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PAKISTANI ELECTIONS: WILL THEY BE FREE AND FAIR OR FUNDAMENTALLY FLAWED (PART II)

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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PAKISTANI ELECTIONS: WILL THEY BE FREE AND FAIR OR FUNDAMENTALLY FLAWED (PART II)

TUESDAY, JANUARY 29, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:05 a.m., in room 2247, Rayburn House Office Building, Hon. John J. Tierney (chairman of the subcommittee) presiding.

Present: Representatives Tierney, Shays, Lynch, Yarmuth, McCollum, Welch, and Platts.

Also present: Representative Issa.

Staff present: Dave Turk, staff director; Andrew Su and Andy Wright, professional staff members; Davis Hake, clerk; Dan Hamilton, fellow; A. Brooke Bennett, minority counsel; Janice Spector and Christopher Bright, minority professional staff members; Todd Greenwood, minority legislative assistant; Benjamin Chance, minority clerk; and Jeanne Neal, minority intern.

Mr. TIERNEY. Good morning and thank you all for coming.

I want to particularly thank our witness for being here this morning. He is on quite a busy schedule and came in on short notice because we have been trying to have this hearing for a couple of weeks. The Ambassador has been traveling and doing a lot of work.

He is also scheduled to testify at 1 p.m., in front of the Intelligence Committee. That will be a closed hearing from my experience with that group. I think it is important that we have an open hearing so that the Ambassador gets to share with us what is going on from his perspective and the administration's perspective.

And so, we are continuing our oversight on the national security interests at stake in Pakistan, particularly with respect to the elections for February 18th.

The 9/11 Commission and our own intelligence agencies have repeatedly stressed the central importance of Pakistan in efforts to root out terrorism. A growing chorus of others have joined them, also raising serious concerns about how we are doing in that struggle. Most striking, I think, was last summer's National Intelligence Estimate of a resurgent Al Qaeda in Pakistan safe havens.

Over the past year, our subcommittee has had vigorous oversight. Two congressional delegations have gone to Pakistan. We

have had at least three previous hearings on the issue, one of which the Ambassador was present at.

The central lesson, at least that I have taken, is that if we really care about preventing another situation like 9/11, if we care about bringing Osama bin Laden to justice, if we care about protecting our soldiers in Afghanistan from the escalating cross-border attacks, then we absolutely have a crucial interest in ensuring that the government in Pakistan has the popular mandate to confront extremism and terrorism within its borders.

We have heard over and over again about the importance of the United States speaking with a clear and unambiguous voice about the need for the upcoming elections to establish the legitimacy of a Pakistani government in order to instill confidence in the Pakistani people that their will is reflected in the election results.

At times, Ambassador, you and others in the administration have voiced the same sentiments. For example, on early July 12, 2007 at a hearing, you testified: "We believe that Pakistan must make a full transition to democracy and civilian rule."

But at other times, our country's message seems to have been mixed and muddled. Deputy Secretary Negraponte and other officials have called President Musharraf, "indispensable," and you referred to the suspension of the Pakistani constitution as a "bump in the road."

Many more times our lack of words or lack of actions, for example, with respect to President Musharraf's purging of judges from the Pakistani courts, speak volumes especially to the Pakistani people.

All the while, the essential goal of free and fair elections in Pakistan seems to be slipping from our grasp. Just last month on December 20th, we heard from a distinguished panel of election observers from across the political spectrum who concluded unambiguously that preelection preparations offered little hope to the Pakistani people that their voices will be heard in a free, fair and transparent election.

Former Senate Majority Leader Tom Daschle, who had recently returned from an election assessment trip to Pakistan, concluded that free, fair and transparent elections would be impossible without significant, sincere and immediate corrective action on the part of the Government of Pakistan. He noted: "Without the restoration of Chief Justice Iftikhar Chaudhry and the other deposed justices, public confidence in the ability of the judicial system to act independently and ensure the transparency of the electoral process will be significantly curtailed."

Tom Garrett from the International Republican Institute testified that the Government of Pakistan, invoking security concerns, had limited polling place access for international election monitors. Mr. Garrett also spoke about IRI's recent poll showing a plummeting of support for President Musharraf.

Former Peace Corps Director Mark Schneider expressed the view of the International Crisis Group by emphasizing the central role the judiciary plays in the integrity of the Pakistan electoral process. He noted: "The U.S., and its Western allies, must recognize that free and fair elections are the best option for a secular and

moderate parliamentary majority, a unified country against extremist jihadi organizations, the Taliban and Al Qaeda."

The testimony of those three individuals emphasize the widespread atmosphere of insecurity and intimidation that strike at the heart of any credible democratic process. The voters' rolls fail to inspire confidence and raise the specter of massive disenfranchisement.

The media continues to operate under a code of conduct that criminalizes criticism of President Musharraf's government. Many of Pakistan's leading judges and lawyers remain silenced, if not imprisoned.

Opposition parties struggle to make their case under restrictions on political expression and campaigning. Leading opposition figures remain disqualified.

There is a fear that Pakistan's fearsome intelligence and security services may again play an insipid role in rigging and intimidation, and international election observers face disabling barriers to polling place access.

As bleak as these assessments were, the electoral environment in Pakistan has unfortunately deteriorated since our December 20th hearing. On December 27th, former Prime Minister Benazir Bhutto was assassinated in Rawalpindi. Her assassination was a blow to supporters of democracy and opponents of violent extremism everywhere.

Former Prime Minister Nawaz Sharif, in light of the widespread Pakistani view of U.S. complicity with what they believe is a dictatorial government, sees electoral strength in bashing the United States.

The militancy and terrorism, once largely confined to the Federally Administered Tribal Areas, has spilled into the streets of the provincial capital, Peshawar, and elsewhere. The elections were delayed until February 18th and rumors abound among some that President Musharraf is looking for a way to postpone those elections, perhaps indefinitely.

Yet, despite the essential need of a legitimate and impartial judiciary in the electoral process, this administration, the Bush administration, appears willing to concede a dismantled judiciary to President Musharraf.

Despite signs that the vaunted Pakistani military establishment is distancing itself from President Musharraf, this administration appears wiling to continue in expressing steadfast support for President Musharraf.

Despite evidence that President Musharraf's cling to power represents a distraction to our counterterrorism efforts, we continue to pursue policies described by Pakistanis as "Busharraf."

Over the past summer, when you testified earlier before us, Ambassador, I noted, "It is often said that Pakistan is a place of breathtaking complexity. It is in part because of this that our long-term national security interests are best served by forging bonds with the Pakistani people and not with any one particular leader."

