

Conference Paper of an Expert Round Table

Pakistan

Reality, Denial and the Complexity of its State

Heinrich-Böll-Stiftung, February 11, 2010

Written by Susanne Mahrwald

VOLUME 16

Pakistan

Reality, Denial and the Complexity of its State

Abbas Rashid The Past is not Another Country: Democracy, Development and Power in Pakistan Rubina Saigol Class and Politics in the Radicalization of Pakistani State and Society Hasan-Aslari Rizvi Political Parties and Fragmented Democracy Kaiser Bengali Pakistan: From Development State to Security State Pervez Hoodbhoy Pakistan's Nuclear Trajectory Past, Present, and Future Azmat Abbas and Salma Jassam A Ray of Hope: The Case of Lawyers' Movement in Pakistan



TABLE OF CONTENTS

Executive Summary	3
Aim of the Expert Round Table.....	4
Session 1: The Past is not another Country: Democracy, Development and Power in Pakistan	5
<i>Discussion Round.....</i>	<i>6</i>
Session 2: A Ray of Hope: The Case of Lawyers Movement in Pakistan	8
<i>Discussion Round.....</i>	<i>10</i>
Concluding Remarks	12
Annex: Table of Contents and Introduction of the Publication	13

Executive Summary

In December 2009 the Heinrich-Böll-Stiftung published a booklet on a country which is currently considered as “the most dangerous country in the world”: *Pakistan - Reality, Denial and the Complexity of its State*. The publication gave the incentive to hold an expert round table for in-depth discussions about the country’s political, economic, historical and cultural challenges as well as its role on peace resolution, security and stability issues in the region. The Heinrich-Böll-Stiftung has invited two Pakistani representatives in order to discuss these challenges and complexities with German experts.

The main focus of the first session was on the current crisis in Pakistan and more importantly on the complexities of possible regional peace and stability solutions. At present, Pakistan faces a complex situation which is closely connected to the situation in Afghanistan. In regard to cross border activities of extremists the only solution has always been a military solution. The general perception is that peace and stability in Afghanistan can only be achieved with a regional approach because if the interests of those states involved in Afghanistan are not addressed these states are in a position to undermine any possible settlement in Afghanistan. In this regard, the Pakistan-India relations are crucial for peace and stability in the region. Once there is a minimum level of trust resulting from some sort of settlement over the Kashmir conflict, both countries may be able to contribute towards peace in Afghanistan. A regional approach was also argued against since after decades of conflict and war a solution has still not been found for the conflicts Kashmir and Afghanistan. Thus, it is unlikely that a regional approach could now contribute towards a solution. Furthermore, possible actors who may contribute towards a regional framework for peace and security were discussed as well as an institutional framework needed to find a regional solution. The *South Asian Association for Regional Cooperation* (SAARC) may possibly be an alternative. Nevertheless, it remains unclear under whose aegis the participating countries would come together.

In regard to the inner political complexities, the *National Reconciliation Ordinance* (NRO) was of certain interest. The Supreme Court’s decision has put President Asif Ali Zardari on notice. This can easily lead to a political crisis with aspirations of the opposition parties to ouster the present government or to hold midterm elections. Another political hotspot is the tense relationship between Pakistan’s President, the Army Chief and the Prime Minister, which became clearly visible at the time when the *Kerry-Lugar Bill* was fiercely debated. Another point was related to General Kayani, who as one of the most important figures, will retire in November this year. This raises the crucial question of who will be his successor?

The emphasis of the second session was placed on the successful Lawyers’ Movement, the judicial history of Pakistan, the role of civil society as well as the media and other stakeholders. For the first time in the short history of Pakistan, a large number of Pakistani people stood up to the executive demanding rule of law and freedom of the judiciary. Since independence the judiciary and the legislative have been exploited by military but also civilian regimes and over time a strong but invisible alliance between the judiciary, army and the bureaucracy has developed. The crisis began when Chief Justice Chaudhry resisted the order of Musharraf to resign. Although Chaudhry was not the first Chief Justice to be removed by a military dictator he was in fact the first who had strong support and who fought for his case. Although the movement has lost its momentum and is disintegrating after achieving the common goal of restoring the Chief Justice, it still represents the demands of the people. With regards to the institutional or political legacy of the movement it was stated that its success created a certain kind of awareness among the people that it is possible to achieve change if they work together. Thus, it might not be unlikely that a new movement will emerge if the demands of the people are not met or even ignored.

During the Lawyers’ Movement media and civil society played an important role for the success of the movement despite some weaknesses. Although the media in Pakistan is free, its main shortcoming is unbiased and unrestrained news coverage. Therefore, there is a need to develop a certain “code of conduct” for media since it plays a role in educating and enlightening people on certain issues including social, ethnic and religious affairs. The civil-military imbalance and the frequency of military take-overs have hampered the development and undermined the activities of civil society. However, the imbalance cannot be corrected immediately but gradually by reducing and revealing the budget of the military and raising the budget for institutional development. This also reveals one of the main problems of Pakistan which is the supremacy of the military in various areas. Most likely only a multipronged approach of the political parties, the judiciary and also the power of the people would be able to challenge the supremacy of the military.

Aim of the Expert Round Table

In December 2009 the Heinrich-Böll-Stiftung has published a booklet on a country which is currently considered as “the most dangerous country in the world”: *Pakistan - Reality, Denial and the Complexity of its State*. Pakistan is faced with the threat of Islamist terrorist groups such as Taliban or al-Qaida; it has a powerful military establishment and possesses nuclear weapons. The negative image of the South Asian country is not false, but it overlooks those who work tirelessly for the causes of democracy, human rights and gender equality. Despite numerous setbacks, Pakistan’s civil society has time and again managed to exert its influence on the country’s political development. The movement of judges and lawyers who took to the streets to protest against the suspension of Chief Justice (CJ) Iftikhar Chaudhry and who then had him successfully reinstated is but one example.

