

Citizens' Group on Electoral Process - CGEP

BACKGROUND PAPER

**A Dispassionate Analysis of
How Elections are Stolen &
Will of the People is Defeated**

Reflection on the Electoral History of Pakistan (1970-2008)

PILDAT is an independent, non-partisan and not-for-profit indigenous research and training institution with the mission to strengthen democracy and democratic institutions in Pakistan.

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Preface

In view of the debate surrounding the credibility and fairness of the upcoming General Elections in early 2008, this paper provides a background of the atmosphere in which past elections were held in Pakistan. The paper contends that the past eight General Elections in the country are widely perceived to be rigged or flawed and emphasizes the need for fair and credible elections that may lead to the long sought after political stability in the country.

Authored by **Dr. Ijaz Shafi Gilani**, Chairman Gallup Pakistan, the paper assesses the fairness of the past elections in Pakistan by examining in detail the environment surrounding the same from the year 1970-2008.

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Abbreviations & Acronyms

| | |
|-------|-------------------------------------|
| GHQ | General Headquarters (Military) |
| IB | Intelligence Bureau |
| IJI | Islami Jamhoori Ithehad |
| ISI | Inter-Services Intelligence |
| Ji | Jamaat-i-Islami |
| JUI-F | Jamiat Ulema-i-Islam-Fazlur Rehman |
| MI | Military Intelligence |
| ML | Muslim League |
| MQM | Muttahida Quami Movement |
| PAI | Pakistan Awami Ithehad |
| PDA | Pakistan Democratic Alliance |
| PIF | Pakistan Islamic Front |
| PML | Pakistan Muslim League |
| PML-J | Pakistan Muslim League-Junejo |
| PML-N | Pakistan Muslim League-Nawaz |
| PML-Q | Pakistan Muslim League-Quaid-e-Azam |
| PNP | Pakistan National Party |
| PPP | Pakistan Peoples Party |
| PTI | Pakistan Tehreek-i-Insaaf |

Executive Summary

Pakistan's electoral history is of key importance while analysing the prospects of a free, fair, transparent and credible election in Pakistan. Election 2008 will be the 9th General Election in the country since the 1970. The paper analyses the fairness of earlier eight elections with a brief commentary on the **pre-poll**, **polling day** and **post-poll** phases, based on a "Rigging Test." The test, based on a comprehensive definition of rigging, provides guidelines and criteria for scoring from "High" and "Medium" to "Low" level of Rigging.

General Elections held in Pakistan in 1970, 1977, 1985, 1988, 1990, 1993, 1997 and 2002, all have had high, medium or low levels of rigging in the three phases of elections. The analysis contained in the paper reveals that the **1970 Election** experienced a "moderate" level of pre-poll rigging, a "low" level of polling day rigging and a "high" level of post-poll rigging as the resources of the state, intelligence agencies and armed forces were used indiscriminately to conspire against the outcome of the elections that were eventually successful in defeating the results of the elections. The **1977 Election** received "moderate" levels of pre-poll and "high" levels of polling-day rigging. The post-poll rigging did not apply in this case as the military take-over of General Zia-ul-Haq took place. The 1985 Election got "high" levels of pre-poll rigging as the military government's decision to hold party-less elections deprived political parties of a basic political platform, "low" levels of polling-day rigging and again a "high" level of post-poll rigging putting in place a "mechanism" of creating and nurturing a new political setup meant to "share and NOT transfer power" to the elected politicians.

The **1988 Election** were characterised by "high" levels of pre-poll rigging as under the active guidance and support of the ISI, an alliance of the PML and religious parties was put together under the title of Islami Jamhoori Ittehad (IJI); a "low" level of election-day rigging and "moderate" levels of post-poll rigging were observed. The **Election 1990** received a "high" score on pre-poll rigging as after the removal of the PPP government a highly partisan government was formed at the Centre under the overt guidance of the intelligence agencies and armed forces. The score was "low" on the polling-day rigging and "moderate" in the post-poll period under the criteria explained in the paper. The **1993 Election**, again following the dismissal of an elected Premier, scored "high" in terms of rigging in the pre-poll phase as this time the election engineers used the 1990 script of pre-poll rigging but modified the characters and the tactics. The two phases of Election Day and post-poll period received the score of "low" in terms of rigging attempts. The **1997 Election** again witnessed a "high" level of pre-poll rigging and "low" score on the other two electoral phases.

The **2002 Election** witnessed new and unparalleled heights of pre-poll and post-poll rigging. In order to perpetuate the rule of General Pervez Musharraf, a number of illegal rules were framed. Since the country was practically governed under an extra-Constitutional arrangement, there was no concern with ensuring level playing field, neutrality of the Administration or independence of the Election Commission. To this extent the pre-poll partisan role of the state was a continuation of the previous (unlawful) practice, but the 2002 election carried it a step further by engaging a sizeable number of military officials, local government functionaries and other public servants to play an openly political role at the grass-roots. The institutionalisation of pre-poll rigging came to its bloom. Similarly, the Post-poll interference with electoral process was massive. In no other election of Pakistan, with the possible exception of 1970 when the electoral result was totally turned down, the electoral outcome was disturbed as ruthlessly and unlawfully as in 2002. It was done through

systematic use of rewards, punishments and intimidation by the state apparatus under the leadership of Gen. Pervez Musharraf.

Looking ahead at the **2008 General Election**, only 15% of the population expects that the forthcoming elections will be completely free and fair; the remaining are divided between those who expect election to be rigged (53%) and others who say they can not give a definite answer at this point (32%). The failure of democracy in Pakistan so far, has been failure to comprehend its essential link with rule of law. The inability of the successive democratic governments to understand and practice this resulted in the disillusionment of popular will with the democracy and what it delivered to the people.