That is what our hearing is about today. I look forward to hearing your comments.

I note that we have waived any introductory statement in writing or otherwise by you, Ambassador, so we can get to questions and answers because of your pressing schedule and other obligations today.

Mr. Shays, do you want to make any opening statement?

[The prepared statement of Hon. John F. Tierney follows:]

Opening Statement of Chairman John F. Tierney
"Pakistani Elections: Will They Be Free and Fair or Fundamentally Flawed? (Part II)"

January 29, 2008

Good morning, and thank you all for coming.

Today, we continue our oversight of the U.S. national security interests at stake in the Pakistani parliamentary elections scheduled for February 18th.

The 9/11 Commission and our own intelligence agencies have repeatedly stressed the central importance of Pakistan in efforts to root out terrorism. They – and a growing chorus of others – have also raised serious concerns about how we're doing. Most striking was this past summer's sobering assessment by the National Intelligence Estimate of a resurgent Al Qaeda in Pakistani safe havens.

Over the past year, our Subcommittee has maintained vigorous oversight, having sent two Congressional delegations to Pakistan and held three previous hearings.

The central lesson I've learned is that if we care about preventing another 9/11, if we care about bringing Osama bin Laden to justice, if we care about protecting our soldiers in Afghanistan from escalating cross-border attacks, then we have an absolutely crucial interest in ensuring that the government in Pakistan has the popular mandate to confront extremism and terrorism within its borders.

We've heard over and over again about the importance of the United States speaking with a clear and unambiguous voice about the need for the upcoming elections to establish the legitimacy of the Pakistani government and instill confidence in the Pakistani people that their will is reflected by election results.

At times, Ambassador Boucher, you – and others in this Administration – have voiced these same sentiments. For example, at our earlier July 12, 2007 hearing, you testified, and I quote, "We believe that Pakistan must make a full transition to democracy and civilian rule."

But at other times, our country's message has been mixed and muddled, to say the least. Deputy Secretary Negroponte and other officials have called President Musharraf "indispensable," and you referred to the suspension of the Pakistani constitution as a "bump in the road." Many more times our lack of words and actions – for example with relation to President Musharraf's purging of judges from Pakistani courts – speak volumes, especially to the people of Pakistan.

All the while, the essential goal of free and fair elections in Pakistan seems to be slipping from our grasp.

Just last month, on December 20, we heard from a distinguished panel of election observers from across the political spectrum who concluded – unambiguously – that pre-election preparations offered little hope to the Pakistani people that their voices will be heard in a free, fair, and transparent election.

Former Senate Majority Leader Tom Daschle, who had recently returned from an election assessment trip to Pakistan, concluded that free, fair, and transparent elections would be impossible without significant, sincere, and immediate corrective action on the part of the government of Pakistan. He noted, "Without the restoration of Chief Justice Iftikhar Chaudhry and the other deposed justices, public confidence in the ability of the judicial system to act independently and ensure the transparency of the electoral process will be significantly curtailed."

Tom Garrett, with the International Republican Institute, testified that the government of Pakistan – invoking security concerns – had limited polling-place access for international election monitors. Mr. Garrett also spoke about IRI's recent poll showing a plummeting of support for President Musharraf.

And former Peace Corps Director, Mark Schneider, expressed the view of the International Crisis Group by emphasizing the central role the judiciary plays in the integrity of the Pakistani electoral process. He also noted, "The U.S., and its Western allies, must recognize that fair and free elections are the best option for a secular and moderate parliamentary majority, a unified country against extremist jihadi organizations, the Taliban and Al Qaeda."

Their testimony emphasized the widespread atmosphere of insecurity and intimidation that strike at the heart of any credible democratic process. The voters' rolls fail to inspire confidence and raise the specter of massive disenfranchisement. The media continues to operate under a "code of conduct" that criminalizes criticism of President Musharraf's government.

Many of Pakistan's leading judges and lawyers remain silenced, if not imprisoned. Opposition parties struggle to make their cases under restrictions on political expression and campaigning. Leading opposition figures remain disqualified. There is a fear that Pakistan's fearsome intelligence and security services may again play an insipid roll in rigging and intimidation. And international election observers face disabling barriers to polling-place access.

As bleak as these assessments were, the electoral environment in Pakistan has, unfortunately, only deteriorated even further since our December 20th hearing.

On December 27, former Prime Minister Benazir Bhutto was assassinated in Rawalpindi. Her assassination was a blow to supporters of democracy and opponents of violent extremism everywhere.

Former Prime Minister Nawaz Sharif, in light of the widespread Pakistani view of U.S. complicity with a dictator, sees electoral strength in bashing the U.S. The militancy and terrorism once largely confined to the Federally Administered Tribal Areas have spilled into the streets of the provincial capital of Peshawar and elsewhere. The elections were delayed until February 18th, and rumors abound that President Musharraf is looking for a way to postpone them again and, perhaps, indefinitely.

Yet, despite the essential need of a legitimate and impartial judiciary in the electoral process, the Bush administration appears willing to concede a dismantled judiciary to President Musharraf.

Despite signs that the vaunted Pakistani military establishment is distancing itself from President Musharraf, Bush administration officials appear to continue in expressing steadfast support for President Musharraf.

Despite evidence that President Musharraf's cling to power represents a distraction to our counterterrorism efforts, we continue to pursue policies described by Pakistanis as "Busharraf."

Over the past summer, when you testified earlier before us, I noted: "It is often said that Pakistan is a place of breathtaking complexity. It is in part because of this that our long-term national security interests are best served by forging bonds with the Pakistani people and not with any, one, particular leader."

That's what today's hearing is all about.

Mr. SHAYS. Thank you, Mr. Chairman.

First, let me say I appreciate the Ambassador here. In deference to your time schedule, I am going to waive my written statement and just say that your statement captures much of what I feel.

I am particularly concerned about judicial interference and the dismantling of the judiciary. I am concerned about election day monitoring and the position that the government may take against International Republican Institute in its efforts to monitor.

I am concerned that we not make the error that we made in Iran with deciding that because we didn't like the Shah, we would just throw our support to Khomeini and we ended up with that. So we are treading on thin ice, and we need to act intelligently.

Frankly, I don't know what action is required. That is why I appreciate this hearing.

[The prepared statement of Hon. Christopher Shays follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

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Opening Statement
Ranking Member Christopher Shays
Subcommittee on National Security and Foreign Affairs
"Pakistani Elections:
Will They Be Free and Fair or Fundamentally Flawed (Part II)"
Tuesday, January 29, 2008

Mr. Chairman, I thank you for holding this hearing. I also thank Ambassador Boucher for agreeing on such short notice to testify before us today on this important issue.

