

## The EU and Pakistan's turbulent democratisation

Gerald Stang

»» A conflict between Pakistan's government and its muscle-flexing judiciary is posing serious challenges to the country's recently re-established democratic regime. It also breeds uncertainty in how the EU should engage with Pakistan. In June 2012, EU foreign policy chief Catherine Ashton travelled to Islamabad to meet Pakistani Prime Minister Yousuf Gilani to launch a Strategic Dialogue and initiate a new EU-Pakistan 5-year Engagement Plan. This is set to expand the relationship beyond trade and aid to a broader range of issues which include security and counter-terrorism. But less than two weeks after Ashton's visit, Pakistan's Supreme Court disqualified Gilani from office, the latest salvo in a four-year battle between Pakistan's government and the top court.

The EU has an interest in seeing democratic consolidation in Pakistan both for stability within the country and for security cooperation in the region. But unless the ongoing political-legal battle leads to an extra-constitutional power grab by the military, Pakistan's international partners can only express general support for democratic processes and continued civilian governance. The EU should use the new Strategic Dialogue to focus on supporting Pakistan's own efforts at strengthening its democratic institutions. Trade and economic development aid can provide only very limited support for the resolution of Pakistan's political problems. Both consistent political engagement and targeted technical support could greatly help Pakistan improve the robustness of its democratic institutions.

### Highlights

- The recent judicial coup in Pakistan has raised serious questions about the stability of the country's democratic institutions.
- The EU has an interest in seeing democratic consolidation in Pakistan both for stability within the country and for security cooperation in the region.
- Efforts must be made towards strengthening Pakistan's democratic institutions without getting involved in internal politics.

»»»» **UNDERSTANDING THE  
CURRENT CRISIS**

In recent months Pakistan has been embroiled in a serious crisis related to the role of the Supreme Court. The roots of this crisis lie in the 2007 National Reconciliation Ordinance (NRO) issued by then-President Musharraf. The NRO, strongly opposed by the Supreme Court, would provide amnesty against corruption charges for thousands of politicians and bureaucrats, and secure Benazir Bhutto's support for Musharraf's re-election bid. Musharraf's dismissal of Chief Justice Iftikhar Muhammad Chaudhry and subsequent suspension of the constitution, precipitated a crisis that led to widespread street protests and eventually his own removal from power. Upon becoming president in 2008, Bhutto's widower Arif Zardari was not anxious to reinstate Chaudhry for fear that the NRO would be struck down and he would again be subject to corruption investigations begun following his wife's terms in office years before. But a new round of street protests forced Zardari to reappoint Chaudhry as Chief Justice in early 2009. The Supreme Court duly struck down the NRO, exposing Zardari and some of his ministers to prosecution.

The Supreme Court demanded that Prime Minister Gilani formally request that Switzerland reopen an old case against Zardari that had been working its way through the Swiss courts until the passing of the NRO in 2007. Gilani managed to resist the Supreme Court's demands for years, but was eventually convicted of contempt of court and disqualified from office. After a Pakistan People's Party (PPP)-

nominated replacement was forced to withdraw his candidacy within a day due to the suspiciously sudden revival of criminal charges, Raja Ashraf was approved as prime minister by parliamentary vote in late June 2012. It remains unclear, however, whether the Supreme Court will attempt to force Ashraf's hand in the way it did with Gilani, pushing Zardari to cycle through prime ministers until an election is called.

Critics of the Supreme Court worry that the court is overstepping its role, weakening the power of the elected government and posing a threat to the consolidation of democracy. Court supporters argue that the court's pursuit of Zardari shows that no one in Pakistan is above the rule of law. This argument is true, to an extent, but does not explain the zeal with which Chaudhry's court has pursued Zardari and his ministers. There is no doubt that the Supreme Court is playing an excessively political role and is fighting to enhance its own power at the expense of parliament. The current battle clearly poses a substantial danger to Zardari and the PPP government, but it is not yet clear how much of a danger it poses to democracy per se.