However, there are signs, in the movement of the “rule of law” in the society of a new spring and a new “vanguard” has grasped the centrality of rule of law to civilian and democratic governance. The movement for rule of law is the true force to defeat Electoral Rigging in all its forms. The “Pre-poll Rigging” designs have already been reversed from its 2002 heights. The playing field is not totally even, but the crookedness of keeping the key players in exile has already been reversed. The intelligence agencies are apparently less active in partisan games. The civilian administration, local governments, perhaps the Caretakers and the President are still engaged in partisanship disallowed by the Constitution and the law. But, so far, it is an improvement on 2002. We have yet to witness the polling day and the post-poll scenario. Let us be hopeful and look forward to a reversal in the cycle of breach of law by the armed forces and the elected civilians.

Introduction

In January 2008, Pakistan will be moving ahead to hold its 9th General Election since 1970. However, in the shadow of contested election results and unfinished political tenures, several significant questions remain:

- Are elections in Pakistan free and fair?
- Are they an accurate instrument to determine the will of the people?
- Do they enable the winners to become sovereign rulers of the polity?

Or

- Are they rigged and stolen to defeat the will of the people?

We have assessed each one of Pakistan's eight national elections with a brief commentary on the **pre-poll**, **polling day** and **post-poll** phases, based on a "Rigging Test." This test is based on a comprehensive definition of rigging. It also provides guidelines and criteria for scoring from "High" and "Medium" to "Low" level of Rigging.

To facilitate the readers, we begin with the Score Chart, followed by the Definitions and Criteria. The reader can then proceed to read the events and let us know how far they agree with our assessment.

Summary Chart

Score Chart of Rigging in Electoral Process

Definition of Rigging:

Rigging refers to all activities that violate the laws of Pakistan and constitutional provisions in the holding of elections to determine the will of the people to form a government of their choice. These activities may relate to the **pre-poll, polling day or post-poll** phases of the above process (*further details on definition are provided ahead*)

Table 1: Rigging Score Chart

| Assessment of National Elections held in: | Pre-Poll Rigging | Polling Day Rigging | Post-Poll Rigging |
|--|-------------------------|----------------------------|--------------------------|
| 1970 | Moderate | Low | High |
| 1977 | Moderate | High | Not Applicable |
| 1985 | High | Low | High |
| 1988 | High | Low | Moderate |
| 1990 | High | Low | Moderate |
| 1993 | High | Low | Low |
| 1997 | High | Low | Low |
| 2002 | High | Low | High |
| 2008 | High | To be determined | To be determined |

Phases of Electoral Rigging

For the purpose of this paper, we give a broad definition to the concept of rigging, thus encompassing all activities that are in violation of the Constitution or unlawful according to Pakistani laws governing the electoral process. These include unlawful means to benefit or hurt any contestant during their election campaign (*pre-poll*), during the casting of votes (*polling day*) and in the formation of a representative government (*post poll*).

Below we provide details on each of these three phases of the electoral process and identify some of the unlawful activities that qualify as rigging.

Pre-Poll Rigging:

It generally refers to a deliberate attempt to selectively tilt the rules of *level playing field* in favour of or against any contestant. It includes:

Violation of constitutional requirements such as:

1. Neutrality of the caretaker government,
2. Independence of the Election Commission and related judiciary,
3. Neutrality of the election administration staff,
4. Violation of freedom of media to approach voters, and
5. Use of public resources to benefit some contestants and/or hurt others, including politically partisan use of development funds through various government agencies such as utility organisations (*Electricity, Gas*) and local bodies

Key Concept: Level Playing Field

Polling Day Rigging:

It generally refers to violation of the *integrity (honesty) of the ballot box*. It includes:

- Tampering with/stuffing ballot boxes
- Impersonation and multiple voting
- Prevention of voting by certain persons or groups through unlawful means, including coercion
- Dishonest counting of votes, and
- Dishonest tabulation of results.

Key Concept: Honesty/Integrity

Post-Poll Rigging:

It generally refers to the absence of *fair play in the formation of a government* according to popular mandate. It includes:

Use of public resources (*in violation of Constitutional provisions*) to influence, affect or alter the formation of government. This is particularly acute when the above is done to support the formation of government by those undeserving according to the will of people or to demolish government by those who are upheld by the will of the people.

Key Concept: Fair-play

Table 2: Scoring Criteria for Determining the Levels of Rigging

| Score | Criteria |
|-----------------------------------|--|
| HIGH level of Rigging | Decisive Impact on the outcome of elections at the national level to determine who wins (<i>or loses</i>) majority of seats, forms and runs (<i>or fails to form and run</i>) the government |
| MODERATE level of Rigging: | The impact is not decisive, but it sufficiently influences the direction of the outcome. In other words, it <i>strengthens</i> and brings to victory a group that would otherwise be neck and neck with competitors. Alternatively, it <i>damages</i> a neck and neck competitor. In post-election phases, moderate rigging would mean the exercise of unlawful means to prop up or bring down a government mandated by the will of people through the electoral process. |
| LOW level of Rigging: | Where violation of the principles of <i>level playing field</i> (pre-poll), <i>honesty</i> on the ballot box (Polling day) and absence of <i>fair-play</i> in the formation of a government (post-poll) do not significantly impact the electoral process |

Electoral Rigging in Pakistan - 1970-2008

Popular perceptions about the integrity of the electoral process in Pakistan are dismal. Only 21% of the country's voting age population believes elections in the country are free and fair. This is one of the lowest in the World. In a Gallup International study of around 60 countries, Pakistan is ahead of only Philippines (19%) and Nigeria (9%).