Today, this Subcommittee holds its fourth hearing on Pakistan and the second on the forthcoming parliamentary elections. These hearings have proved to be timely, as it seems each time this Subcommittee meets to discuss Pakistan, another critical event has just occurred.

Before our hearing in July 2007, the siege by radical Islamists of the Red Mosque in Islamabad had just ended with the Pakistani Army's storming of the mosque. In December 2007, Pakistani President Pervez Musharraf had just called a partial end to the six-week state of emergency.

And, the assassination of former Prime Minister Benazir Bhutto a month ago set in motion a set of events that led to the postponing of the parliamentary elections. While no words can lessen the tragedy of the loss of a leader, I add my voice to the countless others around the world who have expressed their sincere condolences over the events of that sad day for Pakistan.

Since 9/11, Pakistan has played a key role in the US' global counterterrorism efforts and specifically the efforts in South Asia. Pakistan has provided passage for US assets moving into Afghanistan and, at the same time, has conducted her own counterterrorism missions. But, the newly heightened instability in Pakistan is challenging Pakistan's ability to execute this key role.

Over the past few months, Pakistan has seen a marked increase in suicide bombings and actions against the Pakistani military. During this month alone, a suicide bomber killed more than 20 policemen in Lahore. Also, Pakistani soldiers and scores of militant fighters have been killed in clashes near the Afghan border where militants are openly challenging Pakistani forces and taking control of border posts.

Right now, Pakistan's security and political landscape is the most fluid it has been in years. The residual effects of the state of emergency—including the sacking of judges and the continued detention of key political figures—present serious challenges to Pakistan's emergence as a robust and prosperous democracy.

But, a democratic ally cannot be a democracy in name only. The citizens of a democratic nation must be able to trust their democratically-elected leaders—both current and future—and a government founded on democracy must respect the rights of its citizens.

It is in the best interest of Pakistan and the Unites States for Pakistan to get back on track to developing a stable democracy so that the government, armed with the trust and consent of the governed, can effectively marginalize and defeat militants and other rogue forces obstructing the peace and security of this nation.

President Musharraf acted properly despite the turmoil gripping Pakistan since the assassination of Ms. Bhutto to reschedule the elections. It is also encouraging that both of the key opposition parties—the PPP and the PML-N—have agreed to participate. This gives us at least some hope for the future of democracy in Pakistan.

Mr. Chairman, we look forward to Ambassador Boucher's testimony today to discuss the forthcoming elections in Pakistan and what policy options the Administration is currently pursuing. We truly value his willingness to share his expertise with us especially during what must be a particularly busy time.

Mr. TIERNEY. Thank you. Mr. Shays.

We are going to move to testimony and questions.

My introduction is of Ambassador Richard A. Boucher who is the Assistant Secretary of State for the Bureau of South and Central Asian Affairs for the U.S. Department of State.

Welcome, Ambassador. We swear in our witnesses, as you know, on this subcommittee.

[Witness sworn.]

Mr. TIERNEY. Thank you very much. The record will reflect that the answer was in the affirmative.

We have waived your written testimony. You may want to make a few opening comments. If you do, Ambassador, we would certainly like to hear them.

Mr. BOUCHER. If I could, sir, I would like to.

Mr. TIERNEY. Certainly.

STATEMENT OF RICHARD A. BOUCHER, ASSISTANT SECRETARY, BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. BOUCHER. Thank you very much for having me here today.

To all of us, the elections in Pakistan are very, very important, and the success of Pakistan as a nation, as a moderate, modern, prosperous nation, able to fight extremism is one of our vital national interests.

I appreciate. Let me say right off the top, I appreciate the fact that you have traveled there. Mr. Lynch and others, members of the committee have traveled out there to look at our operations and look at the situation firsthand but also to pursue many of these issues and the emphasis that we, as Americans, that all of us place on a democratic transition in Pakistan.

We have certainly seen a lot of turmoil in Pakistan in the last, well, the last year, the last 9 months especially: emergency rule in November-December, suspension of the constitution, restrictions on freedom of assembly, freedom of speech, and then the very tragic and sad assassination of Benazir Bhutto which took one of the major leaders of Pakistan from the nation.

We have seen increased militancy in the North-West Frontier and more and more clashes between the army and the militants up in the tribal areas. Violent extremists have declared war on Pakistan's democratic process, and I think the assassination of Ms. Bhutto is a sign of that. They continue to target politicians and the political process as we move forward into the elections and probably afterwards.

Despite the unrest, I think our fundamental goals in terms of what we're trying to achieve with Pakistan remain unchanged. We want to see a successful transition to democracy and civilian rule. We want to see the emergence of leaders through a credible election. We want to see a strong moderate center that can complete this transition and help form a solid basis for pursuing the fight against extremism and the building of strong democratic institutions including an independent judiciary in Pakistan.

Our assistant programs focus on these areas in a fundamental and long term way. We are spending over $125 million this year on education. We promote health programs that serve the people

of Pakistan. We have had a lot of programs that promote economic growth as well as security and counter-narcotics.

We have had about $100 million over the last few years that has been spent on democracy programs including $25 million or so that was spent directly on elections.

So it is a very important balance in our efforts. It is an important balance that maintains a whole breadth of interests in the Pakistani people and in trying to help them achieve the kind of nation and society that they aspire to.

We have seen some positive trends in Pakistan over the years and even in recent times. The civil society and the media are strong, although they have taken some hits.

The army is taking on the militant extremists, and they have conducted operations in the Swat Valley and are now conducting operations in Waziristan against extremist elements.

All the major political parties, while they are criticizing the election process, have made the judgment it is better to be in than out, and they are going to participate in the elections. Obviously, their view of how the elections turn out will be one of the very important factors that we use as we see after the election, from the parties, from the observers, from the media, how it was conducted and whether we think it meets the standards that we are all looking for, and that is an election that can reflect the true wishes of the Pakistani people and the Pakistani voters.

We are doing everything we can to try to ensure as fair an election as possible. We have supported efforts for a long time now, as I said, with the money we spent over the last 2 or 3 years, but we are also supporting things on election day like fielding observers, strong election observer missions. We are supporting the Asia Foundation's work in fielding something like 20,000 domestic observers in Pakistan.

We have organized embassy teams from the embassy and the consulates in Islamabad and the other cities of Pakistan. About 30 teams will be sent out by the U.S. mission in Pakistan to go look at key races around the country, and we are working very closely with the International Republican Institute to try to see if they can't send their people back and conduct the observation that they had planned. I think its leadership has yet to make the final decision on whether they are going to reengage.