The publication is designed to provide a balanced view regarding Pakistan’s complex political processes and social challenges to a broad international audience. Authors from a variety of disciplines have given a balanced analysis on Pakistan’s shortcomings, as well as their ideas and visions for a more democratic and peaceful future. They also intended to provide policymakers with the means for a better understanding and cooperation with this complex, yet fascinating country (see Annex for table of contents and the introduction of this publication).

The release of the publication on Pakistan and the present political developments in the country gave the impetus for initiating this expert round table. A few years ago Pakistan was hardly recognized by the international community including Germany. However, the perception of Pakistan has changed dramatically particularly for security reasons. Today, it is considered a dangerous country which, nevertheless, plays an essential role in the peace process in the region. For that reason it is important to deepen the knowledge and analysis on Pakistan’s society. Therefore, the expert round table should provide the opportunity for in-depth discussions on the country’s political, economic, historical and cultural challenges as well as its role with regards to peace resolution, security and stability issues in the region. The Heinrich-Böll-Stiftung has invited two Pakistani representatives, who have contributed to this publication, in order to discuss the different challenges and complexities of Pakistan with German experts. The expert round table was opened and chaired by Barbara Unmüßig, a member of the executive board of the Heinrich-Böll-Stiftung.

Speakers from Pakistan

Saima Jasam is presently working with Heinrich-Böll-Stiftung in Lahore, Pakistan, as Head of the Programme section. She received her Master’s degree in Development Studies from the Institute of Social Studies at The Hague, Netherlands. She is a member of various human rights and women rights organisations such as *Amnesty International*, *Human Rights Commission of Pakistan*, *Joint Action Committee*, *Women Action Forum* and the *Pak-India Forum*. Saima Jasam is also the author of the book *Honour Shame and Resistance*.

For the publication, Saima Jasam in collaboration with Azmat Abbas contributed an article on the historic Lawyers’ Movement and the space it provided to all sections of Pakistan’s society. She concludes the journal with an optimistic note on democracy in Pakistan and its potentials, with a backdrop to the historical legacy, the prevailing radicalization and militarization, and the fractured democracy, which were analysed previously.

Abbas Rashid writes a regular column for one of Pakistan’s leading national dailies, the *Daily Times*, and is the author of many books. He has written on issues relating to politics, power and foreign policy. Abbas Rashid has taught at the *Federal Government’s Civil Services Academy* and is a founding member and chairman of the *Society for Advancement of Education* (SAHE). Furthermore, Abbas Rashid is a board member of the *South Asia Free Media Association* and a member of the *Human Rights Commission of Pakistan*. He holds a Master’s degree in Political Science from Punjab University, Lahore, and a Master’s degree in International Affairs from Columbia University, New York.

In his article for the publication on Pakistan he focused on the inadequate industrial and human resource base that existed when Pakistan came into being. He discusses the weak civil society and political institutions and how the imposition of a central design on a federal state created hurdles in the way of provincial autonomy. The latter remained and is at present one of the biggest challenges to the unity of the Republic of Pakistan. Reflecting on the civil-military imbalance and on the continued military domination through cycles of civil-military rule, he sheds light on the present state of democracy and its politics. The question of identity and the ideological contention, as inherited from the very beginning in a newly created state, manifests well the present state of affairs in the Pakistani society.

Session 1: The Past is not another Country: Democracy, Development and Power in Pakistan

The first session was opened with a speech by the Pakistani journalist, **Abbas Rashid**, elaborating on the current crisis which is linked to certain historical legacies, and sharing his perspectives on political stability in the country and also in the region.

At present Pakistan is facing a complex situation which is closely connected to the situation in Afghanistan through the *Federally Administered Tribal Areas* (FATA) and *Frontier Regions*. Both countries are separated by a porous border called the *Durand Line* which also separates tribes and families and is, thus, hardly recognized by many local tribes on either side of the border. Many of the local people cross the border regularly, due to the fact that they have relatives, friends or any other kind of connections within both countries. However, not only families and traders cross the border but also insurgents and extremists. The harsh geographical conditions of the high mountains and rough terrain further facilitate the activities of these groups. The *Tehrik-e Taliban Pakistan* (TTP) is based in FATA. It is a terrorist organization which not only threatens the Pakistani state and society but also interferes in Afghanistan by supporting insurgents who are fighting against foreign i.e. Western troops. The tribal areas also offer a place where the Afghan Taliban can retreat to.

In regard to the cross border activities of extremists, the only solution has always been a military solution particularly as far as the US is concerned. There has also been a large amount of pressure on Pakistan to counter or to fight the Taliban on its side of the border. However, the Pakistan Army has already conducted several military operations against the extremists in the tribal areas; in Swat, in Buner, and more recently, in South Waziristan. Nevertheless, the US is very keen for the Pakistan Army to launch an operation in North Waziristan which is home to the Afghan network and other groups that are suspected to be supporting the Afghan Taliban.

By now, the course of US Pakistan/Afghanistan policy for has changed slightly and includes a distinction between “good” and “bad” Taliban. There are talks of negotiations and talks of breaking away from Taliban leaders like Mullah Omar particularly with insurgents who are barely ideologically committed, if at all. They are offered incentives such as protection to break away from their groups and leaders. But there is a sharp difference in opinion between the Pakistani government and the military, on the one hand, and the US, on the other. The US emphasises that the operation against the Taliban must be expanded in Pakistan. The Pakistan Army, however, has announced that no new operations are envisioned in the FATA.

