

# CRS Report for Congress

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## Pakistan's Domestic Political Developments: Issues for Congress

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### Summary

In October 2002, Pakistani national elections nominally fulfilled President Gen. Pervez Musharraf's promise to restore the National Assembly that was dissolved in the wake of his extra-constitutional seizure of power in October 1999. A pro-military alliance won a plurality of seats, while a coalition of Islamist parties made a surprisingly strong showing. Musharraf supporter M.Z. Jamali became Pakistan's new prime minister vowing to maintain Musharraf's foreign and economic policies. Increasingly fractious debate over the legitimacy of Musharraf's August 2002 changes to the country's constitution has hamstrung the civilian government. Many of the changes greatly augment the President's already considerable powers and institutionalize a permanent governance role for the military, which Musharraf still heads. The 1999 coup triggered restrictions on U.S. foreign assistance, restrictions waived in October 2001 and again in March 2003 by President Bush. In response to continued perceived anti-democratic practices in Islamabad, there is legislation in the 108<sup>th</sup> Congress aimed at restoring aid restrictions through removal of the U.S. President's waiver authority (H.R. 1403). Sections of S. 1161 and S. 790 would extend the President's waiver authority through FY2004 or FY2005, respectively. This report will be updated periodically.

In October 2002, nearly three years to the day after Pakistani Army Chief Pervez Musharraf replaced Prime Minister Nawaz Sharif in a bloodless coup, the people of Pakistan returned to the polls for their country's first national elections since 1997. In the wake of the October 1999 coup, Islamabad faced considerable international opprobrium and was subjected to U.S. sanctions as a result. The September 2001 terrorist attacks on the United States and Musharraf's ensuing withdrawal of support for the Afghani Taliban regime, however, had the effect of greatly reducing Pakistan's international isolation. Direct U.S. aid to the country began flowing again in the final months of 2001, rising from about \$3.5 million in FY2001 to more than \$1 billion in FY2002 and \$500 million in FY2003. The United States considers Pakistan to be a crucial ally in the international anti-terrorism coalition and has refrained from expressing any strong public criticisms of the country's internal political practices, while still asserting that it wants to "see strong

Pakistani democratic institutions and practices, including a National Assembly that plays a vigorous and positive role in governance.”<sup>1</sup>

## Constitutional Changes

In August 2002, President Musharraf took unilateral action in announcing a “Legal Framework Order” (LFO) of constitutional changes. The most important of these provide greatly enhanced powers to the Pakistani President, a title assumed by Musharraf and ostensibly legitimized by a controversial April 2002 referendum.<sup>2</sup> Musharraf insists that the changes are necessary to bring “true democracy” to the country. Critics contend that Musharraf (who has retained his position as Army Chief) is seeking to legitimize and make permanent the military’s currently extra-constitutional role in governance, as well as ensure his own continued power in contravention of democratic principles.

Key changes to the constitution include creation of a military-dominated National Security Council (NSC), provisions allowing the President to dismiss the National Assembly, and provisions calling for presidential appointment of armed services chiefs. The NSC will be authorized to oversee the country’s security policies, as well as monitor the process of democracy and governance in the country. Given the body’s significant military element and the military’s traditionally intimate ties to the presidency, this is seen as providing the Pakistani armed forces with a permanent and unprecedented institutional role in the country’s governance.<sup>3</sup> Pakistan’s major opposition parties unanimously decried Musharraf’s action as illegal, claiming that only the Parliament has the power to amend the constitution. They also demand that Musharraf retire from the military. In response to Musharraf’s imposition of constitutional revisions, the United States indicated that full U.S. support for Musharraf would continue, even if some of the changes “could make it more difficult to build strong, democratic institutions in Pakistan.”<sup>4</sup>

## The 2002 Elections

**Background.** The history of parliamentary democracy in Pakistan is a troubled one, and has been marked by an ongoing tripartite power struggle between presidents,

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<sup>1</sup> Assistant Secretary of State for South Asia Rocca, “Transcript: Hearing of the Subcommittee on Asia and the Pacific of the House International Relations Committee,” Federal News Service, March 20, 2003.

<sup>2</sup> In a nationally-televised speech, Musharraf later apologized for “irregularities” (“Musharraf’s ‘Soft Dictator’ Image Eroded By His Own Moves,” Agence France-Presse, July 10, 2002).

<sup>3</sup> The NSC is comprised of 13 members: the President, PM, Senate chair, Assembly speaker and opposition leader, JCS Chair, three armed service chiefs, and four provincial Chief Ministers. Pakistan’s 1973 constitution envisaged a sovereign parliament where most of the powers rested with the Prime Minister, but subsequent changes under the military-dominated regime of General Zia ul-Haq shifted power to the presidency. In 1997, then-Prime Minister Nawaz Sharif oversaw passage of the Thirteenth Amendment to the constitution, repealing Zia’s Eighth Amendment (1985) right to dismiss the government and appoint military chiefs (and thus restoring powers to the PM’s office).