We have worked with the European Union on their observers who are out there and more to come. So we think that is an important element in trying to ensure that the election is as fair and free as possible because just the scrutiny encourages people to better behavior.

We also have had a very active and ongoing dialog with the Pakistani Government and the Pakistani Election Commission about improving the election environment. Some of the steps we have been looking for have been taken, whether you go back to the need for transparent ballot boxes and 300,000 transparent ballot boxes that were purchased, other aspects of counting and tabulating the results that we have pressed very hard on, some of which have been done, many of which remain to be done.

But they have reasonably taken some steps that we have encouraged. They have clarified guidelines for international observers,

promising full access to all the polling stations and all the activities at the polling stations.

They have printed and distributed electronic copies of the voter rolls. This was an issue that was very, very important to people.

They have now published a list of polling stations in the official government newspaper, so everybody knows in advance where the polls are going to be. That, unfortunately, has been a problem in previous elections in Pakistan and was one of the things that early on the experts pointed out to us as being an issue, and that has been done.

We are pushing very hard for transparency in counting so that they publish results at the lowest polling station level and put it on public display so that people like the Asia Foundation with their observers and the media can do independent tallies to make sure numbers don't get added along the way as the totals get made.

We continue to work very hard to try to ensure an election that is as free and fair as possible, and we have been, I think, really working with a lot of people. Whether domestic and foreign, I think it is time for everybody to work as hard as they can to try to make this a good election, and that is where we are putting most of our energy right now.

President Musharraf has made repeated and public promises that there will be a fair and transparent election, and we expect him to try to work to make sure that happens.

Secretary Rice put it fairly succinctly the other day after she saw President Musharraf. She said, these elections need to be elections that will have the confidence of Pakistanis. That is the important point, and so we will look to Pakistanis on this issue.

You raised the question of the judiciary. It is a difficult question in Pakistan. If you look back at the history of Pakistan, almost from the start, there have been direct and serious clashes between the executive and the judicial branches.

I guess to say that they need and haven't had an independent and responsible judiciary that everybody accepts. We have made this point over and over.

We have urged the Government of Pakistan to release the people who remain in detention—three attorneys, eight supreme court and three high court justices under house arrest—and we have urged that those people be released from detention. We have urged the political leaders and the other leaders in Pakistan to focus on the need for an independent judiciary.

But, frankly, it had become a very political issue in Pakistan and I think it is fair to assume that they won't really address it seriously until after the election and that the new leaders, the political party leaders that emerge from the election as well as the other people in government are going to have to address this. We are obviously very prepared to bring whatever expertise, resources and support we can to that process, but I think we all understand how important it is for Pakistan to have an independent judiciary that the people can count on.

We have also continued to encourage the government to release the remaining restrictions on the media. GEO TV is now back on the air, including their news channel that is one of the most popular in the country, but there are still restrictions and codes of con-

duct that apply to the media that we think should be looked at in order to help ensure a more free election.

After the election, there will be a lot to do. The new players in Pakistan, the new people elected in the political parties will have to decide on the prime minister. The new prime minister will have to work with President Musharraf as president in a new role. The institutions of the society need to be looked at and some of them, like the judiciary, rebuilt.

So it will be a very complicated process, but we look forward to supporting that process. We look forward to working with whomever emerges from a good election as prime minister, and we look forward to maintaining our very strong relationship with the Pakistani people.

So, why don't I stop at that for the moment, and I would be glad to take your questions.

Mr. TIERNEY. Thank you very much. You covered a lot of ground on that, and we appreciate it.

Let me ask the first question, Ambassador. Is the United States going to be aggressive in its support for an independent U.S. investigation into the slaying of Benazir Bhutto?

Mr. BOUCHER. We have been very aggressive in supporting the idea that there needs to be a thorough investigation and a good investigation of the slaying, of the killing of Benazir Bhutto. The Pakistanis have pledged to do that. They have brought in expertise from Scotland Yard, and our understanding is there is good cooperation there between Scotland Yard and the Pakistani investigators.

Mr. TIERNEY. Allow me, if you will, to press that a little only because.

Mr. BOUCHER. We have not gone farther than that.

Mr. TIERNEY. Will you go further than that because I know there is great concern that the directive to Scotland Yard is not as broad as some might like it in terms of finding out who is responsible other than to find out how it might have happened?

In order to put some confidence in this in the international community, isn't our administration taking the position that we should ask for a United Nations internationally run investigation so that we can all have confidence in that going forward?

Mr. BOUCHER. We have not taken that position, sir. There is a lot of, I think, differences but differences between the other cases where U.N. investigations have been done. It is not a cure-all for any situation.

I think we look to, first and foremost, to the local authorities to conduct any investigation. The addition of Scotland Yard, we think, provides an added measure of confidence, and we will all be watching that very, very closely and see how it turns out. If there are problems, I suppose we will deal with them at that point.

Mr. TIERNEY. Well, let me, for one at least, weigh in, Mr. Ambassador. My position—I think I am joined by others—is this administration ought to take a forceful stand on that.

It is not going to be in anybody's interest to have an investigation that is clouded or that doesn't have the confidence of not just the Pakistani people but people internationally. I think right now there is enough of a question about Mr. Musharraf's conviction to

this. Never mind the fact that there is some question, as I said, the directions that have been given to the Scotland Yard.

I don't think it serves our purposes for our security or anybody else's to have this thing not have the confidence of the Pakistani people and others, and I believe the way it is going forward now, not being an independent U.N. investigation, really puts us in jeopardy of having it not be accepted the way it should be, the results. So I just hope that you will consider that and maybe rethink the position on this or bring it back to the administration and say that there are plenty of people who think that it ought to be ratcheted up a level here and moved on.

Let me just address some comments that you made on judiciary. Given the fact that already the president, President Musharraf's election is questioned by many as to his legitimacy and having had the testimony of all of the individuals that have been before us about the election observations they have made, that the judiciary is a critical component of the election process in Pakistan and who appoints the judges to the various levels that make decisions with respect to challenges to any aspect of the election, about the determination of the council and other aspects.

Unless the Musharraf presidency and the administration over there is willing to allow the release of people that are in prison right now or constrained in the judiciary and appoint people that are not perceived to be his puppets in there, how are we ever going to get people to accept any elections as being legitimate?

Mr. BOUCHER. Well, I think, first and foremost, it is the conduct of the elections that people will judge. They will know how things went. There are plenty of observers. There will be a lot of media. There will be international and domestic observers.

