

PAKISTAN MISSION
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MAIN FINDINGS, JUDGEMENTS AND RECOMMENDATIONS

Report to Hon. John Manley, Minister of Foreign Affairs
Friday, August 24, 2001

THE MISSION

At the Minister's request, I undertook a mission to Pakistan to provide an independent assessment of the Government's plans for elections and the restoration of parliamentary government, what has been called "the roadmap." As well I was asked to provide an update on my April 2000 reports regarding the general governance situation in Pakistan.

Following briefings in Ottawa, I had meetings in London on August 3 with officials of the British Government (the Foreign Office and the Department for International Development-DFID), as well as officials of the Commonwealth Secretariat.

I spent from August 6-13 in Pakistan, interviewing government officials, representatives of Commonwealth governments, political party representatives, people from civil society organizations, the media and business, as well as independent analysts. The meetings took place in Islamabad, Lahore and Karachi. I also paid a visit to a village in the hill country near Rawalpindi where I met some independent minded and plain spoken Pakistanis.

I want to thank all those, officials and ordinary citizens alike, who took the time to share their thoughts with me. I want to acknowledge the excellent work of the staff of the Canadian High Commission in Islamabad in organizing and supporting my mission. The Acting High Commissioner, Glyn Berry, was of great help throughout.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

What I have found and recommend can be summarized under two headings:

1. The Roadmap

The military government's plans for a return to parliamentary government meets Commonwealth requirements to a reasonable degree. However, the Commonwealth should remain critically engaged throughout the transition process from now until the handover of power to elected national and provincial governments in November 2002.

On August 14, the President of Pakistan provided a roadmap for the holding of elections and the restoration of parliamentary government that should satisfy immediate

Commonwealth requirements, and therefore no further sanctions are called for at the present time. Instead the Commonwealth and its individual members, including Canada, should engage the Government and people of Pakistan over the next 15 months and beyond – the transition period – in such a way as to assist and carefully monitor the electoral process, constitutional amendments and the re-establishment of parliamentary government. The central question is whether the military government will transfer power to newly elected provincial assemblies and the national Parliament or seek to retain control after the elections? A related issue is whether the civilian politicians will apply lessons they claimed to have learned and behave more responsibly than they have previously in exercising power and doing politics. In my April 2000 report to the previous Minister of Foreign Affairs, I recommended a Commonwealth and Canadian policy of “critical engagement”. I would again recommend the same general policy.

2. Update on a (Somewhat) Less Failing State

Compared to the time of my previous mission in April 2000, Pakistan has made modest progress in arresting the national decline, although the longer-term outlook remains bleak. The international community should pay more attention and provide more support to Pakistan than it does at the present time.

In addition to reporting on the roadmap to democracy, I was asked to assess the general governance situation in the country and report any observations or recommendations I might have. In the almost two years it has been in power, the military government has made some progress in strengthening local government, fighting corruption, initiating dialogue with India and arresting the decline of the economy. Moreover, there seems general agreement that the rule of the military has been relatively benign and respectful of human rights. The media, for example, continues to be one of the liveliest and most independent in Asia. I also found that people seemed less worried about militant fundamentalism than they had been during my first mission. As recent events in Karachi have shown, terrorism linked to fundamentalism remains a serious national threat but people had somewhat greater confidence in the moderation of the military government and its determination to confront terrorism, whatever its source.

These accomplishments are to the Government’s credit but the prospects for Pakistan remain bleak. Both population and poverty are growing rapidly. The economy may have ended its freefall but is still not attracting significantly increased levels of foreign investment. Law and order continue to deteriorate, at the hands of terrorists and those desperate for their next meals. There are also ominous signs of a growing “Titanic mentality.” Emigration of professional Pakistanis continues to rise, a recent opinion poll reported that some 40 percent of the population wants to leave the country and many with the means to do so have arranged for their children to be educated abroad. As a group of villagers put it to me, the question is whether any government, civilian or military, can do anything to create jobs and to improve education and health care services? The international community has a large stake in Pakistan “making it”, a fact that is sometimes obscured by the attention paid to Pakistan’s powerful neighbor India. A failed

state with nuclear weapons is an ominous prospect for the South Asian region and the globe generally.

