

## Logic of Corruption in Pakistan: A Journey from NAB to NRO

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### Abstract

An unpopular regime for its survival will deploy fiscal and coercive illegal means. This unnatural instead of overcoming legitimacy problem creates hegemonic crisis and undermine popular confidence. In this ensuing crisis different powerful actors collaborate for different but complementary reasons for the maintenance of the system through the medium of corruption.

### Keywords

Corruption, Hegemony, Musharraf, NAB, NRO, and Power

In her sixty three years history Pakistan was ruled directly by military for about 30 years including Gen. Musharraf dictatorship. Rest of thirty three years had episodes of civilian rule but behind the scene military- bureaucratic establishment controlled the system. By militro-bureaucratic I mean direct role of military Intelligence (MI), Inter-Services Intelligence (ISI), Intelligence Bureau (IB), Police agencies, and other subsidiary agencies of the establishment. Corruption is part of the normative structure of Pakistan since her genesis, but I will confine my paper to Gen. Musharraf regime i.e. 1999-2007

Non-hegemonic victories are either won through military conquest or through a coup d' etat where where some militro-bureaucratic oligarchy forcibly seizes power. Such regimes always face a legitimation crisis. In order to compensate for its legitimation crisis such regimes rely heavily upon repression, but at the same time they also work to create consent for their repressive policies. According to Gramsci, "when rule by coercion is necessary, it tends to be more effective when there is consent to the exercise of coercion" (SPN. 1971, p. 247). The nascent undemocratic administration does not have enough political capital to marshal mass support and hence heavily relies on coercive means. Heavy reliance on coercion creates legitimation and hegemonic crises.

Hegemony is a "process of securing and shaping consent so the power of the dominant classes appears both legitimate and natural" (Goldman and Rajagopal 1991, p. 3). It does not refer to a dominant ideology per se, but a practice, and relations" (Goldman and Rajagopal 1991, p. 20) which permeates and structures social relations. "It is a concept that attempts to capture the complex nature of authority which is both coercive and dependent on the consent of those who are coerced into submission" (Holub 1992, p. 45). Habermas position on legitimation crisis is beautifully articulated by Rajrathnam in following words,

Legitimation crisis is a condition during which a political order, or government, is unable to evoke sufficient commitment or sense of authority to properly govern. The government, or those in authority, is no longer seen as legitimate. Low levels of voter turnout . . . may be seen as an indicator of a legitimation crisis (Rajrathnam, n.d.)

Poulantzas calls the government run by a military junta an "Exceptional State." Exceptional States emerge in response to a crisis of hegemony. In a constitutional state (a democratic institution with hegemonic leadership) there is a moment of consent to violence, but an Exceptional State involves resort to physical repression and "open war against dominated classes" (Jessop 1985, p. 94). In a time of a crisis of hegemony, instead of following the constitution, the dominant groups change the constitution in order to make it compatible to their interests. This is consistent with Poulantzas (1981) who argues that law is a dynamic instrument and an integral part of every state's repressive machinery. To organize violence, laws are passed or modified, prohibitions are instituted, and in this way terror is institutionalized. It is a kind of ideology of formalization; e.g., norms when constituted or formulated become laws and then become a sacred ideology to be obeyed in its own right. Thus, violence and terror, as long as they have acquired the status of law, become normal practices in the hegemonic struggle.

In the hegemonic task, coercion and consensus reciprocate and augment one another in the production of social control. Antonio Gramsci's concept of historical blocs is very relevant to our discussion. "A historical bloc represents a unification of various groups with differing interests who have nonetheless come to social-cultural unity under the leadership of the Party" (Aune, 2003, p. 5). Adamson argues that hegemonies always grow out of "historical blocs" (political alliances among heterogeneous groups at a particular historical juncture e.g., government by somewhat popular base, the CJS (criminal justice system), clergy, media, corrupt judiciary and politician, etc.), but not all blocs are hegemonic, as for instance an alliance of groups with little or no popular political base, such as military dictatorships (quoted in Ransome 1992). In heterogeneous alliances personal stakes and incentive of corruption works as glue and different historical blocs develop stake in the preservation of the system.