Several historical political developments explain the low levels of popular confidence in the electoral process. But before we proceed to explore these, we must also recognise that low level of confidence in the integrity of the process does not deter large numbers of Pakistanis from still wanting to vote. In most of the pre-elections surveys conducted during the last six elections by Gallup Pakistan, over 70% Pakistanis expressed an intention to vote despite their scepticism of the electoral process. However, on polling day, an average of only 50% among men and 30% among women turn up to vote.

Mistrust of the credibility of the electoral process is caused by an accumulated experience of many elections. It is encouraged by street wisdom that rulers and politicians are not sincere in using elections to determine the will of the people. Rulers and politicians are seen as intolerant of unwelcome electoral results and amenable to using any means to defeat an outcome that does not suit their own designs. When confronted with a “hostile” will of the people, they would change rules of the game, use partisan umpires, condone and promote foul play by their cronies or even call off the game altogether.

This popular perception captures the fundamental lack of faith in the electoral process in Pakistan. But in our view, it misreads the details, partly because so many of those remain hidden from the ordinary citizen, who is subjected to a deadly game of misinformation. Thus, the “rigging” in elections is popularly perceived in terms of stuffed ballot boxes, impersonated multiple voting, and fraudulent counting by polling staff who are intimidated to suit their masters’ illegal interference in fair voting processes. While all this is attempted and practiced on the polling day, the more deadly weapons of the game remain less exposed. These metaphorical “weapons of mass destruction” that truly defeat the will of the people, precede and succeed the polling day rigging. They can best be titled as “pre-poll” and “post-poll” Rigging.

To put this in a historical perspective, we review all the eight elections held in Pakistan since 1970 and make an assessment of the three forms of electoral rigging. This will help us determine what to expect and how to check the possibility of Rigging in Pakistan's forthcoming 9th National Election.

History Of Electoral Rigging In Pakistan (1970-2002)

1970 Elections:

Pre-Poll Rigging

In retrospect, there is reasonable evidence that Rules of the game were framed insincerely. They were designed to facilitate the emergence of a “Hung Parliament,” which, because of its internal divisions, could be manipulated by the establishment.

Polling Day Rigging

Irregularities on the polling day were not significant to meaningfully alter the outcome of the election.

Post-Poll Rigging

The resources of the state, intelligence agencies and armed forces were used indiscriminately to conspire against the outcome of the elections (*will of the people according to the Constitution*). These unlawful activities were eventually successful in defeating the results of the elections.

1977 Elections

Pre-Poll Rigging

The state machinery and public resources were used to intimidate opposition parties, whereas the party in power allowed massive abuse of control and coercion. State Intelligence Agencies actively interfered in internal party politics, forging and breaking apart political alliances to ensure the success of officially supported candidates.

Polling Day Rigging

Polling day rigging was widespread. It was caused by cynical disregard for “rule of law” by the rulers and a partisan clique of civil servants. Prime Minister Bhutto’s complete disrespect for rule of law took its toll, as over-zealous civil servants, who were supposed to be custodians of law, went overboard in polling day rigging. When Mr. Bhutto saw this he is known to have remarked: “Who has done it to me?” But it was too late.

Post-Poll Rigging

In the post-poll phase, a very large section of voters who had voted against the ruling PPP, felt cheated and look to the streets. At some point they were joined behind the scene by a powerful section of the establishment, notably the armed forces. A popular agitation that spanned over several months eventually ended up in a coup by the army under General Zia-ul-Haq. The results of the election were annulled.

1985 Elections

Pre-Poll Rigging

In 1985, the military government’s decision to hold party-less elections deprived political parties of a basic political platform, thus distorting the rule of level playing field. One of the two largest political parties in the country, Pakistan Peoples Party (*PPP*) was cunningly encouraged by General Zia's establishment and the intelligence agencies to boycott the elections. This ensured the absence of a key political player from the playfield.

Polling Day Rigging

Not significant. It did not affect the outcome of the election at national level.

Post-Poll Rigging

The state had designed a policy of creating and nurturing a new political setup meant to, as General Zia-ul-Haq himself put it, “share and NOT transfer power” to the elected politicians. It successfully spawned a new Muslim League (*ML*), selected its President (Muhammad Khan Junejo) and made him the country’s Prime Minister. A seemingly independent group was successful in electing a speaker of the Assembly (Syed Fakhar Imam), who was not favoured by General Zia, but was nevertheless his former protégé. This election was unique in the sense that it provided the institutional basis for future political leadership of the Pakistan Muslim League (*PML*), but also of other parties. At the same time, it provided hands on experience to intelligence agencies, particularly Inter-Services Intelligence (*ISI*), in developing what later became a craft to play in national politics.

1988 Elections

Pre-Poll Rigging

This election came on the heels of General Zia-ul-Haq’s death in an air crash on August 17, 1988. Elections had been announced previously, and despite apprehensions, they were not postponed. Under the active guidance and support of the ISI, an alliance of the PML and religious parties was put together under the title of Islami Jamhoori Ithehad (*IJI*), translated into English as Islamic Democratic Alliance.

The formation of the IJI made a crucial impact on the 1988 election outcome, especially in the vital electoral battlefield of Punjab. While the PPP more or less maintained its share of votes in Punjab as of 1970 (42%: 40% among voters in Punjab), but the vote opposed to it consolidated under the banner of IJI, bringing together part of the Muslim League Vote (three Muslim Leagues had scored 23% in 1970) and the religious parties vote (three parties had scored 20% in 1970). Thus, in 1988 the IJI bagged 38% of all votes cast in Punjab, whereas 6% went to the Pakistan Awami Ithehad (*PAI*), a coalition of small vote banks that did not pool up under the IJI.