THE ROADMAP

- 1. The elections roadmap meets the Commonwealth test to a reasonable degree. To ensure that the elections are free and fair, the Commonwealth should monitor the process closely, from start to finish, and offer substantial assistance.**

The Commonwealth and Canada have pressed the Government of Pakistan to provide a “roadmap” for elections and the restoration of parliamentary government, failing which the Heads of Government meeting in Brisbane could take further steps to sanction the military government. In a wide-ranging speech on August 14 (a speech that was devoted largely to other matters), President Musharaf described a four phase process for restoration of democracy.

Phase One was completed with the swearing in of local elected officials on August 14.

Phase Two will extend from September 1, 2001 to June 30, 2002. During these nine months, preparations for elections to the provincial assemblies and the National Assembly and Senate will take place, including delimitation of constituencies, preparation of electoral rolls and ID cards. There will also be a constitutional amendment package that will be published for public debate by the end of May and finalized by the end of June 2002.

Phase Three will kick off on June 10-11 when the Government will announce the voting days of the national and provincial elections. Voting will take place sometime in the period October 1-11. The election process will kick off on August 1, 2002, when the Election Commission will announce the election schedule. The process of filing nomination papers and their scrutiny, publication of final lists of candidates, assignment of party symbols, printing of ballot papers, nomination of returning officers and designation of polling stations will commence on August 7, 2002.

Phase Four will take place in October-November with oath taking, election of Speakers and Deputy Speakers, the formation of governments and the President’s address to a joint session of Parliament.

This roadmap provides sufficient detail to meet a reasonable test of Commonwealth policy, though it does not meet the Millbrook requirement for a return to democracy within two years of October 1999. Strictly speaking, neither does it meet the Pakistan Supreme Court test that parliamentary government should be restored by October 12, 2002. However, little would be accomplished at this point by quibbling over these details. It is more important that the Commonwealth work to ensure that the Government keep its commitments by critically monitoring and supporting the elections process. In particular:

- (i) *The Commonwealth should extend assistance to the Elections Commission.* If our meeting with the Chief Elections Commissioner is any indication, the Commission suffers from a severe case of complacency that is unjustified by its capacity or track record. Experience with local elections held over the past year (where, admittedly, the provincial governments bore much of the responsibility for logistics) shows that the Commission did an inadequate job in overseeing the training of electoral officials and in investigating complaints of election irregularities. The Commonwealth has offered the Commission technical assistance, an offer the Commonwealth Secretariat says has not been taken up but which the Chief Elections Commissioner says has been accepted. Whatever, it is important that the Commonwealth and its individual members offer substantial assistance and impress upon the Government of Pakistan the importance of the Commission being strengthened well in advance of the elections.
- (ii) *The Commonwealth should closely monitor the electoral process, from start to finish.* Commonwealth policy calls for the return to civilian rule following free and fair elections. As many Pakistanis pointed out, free and fair elections involve far more than acceptable procedures on voting day(s). They involve the entire process of electoral preparations and the political run-up to the elections. We have already noted the need for strengthening the Elections Commission. Equally important is ensuring non- interference by the Government in the political process. Reports from the most recent local elections for Nazims (Mayors) provide credible evidence that the military Government did intervene, selectively but significantly, to ensure that candidates acceptable to it were nominated and elected and that candidates associated with certain political parties (particularly those involved in the inter-party Alliance for the Restoration of Democracy) were defeated. There is evidence that some officials threatened candidates with corruption charges should they not withdraw from the election. Actions of this kind reflect a continuing military policy of playing an inappropriate and unsustainable political role. The emergence of “District Support Groups” (i.e. army monitoring teams) at the local level can be interpreted as a benign effort to ensure the honesty and effectiveness of the new local councils. However, they can also be seen as instruments to be used later by the Government to manipulate the provincial and national elections. The point is that Commonwealth countries should monitor the full range of political and technical considerations that go into free and fair elections. They should warn the Government that its interference in the political process runs the risk of the elections being judged to have fallen short of generally accepted international standards. As well, the Commonwealth should watch to see that the timetable for returning power to civilian governments – by November 2002 - is followed.