At the same time, various countries - most of all India and Pakistan - which are involved in Afghanistan are pursuing their own, at times conflicting, interests in the country. Other countries, including Iran, Russia and to some extent China, also claim a stake for themselves in regard to the present situation and also to the outcome in Afghanistan. The general perception is that the solution for sustainable peace and stability in Afghanistan can only be achieved through a regional approach since if the interests of those states are not addressed, they possess a veto ability to undermine any possible settlement in Afghanistan. Thus, it is likely that Afghanistan will remain in a state of proxy war, particularly, between India and Pakistan, and, thus, Kabul and Kashmir will become linked to each other to a certain extent. A general trust deficit exists between both India and Pakistan which is characterized as “Pakistan’s gain is India’s loss” and vice versa. Therefore, the conflict that has already existed for decades hampers the development of regional stability.

Abbas Rashid further explained that for a few years Pakistan and India have had a composite dialogue in which both countries were dealing with a number of conflicts and issues. However, after the Mumbai attacks in November 2008, India discontinued the dialogue as Pakistan was suspected to have been involved in the attacks. Afterwards, it became clear that the terrorists had indeed used Pakistani soil to plan and prepare the attacks. Although India had an understandable reason to discontinue the dialogue, this situation clearly reveals a general problem. If an ongoing process of negotiations or talks is discontinued due to terrorist acts then veto powers are given to the militants who are aware of this fact. Thus, peace and stability cannot be achieved if militants have the power to break off any rapprochement between India and Pakistan.

Another problem is the fact that the Pakistan Army is still India-centric although the situation at Pakistan’s north-western border to Afghanistan, where the army has already suffered a huge number of casualties, is more serious than the situation at its eastern border. Thus, the statement of India’s Army Chief, General Kapoor, a few weeks ago that India is able to fight a war at both fronts simultaneously with China and Pakistan, has not contributed to the improvement of the existing difficult atmosphere. In this

regard, the statement only leads to general political indecisiveness and locks both countries into the positions they have traditionally held for decades.

A good chance to improve the relations in the region was the India-Pakistan-Iran Pipeline Project which was, however, regarded with disapproval by the US. Washington made it clear that every country participating in this project would be blacklisted. India pulled out of this project in favour of their relations with the US and the upcoming India-US nuclear deal.

In his final remarks Abbas Rashid referred to the internal political situation particularly with regards to the *National Reconciliation Ordinance* (NRO) which was an amnesty law that prevented many high ranking people, including leading politicians, to be charged for their crimes (e.g. corruption etc). The Supreme Court declared the NRO enacted by Musharraf to be illegal. The decision has put President Asif Ali Zardari (one of the beneficiaries) on notice, thus, creating pressure on him. Since Zardari is from the ruling *Pakistan Peoples Party*, the Supreme Court's judgement can easily lead to a political crisis, fulfilling aspirations of the opposition parties to oust the present government and to hold midterm elections. In this regard, there is a general feeling that the decision has become political. But the Supreme Court, however, should not become too involved and politicized on this issue since the constitution already provides different ways (e.g. impeachment) to oust a president.

As a final statement Abbas Rashid highlighted the general perception of the Pakistani public towards the Taliban and US policy. On the one hand, people distance themselves from the views and ideas of the Taliban particularly in regard to the increased number of suicide attacks and bomb blasts. On the other hand, however, there is also a rising anti-American sentiment resulting from ongoing drone attacks, the presence of US soldiers and the activities of Blackwater. The anti-Taliban mood as well as anti-Americanism is creating the perception that there is a lot of support for religious or conservative forces which are also related to *madrassas* (religious schools) and extremism. However, political religious parties have never been popular in Pakistan and they have hardly had the opportunity to participate in political processes. Only with a good deal of help from Musharraf, the alliance of religious parties, the *Muttahida Majlis-e Amal*, was once able to receive 11% of the vote and thus became part of the government. Even in very conservative areas in the North-West Frontier Province, such as in Swat, the religious parties have no stronghold. Instead, people voted for the secular *Awami National Party* and the *Pakistan People's Party*.

Discussion Round

After the key note speech the floor was open for a discussion round focusing initially on the actors who could provide or contribute towards a regional framework for peace and security. One step into this direction could have been the London Conference on Afghanistan. However, most of the issues the conference dealt with, were discussed on the critical premise of a continuation of the Karzai government and the domestication of the efforts in the country. In this regard, the crucial question is how to ensure security when Western forces leave Afghanistan? By now, the attrition rate of the Afghan Army or the police is alarming. They can barely maintain their strength since the same amount of people are joining the army and police force as are leaving them. Setting a fixed time frame for leaving Afghanistan would be beneficial for the Taliban as it would step into the emerging power vacuum.

Furthermore the question was posed regarding the possibility of an institutional framework to find a regional solution? Is the *South Asian Association for Regional Cooperation* (SAARC) a forum or an alternative? The dispute between India and Pakistan has hampered the idea of a regional development or enterprise so far. Nevertheless, SAARC is a possibility which could be explored. However, even if there are other possible forums for an institutional framework, the crucial question remains: Under whose aegis will the countries come together? Who will be in the centre? If there will be no consensus on the leadership than the whole idea of an institutional framework is bound to fail.