The biggest long term threat to democratic rule remains the overbearing role of the military in Pakistan's political life. Just four years after the widely supported removal of General Musharraf, there is little appetite for another period of military rule. A coup to remove Zardari, followed by quick election of a different civilian government, certainly remains a possibility. However, considering the likely domestic and international backlash against such an extreme



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move, a coup seems unlikely, particularly with Zardari's popularity at rock bottom and new elections only a few months away. A more worrisome possibility is that the courts are again working in league with the military to manipulate the civilian government. Following the adoption of new constitutional amendments ending the president's power to dismiss governments, the judiciary seems the most likely tool available to any military power wishing to control civilian politicians without resorting

to extra-constitutional measures. Worries over this possibility were given credence when the Supreme Court, at the behest of the military leadership, began a highly politicised investigation into a 2011 leaked memo, allegedly drafted by Zardari's ambassador to the US, requesting American assistance against a coup-plotting Pakistani military. Though the controversy has lost some steam, it raised the spectre of a judicial-military alliance.

While Pakistan's history is full of examples of the courts allying with the army in opposition to the government of the day, the current situation is not a simple repetition of earlier abortive periods of civilian rule. Chief Justice Chaudhry was removed from office twice and put under house arrest once by Musharraf, and was central to the political revolution that ended the latter's rule. The court has also stepped on military toes in pursuing an investigation into

extrajudicial killings by the military in the troubled Baluchistan province. This does not prove that there is no political cooperation between the courts and the military, but the Supreme Court may be seeking primarily to expand and consolidate its own power rather than to re-forge an alliance with the army. Uncertainty, second-guessing and the construction of new conspiracy theories will continue for the foreseeable future.

### IMPLICATIONS FOR THE INTERNATIONAL COMMUNITY

With Pakistan's depressing record of civilian corruption, military interference, and judicial brinksmanship, outside observers may be tempted to throw up their hands in frustration and walk away. Or to throw in their lot with one group in Pakistan's domestic political fight. Neither is the appropriate response. Outsiders need to pay close attention but should not get too absorbed in micro-analysing the chaotic fray of Pakistani politics. Involving themselves too directly into Pakistan's domestic political struggles will lead to a sovereignty-protective backlash and would do more harm than good. International actors should instead express support for democratic principles and the consolidation of democracy.

The survival of democratic rule in Pakistan is too important for the world to limit itself to political statements or turn its back and disengage. The turbulence and inconsistency surrounding Pakistan's system of government has had hugely disruptive effects both on Pakistan's own development and on its international relationships. From



its fumbling of the 1971 crisis in East Pakistan (now Bangladesh) to its heavy-handed mismanagement of the separatist movement in Baluchistan and its counter-productive support to various extremists groups targeting Kashmir and Afghanistan, the Pakistani military has a poor track record of finding political solutions for security problems. Consolidating civilian control over security matters would improve the way in which Pakistan relates to its neighbours and allies on military and security problems. There is little difference between the views of the civilian and military establishments on the various disagreements with NATO, India and Afghanistan. If the civilian government had control of security policy, disagreements would be directed by a more transparent leadership that is accountable to its citizens and accessible for discussions by international actors.

Following the 9/11 attacks, the NATO-led war in Afghanistan and the exposure of the AQ Khan nuclear proliferation network, Pakistan's role as a potentially dangerous political actor has focused attention on the country. For the last decade, this attention was primarily targeted at seeking stability in the country and better cooperation for the war in neighbouring Afghanistan. The US has worked primarily with the Pakistani military, partly because of its central role in the Afghanistan war, but also because of its long-established military-military relations. Such a narrow focus has not proven successful at resolving the security challenges faced by the neighbours nor at building durable political solutions to manage future challenges. The US recognised this and in 2009 passed the Kerry-Lugar-Berman bill attempting to

refocus aid to civilian sectors in Pakistan. The wording and implementation of the bill was clumsily handled, however, upsetting Pakistanis of all stripes without leading to improved disbursement of aid to the country. The EU, on the other hand, has remained an apolitical aid donor interested primarily in humanitarian work and development aid.

Over the past decade, the EU has increasingly developed its bilateral relationship with Pakistan. The EU is Pakistan's largest trading partner, accounting for 21 per cent of Pakistan's exports and 17 per cent of Pakistan's imports in 2011. For the last five years, EU aid to Pakistan has been directed by the 'EC-Pakistan Country Strategy Paper for 2007-13', focusing most of the €425 million in development aid on education and human resources development and on rural development and natural resources management in Khyber-Pakhtunkwa and Baluchistan. The EU has also provided more than €370 million in humanitarian aid in the last three years alone. The EU has not previously spent its money in Pakistan in a way that grants it much political leverage. But now that Pakistan is ruled by a civilian government it should be easier to find areas of mutual interest between the EU and the Pakistani government. The new EU-Pakistan 5-year Engagement Plan offers an excellent framework for the EU to build a broader and more political relationship.