<sup>4</sup> U.S. State Department Spokesman Philip Reeker, “Excerpts: Musharraf’s Constitutional Changes Concern U.S.,” USIS Washington File, August 22, 2002.

prime ministers, and army chiefs.<sup>5</sup> The Pakistan Muslim League (PML) is the country's oldest political party. Former PM Nawaz Sharif led the offshoot PML-Nawaz, which dominated the 1997 elections. In 2002, most former (but still influential) Sharif loyalists joined the new Pakistan Muslim League-Quaid-e-Azam (PML-Q), a group widely seen to enjoy both tacit and overt support from the military. The Pakistan People's Party (PPP) was founded by former PM Zulfikar Ali Bhutto in 1967. His daughter and current party leader Benazir Bhutto lives in exile under threat of imprisonment should she return to Pakistan (she has thrice been convicted of corruption in absentia). In an effort to skirt legal barriers to participation, the PPP formed a separate entity, the PPP Parliamentarians (PPPP). The United Action Forum (MMA in its Urdu-language acronym) is a loose coalition of six Islamist parties formed especially for the 2002 elections. Although Pakistan's religious parties enjoy considerable "street" power and were strengthened by Zia's policies of the 1980s, their electoral showing has in the past been quite limited.

**Results.** Despite the Musharraf government's insistence that the exercise was free and fair, opposition parties, human rights groups, and independent observers from the European Union called the election "deeply flawed," accusing the military-led regime of manipulating candidate eligibility and public demonstration ordinances as a means of influencing the electoral outcome. Widely asserted is that the machinations substantively weakened the main *secular* opposition parties.<sup>6</sup> Turnout was estimated to have been lower than any previous Pakistani national election, leading numerous observers to identify a pervasive apathy among the country's citizens with regard to national politics.<sup>7</sup>

The PML-Q — also called the "king's party" due to its perceived pro-military bent — won 118 of the total 342 parliamentary seats, almost all of them from Punjab. The affiliated National Alliance won 16 seats. This number gave the pro-Musharraf parties a plurality in the National Assembly, but fell well short of the majority representation needed to control the body outright. As expected, the PPP did well in Sind, but was unable to form a working coalition in that province's legislature. The PPP also made a

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<sup>5</sup> Military regimes have ruled Pakistan for more than half of the country's existence, and most observers agree that Pakistan has no sustained history of effective constitutionalism or parliamentary democracy. From the earliest days of independence, the country's armed forces have thought of themselves as "saviors of the nation," a perception that has received significant, though limited, public support. The military, usually acting with the president, has engaged in three outright seizures of power from civilian-led governments: General Ayub Khan in 1958, General Zia ul-Haq in 1977, and General Musharraf in 1999. Since 1970, five successive governments have been voted into power, but not a single time has a government been voted out of power — all five were removed by the army through explicit or implicit presidential orders. Of Pakistan's three duly elected Prime Ministers, the first (Z.A. Bhutto) was executed, the second (Benazir Bhutto) was exiled and her husband jailed on corruption charges, and the third (Nawaz Sharif) remains in exile under threat of life in prison for similar abuses should he return. Given this inauspicious record with democratic processes, many analysts lauded Musharraf for the mere act of holding elections as promised.

<sup>6</sup> "Musharraf Tells EU to Mind Its Own Business," Agence France-Presse, October 15, 2002. Both of his predecessors as national leaders — Benazir Bhutto and Nawaz Sharif — were, by Musharraf's own decree, excluded from candidacy regardless of the status of criminal charges against them. The two have long been the country's leading civilian political figures.

<sup>7</sup> Ahmed Rashid, "Polls and Promises," *Far Eastern Economic Review* (Hong Kong), October 17, 2002.

comeback of sorts in Punjab and attained runner-up status in the elections with a total of 81 national seats. Perhaps the most surprising outcome of the elections was the strong third-place showing of the MMA Islamist coalition that now controls the provincial assembly of the North West Frontier Province (NWFP) and leads a coalition in that of Baluchistan, as well as seating 68 legislators in the National Assembly (up from only two previously) — about 20% of the total.<sup>8</sup>