As we have noted, the political parties at the moment are participating. They have also raised a lot of red flags and said problems here, problems there, things that ought to be fixed. We are pushing very hard to get many of those things fixed before the election.

The judiciary comes into play afterwards if there are serious charges of fraud and abuse. If those aren't settled appropriately by the election commission, then the judiciary would get involved. But I think, first and foremost, our effort is to try to get a good election up front, so you don't have to ultimately fall back on judicial mechanisms that are in themselves quite controversial.

Mr. TIERNEY. But challenges to the voter polls and other aspects prior to election and during election are going to be brought to those judges, and it is going to be important on that. I think that we have to not just look at the fallout afterwards. I think we ought to be a little more proactive.

You say that we are doing things to try to correct them on the front end. One of the things we ought to correct is to make sure people that are going to make decisions about the number of challenges that have been made to the polls, to the polling places, to the fact that the code of conduct still exists on the media. So I don't know how we can trust the reports that are going to be made about the election. They are certainly not going to be critical if a reporter stands the prospect of not only being fined but going to jail.

What are the prospects of getting these things addressed prior to the election or are we just in a mode we are going to ask President

Musharraf to do it and when he doesn't do it, we are going to deal with the fallout afterwards?

Mr. BOUCHER. I think there have been a lot of things addressed prior to the election if you read. You referred in your opening statement to the reports that the National Democratic Institute had done, and if you go back and you read the one they did in May and the one they did in October and the testimony in December, some of the things that they were focused on were consistent throughout, but some of the things that they were focused on changed from time to time because there were, in fact, changes. There was, in fact, progress.

I think we have come out of the state of emergency with some serious distortions left on the process of the elections. There are some things that still need to be corrected. We have things in Pakistan that if you look at previous elections that were serious problems. I cited transparent ballot boxes just as one that is easy to point to but a lot of other things, interference by local officials and other such things.

So I think we are both looking at the problems that existed from way back in the past as well as the more recent ones and just trying to get as many fixed as we can. The more that get fixed, the better the election.

Mr. TIERNEY. My time is up. I want to stop.

You mentioned the National Democratic Institute. Their own comment from Senator Daschle, who was there on behalf of that committee, was in fact: "Virtually nothing has been done since our first report of May, 2007, to strengthen the prospects for free and fair elections."

So there has not been of a continuance of improvement, as you recommend, at least not in the National Democratic Institute's problem, and that is what we are dealing with here. There hasn't been that kind of reform or changes in the situation that they pointed out. The trouble back in May still existed in December.

So that is, I think, why we are trying to urge some more concerted effort on behalf of the administration here.

Mr. Shays.

Mr. SHAYS. Mr. Chairman, I would like to defer to my colleague who has been to Pakistan. I haven't been, so I am just going to pay attention for a little bit.

Mr. TIERNEY. Mr. Issa is not a member of this subcommittee, but by unanimous consent we would be more than happy to invite him to participate and go out of turn. Unless people want to take their prerogative, we will go out of turn and allow you to question now. Thank you.

Mr. ISSA. Thank you, Mr. Chairman. Thank you very much.

You know there is nothing more bipartisan on this committee than elections. The IRI, obviously, you are familiar with their attempt to do work in Pakistan.

Let me just bring to your attention again a couple of things. You are familiar with the exchange of letters between the Ministry of Economic Affairs and Statistics back in October, OK?

Mr. BOUCHER. I am not sure I am.

Mr. ISSA. Let me put it in perspective. Are you aware the IRI has been told to cease and desist and leave the country?

Have you been told that there has been a cat and mouse game played with their visas repeatedly, that both their head and their interim head have been denied timely visas every time the extension of an election occurs? What a surprise, they have to play for another month or two just to try to get that.

But, in particular, I am going to call your attention and ask unanimous consent these two documents be placed in the record from the Pakistani Government.

Mr. TIERNEY. Without objection, so ordered.

Mr. ISSA. Not only has the Government of Pakistan Ministry of Economic Affairs and Statistics basically said we need more than an MOU. We need to register the GOP and the IRI because the IRI needs to be registered in order to do business on elections.

What is the point of having international observers if they have to somehow come up with a bunch of credentials beyond those which the U.S. Government and your kind of office bring to bear?

Second and, most importantly, the denying on December 24th, just 3 days before the assassination of the lead prime minister candidate, Mrs. Bhutto, they answered, clearly stating that exit polls would not be allowed. They were not approved and would not be allowed.

Clearly, if we expect and we do expect their to be gaming of the system including the now translucent, not transparent, ballot boxes, wouldn't you say that exit polls are about the only way to get some relative feel for the level of gaming of the system, post-election?

Mr. BOUCHER. Sir, I have worked very closely with IRI, and I have talked to them a number of times, and our people in Pakistan, our embassy in Pakistan has worked very closely with them as well. So let me make a couple comments.

I am not familiar with a letter from October about registering, and I will have to look into that and see what the basis of that was and what happened to it.

We have worked very closely with them and the Pakistani Government on the visa question. They have their visas renewed, not as long as we would like, but for the moment everybody is satisfied that question is taken care of at least through the elections.

They were very concerned about remarks that the secretary of the election commission made—I think it was December 26th—about polling places and access to polling places and how they would be allowed to go to places.

We worked with them and with the election commission. About 2 weeks ago, the election commission put out a statement that clarified that to the satisfaction of all of us, that in fact observers, domestic and foreign, would be allowed to go to all polling places and see all aspects of the prospect.

Mr. ISSA. But not do exit polling.

Mr. BOUCHER. Now let me get to exit polling. Exit polling, as far as I understand, it has not been widely done in Pakistan before. We think it would be a very useful adjunct to the process, and we have made that point.

You ask, is that the only way to find out if people are gaming the system and where the distortions are, and the answer is I don't

think so. I think there are other ways, and we have been pushing very hard on those.

Asia Foundation is going to try to run a parallel vote count with their domestic observers to collect the numbers at the polling station level and add them up themselves. That is a very useful check on the system.

The media will be out far and wide, checking on such things.

We have encouraged very strongly with the election commission and the leadership in Pakistan that there be full transparency, that the count be done on chalkboards in rooms where everybody can watch the numbers being added up.

There is a variety of things like that we have continued to press, one of which I mentioned in my opening remarks, which was posting of results at the polling places in a certified manner so that everybody would be able to add them up themselves.

So we do think exit polls would be useful, but there are also a variety of other observations and ways that the count could get checked.

Mr. ISSA. I appreciate that, and my time is about to expire.