Every dictator in Pakistan came up with slogan to legitimize his rule. Gen. Ayub (1958-1968) ruled for ten year in the name of modernization and development, Gen. Zia (1977-1986) used Islamization to legitimize his dictatorship and Gen. Musharraf battle cry was anti-corruption. Fight against Corruption provided needed rhetorical legitimacy to the military coup of General Musharraf. He knew that people were sick of corruption and therefore he apparently embarked upon a crusade against corruption. In order to convince cynical people about his anti-corruption

strategy he promulgated National Accountability Ordinance-1999 (NAO) and that created a new prosecutorial agency called National Accountability Bureau (NAB). The Word NAB is also catchy for its linguistic meaning i.e. to arrest or capture.

In order to legally secure his dictatorial regime, compliant justices under the so-called overused and abused "doctrine of necessity" legitimized the new dispensation. Doctrine of necessity is a fancy phrase for jais key latee oos key bains i.e., might is right. Conferring legitimacy on an unconstitutional arrangement is like marrying a woman who is already married to another living person. With the fiat of judicial legitimacy, the General in power became source of laws, and "supreme national interest" of Pakistan. The destiny of the nation was tied to the destiny of one man and there were no checks and balances. Repressive state apparatuses victimized anybody who dared to challenge the legality of the new order. The saga of missing person came to full fruition during Musharraf regime and people are still missing.

The law and the legal system are part of complex social totality where they mutually constitute one another. Judges are part of the society; they have values and prioritize things according to their ethical, social and political considerations. The particular background of the judges, their upbringing and the school they attended shape their perception of law and order which usually have bearing on the judicial outcomes. In the name of objective neutrality, law "enforces, reflects, constitutes, and legitimizes dominant social and power relations without a need for the appearance of control from outside" (Kairys 1982, p. 5). Of special significance in case of Pakistan is the extra-legal role of the legal institutions in the maintenance of the status quo. I argue that the structure of the legal institutions is determined by the need to repair the legitimation deficit, and to foreclose and pre-empt all those possibilities which might undercut the authoritative value of the official account. Because judicial discourse is shaped by the political desires of the ruling classes, all those questions that threaten to problematize the pre-givens of the official discourse have to be smothered by the legal arm of the political power (Burton and Carlen 1979).

Realizing limitation of favorable Supreme Court judgment, Musharraf also assumed title of the President, and reiterated his stance of holding elections as prescheduled by his Government in October 2002. But before the general elections, a referendum was held on April 30, 2002 for General Pervez Musharraf to be elected as the President of Pakistan for another five years. Hoping that referendum is a part of democratic worldview; therefore some democratic process would legitimate his rule, but in reality it backfired because of a very low turnout and widely reported rigging in polling.

Habermas believes that world views by their very nature make claims to truth and in this sense are hostage to their claims. If social relations are constituted by worldviews and their influence is contingent upon their “truth value,” then there is the possibility to undermine the worldviews, which in turn will open room for new possibilities. A worldview legitimates a given social arrangement by presenting itself as universal and necessary for the satisfaction of the interests of everybody. Once individuals realize that these relations are neither universal nor necessarily representative of their interests, then their attitude towards them will change (in Trubek 1984). Once people of Pakistan realized that the so called referendum was not meant for inclusion of masses in political process rather it was a custom made procedure to legitimize his illegal rule then they rejected it. Paradoxically the truth claim of a referendum undermined the democratic credential of Gen. Musharraf.

The NAB was run by military generals and soon after its genesis started arresting corrupt politicians and bureaucrats. Its vigorous prosecutorial strategy made it a very popular agency in the beginning. Many corrupt politicians were sent to jail and many escaped the country in order to avoid prosecution. For the time being accountability policies repaired the legitimacy crisis of General Musharraf. With passage of time his priority changed and instead of fighting corruption he wanted to stay in power at any cost. The truth value of anti-corruption became irrelevant when it became an obstacle in perpetuation of his power. Since he did not have a political party, in order to suppress dissent he heavily relied on police agencies, Inter-Service Intelligence (ISI) and other security apparatuses. He knew the boundaries of repression and therefore needed a civilian support to repair the legitimacy deficit. The NAB and ISI engineered a new political party of mostly corrupt politicians called Pakistan Muslim League (Q) also known as PML (Q). PML (Q) was not an ideological party it had only one task and that was to provide unconditional support to Gen. Musharraf. In his book Gen. Musharraf candidly admitted, that he needed a political party that would support his agenda and he writes:

My principal secretary, Tariq Aziz, an old and trusted friend, had the idea in advance of the elections of 2002 of converting the PML (N) back to a true PML (Q), the Q standing for Quaid. Chaudhry Shujaat Hussain and his cousin Chaudhry Pervez Ilahi, seasoned politicians from Gujrat in the Punjab, were prominent within the PML (N). Tariq Aziz's idea was to encourage them to reconstitute the PML (N) into the PML (Q). The Chaudhry cousins had been victims of some mudslinging, but they were good men. I agreed to the proposal (Musharraf, 2006, p. 166).

In 2002 PML (Q) was created and NAB prosecutorial leverage was used in intimidating corrupt politicians and bureaucrats with a promise that they could

escape prosecution by supporting the military regime of Gen. Musharraf. Later, the NAB mission changed and started vigorously prosecuting low level bureaucrats while giving breaks to bigger fishes who opted to be Lotas in the latrine of generals. In the area of corruption Pakistan has neological contribution to political vocabulary. Word Lota emerged from folk wisdom of Pakistani society and it denotes political ruthlessness and expediency of some visible and influential families who reinvented their relevance to the power that be in Pakistani Politics. In simple words, Lota means politically influential but promiscuous politicians who are and have shifting opportunistic loyalties. The NAB job was to recruit Lotas in the service of Musharraf regime. Now NAB transmuted from an anti-corruption agency to doing business with corrupt notables of Pakistan. Those who collaborated with Musharraf, their cases were dropped and news media described them Nabzadeh i.e., children of NAB. Those who resisted the NAB pressure were called Nabzadah i.e., victims of NAB. In Clausewitzian sense,<sup>1</sup> the new mission of NAB for all practical purposes was: "Corruption is the continuation of politics by other means" Perhaps the soul of Clausewitz would be anguished to learn of this perversion of politics.

Corruption refers to departures from correct procedures in exchange for goods, services or money (Manning and Redlinger 1978). According to McMullan's definition, "A public official is corrupt if he accepts money or money's worth for doing something that he is under duty to do anyway, that he is under duty not to do, or to exercise legitimate discretion for improper reasons" (quoted in Sherman 1974, p. 6). Corruption is built into the political structure of Pakistan and is part of the normative order. It is something glamorous and does not carry significant stigma. Corruption, as a dependent variable is in many ways determined by the hegemonic crisis. A political system that has a legitimization crisis will be prone to relying upon corrupt means. As Gardiner has noted, "Where rewards given for noncorrupt behavior are low, the relative value of corrupt inducement increases" (Gardiner 1974, p. 318). For corrupt exchanges to be effective, it must be mutually beneficial to corruptor and corruptee.

In corruption two or more people are involved who anticipate a successful outcome of the exchange relation. Since corruption involves at least one corruptor and one corruptee, it is the type of social action undertaken that constitutes corruption (Deflem, 1995, p. 248).

Lotacracy is induced by an illegitimate and corrupt system facing a legitimacy crisis. The need for Lotas is embedded in the structural realities of present Pakistan.

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<sup>1</sup>Carl von Clausewitz a German military theorist has famously said: "War is a mere continuation of politics by other means."

An honest and conscientious politician, judge, bureaucrat and police officer is not going to support an illegitimate system whole-heartedly. Therefore compromised and corruptible people are needed to sustain a system that is corrupt. Ruling elites maintain their power by 'hook and crook', encouraging a culture of Lotas. Military rulers typically do not enjoy popular support and lack a stable constituency. In order to compensate for that deficit, rulers rely on the *dunda* (stick, meaning power) of armed forces, blackmailing power of the so-called law-enforcement and sensitive agencies (*hissaa* idaray). They create consent to the status quo by coercion. We know that Lotas are unstable in area of loyalty. Therefore they must be monitored, threatened and punished for undermining the legitimacy of the regime. Contrary to the public expectations, Lotas instead of being morally shocked responded with greater resilience in their political mutation.