An argument was also voiced against a regional approach since it would provide no added value if there has been no improvement or solution for the Kashmir conflict over 60 years and also no solution for Afghanistan over 30 years. In so speaking, would it take 90 years to reach a solution via a regional approach? Nevertheless, it was stated that a regional approach might be useful in the case of Afghanistan, however, not in the case of the Pakistan-India conflict. Particularly in regard to the latter case it was doubted that linking Kabul and Kashmir will lead to a solution of the conflict. The advice is to keep the issues separate from each other because both conflicts are already complicated enough and it will take a long time as well as a huge sum of money in order to find a solution. However, it was responded that only the various legitimate interests of countries in Afghanistan have to be resolved regionally. Thus, the conflicts of India and Pakistan and the conflict in Afghanistan become automatically

linked because there is no minimum level of trust between Pakistan and India on Afghanistan. Once there is a minimum level of trust resulting from a certain kind of settlement over the Kashmir conflict, then both countries could contribute towards peace in Afghanistan.

Another question was posed relating to relations between Pakistan and India. How can India's offer to resume the dialogue with Pakistan after the Mumbai attacks be assessed? The question was also posed: who would the Indians talk to? There is an increasingly weakened Pakistani state caused by the strong American involvement, and there is an India-centric army which is not willing to engage in any talks or compromise with India on the issue of Kashmir. Nevertheless, it should also be considered that India has also used the argument of whom to talk to a quite often. During Musharraf's rule there was a chance for serious talks since Musharraf adopted a very flexible position, including the idea that Pakistan is going beyond the UN resolution (i.e. dropping the demand of a plebiscite) on Kashmir. India responded to the offer by waiting for a democratically elected leader in Pakistan. Another issue is the fact that the talks between India and Pakistan have hardly focused on any approaches for a solution. Instead, both have been holding talks about more talks and organisational issues such as what is to be discussed, at what time, who should be invited and so forth. In the middle of negotiations, incidents, such as the Mumbai Attacks led to a discontinuation of any further talks. Thus, there has been a momentum for resolving the conflict more than once but this chance, for one reason or the other, has never been seized.

The next question was linked to FATA. Is there a debate in Pakistan about the future of FATA? Should this area be incorporated into the North-West Frontier Province and become a province of its own or should Pakistan re-establish a traditional order by strengthening the *maliks* over the *mullahs* as the situation was prior to the 1970s? By now, people in FATA do not want to be integrated as this step should have been taken a long time ago. Instead, they prefer to become a separate province. Whatever the result will be, it is important to incorporate the opinion of the local people in any decision making process, to repeal the British legacy in shape of the *Frontier Crime Regulations*, and to integrate FATA in the sense that Pakistani law also applies to that part of the country.

Assuming the possibility that all actors in the region agree upon a solution and a timeframe for leaving Afghanistan, should the international community initiate a form of rehabilitation programme for people of the border region and tribal areas? The answer was given that implementing any kind of rehabilitation or development programme will be a difficult undertaking since most of the local leaders approached tend to be killed by the Taliban. Nevertheless, there is definitely a need for such a programme since without developing and supporting the border region, peace and stability is unlikely. Thus, the message is that if half of the funds spent on military purposes in the region are spent on activities promoting peace than the region is on the right track.

Two years ago Pakistan witnessed a transition from military to civilian rule. The people, however, claim that nothing has changed now that Pakistan has a civilian leader rather than a military dictator, since he is seen to be following the same policies as his predecessor, General Musharraf. There have been, for example, continued drone attacks and it is not clear how many innocent people and how many militants have been killed in such attacks. There were also incidents of bombed wedding parties. As a consequence, there is a huge amount of resentment and anger among the people which in turn fosters anti-Americanism. Another problem is that the militants in Pakistan and the region do not form a homogeneous group led by a single charismatic leader. There are many small groups with different leaders. Therefore, it is impossible to capture or kill a particular leader which would then have a destructive effect on the whole insurgency. After the killing of Baitullah Mehsud for example - a leading figure of the TTP - the number of suicide attacks increased. Thus, it was doubted that drone attacks in Pakistan's tribal areas are a proper means of dealing with the leadership of the insurgency groups.

Another question was linked to the inner political situation with regards to the relationship between the Army Chief General Kayani, President Zardari and Prime Minister Gilani. The relationship between Kayani and Zardari is difficult and most of the important meetings have been held between General Kayani and Prime Minister Gilani. One of the clearest indications of conflict between these three parties was at the time when the *Kerry-Lugar Bill* was hotly debated. This bill consists of 1.5 billion Dollars of US assistance over a period of five years as long as certain conditions are fulfilled. One example being that it will be the duty of the Secretary of State to ensure that the Army at all times is acting in subordination to civilian authority. The Army's opinion was that such clauses were deliberately put into the bill on behest of the Pakistani government through the ambassador in Washington and, thus, they resented them deeply. Another remark was related to the impact of foreign intervention via the *Kerry-Lugar Bill*. It was doubted that intervention of foreign actors would make a difference if there is no real ownership from the actors involved on the ground.

One of the most important people in the country, General Kayani, will retire in November this year. Therefore, the question arose, who will be the next Chief of Army Staff? This led to the question regarding the next generation of army generals who had entered the army during the 1980s and early 1990s when Pakistan suffered a variety of sanctions from the US and when Pakistan had hardly any links to Western countries. What kind of brigadiers or generals of the next generation can be expected? Will they be more resentful of the West, more Islamic or will they be more moderate? In response to this, it was stated that there have already been earlier controversial figures in power such as Army Chief, Aslam Beg, or Director General of the Intelligence Service, Hamid Gul - adding "it usually does not get worse". It is difficult to state what kind of people will follow with the next generation.