**Coalition-Building.** The new National Assembly sat in November 2002, when members took their oaths of office under the 1973 Constitution.<sup>9</sup> The three leading national parties — the PML-Q, PPP, and MMA — had engaged in convoluted coalition-building negotiations. Reports that the secular opposition PPP had finalized an alliance with the Islamist parties were proven false. Such an alliance would have set the pro-military parties in opposition, a possibility that reportedly sent the Musharraf regime into “panic.”<sup>10</sup> Signals that a PML-Q-Islamist alliance was in the offing likewise ended when Musharraf refused to accept demands that he resign his position as Army Chief.<sup>11</sup> In an unexpected circumstance, the pro-Musharraf parties succeeded in forming a thin working coalition without the participation of either the PPP *or* the MMA, a development made possible by the defection of several PPP members, some of whom were rewarded with high-profile ministerships of their own. This splinter group, calling itself the PPP-Patriots, now boasts some 21 members. PML-Q favorite and former Baluchistan Chief Minister Mir Zafarullah Jamali was elected to serve as Pakistan’s Prime Minister.<sup>12</sup>

**The Current Setting.** Although a full National Assembly is seated, the body has remained stalled on procedural issues. Pakistan’s opposition parties unanimously decry

<sup>8</sup> The PML-N suffered huge losses in 2002, winning only 19 national seats, all of them in Punjab. The Muttahida Quami Movement (MQM) is a regional party mainly comprised of the descendants of pre-partition immigrants (Muhajirs) from what is now India who are almost wholly found in Sindhi urban centers. Though it did well in Sind’s provincial elections, the MQM collected only a small percentage of the national vote (winning 17 national seats). It has since aligned itself with the PML-Q. Small parties and independents account for the remaining 31 seats. The previously influential Awami National Party was shutout at the national level. Election figures come from the Associated Press of Pakistan, a government news service.

<sup>9</sup> On the same day, the chief justice of Pakistan’s Supreme Court swore Musharraf in to another five-year term as president, a move that opposition parties called “unconstitutional.”

<sup>10</sup> “Musharraf Regime Panicked by Surprise Secular-Islamist Deal: Analysts,” Agence France-Presse, November 6, 2002.

<sup>11</sup> Several senior political observers believe that the outcome in which no party secured a majority serves President Musharraf’s interests by allowing him to retain preeminent power and may well have been his intent (see, for example, Paula Newburg, “Musharraf’s Win, Pakistan’s Loss,” *Los Angeles Times*, October 20, 2002). Speculation abounds over whether or not the Pakistani President intended for the Islamist coalition to make as strong a showing as it did.

<sup>12</sup> With 172 votes, Jamali beat out top MMA official Maulana Fazlur Rehman (86 votes) and PPP contender Shah Mehmood Qureshi (70 votes) for the prime ministership. A constitutionally-mandated December 2002 vote of confidence was won by Jamali. February 2002 senate elections bolstered the position of the ruling coalition-leading PML-Q, which now oversees a simple majority in the 100-seat body. The new Chairman of the Senate — who has powers to take over the post of President in the event of vacancy due to illness or sudden death of the President — is a PML-Q member and Musharraf loyalist.

the LFO as illegal, claiming that only Parliament has the power to amend the constitution. They also demand that Musharraf retire from the military.<sup>13</sup> Leaders of the opposition Islamist coalition have called for major civil demonstrations if Musharraf does not resign his commission by August 2003. Musharraf claims that his retention of both offices — President and Army Chief — is in the “national interest.”<sup>14</sup> Musharraf is reported to be negotiating with Islamists (who seek his acceptance of some measure of Sharia law in the western provinces) and secular opposition parties (who seek the legal return to Pakistan of their leaders, Nawaz Sharif and Benazir Bhutto) to find a resolution to the deadlock. The increasingly fractious dispute has raised new concerns about the viability of Pakistan’s still-fragile democratic institutions, including worries that Musharraf will launch a “second coup” by dissolving the current Parliament.<sup>15</sup>

## Islamization and Anti-American Sentiment

In June 2003, the Islamist coalition in the NWFP passed a Shariat bill in the provincial assembly. Establishment of a Department of Vice and Virtue is pending. A similar bill may be passed in the western province of Baluchistan. These laws seek to replicate in Pakistan the harsh enforcement of Islamic law seen in Afghanistan under the Taliban. As such, the development has alarmed Pakistan’s secularists, and Musharraf has decried any attempts to “Talibanize” regions of Pakistan.<sup>16</sup> The Islamists are notable for their virulent expressions of anti-American sentiment; they have at times called for “jihad” against what they view as the existential threat to Pakistani sovereignty that alliance with Washington entails.<sup>17</sup> Anti-American sentiment is not limited to Islamic groups, however: A U.S. Senator returned from the region in February to report “extremely high” levels of anti-Americanism there, and a public opinion poll found that 72% of Pakistanis were “very worried” or “somewhat worried” about a perceived military threat from the United States, and that 45% had at least “some confidence” in Osama bin Laden’s ability to “do the right thing regarding world affairs.”<sup>18</sup>

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<sup>13</sup> Prime Minister Jamali and his PML-Q allies insist that the LFO amendments stand, but opposition parties say the LFO represents a “new system of military-controlled democracy” (“LFO Part of 1973 Constitution: Jamali,” *Dawn* (Karachi), March 7, 2003; “Pakistani Parliament in Crisis,” BBC News, March 8, 2003; “Pakistan Senate in an Uproar,” BBC News, March 12, 2003).