Most of the Lotas have conspicuous family names. For protection of family business they do elaborate and strategic division of labor. Say, one brother will be in Party in power, the other brother will be staying in opposition as long as that opposition is a viable alternative to the status quo, just in case they come to power. While staying in opposition, Lotas also act as snitches for the party in power. If they feel that opposition is no longer relevant to the political configuration then in the name of principles exit the opposition party and join the King's Party. One brother or uncle will assume a rule of intellectual and will present himself as a progressive liberal and nationalist. Other prominent member will be in *Tablighee Jamat*, just in case if there is a coup by religious fundamentalists. The intellectual / liberal/nationalist Lota will oscillate between progressivism and nationalism depending on situational contingencies. Such characters are politically disloyal, morally bankrupt, and with no deontological philosophy. Some of the former leftists, who religiously condemned military rules when invited to the corridor of power, they favorably responded and enjoyed intimate political relations with Generals.

Once saddled in power, this politically promiscuous class want to make sure that their positions are well entrenched in the Establishment. Their new goal is to induct their sons, nephews, son-in-laws in civil and military bureaucracy. Now, you have a situation where one brother is a minister, the other is in opposition, yet another a powerful executive, one nephew SSP (Senior Superintendent Police), other DC (Deputy Commissioner), third in IB/ISI, and son-in-law may be in military. The intellectual Lota will also keep good overseas contacts, again, just in case. Simply speaking, political promiscuity is an insurance policy for the family interest at the cost of Pakistan. Lotas see Pakistan as a resource, and like other resources, they want to exploit it to the hilt. Della Porta & Vannucci believe that in such situation, corruption mediates relationship between corrupter (military) and coruptee (civil bureaucracy and politician and for-rent-intellectuals) (1999).

Generally in such a situation police appointments and promotions are contingent upon their service to the maintenance of the status quo and willingness to do any dirty trick for the ruling clique. Musharraf instead of fighting corruption became an active member of corrupt mafia in Pakistan. His confrontation with judiciary had significantly weakened his position and in that desperation on October 6, 2007, a deal was brokered by the United States and UK between Musharraf and Benazir Bhutto. That deal was labeled as National Reconciliation Ordinance (NRO) where all corruption charges were dropped against Benazir, her husband and cronies. Popularly it was called corruption ordinance because it validated past corrupt practices. In return of NRO Benazir did not create obstacles for second five year term for Musharraf.

A legitimization crisis of the ruling class created a social field, or a broader context in which brutalities of the CJS and fiscal of corruption of politicians became possible, and were subsequently koshed under the umbrella of NRO. In other words, hegemonic crisis creates symbiotic relations between the repressive apparatuses (both intelligence and police agencies) and the ruling class against the masses. In this process, the repressive institutions assume relative autonomy and along with benefiting the status quo, they also benefit themselves. By benefiting from the abuse of power, the personnel in these institutions develop a stake in the maintenance of the political system. I personally know some officials who would condemn military regimes, but would do everything to defend the political system simply because they were beneficiaries of the system. This notion of power (Wartenberg, 1992) denies that power is the absolute product of social consensus, because agreement is possible only between equals and in this case the ruling classes make decisions and the rest of the society is at the receiving end. Social power in Pakistan is not a monolithic entity. Its concentrated moments, e.g., militro-bureaucratic oligarchy, feudal aristocracy, religious clergy and drug lords, occupy strategic sites such as government, and rubber stamp parliamentarians. In order to understand this complex alignment and coordination between various sites I will consider Wartenberg's insight into the "situated notion of power." He writes,

situated power does not reside exclusively in a single site or institution of society. The situated conception of power shows that social power is a heterogeneous presence that spreads across an entire field of agents and practices, although its exercise depends upon the decision of the dominant agents. Such heterogeneity is constituted by a complex coordination among agents located in diverse sites and institutions, all of whose presence in a social alignment is necessary to constitute a situated power relationship (Wartenberg 1992, pp. 90-1).