One of the final issues was related to the Baluchistan package, which is, indeed, regarded as a positive step and achievement of the present government despite continued criticism by Baloch leaders. For Baluchistan it is not only the question of resources but also a question of provincial autonomy, which is a crucial issue in the whole of Pakistan.

As concluding remark of this session it was stated that there is a ray of hope that civil society organisations in India and Pakistan have started to talk to each other about different issues of peace and stability.

Session 2: A Ray of Hope: The Case of the Lawyers' Movement in Pakistan

The second part of the expert round table was opened with an input by **Saima Jasam**. She shed some light on the successful Lawyers' Movement, the judicial history of Pakistan, the role of civil society as well as the media and other stakeholders.

Amongst all the political upheavals which include suicide bombings, military operations, the assassination of Benazir Bhutto, the declarations of emergency by Pervez Musharraf as well as the change in government, the two year non-violent Lawyers' Movement not only survived but played a pivotal and significant role in bringing about a historical change. Although there were and still are many other movements in Pakistan such as the women's movement, the landless peasants' movement, and the revival of student and trade unions, they have not emerged as mass movements. However, the Lawyers' Movement was different because it was the first ever collective movement of the people. Although it was led by lawyers, people from a variety different backgrounds including women, political and religious parties, trade unions, students, journalists, minority groups, and others participated in this movement. Their overarching connecting element and demand was the rule of law and freedom of the judiciary.

On March 9th 2007, General Musharraf suspended the Chief Justice (CJ) Iftikhar Chaudhry on charges of misconduct and misuse of authority. The CJ of Pakistan surprisingly refused to resign, and, moreover, his decision was supported by the lawyers. This was a crucial and historic moment and the Lawyers' Movement for the restoration of the country's CJ began. Some termed the Lawyers' Movement a road to stability and others a step in the right direction. Some called it an example of the power of the people, while others marked it as the dawn of a new and independent judiciary. Many considered it to be the rebirth of Pakistan – everyone appeared to weave their own dreams and aspirations into the success of the Lawyers' Movement. However, the fact remains that for the first time in the short-history of Pakistan, a large number of Pakistani people stood up to the executive and the military with a collective slogan, "Enough is enough!"

Saima Jasam continued to elaborate on the troubled judicial history in Pakistan. Since independence in 1947, the judiciary and the legislative have been exploited by at least three Governor Generals, seven Presidents, 26 Prime Ministers and four Chiefs of Army Staff. Since 1954 the "doctrine of necessity" has been abused to the point of providing a judicial cover up of the illegal and ultra-constitutional actions of the military and bureaucracy in Pakistan. Over time, this relationship has developed into a strong, but invisible alliance between the judiciary, army and the bureaucracy. Any attempts to break this alliance by the judiciary have been viciously and brutally resisted by the military and the bureaucracy. After 1983 a new vigorous movement emerged among a new generation of judges because of general dissatisfaction with previous track records and the role of the judiciary in approving martial law. However, the political parties did not join or support the judges in taking up the issue of the supremacy of the judiciary. Thus, their aspirations and judicial assertiveness remained very limited. Nevertheless, there are several examples of judgments in regard to unconstitutional actions which were often delivered too late. In 1972 the Supreme Court declared the imposition of martial law by General Yahya Khan to be illegal - long after

he was deposed. The court observed that the actions of the General were not justified by the revolutionary legality doctrine. In 1989, the Supreme Court declared the dissolution of the National Assembly by General Zia ul-Haq as invalid. Sadly this decision came after Zia's death in 1988.

However, after the coup that led Musharraf to power in 1999, the judiciary played a different role. The Supreme Court not only justified the military coup d'état, but also gave Musharraf powers to amend the country's constitution according to his will. Furthermore, many judges, including Iftikhar Chaudhry, took their oath under the unconstitutional *Provisional Constitutional Order* (PCO). Chaudhry was also among the judges who validated the military takeover, the presidential referendum, the *Legal Framework Order* and the 17th Constitutional Amendment that gave General Musharraf additional powers as President and simultaneously allowed him to remain the Army Chief. Thus, Chaudhry was considered to be the last person to resist orders of the Musharraf Government.

It was not before June 30th 2005, after the appointment of Chaudhry as the youngest CJ of Pakistan, that Chaudhry came into conflict with the government. He took a keen interest in public interest litigation through *suo moto* actions - the majority of them turned out to be against the government. In this regard, there was, for instance, *suo moto* on the missing people cases where several hundred people were illegally detained by authorities on suspicion of being pro-Al Qaeda. Various chiefs of influential intelligence agencies (ISI, MI, IB) were ordered to appear before the court, and this caused a certain unease amongst the military but also within US circles. However, the courts appeared to assert independence with the CJ taking on the government authorities and challenging their decisions, eventually resulting in the suspension of Chaudhry.

Although Chaudhry was not the first CJ to be removed by a military dictator (CJ Muhammad Yaqub Ali Khan in 1977; CJ Sheikh Anwarul Haq in 1981; CJ Saeeduz Zaman Siddiqui in 2000), he was in fact the first CJ who had support and who fought for his case. Therefore, the resistance by CJ Chaudhry is considered to be a historic moment in the judicial history of Pakistan.

After the suspension of the CJ the Lawyers' Movement organized several "Long Marches" demanding his restoration. Finally, Chaudhry was restored on July 20th 2007 as the first CJ who was removed by a military dictator. Again, he took up important cases causing conflict with the government such as the electoral rolls case (a petition against the electoral commission for having removed 22 million names of eligible voters from the electoral roll), fundamental rights cases (unauthorized granting of government land to influential people; violence against women), the return of the Sharif brothers, and most importantly the holding of dual offices by General Musharraf. When the latter case was about to be decided, Musharraf declared a State of Emergency on November 3rd 2007.