2. The constitutional roadmap is mostly blank at the moment but there are indications that the military intends to amend the constitution to entrench a powerful political role for itself. The Commonwealth should oppose the adoption of constitutional amendments during the transition period that could have the effect of institutionalizing de facto military rule.

The roadmap presented by the President on August 14 contained few details about the kinds of constitutional changes that the Government has been considering for some time. General Musharaf did say that there would be amendments to strengthen “checks and balances” in the constitution and that the amendments would be published for public discussion by the end of May 2002 and finalized by June 30. Although the Commonwealth has no policy regarding the nature of regimes that emerge from free and fair elections, it should be concerned about proposals that would have the effect of rendering irrelevant the results of those elections. If they are to be meaningful, elections must be the political device by which political power is conferred upon some and not others. If political power is conferred in other ways, such as by military order, elections become an empty ritual of democracy. Accordingly, the Commonwealth should take an interest in two features of the constitutional roadmap.

- (i) *The Commonwealth should oppose as grossly inadequate the time provided for public debate of proposed constitutional changes.* According to President Musharaf, the proposed constitutional amendments could be published for public discussion as late as the end of May 2002 and finalized only a month later. Such a short time for public discussion would convince the public that the military government had no intention of listening to recommendations for change or of implementing them. An approach of this kind would only deepen the divide between the Government and its critics regarding the constitutional future of Pakistan and increase the likelihood that a later civilian government would move to reverse the amendments.
- (ii) *The Commonwealth should oppose the adoption of constitutional amendments under the Provisional Constitutional Order (PCO) that would have the effect of changing the salient features of the constitution.* On 12 May 2000, the Pakistan Supreme Court, ruling on a petition against the legality of the military regime, validated the takeover under the doctrine of “state necessity”. The Court found that “the 1973 constitution still remains the supreme law of the land subject to the condition that certain parts thereof have been held in abeyance on account of State necessity”, an arrangement the Court described as a “provisional constitutional order.” It then placed a number of restrictions on military rule, including that “the Chief Executive can exercise the legislative power of the land, but cannot amend the salient features of the constitution, i.e. the independence of the judiciary, federalism and the parliamentary form of government blended with Islamic provisions.” While the government may announce its proposed constitutional amendments as late as May 2002, some of the ideas currently being floated would, if implemented, clearly amount to salient constitutional change. In particular, proposals to expand the powers of the Presidency, to establish a National Security Council and to change the federal-provincial balance of power would, by any reasonable definition of the term, change the constitution in very important ways. I am not arguing the merits of such changes but underscoring the importance of their being adopted following full public debate and in a way that respects the procedures for constitutional amendment provided for in the 1973 constitution. In short, constitutional changes should be fully debated and adopted only after elected governments have been returned to power in November 2002. Failing that, the

military government will further weaken rule of law and undermine what is already a very shaky constitutional order. It should be noted that in a letter received recently by Minister Manley, Pakistan Foreign Minister Sattar reaffirms the Government's commitment to respect the Supreme Court's ruling.

