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Emergency/Martial Law in Pakistan: Bracing for the Fallout

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As he invoked emergency/martial law in Pakistan, President Musharraf accused the judiciary of interfering in executive functions and hampering the war on terror. There is doubt whether his argument is tenable. The only way to long term stability and security in Pakistan is not through the enforcement of emergency law but through the peaceful transition to democracy.

ON 3 NOVEMBER 2007, President General Pervez Musharraf proclaimed a state of emergency in the country, suspended the constitution and introduced a Provisional Constitutional Order (PCO). The development took place at a time when the international community was already grappling with political unrest in Myanmar. This was not the first time that President Musharraf has taken such extra-constitutional steps. In fact, his rise to power was orchestrated through a similar coup in October 1999, when he ousted the elected government of Nawaz Sharif through imposing emergency and introducing a PCO.

To justify his actions, Musharraf pointed to the threat of violence from Islamic extremists, including recently released detainees considered to be diehard militants; the alleged judicial interference in executive affairs; and the “irresponsible” role of private media for threatening to harm Pakistan and imperil the war on terror.

While Pakistani society remains divided over the legality of the emergency, there is consensus that Musharraf has tried to “preempt” the judiciary, which was hearing a review petition challenging his October 2007 reelection by the current parliament for another five-year term as President. There were rumours that the judiciary might give an adverse judgment against Musharraf, which may annul his reelection. Similarly, the court was also considering a writ petition challenging the National Reconciliation Ordinance (NRO), under which legal suits pending against former Prime Minister Benazir Bhutto were withdrawn, easing her return to the country.

Renewed Stand-off between the Judiciary and Executive

The present crisis has its roots in the 9 March 2007 suspension of the Chief Justice of Pakistan, Iftikhar Muhammad Chaudhry, on charges of abuse of authority. The suspension triggered a constitutional crisis in the country. A lawyers movement took to the streets to protest against the suspension and to safeguard the independence of judiciary. The lawyers movement soon gained the support of opposition political parties and civil rights organisations. In response to massive pressure, President Musharraf acquiesced to the Supreme Court decision to reinstate Justice Chaudhry in July 2007.

While Musharraf publicly acknowledged accepting the decision of the Supreme Court, the friction caused by this incident continued to affect the relationship between the executive branch and the judiciary. An activist judiciary began to admonish senior government officials over issues relating to alleged human rights abuses of detained suspected militants, further driving a sense of insecurity among the executive.

Under the present state of emergency, President Musharraf dismissed the re-instated chief justice Chaudhry as well as the chief justices of provincial high courts. This has created a renewed constitutional crisis at a time, when general elections were planned to be held in early 2008.

At present, a majority of superior court judges have refused to take oath under the PCO, and have challenged its legality. With Chaudhry under house arrest and the judiciary divided over the issue, most of the country's lawyers have coalesced into an informal political organisation to protest the measure. With the lawyers spearheading countrywide demonstrations, the situation is ripe for a long constitutional and political standoff between the Musharraf-led Executive one side and the lawyers and opposition political parties on the other.

Political Instability may Fuel Militancy

In the face of a massive uprising and political agitation, the police and other law enforcement agencies launched crackdowns on prominent opposition leaders, political workers and civil society activists. Almost all the private Pakistani news channels were taken off the air, and political activism and street demonstrations were banned. Musharraf justified his action to the masses by blaming an increase in militant violence as the major factor in imposing Emergency law.

It has been observed in many conflicts that imposing restrictions on civil liberties, political activism, freedom of speech and the media is counterproductive to the cause of counter-terrorism or counter-insurgency. The situation is likely to become more favourable for extremists and anti-government elements. These measures provide fodder to pro-Taliban local militants in the tribal areas and to Baloch Nationalist militants in Balochistan who incite the local people to rally against the "autocratic" Musharraf. In this respect, the United Action Committee (MMA), an alliance of religious political parties, which has strongholds in North West Frontier Province (NWFP) and Balochistan, can exploit rising anti-Musharraf sentiment to advance their agenda.

The current situation is reminiscent of a particular moment in recent Pakistani history. In 1988, an alliance of Islamist parties, called the Islamic Democratic Alliance, successfully ousted then Prime Minister, Benazir Bhutto, and strengthened the political power of Islamic fundamentalist parties. The situation today is ripe for a similar development.

No Quick-Fix

If Musharraf sets a date for timely, free, and fair elections, the Pakistani people and the international community are likely to tolerate the short term imposition of emergency law. But if the situation does not revert to normalcy there is a greater chance of resistance, which may come in the form of political agitation or armed violence.

The current situation has ramifications for the progress of the international war on terror. While Musharraf has demonstrated commitment to counterterrorism objectives over the past six years, his early success is due in part to wide political support. In the absence of this political support,

countermeasures cannot produce the expected outcomes. His current impact can be seen as mixed at best, in light of the “Talibanisation” of NWFP and upsurge of Baloch nationalist militancy in Balochistan.

In fact, anti-government Islamist and nationalist ideologies have penetrated so deeply in the tribal areas and the North Western Frontier Province of Pakistan that a quick-fix may not be likely. Only a deep rooted political process, supported by the people of Pakistan, with a sustainable democracy as an end goal can present a long-term solution to the problem.

The international community’s long-held view that Musharraf is irreplaceable in the fight against terrorism is not an appropriate approach. If the international community continues to support his extra-constitutional steps which bring Pakistan closer to authoritarian rule, it will strengthen anti-US and anti-Western sentiment among the Pakistani people, and thus have a negative impact on counterterrorism and counter-extremism outcomes.

The way to long-term stability in Pakistan is not, as recent events have demonstrated, through the enforcement of the draconian emergency law. It is through timely, free, and fair elections as the first step towards the peaceful transition to democracy. Until then, the phantom threat of violence and instability will continue to menace the beleaguered president. A restive population hangs over President Musharraf and the rest of Pakistan.

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