Following this, judges were required to take a fresh oath under the PCO 2007. However, around 43 judges of the High Courts and Supreme Court refused to do so. Chaudhry and several other senior members of the judiciary were taken into custody and later put under house arrest. Nevertheless, a new CJ was appointed, Justice Abdul Hameed Dogar. This development revived the Lawyers' Movement, and the country witnessed further far reaching events: the return of political leaders such as Benazir Bhutto and Nawaz Sharif from exile; General Musharraf stepping down as Army Chief on November 28th 2007; the Emergency being lifted; and, the assassination of Benazir Bhutto on December 27th 2007.

Despite the death of Benazir Bhutto, elections were held in February 2008. Musharraf's party, the *Pakistan Muslim League Qaid-e Azam*, lost its majority mainly due to the military operations in Baluchistan and the tribal areas as well as due to the removal of the CJ. Yousuf Raza Gilani became Prime Minister of the newly elected government of the *Pakistan Peoples Party* and he ordered the release of all judges including Chaudhry, though he was not restored as CJ. It took another year of protest by the Lawyers' Movement to pressure the government into restoring Chaudhry's position as CJ.

Saima Jasam further emphasized the special role of an active media and a vibrant civil society which played an important role in the success of the movement despite facing several difficulties and threats including suicide bombings and harsh government pressure. Every activity or action by the movement and the government, and also the clashes between protesters and security forces including mishandling the lawyers and the CJ, were broadcasted. Various TV channels initiated talk shows to discuss the importance of a free and independent judiciary. Furthermore, women and other human rights organizations also played a significant role in the Lawyers' Movement. Women including female lawyers, members of civil society, political activists and working class women have been struggling shoulder-to-shoulder with their male comrades. Along with men, many of these women activists were *laathi*-charged (beaten with sticks), tear-gassed and even put behind bars as a result of the imposition of emergency rule. Among the protesters were also many students from government and private colleges - some of them participating with some reservation: "We want revolution but please don't tell our parents!" It was

not before March 15th 2009 that the final “Long March” of the Lawyers’ Movement from Lahore to Islamabad took place. Eventually, Prime Minister Gilani announced the restoration of all deposed judges, including the CJ, in a pre-dawn speech the next day. The CJ of Pakistan finally resumed office on March 22nd 2009.

In conclusion, Saima Jasam stated that the civil and military rulers of Pakistan has treated and considered the judiciary and legislature as subservient to the executive for over 60 years. Almost one year after the successful Lawyers’ Movement some judicial reforms, such as the *National Judicial Policy Making Committee*, were initiated that may produce long-term benefits. This would contribute towards the timely disposal of cases and would be a first step towards separating the judiciary from performing the duties of the executive. Furthermore, a 14-member full bench of the Supreme Court removed 34 judges of the Lahore High Court for either having taken oath under the PCO or for having been appointed on the advice of Justice Abdul Hameed Dogar, who was appointed as CJ by General Musharraf following the declaration of emergency. More recently, the Supreme Court delivered a historic judgment on the *National Reconciliation Ordinance* (NRO).

As a final remark of optimism Saima Jasam stated that no army in the history of mankind has ever been able to stop the march of an ‘idea’ whose time has come. The concept of democracy and rule of law might be new to the people of Pakistan but they have witnessed that under an able leadership the seeds of a peaceful revolution can bear fruit.

Discussion Round

The first question in the round was raised with regards to General Kayani’s role in early January 2008 where he kept the army away from politics and also from the general elections. Without this important and crucial order the political situation might have taken a different development. It was added that General Kayani, since he took over the position as Army Chief, has removed all military personnel from civilian institutions particularly as heads of different departments or institutions. This was highly appreciated by the public. It was further commented that in regard to his positive role some credit should be given to General Kayani as Army Chief and as Chief of the Inter-Services Intelligence Agency (ISI) and to some extent also to General Musharraf. Pakistan witnessed a strange quasi-revolution with a comparatively few number of victims. It was General Musharraf himself who perhaps paved the way for this development because he introduced freedom for the media and opened up space for civil society. Moreover, meetings and gatherings during the Lawyers’ Movement were supervised by members of the intelligence agencies who were merely taking notes and had hardly interfered. Thus, the relationship between civil society and the government was not as bad as it is sometimes described, although people were also put behind bars. Last but not least, it was further commented that most credit, however, should be given to the lawyers because they faced resistance, pressure and also violence.

What is the present state of the Lawyers’ Movement? Is it still a mass movement? Has it split up or has it become a movement of certain classes? It was stated that the movement was not a movement of a certain class although it was initiated by the lawyers. Many people from different backgrounds and different classes (lawyers, politicians, activists, students, workers, men, and women) have joined the movement. Although the movement has lost its momentum and is disintegrating after having achieved their common goal of restoring the CJ, it still represents the demands of the people. The general masses are upset and dissatisfied as the common man is still not benefiting from justice and rule of law. People demand achievements and improvement within the political parties and within the judiciary and these demands are not limited to certain classes.