<sup>14</sup> “No Legislation Til LFO Settlement,” *Dawn* (Karachi), June 11, 2003; “Anti-LFO Campaign From June 10: MMA,” *Dawn* (Karachi), May 29, 2003; “Musharraf Says He’ll Only Quit When Pakistan Stops Needing Him,” Agence France-Presse, June 9, 2003.

<sup>15</sup> “Ruling the Roost,” *Friday Times* (Lahore), May 23, 2003; Ahmed Rashid, “Musharraf’s Morass,” *Far Eastern Economic Review* (Hong Kong), June 19, 2003.

<sup>16</sup> “Pakistani Legislators Approve Islamic Law for Province,” *New York Times*, June 3, 2003; “Baluchistan Govt to Table Shariat Bill,” *Dawn* (Karachi) June 16, 2003; “Musharraf Says People Against a Theocratic State,” *Dawn* (Karachi), June 9, 2003.

<sup>17</sup> See, for example, “Pakistan Must Stop US Advances, Says Qazi,” *Dawn* (Karachi), April 12, 2003.

<sup>18</sup> “US Senators Express Concern Over Rising Anti-American Sentiment,” Voice of America Press Release, February 23, 2003; Pew Research Center, “Views of a Changing World 2003,” June 3, 2003.

## Legislation and Issues for Congress

Gen. Musharraf's extra-constitutional seizure of power in October 1999 triggered penalties under Sec. 508 of the annual foreign assistance appropriations act, which bans non-humanitarian U.S. assistance "to any country whose duly elected head of government is deposed by military coup or decree." P.L. 107-57 authorized the President to waive coup-related aid restrictions on Pakistan through FY2003; President Bush exercised this authority in March 2003.<sup>19</sup> In the 108<sup>th</sup> Congress, pending legislation includes H.R. 1403, which seeks to remove the President's waiver authority with regard to Sec. 508 sanctions on Pakistan; Sec. 608 of S. 790 (the Foreign Relations Authorization Act), which would extend the President's P.L. 107-57 waiver authority through FY2005; and Sec. 236 of S. 1161 (the Foreign Assistance Authorization Act), which would limit the extension through FY2004 only.

U.S. concern about Pakistani democracy exists in tandem with the perceived need to have a stable and effectively-administered front-line ally in the international anti-terrorism coalition. Despite the existence of a vocal Islamist parliamentary opposition and the threat of "Talibanization" in western provinces, Islamabad repeatedly has insisted that its foreign and economic policies will remain unchanged under civilian government. Reports indicate that the military continues to dominate the country's centralized decision making process, and Prime Minister Jamali has referred to President Musharraf as being his "boss."<sup>20</sup> Congressional oversight of U.S.-Pakistan relations in a March 2003 hearing included Member expressions of concern about problems with Pakistani democratization and the danger of the United States "giving full recognition to a military takeover" through continuous waivers of coup-related aid restrictions.<sup>21</sup> Pakistan's fragile democratic institutions are under continuous threat emanating from the authoritarian influences of the country's powerful military and quasi-feudal economic structures. Given a stated U.S. position that "it is of vital importance that full democratic, civilian rule be restored in Pakistan,"<sup>22</sup> Pakistan's domestic political developments likely will be closely monitored by the United States in coming years.

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<sup>19</sup> In 2002, some Members of the 107<sup>th</sup> Congress sought to reimpose restrictions on aid to Pakistan in light of what were perceived to be continuing anti-democratic practices by the Musharraf government: H.R. 5150 sought to repeal the U.S. President's authority to waive economic sanctions and end assistance to Pakistan as a country whose elected head of government was deposed by military coup; H.R. 5267 sought require Presidential certification of Pakistan's successful efforts to halt cross-border terrorism into India, that the country's national elections are conducted freely and fairly, and that waivers on aid restrictions would facilitate both U.S. anti-terror efforts and the transition to democratic rule in Pakistan. Neither resolution saw floor action.

<sup>20</sup> "Behind Civilian Rule, Pakistan's Army Looms Stronger Than Ever," Agence France-Presse, March 2, 2003; "Jamali Unable to Emerge as a Credible Player," *Hindu* (New Delhi), March 9, 2003; "Jamali — Musharraf Elected President for Five Years," Pakistan Press International, April 18, 2003.

<sup>21</sup> "Transcript: Hearing of the Subcommittee on Asia and the Pacific of the House International Relations Committee," Federal News Service, March 20, 2003.

<sup>22</sup> U.S. State Department Spokesman Philip Reeker, "Excerpts: Musharraf's Constitutional Changes Concern U.S.," USIS Washington File, August 22, 2002.