The resultant impact on the allocation of Parliamentary seats proved decisive. Whereas in 1970, the PPP had 62 seats, the ML(s) had 10 and Religious parties had 5 seats, in 1988, the PPP bagged 53 seats against 45 of IJI from Punjab in the National Assembly. The consolidation of anti-PPP vote manoeuvred under official patronage hurt the PPP and helped its opponents.

Polling Day Rigging

Despite minor allegations, polling day rigging did not affect the outcome of the Election at the National level.

Post-Poll Rigging

Intelligence agencies of the state continued to play a decisive role in the formation as well as destabilisation of governments at Federal and Provincial level. The Bhutto government remained under constant pressure from many sides. The IJI had enough seats to form the government in the largest province of Punjab. The apparatus of the provincial government was indiscriminately put at the service of the political objectives of Mr. Nawaz Sharif, then

Chief Minister of Punjab. On her part, Prime Minister Benazir Bhutto was equally willing to employ state resources for her political aims. However, she remained at odds with the establishment, and an atmosphere of mutual distrust prevailed.

1990 Elections

Pre-Poll Rigging

After twenty (20) months in power, the PPP government was dismissed on charges of corruption and misrule by President Ghulam Ishaq Khan under the overt guidance of the armed forces and intelligence agencies. A highly partisan government was formed at the Centre under the premiership of Ghulam Mustafa Jatoi, a breakaway senior and influential leader of the PPP and head of a political party, the Pakistan National Party (*PNP*). The PNP had been put together by intelligence agencies in 1987 to serve as a check against Junejo, who was rapidly falling from favour of the military regime.

As fresh elections were announced, the state apparatus and mass media, including state television, embarked on a highly partisan campaign against the PPP, indirectly aiming to benefit its key adversary, the IJI. Given the politically polarised climate of the time, it is conceivable that “rogue” elements provided some support to the PPP as well.

The role of intelligence agencies and active contacts of political leaders with the military and intelligence officers became a nearly accepted practice in political circles. By this time, the media and the intelligence agencies nexus had also thickened and conspiracy theories were abound on the nature of these links. While the details of these theories might be flawed, the essential relationship was quite transparent. Political partisanship of what should have been non-partisan offices including the President, Caretaker Prime Minister, intelligence agencies and senior civil servants began to be institutionalised. With state resources at their disposal, they manipulated the political system to produce two new supra-constitutional political players, the President and the Chief of the Army Staff. The latter had two well-funded and staffed intelligence agencies at his disposal, the ISI and the MI (*Military Intelligence*). The President and the Chief of Army became two parts of what was to be later called the “troika of power,” the third part being the Prime Minister. The 1990 elections campaign played a critical role in shaping the “unlawful” de-facto institutionalisation of this arrangement.

Neither the President nor the Chief of Army Staff had any legal sanction to play a politically partisan role. It was by our definition an obvious and by far the most damaging form of pre-poll rigging. It manifested itself while putting the final touches in the consolidation of the anti-PPP votes under one alliance, the IJI. The PPP vote consolidated under another alliance, the Pakistan Democratic Alliance (*PDA*). It is important to note that while IJI became the beneficiary of pre-poll rigging in the 1990 elections, less than three years later the beneficiary was to be PDA. This established the crucial and recurrent role of pre-poll rigging defined as unlawful interference in the democratic/electoral process.

Another manifestation of the institutionalisation of pre-poll rigging was the setting up of (perhaps a small) un-announced election monitoring unit in the Presidents' office under an army general, General Razaqat. Much mystery is assigned to this office and the nature of its involvement in the orchestrated electoral process. However, it was only the tip of an iceberg as the more potent players were to be found in the many-layered arrangements, all leading to the Army Chief and the military General Headquarters (*GHQ*). A nuanced role was played by the civilian Intelligence Bureau (*IB*), officially mandated to report to the Prime Minister (*in*

theory the same is true for the ISI). It was partially co-opted into the emerging scenario by bringing in both retired and serving armed forces personnel in its leadership. The IB setup was equally vulnerable to playing a politically partisan (hence unlawful) role. Given the multiplicity of unlawful players, the politicians were quick to discover that exploiting the internal contradictions of several intelligence agencies and state bodies could provide to them covert partners in politics. To a certain degree it was an old practice. It assumed new proportions and a new shape by virtue of un-mediated, frequent and direct contact between politicians and the other two arms of the emerging troika of power. The fig leaf of interacting through “personal” friends, “businessmen,” “cultural” icons, “saintly” figures and such other conduits began to be dropped.

The prevailing national climate contributed to the success of these emerging arrangements. Three features remained prominent and set the stage for a stilted electoral setup:

Firstly, the excessive polarisation seeded at the birth of PPP between the secular socialist and the Islamic cleavage created the volatility and tension that compelled political parties and actors to seek refuge, support and even dictation from all available sources. Their unwillingness to come to terms with each other made the otherwise unpleasant option of military partnership acceptable, even desired As General Zia once put it in rather graphic and demeaning tone: “when I blow the whistle, the politicians march up to me wagging their tails.”

Secondly, during Zia’s regime, a new working relationship was established between the President’s office and the political and religious organisations in the 1980s. While addressing matters of national security surrounding the Afghan Jihad, Gen. Zia directly interfered in the internal politics of these parties sending a dangerous message. It was not long before this covert relationship transcended issues of national security and entered domestic politics. Learning quickly, parties adapted to this relationship at the provincial and grassroots levels.

Finally, a heightened sense of national security prevailed in the country, in the backdrop of Pakistan's dismemberment in 1970, with the assistance of India, and Soviet advances in the region. This provided an atmosphere of respect and deference for the superior abilities of the armed forces in all matters including matters of governance and politics. The armed forces also enjoyed disproportionately high budgetary resources, which when required could be used for playing a domestic political role.

