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Reining in the Military in Pakistan

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Abstract

Three recent developments in Pakistan have taken its evolving political order forward. They will concentrate executive authority in the hands of the elected representatives of the people rather than dispersing it around in the hands of various competing institutions that are vying to establish their own control over the political system. In addition to the revival of the civilian political establishment, this process has been facilitated by two other forces – the street and the press. This paper provides an overview of these developments.

The New Army Chief

On 27 November 2013, two days before General Ashfaq Kayani was set to retire from his powerful position as Pakistan's Chief of Army Staff (COAS), the country's president announced the name of his successor. As required by the Constitution, the president was acting on the advice of the prime minister. The man Prime Minister Nawaz Sharif chose was not among those who were favoured by the military establishment. Lt Gen Raheel Sharif (no relation of the prime minister), the person who received his four-star rank on 29 November and became the army commander, had not served in any of the positions that were supposed

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to prepare a military leader for the top job. Unlike General Kayani, he had not been the commander of operations in the army headquarters or the head of the Inter-Services Intelligence (ISI), Pakistan's premier spy agency. General Kayani favoured Lt Gen Rashid Mahmood who was appointed instead to the largely ceremonial position of Chairman of the Joint Chiefs of Staff Committee. General Kayani had proposed the names of Mahmood and another three-star general Haroon Aslam as his candidates to succeed him.

Case of Treason against Musharraf

A few days before the prime minister revealed his choice for the person to command the army, he requested the Supreme Court to appoint a three-member panel of judges serving in the provincial courts. The panel was to investigate whether the former military ruler General Pervez Musharraf had committed acts of "high treason" against the state during his long tenure (1999-2008) as president. This is the prime minister's second move to tame the powerful military. The former president could have been tried for two acts – the October 1999 coup against an elected government and the November 2007 suspension of the Constitution. The latter move placed the country under a state of emergency. This decision was taken to remove dozens of senior judges from the Supreme Court and the provincial high courts.

The judges had issued a number of orders against some of the decisions taken by the Musharraf administration. Iftikhar Muhammad Chaudhry, Chief Justice of the Supreme Court, had refused to resign when pressured to do so in March 2007 by the military president. He was removed nonetheless, resulting in mass street protests led by the legal community that lasted for more than a year. This was Pakistan's "Arab Spring" that took place four years before the eruption in Tunis and Cairo. The movement eventually led to the return of democracy in the country and the departure of President Musharraf.

By appointing a special court to try former President Musharraf for suspending the Constitution, the Sharif government is sending a strong signal to the military – in particular to its senior commanders – that they are not above the country's basic law, the Constitution. General Musharraf is to be tried under Article 6 of the Constitution according to which "any person who abrogates or subverts or suspends or holds in abeyance the Constitution by the use of force shall be guilty of high treason". Parliament has defined high treason as a capital offence.

New Chief Justice of Supreme Court

The third move Prime Minister Nawaz Sharif took, on the same day as the appointment of General Sharif as COAS, was to announce that Justice Tassaduq Hussain Jilani, the most-senior judge in the Supreme Court, would succeed Justice Iftikhar Chaudhry who would reach the age of mandatory retirement on 11 December 2013. Justice Jilani would serve for

only seven months before he also retires. By establishing the seniority rule for appointing the Chief Justice of the Supreme Court, the prime minister is depoliticising the process. Under Chief Justice Chaudhry, the Supreme Court has acquired total autonomy and had no problem going against the decisions of the government if it felt that they were in violation of the Constitution. The court took special interest in strengthening the system of accountability in the country.

Political Order in the Muslim World

These three moves will help develop a political system in which civilian authorities will have control over the military. It will also restore balance between the government's three branches – the executive, the judiciary, and the legislature. This effort is similar to those underway in several other large Muslim states but with less success. In Bangladesh, the executive – in its case the prime minister – is engaged in an effort to monopolise all power. The judiciary does the executive's bidding while the legislature, if the present plans succeed, will be totally dominated by the prime minister's political party. The military is watching these developments with some apprehension but does not seem to have the will to move in and install a caretaker government as it did in 2007. Then a neutral administration made up of technocrats brought political peace and governed for two years. However, this cooling-off period did not result in the evolution of a stable order as is happening now in Pakistan.

In Egypt the military and the followers of an elected president, the deposed men in uniform, are still engaged in street battles. The opposition to the Islamic party that won the election and installed one of its members as president has not been able to create a political organisation that can challenge the Islamic party within an accepted political framework. In Turkey, while there is a well-established Constitution, the opposition is also not organised in the form of a political party that has broad public support.

Pakistan – with reasonably well-developed political parties that now compete in regularly scheduled elections and within the legislature, with a Constitution that an autonomous judiciary is able to protect, and with a military that appears to have accepted civilian control – may offer a model other large Muslim states could emulate.

Pakistan's Political Development

It has taken Pakistan time to reach the present reasonably comfortable stage in its political evolution. That this process is being guided by Mian Mohammad Nawaz Sharif is surprising, since his political ascent was overseen by two military men – President Zia-ul Haq who was Pakistan's third military ruler and governed for eleven years (1977-88) and General Ghulam Gilani Khan, Governor of Punjab province. However, once Sharif rose to the position of prime minister, he began to distance himself from the military. His attempt to establish civilian control over the military began as soon as he gained political power. In 1990 after

winning a decisive victory over the rival Pakistan People's Party, he was invited to become prime minister at the head of government led by his Pakistan Muslim League (Nawaz). However, after being inducted into office he found that much of the executive authority was still in the hands of the president and the COAS. In fact, the prime minister was the junior partner in an arrangement that came to be called the "troika" in Pakistan. In the matters pertaining to national security all major decisions were taken by the presidency or the army headquarters. The term "national security" was interpreted broadly. It meant the development of Pakistan's nuclear arsenal as well as the amount of budgetary resources committed to the military. It also meant relations with China, India, the United States as well as the formulation and conduct of Pakistan's Afghan policy.

Thus constrained, Sharif became increasingly frustrated and began to use the bully-pulpit to gain power for himself. His final act of defiance was in late June 1993 when he turned on President Ghulam Ishaq Khan and announced in a television address that he would not allow the presidency or the military to interfere in his work as prime minister. This declaration came as a surprise to the other members of the troika who, it was to be revealed later in a case filed in the Supreme Court, had funded Sharif's party to help it win the elections of 1990. In the "Asghar Khan" case the court reached the conclusion that Sharif had received monetary and other forms of assistance, with help provided by Lt Gen Asad Durrani, Director General ISI on the orders of General Aslam Beg, the COAS. The Supreme Court ordered the government to fully investigate the case. However, with this fact not in public view, the duo within the troika hit back and dismissed the prime minister. President Ghulam Ishaq Khan used the authority he had acquired through the amendment inserted into the Constitution by General Zia-ul Haq, his predecessor.

Conclusion

Given this as the background, the question remains whether the latest moves by Nawaz Sharif, now in his third term as prime minister, will succeed and the military will come under the full control of the civilian authority. The relationship will be tested by the way Pakistan deals with Afghanistan, India and the United States. Also of considerable importance is how much space the military will be prepared to yield to the civilian government over the country's nuclear arsenal and its development.

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