I would say that if there is anything that I, personally, am disappointed in, in my trips to Pakistan, it is that for the amount of aid, the amount of support that we give this president and the fact that his election itself was clearly flawed at best, that we are not pushing for this check and balance of at least having a prime minister whose election is considered to be at a higher standard.

It would seem to be the minimum that we can ask for this president. His position is secure. His position is in excess of what was originally intended in their own constitution because of the nature of how he came to power and now has become president again.

So at least I, for one, am disappointed that 3 days after the election, we expect a team to leave even if they are in the midst of uncovering huge amounts of discrepancies. Observation on election day, as you said, is not the only tool. But if your visas expire and you are forced to pack up and be gone 3 days after an election, it is very clear that you are not able to followup in the aftermath of what is likely to be a less than full and fair election.

Mr. BOUCHER. Sir, I think you put it very well the need for a strong player, a strong prime minister who emerges from a credible election. That has to be an important part of stability in Pakistan. We push very hard for that in a variety of ways, especially in trying to improve this process.

Right now, we have worked with IRI, we think, to solve the problems that they saw with their observation mission. The remaining issue, as far as we understand it, is only the question of security for their personnel, and we are continuing to work with them and talk with them about that. Should they decide to go back, then we will work on keeping them there.

Mr. TIERNEY. Thank you, Mr. Issa.

Mr. Lynch, you are recognized for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

First of all, Mr. Ambassador, thanks for your good work and your willingness to come before the committee to help us with ours.

In our last visit, we went into some of the tribal areas and went into Peshawar, and the indications from some of the parties was

that they would indeed be participating in these elections. But they felt confident, and this testimony was repeated to the chairman and I and others in other meetings with some of the candidates, they felt that it wasn't a question of whether there would be election rigging by the administration but how much election rigging would actually go on.

So, while there is participation there, there are some restrictions, as you have noted, regarding the media. One of the restrictions that we were told of was that candidates for the parliament were not allowed to criticize Musharraf or the administration. Originally, he had control of all the media, all the major media outlets.

There are also some charges that Musharraf's people had begun the criminal reporting of certain opposition party members which put their eligibility to participate in the elective process, the campaigning, in question and also whether they would be allowed to actually vote.

During our visit, the DCM, Peter Bodde, was nice enough to invite us back to participate as election monitors. But I guess with all those factors in there and some that you have addressed and I have not, is it a worthwhile exercise, as Mr. Issa says? What is the effectiveness?

What would be the effectiveness of us, as Members, going back into Pakistan during the election and are we at that point where we need to use the only leverage we have apparently with Musharraf, which is economic aid by the United States to Pakistan?

Mr. BOUCHER. I think you raise a number of very important questions there.

First of all, I don't think. We don't necessarily accept a certain level of fraud, but if history is any guide and the current reports are any guide, we should expect some.

There is an interesting group called the Fair and Free Elections Network—I think it is FAFEN.org—in Pakistan. It is the domestic observer network, and they have regular reports of what is going on in the provinces and districts.

If you see their reports, for example, they report interference by local government officials in all kinds of places on behalf of all the different parties, slightly somewhat higher, sort of about a one-third of the districts that reported some interference for most of the parties and something on a half or two-thirds where the government party is in charge. So it is an indication, perhaps, of what one might expect throughout Pakistan, a certain level of interference.

On the other hand, I think it is harder to get away with it now. Even on the restrictions on the press, there is an enormous explosion of media in the last 8 years under President Musharraf actually. They have gone from something like 4 TV stations to almost 50. Even with the restrictions that exist, which we think should be lifted, there is going to be a lot of reporting.

There is going to be an enormous number of observers around. The political parties are well organized and, believe me, they will cry foul if there are any fouls that exist.

At the same time, I don't think we should give up on this election. I think if everybody works to make it a good election, we can have a credible election in Pakistan. If everybody, political parties,

election commission, election observers, foreigners, domestic, civil society people, everybody has to work to make this a good election so that the new leaders who emerge for Pakistan have that endorsement, have that legitimacy of coming out of a legitimate election process.

The election observers are important not just to point out problems where they exist or to find fraud where it happens. They are important, I think, to keep the process honest. Just the fact that election observers there and are moving around and looking at polling places, I think tends to put a damper on the excesses that might otherwise occur.

Mr. LYNCH. I guess the last question part of my question again was the only leverage we have is really the economic aid that we provide to Pakistan. A couple of problem areas. The election is upcoming and also the willingness of Musharraf to take decisive action in south Waziristan by Baitullah Mehsud and also just the whole Federally Administered Tribal Areas where Al Qaeda and the Taliban are resurgent.

Are we delivering a clear message that Congress is very reluctant to commit further resources unless we see a demonstrative change in behavior rather than some of the passive, it is almost complicity that we have seen in the past?

Mr. BOUCHER. I think it is a question that is easier in theory than in practice. I don't think it is worth our while to withdraw money from girls' education, all the money that we put into education and health in Pakistan. I don't think it is in our interest to withdraw money from the counterterrorism efforts in Pakistan.

I think we are very careful about our assistance. We have taken steps recently to focus it much more on helping the people of Pakistan and helping the authorities go after the extremists.

There is a lot of fighting going on, and they have lost, they have lost a thousand people to terrorism in the last year. They have lost 250 members of the security forces since July. So they are engaged in a fight, and I think it behooves us to help them pursue that with the best possible tools.

Mr. TIERNEY. Thank you, Mr. Lynch.

Mr. LYNCH. Mr. Chairman, I just want to say, just in response, what we are hearing in our committee is that much of the resources that we have given Pakistan in the past have not gone to education. It has gone really toward the Pakistani profile vis-a-vis India and the Kashmir and the military programs and not for education. So we are concerned about that.

Mr. BOUCHER. I think if you look at the numbers, you will see it is somewhat of a different answer.

Mr. TIERNEY. Let me interject. It is a point well taken on both response and the question.

We are going to get into that issue in hearings coming up in the not too distant future on that for two purposes: one, to find out exactly what has been going on and how effective that has been but also as we look forward to some of the changes the administration has recommended and some that Congress has put into law. If we are going to be delivering aid, we have to be concerned about how it is made, whether we are accountable for the money, where it

goes and whether or not it is going to be effective, given the security situation there now as well.

Mr. BOUCHER. Absolutely, sir.

Mr. TIERNEY. So, point well taken, Mr. Lynch, and we appreciate that.

Mr. Welch, you are recognized for 5 minutes.

Mr. WELCH. Thank you, Mr. Chairman.

Ambassador, there seems to be a threshold question and a conflict. On the one hand, it is very clear that stability in Pakistan is vital to American interest in the region. No. 2, Ambassador Negraponte has said that Mr. Musharraf is indispensable. He is the indispensable man.