These three factors provided the “ideological” rationale for the acceptability of patently unlawful political arrangements between politicians and the state apparatus. At the same time, the perennial motives of “power” and “greed” provided the necessary bonding and unbonding conditions. The state had the resources to expend, while politicians across the political landscape were willing to oblige. The pre-poll (*and post-poll*) rigging found itself in very hospitable climate and began to prosper as polling day rigging took a back seat.

The principal features of this scripted power play remained constant for the entire decade of the 1990s, although four changes in government took place. Mr. Sharif replaced Ms. Bhutto; Ms. Bhutto replaced Mr. Sharif; Mr. Sharif replaced Ms. Bhutto and finally General Musharraf replaced Mr. Nawaz Sharif in 1999 when the millennium was coming to a close.

Having described the pre-poll rigging in the 1990 elections, we shall briefly touch upon the distinctive features of the other phases.

Poll Day Rigging

There are considerable allegations of polling day rigging in the case of 1990 elections. These allegations seemed credible, especially to those who were inclined to distrust the integrity of the system, or to those surprised by the dramatic decline in the parliamentary strength of the PPP. How can, the question was raised, the PPP lose 39 seats in Punjab, plunging from 53 seats to 14 in just two years? The explanation was found in stuffing of ballot boxes in a certain number of vulnerable polling stations in selected constituencies. However, a careful examination of the seats lost by the PPP reveals that the principal cause was the so-called “one to one” strategy. The election engineers, a euphemism for the institutionalisation of rigging, persuaded the smaller stand-alone components of the anti-PPP vote to consolidate under the IJI. In 1988, a small alliance under the title PAI contested on a large number of seats, scoring 6% of total vote in Pakistan's most populous province, Punjab. In 1990, it disappeared and in most cases the vote transferred to the IJI. At the same time, the vote of “Independents” (*also more vulnerable to state pressure*) declined from 15% to 8%. A good part of this vote also transferred to the IJI. The success of election engineers to further consolidate the anti-Bhutto vote, beyond what they had achieved in 1988, turned the tables against the PPP. A gain of 12% of votes in Punjab by the IJI completely changed the landscape in the National Assembly. This is quite plausible as a result of the “Swing factor” characteristic of First Past the Post electoral system.

It would therefore, be reasonable to assess that while polling day rigging seemed plausible, it did not decisively influence the outcome of the National elections. The pre-poll rigging was in comparison much more potent.

Post-Poll Rigging

The script of election engineers had allocated the premiership to Ghulam Mustafa Jatoi, the caretaker Prime Minister with strong PPP (breakaway) credentials. His political base was in Sindh. But despite heavy-handed use of state resources, his group did not fare very well in the elections. He was unable to emerge as the charismatic leader of the anti-Bhutto vote consolidated under the banner of the IJI. That role seemed better suited to Mr. Nawaz Sharif. As was the case with Ms. Benazir Bhutto, Mr. Nawaz Sharif was young (just about 40 at the time). His background as a businessman, victimised by the PPP government, his native Pakistani and Muslim lifestyle, provided the necessary contrast to Ms. Bhutto. It lent to him a reasonable degree of charismatic appeal and prospect of leadership. Besides, he was ambitious, dynamic and resourceful. He managed to work through the maze of establishment network and used internal contradictions in the intelligence agencies to claim the Prime Ministership for himself. The scriptwriters were happy with his continuation of Chief Ministership in Punjab, but were uncomfortable with elevating him to the premiership. The post-election power struggle within the election engineers and their beneficiaries sowed the seeds of mistrust between the new premier Mr. Nawaz Sharif and his erstwhile supporters in the two arms of the troika, Presidency and the Army. This aspect of post Election rigging set the tone for the ouster of the elected government under Mr. Nawaz Sharif some thirty (3) months later in April 1993.

1993 Elections

Pre-Poll Rigging

The lead up to the 1993 elections happened in two instalments. Prime Minister Nawaz Sharif tried to defy the other two supra-constitutional arms of the troika of power. He challenged their authority defying any further dictation thus tipping the balance of power. The President

Ghulam Ishaq Khan dismissed him, apparently with the blessings of the Army Chief. Mr. Nawaz Sharif challenged the decision in the Supreme Court and also took to political agitation on the streets. The response from the public was widespread, warm and to some extent cut across the traditional political battle lines. In retrospect, one can see in those two months early signs of the possibility of a new coalition of civil society concerned with civilian supremacy and rule of law. Fourteen (14) years later the year 2007 saw a much brighter blooming of the same emotions.

The Supreme Court dismissed the Presidential order and restored the Nawaz government. But the power struggle continued. The supra-constitutional troika of power persuaded both Mr. Nawaz Sharif and Mr. Ghulam Ishaq Khan to resign and fresh elections were called.

This time the election engineers used the 1990 script of pre-poll rigging but modified the characters and the tactics. In the 1988 and 1990 elections the tactic was to combine the anti-PPP vote. Now it was changed to divide it. The IJI was dissolved. The Jamaat-i-Islamic vote was isolated under a new creation, the Pakistan Islamic Front (*PIF*) and dissidents from the Nawaz led Muslim League were encouraged to activate their own faction of the ML, the Muslim League (J) headed by Mr. Hamid Nasir Chattha. This made the necessary dent in the Nawaz edge in Punjab. In NWFP, the Islamic vote of Jamiat Ulema-e-Islam (Fazal ur Rahman) (*JUI*) was encouraged to ally with the PPP. In Sindh, the Muttahida Quami Movement (*MQM*) boycotted the elections.

In some ways these were normal political alignments and realignments. Why would one label them as pre-election rigging? Essentially, because the authority and resources of the state were massively used to unlawfully interfere in and steer this process. In our assessment, such interference played a decisive role in altering the electoral outcome. In 1993 the beneficiary was Ms. Bhutto. On the previous two occasions, 1988 and 1990 the beneficiary had been Mr. Sharif. The unlawful practices remained the same, but the episodes changed.