3. **The political roadmap announced by the President did not indicate whether political parties would be permitted to participate freely in upcoming provincial and federal elections, as they were constrained from doing in the local elections. We note, however, that in a recent letter to Minister Manley, Foreign Minister Sattar indicates that political parties will have the right to participate in the general elections. Reform of political parties is one of the most pressing requirements for stable parliamentary government. The Commonwealth should facilitate exchange between Pakistan political parties and their counterparts abroad that respect the norms of parliamentary government operating within rule of law.**

In his August 14 speech, President Musharaf made clear that he did not want a return to the chaotic politics of the 1990s, saying that the country's greatest threat came not from India but from internal problems. In making that observation, the President was probably voicing the sentiments of many Pakistanis who are disgusted with the old political order. That said, the military's solution to failed politics, namely military policing of political parties and politicians, is a doomed enterprise. In the local elections, the Government first restricted involvement by political parties and then, faced with the inevitability of politicians in politics, attempted to control the process. The Government should be urged not to attempt this again in the upcoming elections. The military lacks the credibility and the competence to reform Pakistani politics, especially as it bears considerable responsibility itself for some of the fundamental weaknesses of the system. The Commonwealth should oppose military interference in the political process while seeking to strengthen political parties. Specifically:

- (i) *During the run-up to next year's elections, the Commonwealth should carefully monitor the political process so as to defend the unimpeded right of political parties to participate.* If the pattern of the local elections is anything to go by, the military government may well attempt to control the results of the provincial and national elections, perhaps on an even larger scale and in a more intrusive way. By so doing, it might serve its own short-term interests but at the expense of the longer-term goal of developing a viable democratic culture in Pakistan. The Government's sole responsibility in the electoral process should be seeing to it that the Elections Commission and other arms of government are equipped to ensure free and fair elections. Were it to follow that path, the military Government would set a valuable example of restraint in the exercise of political power.
- (ii) *The Commonwealth should encourage the reform of Pakistani political parties by facilitating exchange with democratic political parties elsewhere in the Commonwealth.* The adage that democracy is not destroyed but rather destroys itself might have been coined with Pakistani political parties in mind. Their record over the last decade featured institutionalized corruption, authoritarian politics and

scant regard for the norms of parliamentary government. With the assistance of the military, they dug their own graves. The leaders of the parties with whom I met said that they had learned their lessons and were now committed to reforming the political process. The Alliance for Return to Democracy (ARD) – a loose affiliation of some political parties – has issued a joint declaration that includes pledges not to deny the opposition its democratic role and participation, not to drag the armed forces into politics, directly or indirectly, and not to allow patronage, privileges, graft and corruption. Allowing for the enthusiasm of the recently converted, these are important parts of an agenda for building sustainable democracy in Pakistan. The Commonwealth, perhaps through the Commonwealth Parliamentary Association, should assist this process by facilitating dialogue and cooperation (such as workshops) between Pakistani political parties and their counterparts elsewhere in the Commonwealth that respect the norms of parliamentary government operating within rule of law.

- 4. The political roadmap says nothing about strengthening the central political institutions of the country – the National Parliament and the provincial assemblies. Current proposals, if enacted, would reinforce the historical pattern of executive domination of parliament. The Commonwealth should make support for parliamentary government a central feature of its assistance to Pakistan, both during the transition period and thereafter.**

The Parliament of Pakistan has long suffered from institutional subordination, be it to the military, the bureaucracy or the political parties and their leaders. The result is that the norms of parliamentary government have never been buttressed by the gradual building of strong institutional practices such as committee oversight. To cite one example, past parliaments have had scant ability to scrutinize or amend budgets; the budget of the military - the largest part of national expenditures – has been exempt from parliamentary oversight. Pakistani democracy will endure only if political power is channeled through and tempered by the norms and institutions of parliamentary government. It strikes me as odd that so little thought seems to have been given to this requirement by either Pakistanis or international donors supporting governance. The Commonwealth has an opportunity to address this omission by making discussion of and assistance to the strengthening of parliamentary government a central feature of its assistance to Pakistan. In this connection, I would repeat recommendations of my April 24, 2000 report “Assisting the Development of Pakistan’s Democracy: Towards a Commonwealth Policy of Critical Engagement”. I would add that assistance should be extended to provincial assemblies as well as to Parliament and that the Commonwealth should support the establishment in Pakistan of an institute devoted to research and training in parliamentary affairs.