There is a view, widely shared in the State Department and the Congress, that free and fair elections are probably the most effective way to assure stability in Pakistan. But President Musharraf, by his actions—suspending the constitution and press restrictions and essentially firing the judiciary—has fundamentally compromised the integrity of any electoral process that follows.

No. 1, do you see Mr. Musharraf as the indispensable man as was indicated by Mr. Negraponte?

Mr. BOUCHER. I do, sir. I think he has led the Nation the way it has gone, but let's also remember now he is taking on a different role. He is taking a role of president which he has before but no longer as the guy in charge.

Mr. WELCH. You do see him as indispensable.

Mr. BOUCHER. He is going to be one player, a man along with a newly elected prime minister and a number of other government institutions.

Mr. WELCH. Let me just followup on this. I can understand that there is a real dilemma for policymakers in our position. I totally appreciate that, but the firing of the judiciary would more or less be the equivalent to the President of the United States in November 2000, when the *Bush* v. *Gore-Gore* v. *Bush* case was before the U.S. Supreme Court, getting an apprehension that it wasn't going to go the way the President wanted it and firing the supreme court.

The threshold question that the American citizens would ask is whether that had any legitimacy and whether, until the restoration of the judicial branch, could you have any integrity in future elections that would be subject to the supervision ultimately of that independent judiciary.

The question I have is this. Why is it not the position of the U.S. Government that as a condition for aid or, more important, as a condition of confidence, that the electoral process in fact will be free and fair, we have to require or demand that President Musharraf restore the independent judiciary?

Mr. BOUCHER. I think, sir. First of all, I don't think the analogy stands up to expert scrutiny, and people I have talked to about Pakistan, who have studied this a lot more than I do, have said it is not. You can't compare it to the United States. We have different history and tradition.

Mr. WELCH. Don't compare it to the United States. Do you believe?

Let me just ask this. We will leave out the comparison. Do you believe that it was appropriate for President Musharraf to fire the supreme court?

Mr. BOUCHER. No.

Mr. WELCH. Do you believe that it should be our policy in order to achieve the goal of free and fair elections, that we demand that the president restore the supreme court justices to their positions?

Mr. BOUCHER. We believe that it is very important for Pakistan to have an independent and responsible judiciary.

Mr. WELCH. Can it be accomplished without this?

Mr. BOUCHER. But that in itself is a very political issue in Pakistan. There is a lot of controversy about it. We certainly want them to deal with it.

Mr. WELCH. No. I am asking our own position.

No. I am asking the State Department position. Is it the State Department position that the judges who have been fired should be restored?

Mr. BOUCHER. Our view is that the issue of an independent judiciary in Pakistan can't be solved that simply.

Mr. WELCH. So that the president is allowed to fire the independent judges on the supreme court.

Mr. BOUCHER. Our view is that it was not a good move but that to fix it, it needs to be done with the full political process, with a newly elected prime minister and other leaders, and they have to try to get together and figure it out.

Mr. WELCH. My understanding is that if we have a new election, President Musharraf retains the power to dissolve the Parliament. Is that right or wrong?

Mr. BOUCHER. That has been the case for a long time, yes.

Mr. WELCH. Right. So then, in fact, if he can retain the power to dissolve the parliament, if the parliament takes an action to restore the judiciary, then President Musharraf has current power to dissolve the parliament and negate that action. Is that right?

Mr. BOUCHER. In theory, yes. I mean, as you all know, there is sort of constitutional law and there is politics.

Mr. WELCH. See, here is the dilemma from, I think, the American perspective, and I don't mean to be difficult on these because you are facing an extraordinarily difficult situation. We are stuck with the devil we know.

But there is an inherent conflict that I think we might we want to directly acknowledge, and that is on the one hand, we believe in free and fair elections; on the other hand, the person who is going to implement those has already sabotaged any possibility that the people who are going to vote can be confident that it is a free and fair election or, if it is, he won't be able to overturn the action of their vote by dissolving the parliament they elected. You just acknowledged that can happen.

Mr. BOUCHER. And that may or may not happen.

Mr. WELCH. Well, it may not happen, but what we have is a situation where the people in Pakistan, who want to vote, are no dopes and they understand that ultimately what they vote is totally secondary to what President Musharraf decides.

Mr. BOUCHER. If you look at the history of Pakistan, you have had prime ministers kicked out by presidents and by the army. Some of that is in the constitution. Some of it is not.

The fact is we are going to have a new political situation after the election. The parties are participating, and we hope they can get a fair representation.

Mr. WELCH. Just one final question, do you think there might be some benefit to how the people of Pakistan perceive the U.S.'s commitment to their right to free and fair elections if we stated explicitly and directly to President Musharraf that we believe in order to achieve those free and fair elections, he should restore the judiciary to its independent status?

Mr. BOUCHER. I think some would think that was great and some would not.

Mr. WELCH. OK.

Mr. BOUCHER. The fact is it is a very political environment in Pakistan. The judiciary has been a matter of political controversy. They need to deal with it.

They need to have an independent judiciary, but I can't see them doing it until after the election with all the players, including the new players. If there is a good election, the new players will be credibly elected and have a lot of say in the matter.

Mr. WELCH. I hope you are right.

Mr. TIERNEY. Thank you, Mr. Welch.

I will just make a note that I am stunned when you keep saying that they are good elections. If the judiciary situation isn't going to be resolved, then they aren't going to be good elections in a sense. They are going to be tainted elections. The question is the degree of taint on that.

But all the testimony we have had in this committee from all of the people who are experts in here that have been over there, that have assessed the election process, all remind us of the important role the judiciary plays in the election.

The election commission, which is still not a full complement of people on that commission and 1,300 complaints continue to be resolved to that election commission even before they have the balloting.

So I am just surprised to hear about good elections. I think it is a term we might not want to get caught up. They won't be good elections. They will be elections. The question will be how much taint is going to be involved in those elections.

Mr. BOUCHER. On a scale from terrible to great, it will be somewhere in the middle.

Mr. TIERNEY. Mr. Yarmuth, you are recognized for 5 minutes.

Mr. YARMUTH. Thank you, Mr. Chairman.

Ambassador, welcome, and I want to continue this discussion because it is a line of discussion that we pursued with Senator Daschle and Mr. Garrett and Mr. Schneider in December.

The question is we all talked about the confidence that the Pakistani people have in the results of the election. We all understand that there are two elements to that: the procedural aspects, which may or may not be the most important aspects, and then the overall question of whether you can have a legitimate election in the environment that exists there. That was prior to the assassination.

