

Pakistan: Entire Election Process "Deeply Flawed"

Human Rights Watch Background Briefing

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(For additional information please read our press release is available at:
<http://www.hrw.org/press/2002/10/pakistan-1009.htm>)

Human Rights Watch has monitored the suppression of civil liberties and the undermining of civilian institutions since the October 1999 coup that brought Musharraf to power. In the year following the coup, the government moved quickly to detain opponents and former officials without charge, remove independent judges from the higher courts, ban public rallies and demonstrations, and render political parties all but powerless. In 2002, steps were taken by the administration to ensure that the military could control the current electoral process and its outcome, principally by restricting the activities of opposition political parties while providing increasingly transparent support for pro-Musharraf parties.

Referendum

In early April, Musharraf announced a nationwide referendum on a five-year extension of his presidency. The referendum was preceded by a month-long campaign by Musharraf, while a ban on public rallies prevented political parties from campaigning against the referendum. On April 15, police in Faisalabad led a baton-charge against journalists who walked out on a speech by the Punjab provincial governor, Khalid Maqbool, during a pro-referendum rally. The governor had complained about misreporting by the media and warned that they could face revenge from the public if they did not desist.

Official results for the referendum, held on April 30, showed a 97.5 percent vote in favor of Musharraf. However, independent observers, including the non-governmental Human Rights Commission of Pakistan (HRCP) and Pakistani journalists, found evidence of widespread fraud and coerced voting. Electoral rolls and national identification cards were dispensed with, ballots were routinely cast in the presence of, or even by, polling officials, and observers reported numerous cases of multiple voting. Police and local government officials in all four provinces transported busloads of voters to polling stations. Most disturbing were claims by both public and private sector employees, cited in the Pakistani press, that they had cast "yes" votes on the orders of their supervisors; polling stations had been established in many places of employment, including factories.

Constitutional Amendments

On August 22, 2002, Musharraf summarily announced constitutional amendments that formalized the military's role in governance. This "Legal Framework Order" (LFO) reconfirmed Musharraf's five-year term as president, gave him authority to unilaterally dismiss the government and the national and provincial parliaments, and established a National Security Council, dominated by military officers, that will maintain greater powers than a civilian cabinet formed after elections. The amendments also circumscribe

freedom of association and the right of individuals to stand for elected office, limiting the opportunity for moderate voices representing the majority of Pakistani citizens to exercise political leadership.

The LFO restored Article 58(2)(b) of the Constitution, which had been originally introduced under the martial law regime of General Mohammad Zia-ul Haq and repealed by an act of parliament in 1997. The Article allowed the president to dissolve the National Assembly—the lower house of Pakistan’s parliament—if a situation arose in which government could not be carried out “in accordance with the Constitution.” Employed frequently by the military to dismiss successive elected governments in Pakistan, the article formed a key element of what Musharraf termed necessary checks and balances in the country’s system of government. However, the article is more likely to continue to be used as a political tool, concentrating any meaningful power with the military government.

The creation of the National Security Council (NSC) signaled Musharraf’s unwillingness to restore genuine civilian rule. The NSC will serve as a consultative body on strategic matters and advise on “democracy, governance and inter-provincial harmony.” Although the NSC includes elected civilian leaders—the prime minister, and the speaker and opposition leader in the National Assembly—ultimate authority appears certain to rest with the military officers on the NSC, including Musharraf in his dual capacities as President and Army Chief of Staff, as well as the heads of the navy and air force, and the Chairman of the Joint Chiefs of Staff Committee. The NSC will in effect be a “super-cabinet” that will shadow and overrule the work of the prime minister’s civilian cabinet.

Other amendments in the LFO included limiting candidates for election to the National Assembly or Senate to persons who have attained a bachelor’s degree. Given the country’s poor educational infrastructure and sharp social and gender inequalities, the provision inevitably barred all but a small percentage of the citizenry from holding parliamentary office. In fact, the most recent statistics report the adult literacy rate for men in Pakistan is sixty percent, compared to only thirty percent for women. The provision was used to disqualify a number of regional political leaders from standing for office in the October elections. The LFO also disqualified criminal convicts, defaulters on loans and utility bills, and absconders from court proceedings. These provisions appeared to have been designed to ensure the disqualification of former prime ministers Nawaz Sharif and Benazir Bhutto, leaders of Pakistan’s two largest parties, as well as politicians convicted under the National Accountability Ordinance (NAO) promulgated after the coup.

The LFO also restricted the right to form or be a member of political parties by citing the government’s interest in maintaining “public order.” Preventive detention under the Maintenance of Public Order ordinance has routinely been used in Pakistan to quell political protests, including demonstrations by political parties in support of the restoration of democracy. The amendment could potentially apply the same ill-defined criteria to the right to form or operate political parties, particularly where those parties have sought to mobilize public opinion against government decisions.

The final section of the LFO summarily validated all orders and laws promulgated by Musharraf, as well as all actions taken by persons acting pursuant to them, and declared that they “shall not be called into question in any court on any ground whatsoever.” The measure effectively precluded judicial review of military abuses, as well as the constitutional amendments and laws promulgated since the coup.

Political Parties

The government announced in August that the ban on political rallies, imposed shortly after the coup, would be lifted as of September 1. With just over a month left before the elections, the timing of the announcement left political parties little opportunity to mount effective campaigns. The government also maintained significant restrictions on the site of political meetings. Rallies and processions on streets, roads and railway stations remained prohibited, and provincial and district administrations were given authority to determine the time and place of meetings. Political parties were required to consult with the authorities about their activities in advance, with no deviation from the program allowed.

Attempts by the Alliance for the Restoration of Democracy (ARD) leaders to hold public rallies earlier in the year met with official suppression. On April 21, police arrested several leaders of the multiparty ARD, including the head, Nawabzada Nasrullah Khan, shortly before a planned anti-referendum rally in Rawalpindi. On July 12, police in Multan blocked off roads leading to the city square and arrested nine local ARD activists after the party attempted to hold a rally against the draft constitutional amendments that had been tabled for public comment by Musharraf. According to the daily *Dawn*, the alliance initially obtained permission to hold the rally in the city square from the Multan district government, but provincial authorities overturned the decision and directed that it be held in a local stadium instead.

Leaders of the ARD and its constituent parties also complained of efforts by the government to promote what was widely termed the “king’s party”—a splinter-group of former Prime Minister Nawaz Sharif’s Pakistan Muslim League (PML), known as the Pakistan Muslim League-Quaid-e Azam (PML-QA), as well as other pro-government parties and alliances. Allegations included the PML-QA leadership’s use of the governor’s house in Lahore as a meeting place to finalize its list of candidates and the transfer of senior officials from districts in Sindh headed by PPP-affiliated elected leaders.

The NAO remained a potent weapon in the government’s arsenal. The ordinance appears to be selectively used by the government to further its political objectives. Aftab Sherpao, an influential PPP leader and former chief minister from the North-West Frontier Province (NWFP), returned from two years of self-exile in London in January, ostensibly to face corruption charges in three different cases. In late April, Sherpao was acquitted in two of the three cases. Although Sherpao denied a linkage, the move came

shortly after his breakaway faction of the PPP pledged its support for Musharraf's referendum. On June 3, Sherpao was granted bail in the remaining case. As elections approached, Sherpao's PPP faction was reported to be nearing an agreement with the PML-QA and other pro-government parties in the NWFP.