The heterogeneous presence of power makes it efficient, because power is not power if it is not disproportionately allocated among various social agents (Airaksinen 1992). Poulantzas agrees with Foucault that power is relational and is not an essentially fixed quantum that could be allocated in a zero-sum-manner. The state is not a being that is the source of power; rather, it is a strategic site in the social struggle (Poulantzas 1978). The broader repressive system sets the stage for the local repression. Therefore as long as the repressive agencies are doing dirty work for the ruling elites, the ruling elites do not mind individualized or departmental repressive methods. The elite want the public to fear the police, and the police translate that fear into a system of extortion. Police brutalities are not contingent episodes or the individual aberrations of a few rotten apples. Rather, that repression is built into the system. *It is the illegitimacy of the governmental system that makes the violence of the CJS possible.*

Now the question is why we have the most virulent strain of corruption that mutates quite frequently whenever it is threatened. Some answers lie in the following propositions that I have developed and are informed by the theoretical insights of Antonio Gramsci and Frankfurt School:

**Proposition # 1:**

“If the ruling classes are in power without popular mandate, then they will be facing legitimation crisis.”

All undemocratic regimes are in this category. Also regimes who come to power democratically and later use democratic mandate for the destruction of democracy e.g., Z. A. Bhutto and most recently Nawaz Shariff. Military dictators also face the same dilemma i. e., how to legitimize their rule. An illegitimate regime major concern is to stay in power, and fear of losing power is their major obsession. Steinbeck aptly said, “power does not corrupt. Fear corrupts... perhaps the fear of a loss of power” (webpage, n.d., Steinbeck). In order to sustain an unpopular regime, the ruling elite make compromises with militro-bureaucratic oligarchy and feudal lords. They network themselves in a system of corruption.

**Proposition # 2:**

“If legitimation crisis is not overcome via democratic means, then there will be greater reliance on coercive means for staying in power.”

**Proposition # 3:**

“If a regime relies heavily on repressive means, then the chances of corruption of individuals working within coercive apparatus will increase exponentially.”

Politically unstable regime has to rely on coercive apparatuses for its survival. Repressive machinery also exploits the dependence of ruling elite on them which they use to their advantage. Agencies like police, by doing illegal things for the regime also do illegal things for themselves.

***Proposition #4:***

“If ruling elite overcome their legitimization crisis through coercive means, then they also become dependent on the functionaries who run those repressive apparatuses.”

***Proposition #5:***

“If individual working in the coercive apparatuses are enriching themselves through officially invested power, then they will be prone to be abused by the ruling elite.”

In other words ruling elite and repressive machinery will develop symbiotic relationship, as both sides have a stake in the preservation of the status quo.

***Proposition #6:***

“if the ruling elite and repressive machinery are interdependent, then the chances of repression and corruption will correspondingly increase.”

An illegitimate regime cannot fight corruption simply because it is not in its interest. Corruption is the lifeline of a corrupt regime and any threat to corruption will be tantamount to suicide. Accountability in Pakistani context means, hiring one crook to investigate another crook, and it is not in the best interest of both crooks to expose on another.

At the surface no or little connection appear between the corruption of an SHO (station head officer of police) and ruling elite, but at closer scrutiny it becomes apparent that there is structural coordination between the lower level corruption and higher level corruption. An SHO both in military and civilian dispensations are appointed at the behest of civilian local notables who could forge consent for the status quo. Civilian alignments with ruling elite confer legitimacy on an illegitimate system and that in turn makes possible corruption at higher level. Local notable control his opponents illegally through police and in this way consolidate political and economic base. An SHO who is busy in repairing legitimacy deficit through coercive means also realizes his indispensability to the system and in the process while benefiting the system also benefit himself. Every new government in Pakistan brings their own IGPs (Inspector General Police), and IGPs select their own team of officers who will be willing to play the game. Officers considered independent are given harmless tasks and also some become OSDs (officers on

special duty). This indicates that there is a greater level of coordination of the entire system in a mutually beneficial complementary relationship. In this emerging symbiosis different actors collude for different reasons but in the end stabilize the status quo for the time being.

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