Over the years as these episodes progressed, pre-poll rigging began to be institutionalised in the President house but more importantly in the various intelligence agencies. It came to its bloom later in 2002 when the head of the election exercise General Zamir was constantly in the news columns during the election campaign. By then the fig leaf of secrecy was removed beyond the earlier limits. Most of the stakeholders had been sensitised to accept the de-facto practice of what was a blatant breach of law, namely the use of state authority to influence the outcome of elections to the benefit of some and detriment of others. The practice of rigging had left the realm of unlawful activity and become commonplace, even expected.

Polling Day Rigging

Despite various allegations, any irregularities on the polling day were not of a magnitude to alter the outcome of the elections.

Post-Poll Rigging

With the departure of Ghulam Ishaq Khan as President, a new President had to be elected. Ms. Bhutto took her last laugh in ridiculing the octogenarian Mr. Ghulam Ishaq Khan by luring him into the Presidential race but finally deciding in favour of Mr. Farooq Khan Leghari, a competent and experienced PPP parliamentarian with sound reputation and social acceptability beyond the party fold. She was soon to discover that the institutionalisation of supra-constitutional (*illegal*) role of the President House and its well groomed links with the Army Chief were to take their toll. If one is to look for evidence of post poll influence, it

should be in the Presidential election. But perhaps it was minor by the norms that had been widely accepted as standard practice by then.

1997 Elections

Pre-Poll Rigging

There was an air of scepticism in the second tenure of Ms. Bhutto (1993-96). Her own youthful exuberance and the idealism of at least a section of her party leadership and supporters had given way to what seemed like a cynical understanding of power and wealth. Her husband, Mr. Asif Ali Zardari, conveniently lent the necessary personification of his image. He also served as a scapegoat. There was little sense of propriety to separate personal interests from the State Exchequer. All kinds of real and imagined shady deals earned Mr. Zardari the title of “Mr. Ten percent.” As later elections were to confirm, Ms. Bhutto’s vote bank was rapidly declining. It had been under stress for nearly ten (10) years and was now cracking.

It is hard to pin down the exact reasons but at some point the two arms of the supra constitutional troika decided to dismiss the Prime Minister. It is conceivable that President Leghari took the lead, although as later events showed the act did not serve his personal interests. The unlawful practice of employing the President’s office and the intelligence apparatus of the armed forces continued unchecked. President Leghari dismissed Ms. Benazir Bhutto and appointed another PPP elder, Mr. Meraaj Khalid (speaker of the National Assembly in Ms. Bhutto’s first tenure) as the caretaker Prime Minister. However, unlike Mr. Moin Qureshi in 1993 (when Mr. Waseem Sajjad was President), Mr. Leghari himself was the effective Chief executive during the caretaker period. It had become normal practice to sidestep the Constitutional power of an office and act according to convenience, all in the name of national interest or “the law of necessity.”

The goals of the establishment in dismissing the Benazir Bhutto government in 1996 are still unclear. But apparently it was expected that the 1997 elections would serve as another round in the “musical chair game.” They would produce a weak Parliament. Politicians would stand discredited. The stage would be set for introducing a formal role of the armed forces through a new National Security Council. The Council was actually instituted during the caretaker government, titled Committee for Defence and National Security (*CDNS*). This was the second such attempt. The first had been made by General Zia-ul-Haq in 1984-1985; it had then been scrapped under the pressure of what was otherwise believed to be a weak Parliament put together by the General himself through a party less election. There is no indication that the election engineers strongly supported or worked against either of the two major political parties, the PPP and the ML headed by Mr. Nawaz Sharif. But they seemed interested in producing an election result that would generate low election turnout as well as neck and neck outcome of the PPP and the ML in the next Assembly. There was also an interest in discrediting politicians and elevating technocrats or new faces as better and preferable alternatives. The Jamaat-i-Islami (*Ji*) boycotted this election. Mr. Imran Khan attempted a major national debut into politics under his new party Pakistan Tehreek-e-Insaaf (*PTI*), and for the first time Pakistani television accepted paid advertising, the most prominent of which was by Mr. Imran Khan.

The election campaign on the whole was lacklustre. To its very last days there was an air of uncertainty on whether the elections would be held at all. President Farooq Ahmed Leghari betrayed his keen interest in a low turnout at the election by appearing on state television

hours after the end of polling and estimated the turnout to be around 26% of the registered voters. This was 10% points lower than the actual turnout compiled the next morning that stood at 36%.

On the whole, pre-poll interference in the normal electoral process was modest compared to earlier elections, although the unlawful interference of formally non-partisan bodies such as the President's office and government intelligence agencies persisted as previously.

Polling Day Rigging

There is no evidence that polling day irregularities affected the outcome of the election at the national level. Unlike previous elections, the runner up party (*PPP*) was not very vocal on rigging charges against the winner (*Muslim League*).

Post-Poll Rigging

For the first time in the recent series of elections, the top two parties were not neck and neck. The ML headed by Mr. Nawaz Sharif was markedly ahead of the runner up (*PPP*). It had nearly two third of the seats in the National Assembly (139 out of 203). Consequently, the formation of a government was relatively smooth. But many other issues were quick to crop up. The unlawful and partisan influence of state apparatus continued. Prime Minister Nawaz Sharif was not particularly enamoured with faithfully observing the Constitution, except when it suited his political aims. He was impatient with the legal system and perceived it as a hurdle in the delivery of justice. Despite some lip service, he had little respect for the independence of judiciary. He wished to see it run by his own hand-picked judges who would support him in his political aims, especially to curtail what he believed to be the constant harassment and undercutting of his authority by rival power centres in other arms of the government and the armed forces. He was a man in a hurry to uplift the nation, and as someone put it aptly "could not distinguish between speed and indecent haste." The Constitution required the Prime Minister to run a cabinet government that drew its power from the Parliament. It required respect for rules and observance of norms to run the cabinet, the Parliament, the Civil service, his own political party and the provinces within a federal structure. Yet, wherever he could, Mr. Sharif sidestepped it all. Various types of kitchen cabinets, ad-hoc Courts (e.g. Anti-Terrorist Courts) and other quick fixes were employed to gain short-term results on issues that deserved a far-reaching institutional approach.