UPDATE ON A (SOMEWHAT) LESS FAILING STATE

- 1. The military government has slowed somewhat the decline of the state that had set in during the 1990s, particularly by reforming local government and strengthening accountability mechanisms. With all their limitations, these policy**

initiatives deserve strong Commonwealth support through the transition period and beyond.

The Pakistani military deserve some credit for having slowed what appeared to be a freefall decline of the state in the 1990s. However, they should not be given too much credit seeing as how they have contributed to the weakness of the state over the years by repeatedly suspending the constitution and terminating the work of Parliament. Nonetheless in two areas of governance – local government and accountability - the Government has made contributions to strengthening the state. These are areas in which the international community should provide ongoing encouragement and support.

- (i) *Local government reform, for all its limitations, may mark a watershed in the governance of Pakistan. Canada's soon to be launched training program for newly elected councilors should be carried out in close cooperation with other similar programs and in a way that dovetails with economic and social development programs. As a result of local elections held over the past nine months and the recent promulgation of a new local government ordinance, local elected bodies may have real power for the first time in Pakistan's history. More Pakistanis may come to feel they have a stake in the system and some ability to influence it, although this prospect is qualified by the success once again of the old, established political interests in winning seats. The Government's decision to establish a 33 percent quota of seats for women was a rebuff to reactionary forces and will gradually introduce a powerful new dynamic into Pakistani politics. These are welcome developments, although I would report that the villagers I met were deeply skeptical that reforms of this kind would improve their schools or create jobs for the many young people who are unemployed. The villagers warned that training programs for the new councilors would be greeted critically unless accompanied by funding for programs to improve local services. During my mission, there were reports in the press that turf wars had broken out between various governmental and non-governmental agencies that want a piece of the action in local government reform. In developing its own forthcoming governance program, CIDA should ensure that it is designed and implemented to complement and reinforce other related programs.*
- (ii) *The anti-corruption campaign, under the National Accountability Bureau (NAB), has accomplishments to its credit, though the process has been marred by what appear to be well-founded allegations of political interference in the process. Though slow to get started, the NAB has now successfully prosecuted a significant number of senior officials, politicians and business people, thus responding to the public demand that some of the big fish should be caught. Moreover, the Government has complied with Court findings that some aspects of the NAB ordinance violate the constitution, a helpful show of respect for rule of law. However, there is strong evidence that the military government – like its predecessors – has used anti-corruption charges as a*

club with which to beat political opponents. Moreover the exemption of the military and the judiciary from the mandate of NAB has reinforced public cynicism about anti-corruption campaigns. On the other hand, there appears to be little high-level corruption in this government, in striking contrast with recent civilian governments. The challenge facing the country now is to institutionalize these gains and insulate them against undue political interference, goals that the international community should strongly support.

2. Somewhat to the surprise of observers, the military government has taken steps towards dialogue with archrival India, a process for which the Government should be recognized and commended by the international community.

Pakistani commentator Husain Haqqani has written: “The Agra summit marks the revival of a dialogue that could take a long time to conclude ... As officials from both countries are now explaining to the world, the summit marked the beginning of a process and should be seen as inconclusive not as a failure.” The Summit is also significant for defying a staple of Pakistani political reasoning – that the military both benefits from and fosters tension with India. The Government has shown leadership in undertaking dialogue with India, both as a result of international pressure and its own geopolitical (and geo-economic) good sense. President Musharaf, along with a growing number of Pakistanis, has come to appreciate that national security, and the status of the armed forces themselves, depends on economic prosperity and political stability rather than on military strength alone. The international community should recognize and encourage this way of thinking about national security. It could do so in part by re-establishing military and civilian exchanges with the Pakistani armed forces, programs that were cut back at the end of the cold war. Canada’s High Commission in Islamabad benefits from having a military attache who spent a year at the Staff College of Pakistan where he came to know many of the current leaders of the armed forces (and government).

