the Chief Justice Iftikhar Muhammad Chuhdary with Justice Abdul Hamid Dogder as the defecto Chief Justice of Pakistan.

After the imposition of emergency, the political situation in the country changed. There were wide scale agitation and protests against emergency. Several political activists of major political parties, lawyers, journalists and members of the civil society were arrested. It was also announced that the state of emergency would end in late November or early December 2007 [18].

Provisional Constitution Order 2007:

After the Proclamation of Emergency, General Pervez Musharraf issued a Provisional Constitutional Order on November 3, 2007.

Following the text of the Provisional Constitutional Order

- This order might be called the Provisional Constitutional Order No. 1 of 2007. It extends to the whole of country, and it came into force at once.
- Notwithstanding the abeyance of the provisions of the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution. Pakistan should, subject to this Order and any other Order made by the President, be governed, as nearly as might be, in

accordance with the Constitution.

- It provided that the President might, from time to time by Order amend the Constitution, as is deemed expedient: Provided farther that the Fundamental Rights, under Articles 9, 10, 15, 16, 17, 19 and 25 were remained suspended.
- It provided that the Supreme Court or a High Court and any other court could not have the power to make any order against the President or the Prime Minister or any other person who was exercising powers or jurisdiction under their authorities.
- In spite of anything contained in the Proclamation of the 3rd day of November, 2007, or this order any other law for the time being in force, all provisions of the Constitution of the Islamic Republic of Pakistan embodying Islamic injunctions including Articles 2, 2A, 31, 203A, 227 to 231 and 260 (3) (a) and (b) were continue to be in force.
- All persons who immediately before the commencement of this Order were in office as judges of the Supreme Court, the Federal Shariat Court or a High Court, were bond to take the new Oath of Office (judges) under Order 2007, and such further Orders as the President might be passed (sixty judges refused to take new oath). Those judges who refused to take new oath according to the Provisional Constitutional Order were sent to back home.

Resignation from the Office:

When President Musharraf was sworn in for a second presidential term, he immediately declared that the state of emergency would end on December 16, 2007. Although the state of emergency ended one day earlier, on December 15, 2007, with an announcement by president Musharraf.

After that the constitution was restored and the general elections were scheduled to be held in February 2008. The general elections were held on February 18, 2008 in which the ruling party Pakistan Muslim League (Q) was clearly defeated and Pakistan People's Party (an ethical support of the assassination of Benazir Bhutto ex prime minister of Pakistan) and Muslim League (N) won the majority of seats in elections. PPP and PML (N) made new coalition government with Yousaf Raza Gillani as Prime Minister of Pakistan. On 7 August 2008, both (coalated) political parties decided to force president Musharraf to step down and began his impeachment through parliamentary process. On 18th August 2008, president Musharraf resigned, he defended his nine-year rule in an hour-long speech to the nation on August 19, 2008.

CONCLUSION:

President Musharraf also secured himself by amending the constitution, not to promote and strengthen the democracy of Pakistan but only his own status. General Musharraf promised to introduce a pure democracy (against shame democracy) but he could not introduce a pure status of democracy, he also uprooted the situation with amending in the constitution and electing himself as president in uniform. Problems remained same for the poor masses of Pakistan. His proclamation of PCO and emergency put a bad impression of Pakistan to the world.

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