However, one must also note that unlawful partisan interference by state apparatus in the functioning of an elected government reinforced the shortsighted tendencies of the political government. Mr. Sharif felt compelled to produce quick results to attract popular support and keep the seemingly hostile establishment in check. A vicious cycle of distrust triggered a series of crises. Hurriedly arranged amendment in the Constitution removed threats to the constitutional supremacy of the Prime Minister. But Mr. Nawaz Sharif failed to match these changes by not subjecting himself to the discipline of his own Parliament, the Cabinet, an independent Civil Service, an independent Judiciary, autonomy of elected governments of the provinces, besides failing to give due weight to free press and the civil society. When an elected government is unwilling or unable to exercise its Constitutional power, and reluctant to subject itself to the Constitutional checks, it is unlikely to get very far. As the proverb goes: "It cuts the branch of a tree on which it sits." It undermines the source of its power which is "popular will protected by rule of law." Neither Mr. Sharif nor the challengers to his Constitutional power had sufficient respect and patience with the constitutional procedures and legal course of action. The landslide electoral victory of Mr. Nawaz Sharif could not be translated into a meaningful exercise of authority mandated by the popular will. The post poll

rigging combined with cynical negligence to the rule of law and the Constitution of the country took its toll.

2002 Elections

Pre-Poll Rigging

The aims of the 2002 Elections were stated very clearly namely:

1. There will be a step (ONLY) towards democratic transition
2. Mr. Nawaz Sharif and Ms. Benazir Bhutto, leaders of the two major parties will not participate in the election and shall remain in exile outside the country
3. General Pervez Musharraf will be the President of the country while maintaining his role as Army Chief even if it might require some changes in the Constitution

In order to achieve these aims a number of rules were framed. Since the country was practically governed under an extra-Constitutional arrangement, the procedure to make rules followed suit. There was no concern with ensuring level playing field, neutrality of the Administration or independence of the Election Commission. The electronic media was under public control; it provided overall support to the government policy to steer the elections to achieve its aims. The print media was independent except that the message from the government was loud and clear: those in the media who cooperate would be rewarded with publicly controlled advertising money and other privileges; those who defied or criticized government's politically partisan (hence unlawful) policies would be penalized accordingly.

To this extent the pre-poll partisan role of the state was a continuation of the previous (unlawful) practice. But the 2002 elections carried it a step further. It now engaged a sizeable number of military officials, local government functionaries and other public servants to play an openly political role at the grass roots. They called or attended meetings of the local notables to "facilitate" the management of constituency level policies. They interfered in crucial decisions in choice of party candidates. They encouraged or intimidated potential electoral contestants and were in constant collusion with the electoral candidates. They were an important, near transparent (albeit unlawful) players in the electoral game. The institutionalisation of pre-poll rigging, as mentioned earlier in this paper, came to its bloom. This was a dangerous assault on the autonomy of the will of the people. For reasons, which ought to be explored separately, the year 2007 witnessed a massive and silent revolt against the institutionalisation of unlawful behavior of the state. It was, in our view, a reaction to what has been described above.

Polling Day Rigging

Despite all the pre-poll irregularities and the allegedly partisan role of local government, any irregularities on the poll day are not known to have affected the outcome of the election at the national level.

Post-Poll Rigging

The Post-poll interference with electoral process was massive. In no other election of Pakistan, with the possible exception of 1970 when the electoral result was totally turned down, the electoral outcome was disturbed as ruthlessly and unlawfully as in 2002. It was done through systematic use of rewards, punishments and intimidation by the state apparatus under the leadership of the President, who used both civilian as well as military resources to achieve these aims.

While PML (N) was the principal target of pre-poll interference, the brunt was borne by PPP in the post-poll phase. A section of its elected leadership was lured and intimidated to form a splinter group. It was named as the PPP Patriots. Since the Constitution prohibited this type of floor crossing, the relevant clause was suspended. Similar pressures were applied to other members as well. It took weeks and months to achieve this while the Assembly remained idle. Once the objectives were achieved, the relevant clause of the Constitution was restored, for it could now be an instrument to the disadvantage of the pieced together parliamentary majority. For lack of another identity, it came to be informally known as the King's party. Mr. Zafarullah Jamali from the Muslim League (Q) was elected as the Prime Minister. He came from Balochistan which was refreshing, but the fact remained that Balochistan counted for a total of 16 seats in the directly elected assembly of 272, and Jamali could not claim personal support of a majority in his own province, much less in the entire Assembly. He was entirely dependent on the wishes of the President, who continued to wear the uniform and keep his Army Chief office. To let everyone know that the source of power was in the armed forces (not the Parliament) he would occasionally address political rallies of the ruling party in his military uniform. But the issue of uniform and Constitutional provisions would not go away. Such is the predicament in Pakistani society, history and politics. In his autobiography, the Singaporean leader Lee Kuwan Yu has described us as people who love to "litigate". While it might hurt elsewhere, it provides a check on military take-overs. Military rulers must solicit indemnity ("*pardon*" would be less euphemistic) from the Assembly whenever it meets. These legal provisions forced Pervez Musharraf to negotiate with parliament members other than the King's party, because Constitutional amendments would require two third majority. The establishment was able to find its way. It worked out an agreement with the Religious parties alliance (MMA) to pass what is known as the 17th Amendment. In retrospect it brought infamy to all. Musharraf lost his credibility because he reneged on his promise to shed the uniform the following year as part of the compromise with MMA. The MMA lost its face and respect and a few years later it became more transparent that MMA leadership, especially Maulana Fazal-ur-Rahman, had entered into insincere agreements with the King's party in return for the office of the leader of the opposition. It is alleged that the final draft of the Amendment stealthily replaced the word "after" the expiry of the term of the Assembly with the word "before" the expiry of term - for the election of the President. Many years later this provided the "legal" cover to Pervez Musharraf to be elected by an Assembly that had all but three months to expire. So much for an electoral process to determine the will of the people. It appeared like an amateur bout of legal tricks on the one hand and contemptuous disrespect for decency and rule of law on the other.