It was further asked what the legacy of the Lawyers’ Movement is aside from having provided a stimulus or impetus for democratization? Can there also be an institutional legacy as a result of the movement? Is there also a political legacy and why do the the same old political parties continue to exist? What is the impact of the movement on political parties? So far, the impact of the movement on the parties seems to be very limited particularly in regard to the democratization process in the country. Different political parties took part in the movement. The *Pakistan Peoples Party* was active in the beginning before they were in power; also the former cricket player Imran Khan’s *Tehrik-e Insaaf* and the Islamic parties participated. However, the Nawaz Sharif’s *Pakistan Muslim League* was very active and remained in the forefront. The parties tried to politicize the movement for their own aspirations and interests. However, the lawyers continued to cultivate their neutrality and maintained a non-political movement. In terms of strengthening political parties and the process of democratization, Pakistan most likely needs another 10 to 15 years of continuous democracy. Governments need to receive the chance to finish their tenure regardless of their achievements and failures. Military regimes such as those of Musharraf and Zia ul-Haq had been given 10 to 12 years to rule the country, why not provide the political parties with an equal

timeframe? The legacy of the Lawyers' Movement for civil society and the common people is different. Many people from different backgrounds took to the streets to simply protest and to show their frustration with the government and the politicians. The success of the movement created a kind of awareness among the people that it is possible to achieve change if they work together. Thus it might be likely that a new movement may emerge if the demands of the people are not met or even ignored.

Another issue was related to the status of the NRO. There are around 8000 cases that exist against various politicians. With this in mind, it was asked whether an amnesty for politicians is so bad in Pakistan when an amnesty for the Taliban and an amnesty for freedom fighters in Kashmir, as suggested by the Indian government, have been discussed. How the military or bureaucracy has handled cases like the 8000 mentioned above should also be considered. The politicians involved were offered either to go to jail or to join the government. Therefore, the question should be asked, what prevents Pakistan from falling back to its old ways? Since it is impossible to deal with 8000 cases, a selection of only a small number of cases must be made which requires decisions that are, consequently, political. Despite this fact the judgement on the NRO is, nevertheless, a highly symbolic act, particularly from the perspective of civil society. It is not only the common man but also politicians and other high ranking people who can be charged for their crimes. Yet it was admitted that the Supreme Court is to some extent interfering too much in the political sphere but has set a certain tone, in the sense that everybody can be challenged. Nevertheless, the fact must be considered that the NRO has already been debated in parliament without any result and that is why it has been brought to the court. Furthermore it is was remarked whether it would not be counterproductive to the efforts of democratization or maybe derail the whole system the people have fought for, if the cases against President Asif Ali Zardari were reopened.

Another question touched on the issue of the relationship between the military, the society and its classes. In this regard it was questioned why CJ Chaudhry had suddenly changed his behaviour since he was not expected to resist Musharraf. Was it for purely selfish reasons, due to a personal dispute between him and Musharraf, or was there another factor at play here? What was the reaction of society, since Musharraf's coup in 1999 had been welcomed by the people? A satisfying answer to the first speculative question was not given. It was assumed that the government may have pushed the CJ too far. Or, if the government had offered sufficient incentives to the CJ, he may have considered them. If the CJ only faced the choice of 'take it or leave it' he simply decided in favour of the latter option. However, there must have been certain issues that eventually led to Chaudhry's resistance. In regard to the second question it was stated that there was no immediate reaction a day after this incident since people were shocked and stunned. The anger came when TV channels broadcasted the behaviour of the police as they pushed the country's CJ into a car.

Another question was linked to the strength and weaknesses of civil society. There is no doubt that weaknesses exist within Pakistan's civil society (including professional associations, labour and trade unions, universities etc.) and that some of them have structural weaknesses. One reason for this is the civil-military imbalance and the frequency of military take-overs which has hampered the development and undermined the activities of civil society. Therefore, the Lawyers' Movement as a movement of civil society played a crucial role in strengthening it. Furthermore, there were two important components that gave the civil society a voice: the lawyers and the media.

The Lawyers' Movement has touched upon the important issue of the implementation of the rule of law and the difficulties in the division of powers. What are the root causes and who is working for a solution to these problems? The imbalance within the civil-military relationship has been aggravated since independence, when Pakistan turned into a security state faced with military conflicts. Thus, the military and its role within the state has been continuously strengthened. However, the imbalance cannot be corrected immediately but gradually by reducing and revealing the military's budget and raising the budget for institutional development, which is a long-term process.

One of Pakistan's main problems is the supremacy of the military in various areas. Thus, the important question is which institution is going to challenge the power of the military? Is it the parliament, the political parties or the judiciary? It was doubted that it could be the parliament or the political parties. It was argued that the judiciary is the only institution which is most likely capable of challenging the military, though the judiciary cannot implement its decisions. Another statement suggested that it can be only the military itself that is able to limit its own powers. It was also stated that only the people can challenge the military - however there is not yet a final answer to the question. But in regard to the number of years of military rule, this question urgently needs to be considered and discussed. It is not only the military but also various political leaders who are appearing again and again and who have misused their powers during civil-democratic rule. Despite this fact, another military coup is the last thing the people of Pakistan want. Nevertheless, it should also be considered that there is a general tendency to blame the

government for every failure and a lack of appreciation of even the slightest achievements, such as the army budget having been debated for the first time in parliament and discussions having been held about provincial autonomy in particular the package for Baluchistan. The present huge security issue pushes aside these comparatively minor but positive results. However, it was also argued that it must eventually be the political parties who are in the position to challenge the military since they represent parliamentary democracy, as well as aggregate and articulate the interest of the people. Nevertheless, considering this fact reveals structural problems. On the one hand, Pakistan has no institutionalized party system and, on the other hand, there is an overdeveloped bureaucracy and military. Another remark was linked to the fact that Pakistan is lacking a real constitution and there is also no consensus among the political leadership to form a constitutional committee to tackle this problem. A concluding remark was that supremacy of the military can only be challenged by a multi-faceted approach led by the political parties, the judiciary and the people collectively

Finally, the role of the media was addressed. Despite the media's liberating and emotive effects which are important for movements such as the Lawyers' Movement, there are also negative impacts of sensationalizing and biased analyses. In Pakistan there are a wide variety private TV channels which are simultaneously commercial enterprises. They each voice very different views. Islamic scholars, for example, expressed a very narrow attitude to religion which had, in some cases, detrimental and disastrous effects resulting partly in people being killed. It was added that, indeed, media in Pakistan is free and this also leads to unrestrained as well as biased news coverage. Thus, there is a need to develop a certain "code of conduct" for the media since almost all Pakistanis have access to some form of media, such as a television, radio or a newspaper. Quality media makes an important contribution in educating and enlightening people on certain social, ethnic and religious issues.

