

The situation after emergency in Pakistan- An overview by NCJP

General Pervaiz Musharraf, Chief of the Army Staff and the President of Pakistan on November 3rd, 2007 imposed a state of emergency through out the country and promulgated a Provisional Constitutional Order (PCO).

The Emergency is a de facto martial law and no time frame has been given for lifting the emergency. The Constitution was held in 'abeyance' and fundamental rights suspended which means that from now onwards, the country will be governed by the dictate of the President.

The PCO expressly suspended the fundamental rights guaranteed in the Constitution of Pakistan under Articles 9, 10, 15, 16, 17, 19 and 25.

The PCO prohibits the courts from holding or issuing any decree against the President, the Prime Minister or any one exercising powers under their authority. Specifically, the President shall now require a fresh oath under the PCO by those judges who wish to be included in the Federal Shariat Court, High courts and Supreme Court.

The craft of justification:

After the imposition of emergency, the General blamed judiciary for growing militancy, attacks on state infrastructure, security agencies. He said that judiciary was working at "Cross purposes" with his government and the legislature.

He alleged that the judiciary interfered with war against terrorism, economic growth, and was responsible for weakening writ of the government, demoralization of police, hampering intelligence agencies, release of some militants, judges overstepping their authority, supreme judicial Council made irrelevant, humiliating government officials in courts. As a result, in his opinion the trichotomy of powers was eroded and law and order situation in the country was affected.

The imposition of emergency comes as the Supreme Court was hearing a petition challenging General Musharraf's eligibility to contest Presidential elections while in uniform. The government reportedly feared an unfavorable decision in the case, with intelligence reports indicating that most judges on the 11-member bench were likely to rule against the President.

The immediate fall out

a) Judicial machinery paralyzed

The imposition of emergency has manifested a direct link with dislodging of the Chief Justice March 2007. Although Mr. Justice Iftikhar Mohammed Chaudhry,

the Chief Justice of Pakistan was reinstated by a bench of Supreme Court on July 20, 2007, it created an epic campaign led by lawyer for independence of judiciary and full democracy. Nonetheless removing the Chief Justice and several of his colleagues through a PCO became imperative for a quasi military rule.

After proclamation of emergency a majority of the Supreme Court and the provincial high court judges (55 out of 97) refused to take oath under the new PCO, as they deemed it illegal and motivated. A huge vacuum was created in the higher judiciary and the justice system stands paralyzed.

b) Arrest and beating of the civil society, not the terrorists

Fearing a massive protest the move, the police a major crack down was carried out across the country in which thousands of opposition politicians, lawyers and rights activists were detained in large numbers. The police brutality was at its highest till November 7th against the civil society. The suicide bombing and terrorist attacks, quoted as a reason for this extra ordinary step received the least attention so far.

Prominent among those detained include Mr. Javed Hashmi (Acting President, PML-N), Mr. Asfandyar Wali Khan (Chief, Awami National Party), and rights activists Mr. I.A Rehman, Mr. Iqbal Haider and newly elected president of the Supreme Court Bar Association Mr. Aitzaz Ahsan.

Ms. Asma Jahangir, UN Special Rapporteur on Freedom of Religion and belief and Chairperson of Human Rights Commission of Pakistan has been put under home arrest since November 3rd.

54 civil society activists were arrested when they gathered at a Joint Action Committee meeting of the HRCP office at Lahore to discuss the situation after the imposition of emergency.

C) Curbs on Media:

All private local and foreign TV news channels were taken off air and remained the same till this report (November 7th). State run Television (PTV) the only news channel is accessible to the public generally which is merely a mouth piece of the government.

Pakistan Electronic Media Regulatory Authority issued an Ordinance curtailing the freedom of expression.

d) Harassment through deployment of forces:

Army troops, rangers and police were deployed at the PTV head quarters, Radio Pakistan, parliament building, Constitution Avenue Islamabad, airport and other government buildings.

The residences of the former judges of the Supreme Court and the High Courts and the prominent politicians are also blocked with heavy forces and their freedom of movement has been restricted.

e) Response from the international community

A non-welcome response to the imposition of emergency by the international community matched the reaction of the Pakistani masses.

United States of America, United Kingdom, France, Afghanistan, India, European Union, International Union of Journalists, UN High Commissioner on Human Rights has expressed their concerns over the imposition of democracy in Pakistan.

Where do we go from here?

The declaration of emergency exposed the government's claim about the policy of 'enlightened moderation'. The resistance from the Judges and the civil society has brought the contradictions in the government action(s) to the fore, at this initial stage. More active response from the people at home against the imposition of emergency is expected once the curbs on public gatherings and media are removed.

There is no doubt that a democratic set up can help Pakistan out of the problems that she is facing. The National Commission for Justice and Peace would like to articulate the civil society demands as follows:

1. The emergency must be lifted and constitution revived, immediately.
2. The cases against the lawyers, human rights activists and politicians after the imposition of emergency must be withdrawn unconditionally and immediately.
3. The existing assemblies should be dissolved (finishing their term on November 15th) and credible caretaker should oversee the next election which should be held in January 2008, according to the schedule.
4. All TV channels must be put back on air. A free and independent media is a must for democracy. It must be allowed to do its job without fear of reprisal or attack.