3. The Government has made modest progress towards stabilizing the economy and building business confidence. The business perception is that there is relatively little high level corruption and that the Government is more inclined than previous civilian governments to take the hard decisions necessary to get national finances under control. The international community should give stronger support to reforms that stabilize the economy and reduce poverty. Despite modest economic successes, the fundamentals of the Pakistani economy remain bleak, with unemployment high, poverty growing and foreign investment stagnant. From a potential investor’s point of view, a major uncertainty is whether the civilian governments elected in October 2002 will pursue policies that continue and sustain the gains of the past two years. In that connection, it is worth pointing out that the declaration published by the Alliance for the Return of Democracy stresses the importance “of building a consensus on the major policy issues, including economic.” Growth and poverty reduction should be the top economic priorities of any Pakistani government. These priorities require the international community to show understanding and foresight in negotiating with Pakistan terms for handling its

international debt that are not punitive but promote economic recovery and development. Substantially increased levels of international assistance are warranted as and when Pakistan demonstrates its commitment to poverty reduction and economic reform.

CONCLUDING THOUGHTS ON THE COMMONWEALTH AND PAKISTAN

Some Pakistanis with whom I spoke welcomed the actions of the Commonwealth in suspending Pakistan's membership after the military coup. Many others, however, expressed disappointment in the role of the Commonwealth since October 1999. Some felt that the Commonwealth showed little understanding of the situation on the ground that had given rise to the coup in the first place. They argued that the Commonwealth had shown itself to be indifferent to the anti-democratic practices of the elected governments of the 1990s. Others said that the Commonwealth had been hectoring in its approach, preferring to play the role of international scold rather than counselor. A villager was offended by the suspension of Pakistan's membership because he saw it as sanctioning the people of Pakistan more than the Government.

I have not attempted to evaluate the fairness or accuracy of these criticisms but they have caused me to question the policy of suspending member countries when they violate Commonwealth principles. It makes sense to do so in cases like apartheid South Africa where the fundamental constitutional order is wrong and the regime displays no interest in reform. However, it makes less sense where it is the fact or behavior of a particular government that is offensive and where the government shows some willingness to heed international criticism and advice. In such cases, when dialogue may do some good, it would be better to have the head of the offending government at the table. Additionally, in such cases it seems unnecessarily restrictive to limit Commonwealth assistance to only those activities that contribute directly to the restoration of civilian rule. Policies such as anti-corruption and de-weaponization are deserving of support whether or not they are linked directly to democracy. The restoration and strengthening of democracy should be the centerpiece of Commonwealth policy but that objective can sometimes be pursued more effectively through critical engagement than by isolation. Having now twice carried out governance assessment missions, I think Pakistan is one of those cases.

I would offer a final thought about how Commonwealth policy towards Pakistan should be framed. It is imperative that governments of Pakistan, whether military or civilian, be held accountable for respecting international standards of human rights. Where constitutional order and political arrangements are unstable - certainly the case in Pakistan - it becomes especially important to monitor closely and defend such civil and political rights as freedom of the media and independence of the judiciary. Moreover, as we made clear earlier in this report, the holding of elections and return to parliamentary government should remain the cornerstones of Commonwealth policy. At the same time, it is simple common sense to acknowledge that Pakistani democracy will operate within its own historical, cultural and institutional setting. Like it or not, the military will remain a far more powerful political force than democratic theory would prescribe. This is simply a fact of political and constitutional life in Pakistan. The question is whether the dominance of the military - and other limitations

of Pakistani democracy - can be overcome gradually through the right combination of institution building and political wisdom? By upholding universal principles and better understanding complex realities on the ground - by pursuing a policy of critical engagement - the Commonwealth can play a useful role in helping Pakistanis answer that question affirmatively.