#### **WHAT ROLE FOR THE EU**

The new EU-Pakistan 5-year Engagement Plan covers a wide range of issues including aid, trade, security, counter-terrorism, energy,





democracy and good governance. While the Plan was created with the goal of moving from a primarily economic relationship to more of a political relationship, it remains uncertain which of the many issues listed will receive priority attention and resources.

Amidst the current turmoil in Pakistan, the EU should keep a patient, long term outlook in its choice of priority areas, not get overly distracted by domestic political battles, but express support for the application of the rule of law, keeping the battle in the courts and keeping the military in the barracks. The best way to do this is to support civilian institutions, specifically those related to the democratic process and those related to transparency and accountability in public finance measurement. It will not be possible to change the nature of Pakistani politics and patronage except through the long term normalisation of democratic governance.

Political support for democratic processes should come through high profile diplomatic engagement. The EU should work closely with the United States and its own member states, particularly the United Kingdom, to maintain international support for a democratic, constitutionally acceptable resolution to the ongoing legal and political tussle. Domestic politics will always be uncertain, but as long as any possibility of a military coup remains, international pressure can be an important deterrent.

Financial and technical support should be increasingly directed toward the processes and institutions specifically related to democratic functioning, including parliament, provincial legislatures, and the Electoral

Commission. Prime Minister Gilani invited the EU to monitor the upcoming national elections and the EU should seize the opportunity to lead international efforts to support the elections.

Apart from aid for democratic processes, the EU should also focus more of its development aid toward state institutions, specifically on those areas that can contribute to improved transparency and accountability. Historically, aid donors have preferred to bypass the government with development aid to avoid encountering problems with corruption. Bypassing the government and trying to aid only NGOs and civil society has meant that state institutions have been even slower to improve their financial management and eventually provide services to Pakistani citizens. Corruption is both a technical and political issue that should not be ignored or bypassed. The EU should expand and extend support for the ongoing programmes of the Pakistani government, supported by the World Bank, the UK and EU that focus on public finance management such as the Project to Improve Financial Reporting and Auditing. The EU also has a successful programme with the education ministry in Sindh that can serve as a potential model for expanded work. Following President Zardari's widely supported decentralisation of powers and financial resources to lower orders of government through the 18th constitutional amendment and the 7th national finance commission award, the demand for technical assistance and financial management training will be particularly acute at the provincial level. Improved local governance is important not just for providing government services, but for



creating mechanisms that connect citizens with their government. The willingness of the current government to rebalance power arrangements to accommodate local demands is likely to bode well for the long term stability of the state, but will require years of dedicated support. The EU is well placed to play an important role.

There are also clear limitations to what the EU can do. The EU is now seen primarily as a market for Pakistani exports and this will take time to change. Trade is important for long term development and for maintaining open contact with Pakistani leaders. But playing the role of market will be of limited value in pursuing EU interests in regional stabilisation and security. The EU is interested in increasing its counter-terrorism cooperation with Pakistan, but without intelligence-sharing capacity, it will have limited input except perhaps as a resource to fund and convene member state positions. What the EU may eventually be able to bring is support for the 'softer' aspects of counter-terrorism: judicial and police reform. These will be essential for managing Pakistan's internal security threats, but the EU should engage only as part of a broader effort that complements the work of the US and the UK, that Pakistan views as its primary security partners. The EU has had a difficult experience in supporting security sector reform in Afghanistan and in the near term it is unlikely that Pakistan will be seen as a high enough priority to win the engagement and resources needed for the EU to become a leading partner to the Pakistani government in this area.

## CONCLUSION

The outcome of the current political imbroglio in Islamabad is uncertain, but the prospects for the consolidation of democracy in Pakistan remain good. The country has a solid framework of democratic institutions, a diverse and vibrant media, broad support for democracy in the wider population and in the political classes, and it has learned from its earlier experiments with democracy. Many challenges remain, including the construction of a manageable power balance between the government and the judiciary, and Pakistan will benefit from the robust support of international partners such as the EU. The EU insists that it has a clear interest in working with Pakistan to advance shared goals on counter-terrorism, economic development, and the pursuit of peace and stability in the region. It can best pursue these interests by working with international partners such as the US and the UK to provide targeted support to the Pakistani government. This will require pursuing consistent political engagement with Pakistan's elected leaders, and support for institutions and mechanisms that improve the accountability and responsiveness of the democratic government.

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