It is not surprising that when it finally came to shove, the society totally rebelled and refused to deal with the legal tricks any longer. In return Pervez Musharraf threw out the entire Constitution (November 3, 2007) and declared a state of emergency. He started to claim that he, in his person, had been authorized to do what most people thought could only be done, with much discretion, by no less than two third majority of the Parliament. That brought matters to the end of the term for which the 2002 Elections were held. In the meantime, the Prime Minister, whom the Constitution designated as the Chief Executive of the country, worked as a salaried (*although the second Prime Minister in the row charged no salary*) subordinate of the legendary "Seth" in South Asian business culture. The President had assumed most functions of the Chief Executive to such an extent that observers and participants took it as a de-facto reality, as normal business. It was a gross violation of the Constitution and defeated the will of the people, supposed to be determined by a free and fair election. The Assembly elected through an uneven playing field, formed a majority party through unlawful rewards and penalties. It began its business by unceremonious compromise

on the 17th Amendment, which is likely to be scratched whenever the rule of law is restored, and ended its term when the Assembly Hall was all empty except the King's party. They were the only ones who had elected Pervez Musharraf as President a month earlier, and they were the only ones who pardoned him on that last day for having scratched the country's Constitution earlier that month. It was its last business of the day. The Assembly proudly completed its full term of five years. There was little to cherish about it. The only people who celebrated it were a small group of beneficiaries. The nation stood apart, interestingly united as never before. And while the 2002 Assembly came to a sad end, it left behind an important legacy. It had, even if momentarily, united the large majority of the nation on what is abstract, yet so crucial to the existence of a nation, Rule of law. In a way the ending showed there was hope at the end of the tunnel. To this we turn in our concluding section.

Popular Perceptions on the Rigging in 2008 Elections

Popular Perceptions

Approximately 15% of the population expect that the forthcoming elections will be completely free and fair, the remaining are divided between those who expect election to be rigged (53%) and others who say they can not give a definite answer at this point (32%). The perceptions on the expected fairness of the forthcoming election are not very flattering.

Question: Do you think the forthcoming national elections (2008) will be free and fair?

Table3: Popular Perception on Fairness of Election 2008: Percent of Respondents

| Expect that elections will be: | <i>Percent of Respondents</i> |
|--------------------------------|-------------------------------|
| Fair | 15% |
| Unfair | 53% |
| Can not answer | 32% |

Source: Gallup Pakistan Survey, November 2007

Democracy Sans Rule of Law

The struggle for Democracy is a struggle for **rule of law**, or more specifically the institutionalised rule of law through a Constitutional government. It is invariably achieved through free and fair elections. The failure of Democracy in Pakistan has been the failure to comprehend its essential link with rule of law. The citizens and civilian rulers have together failed on this count. Often the voters seek favours from rulers in breach of law. Politicians who excel in that craft are keen to oblige, and look for their own rise to power through that route. In the end only a few benefit while the community as a whole begins to lose its faith in democracy. Severed from their role as "custodians of rule of law" politicians lose their source of power and undercut their own source of legitimacy. When that happens, either the armed forces or power cliques and mafias are quick to march in.

Many people raise the question: Why democracy failed in Pakistan in the nineties? Why were military take-overs from elected leaders not resented? Why did 70% or more of the public approve the removal of Benazir Bhutto in 1990 and 1993 and the removal of Nawaz in 1997? I would hazard to suggest that it happened to them because they were seen as elected governments minus "rule of law". The popular will elected them but found it could not subject them to rule of law. Nawaz Sharif has recently provided a telling story. Upon the dismissal of his elected government, he says, he turned to see the crowds behind him (metaphorically) and discovered it was an empty street. With a deeper vision he, as also his predecessor, should have seen the disillusionment of popular will with "democracy minus rule of law".

There are signs that the vicious cycle is on the reverse path. A new civil society elite (call it "vanguard") has grasped the centrality of rule of law to civilian and democratic governance. The masses are not out to cheer them or agitate alongside, but they are, nevertheless, firmly behind them on that issue. The popular will might elect one or other of the key political contestant but any future civilian government will find it very hard to practice elected government minus rule of law.

The movement for rule of law is the true force to defeat Electoral Rigging in all its forms. The "Pre-poll Rigging" designs have already been reversed from its 2002 heights. The playing field is not totally even, but the crookedness of keeping the key players in exile has already been reversed. The intelligence agencies are apparently less active in partisan games. The civilian administration, local governments, perhaps the Caretakers and the President are still engaged in partisanship disallowed by the Constitution and the law. But, so far, it is an improvement on 2002. We have yet to witness the polling day and the post-poll scenario. Let us be hopeful and look forward to a reversal in the cycle of breach of law by the armed forces and the elected civilians.



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