Concluding Remarks

The objective of this round table was to shed some light on the importance of Pakistan in the region particularly with regards to its role within peace and stability. Another objective was to highlight the internal political challenges the country faces.

The Heinrich-Böll-Stiftung will continue to pay further attention to Pakistan and the region, and will continue share and exchange information in the shape of publications, round table discussions and public events.

Annex: Table of Contents and Introduction of the Publication

Pakistan - Reality, Denial and the Complexity of its State

Table of Contents

Preface.....	7
Introduction.....	9
Abbas Rashid	
The Past is not Another Country: Democracy, Development and Power in Pakistan.....	11
Rubina Saigol	
Class and Politics in the Radicalization of Pakistani State and Society.....	37
Hasan-Askari Rizvi	
Political Parties and Fragmented Democracy.....	66
Kaiser Bengali	
Pakistan: From Development State to Security State.....	83
Pervez Hoodbhoy	
Pakistan's Nuclear Trajectory Past, Present, and Future.....	111
Azmat Abbas and Saima Jasam	
A Ray of Hope: The Case of Lawyers' Movement in Pakistan.....	140
Abbreviations	171
Authors.....	174

Introduction

To compile a journey of Pakistan's democratic history since its inception, is not an easy endeavour. It marks a multi-layered trajectory of contrasts and contradictions, be it in the social, political and/or economic domains since the very inception of the country in 1947. Contouring through this journey highlights and brings to the forefront the amalgamating factors responsible for the present complexity and fragility in the Pakistani state.

To this end, the first chapter by Abbas Rashid, an educationist and a journalist, focuses on the inadequate industrial and human resource base that existed when Pakistan came into being. It talks about its weak civil society and political institutions and how the imposition of a central design on a federal state created hurdles in the way of provincial autonomy. The latter remained and is at present one of the biggest challenges to the unity of the Republic of Pakistan.

Reflecting on the civil-military imbalance and on continued military domination through cycles of civil-military rule, the chapter sheds light on the present state of democracy and its politics. The question of identity and the ideological contention, as inherited from the very beginning in a newly created state, manifests well the present state of affairs in the Pakistani society.

The journey is carried through by a renowned scholar and a women rights activist Rubina Saigol who in her chapter aptly teases out the root causes of 'Islamization' and 'Radicalization' in Pakistan. Deliberating comprehensively on the role of both the military and civilian governments, as well as the civil society towards 'Radicalization', she concludes the factual discussion of it with remedies and recommendations.

Dr. Hasan-Askari Rizvi, a scholar and a political analyst, in the next chapter provides an analytical account of the various political parties in Pakistan. He focuses on the major features of the political party systems, thereby underpinning their internal democratic/undemocratic, dynastic and feudal structures. In the backdrop of such determinants, he analyzes the present state of democracy in Pakistan and its transition, fragmentation, and fractured polity.

In the fourth chapter Dr. Kaiser Bengali, an economist and a scholar, gives a detailed historical account of Pakistan's economic policies and development, from since the inception of the country to date.

Realistically deciphering its impact on economic performance, equity and poverty, the author well articulates the transition of Pakistan from a development state to a security state and concludes that the roots of the crises are not economic but rather political. The entire paper is facilitated with various data-based charts, facts and figures to provide a compelling presentation explaining the present fragile state of affairs.

Dr. Pervez Hoodbhoy, Professor of Physics and a scholar, in the fifth chapter of this journal narrates the evolution of Pakistan's nuclear stance and doctrines over the decades and reflects upon the threats to the safety and security of Pakistan's nuclear assets. In doing so, he traces the historical account of India and Pakistan's nuclear capability and race, the fallout effects of the regional nuclear politics and the loose nukes problem dealt with politically and technically. Dwelling on the details of the present status, a vivid account is given of how the nuclear weapons capability is used as an instrument of Pakistan's foreign policy. Further, considering that the Pakistani society and the political state apparatus is gratifyingly jubilant and proud of being a nuclear state, an analysis is presented on how this acquisition is achieved and upheld at an exorbitant financial cost and resources. The author wraps up the analysis by concluding on a note of the logic and repercussions of being a nuclear state.

In its concluding chapter, the journal ends with an optimistic note on democracy in Pakistan and its potentials. Azmat Abbas, a free lance journalist and a researcher and Saima Jasam, the Head of programmes of Heinrich Böll Foundation Lahore, reflect upon the historic Lawyers' Movement and the space it provided to all sections of the society of Pakistan. Against the before analyzed Pakistan's historical legacy and the prevailing radicalization, militarization, and fractured democracy, this chapter finally gives a ray of hope.

We do hope that this journal will build some scholarship on Pakistan, not only on its realities, its complexities but also on its strong capacities. We leave it up to the reader to draw her and his own conclusions.