One of the things that I asked of them, of the gentlemen who were here before, was, what measures are going to be used to determine in your estimation as to whether the election is legitimate or not, procedural ones being one aspect of it as I said?

The issue being if we are in a situation in which the only measure of whether there is a legitimate election is whether Musharraf is rejected overwhelmingly, then are we not in a position, a very difficult position of having been perceived as lending our imprimatur to an election that is flawed and what the ramifications are for our ongoing efforts in Pakistan and that part of the world?

Mr. BOUCHER. I don't think the standard for judging the election can be who wins and who loses.

There are going to be a lot of voices commenting on the election, describing what they saw. We are going to have embassy observers, European observers, we hope American observers, this huge domestic network that is going to be there. We will listen to the observers.

We will listen to the media and what do they report, what do they see.

We will listen to the political parties. Frankly, the political parties have decided that whatever the distortions, whatever the possibilities of fraud, whatever the faults and flaws of the election commission, that they are going to participate and they are going to go for it.

We are trying to continue to work right up to the last moment and even afterwards to try to give them every opportunity to get a fair result, a result that truly reflects what the people wanted.

I think by listening to all these voices from people on the ground, in Pakistan on the ground, we will know. We will all know how good an election it was and how distorted it was. Obviously, we have to make judgments at that point.

We have made very, very clear to everyone in Pakistan that we think having a good election is essential to moving forward with Pakistan. It is an essential part of our relationship, and it is not in any way contradictory with our overall goals of a stable society, fighting terrorism. It is part and parcel of that.

Mr. YARMUTH. I agree with that. But, like I said, when we had our hearing back in December and I raised this question, I think there was general agreement that it was possible that could be the perceptual problem following the election, that the only way it will be perceived, not because of procedural matters. The only way it will be perceived as legitimate is if Musharraf is rejected.

Therefore, if that becomes the measure, what can we do or have you thought about what we can do to essentially refute the idea that we were complicit in basically a flawed election process?

Mr. BOUCHER. I guess you know some circles will base their view of the process on the outcome. Did we or did we not get what we deserve, and people always have a higher expectation of what they deserve and what they end up with, but I think generally people have a sense from polling going back over the last year and the changes in attitudes. People have a sense of where it might end up.

But I think it is more the reports from the people on the ground on the conduct of the elections, on how open the environment was in the end, how much exposure they were able to get through tele-

vision or through rallies. It is important to listen to the details and not just look at the totals.

Yes, some people will complain, and some will complain more loudly than others, but you know one of the key questions will be do the political parties accept the outcome to the point where they think it is basis to form a government and to move forward.

Mr. YARMUTH. I come from a media background. I would ask you, are you confident that the media is sufficiently free to provide the type of open discussion of the election as it is being conducted, so there is confidence on the part of the voters that they are getting an accurate report?

Mr. BOUCHER. There are still some restriction on the media which we think should be lifted and can be lifted between now and the elections, but I have to say there is an awful lot of discussion out there and there is an awful lot of reporting out there. So there will be a lot there but not as much as perhaps there should be.

Mr. TIERNEY. Thank you, Mr. Yarmuth.

Mr. Platts, you are recognized for 5 minutes.

Mr. PLATTS. Thank you, Mr. Chairman.

Mr. Secretary, I appreciate your testimony and the importance of this topic. I do want to focus a little bit not just specific on the election but on the militants in Pakistan and our efforts to both help the Pakistan Government in going after their militants who are trying to derail democratic efforts in Pakistan and also how that impacts us in Afghanistan significantly.

It was reported in the New York Times on Sunday about DNI McConnell's and CIA Director Hayden's reported recent visit regarding us having a greater latitude with our CIA operatives in the tribal areas and that supposedly President Musharraf's response was a rejection of this idea and that they will continue on their own to combat this challenge.

One, is this seen by the department and by the administration as a significant change in President Musharraf's efforts in working with us in this regard and, if so, what is going to be our efforts or our response to that change in position?

Mr. BOUCHER. Congressman, there is a limit to how much we can discuss these issues in this session and a limit to how much I can discuss the business of other departments and agencies.

I think there is only really one point I can make, and that is Pakistan has been and continues to be a partner in the war on terrorism. Many of their soldiers and officials have lost their lives in the fight against the Taliban and Al Qaeda.

They have been able to capture hundreds of very dangerous people, and they have been a partner with us. They have worked on it. We have worked with them.

It is a sovereign country. We work with them within their own country as they wish and as they decide, and so we have, I think, a positive relationship. We are always. We are all looking for how we can advance this relationship and advance the cause that we believe in, that we both believe in and that is the fight against terrorism.

Mr. TIERNEY. Mr. Platts, if I might just say, we are going to allow you that extra time. I don't want to take it out of your time.

You weren't here at the beginning to note that Ambassador Boucher is going to be testifying at 1 p.m., in front of the Intelligence Committee to cover those areas that can't be covered here, including some questions about a different view of what the Ambassador says in terms of some of the Pakistani troops laying down their arms and being taken, imprisoned or otherwise set aside on that. But to the extent that the Ambassador can't get into that detail here, it will be covered in the other hearing, and I think you will have access to the minutes.

Mr. PLATTS. OK.

Mr. TIERNEY. Thank you.

Mr. PLATTS. Thank you, Mr. Chairman.

I do respect the sensitivity and what you can say in this open setting, but clearly what goes on with the CIA and with the DNI impacts your department's ability to then work on these issues of our relations with Pakistan and specifically the election.

I don't want to diminish Pakistan's efforts in partnering with us. I was in Pakistan in September, in fact, on the anniversary of September 11th and appreciate the sacrifices that their troops and personnel have made in trying to assist us and combat these radical militants.

But in the FATA region, the North-West Province area, my understanding is the administration has talked about additional hundreds of millions of dollars of aid for those specific regions.

I guess maybe from the Department of State's perspective, how do we, to our taxpayers, say we are going to commit these hundreds of millions to an area that we don't have confidence or aren't under any reasonable control by the Pakistani Government, yet we are going to put more of our money into that region?

Mr. BOUCHER. It is a difficult area to work in not only because of the insecurity but because of these unusual governing arrangements that go back to colonial times.

The plan for sustainable development in the tribal areas was developed very closely by the Pakistanis with us, and it is a solid program, we think. One strong element of that program is in the early stages now is to start building the administrative apparatus to reach out to the people, to conduct projects, to build bridges and schools and conduct health programs in a verifiable and auditable way so that they have a set of institutions that can carry out projects in those areas and get things done.

We do have some experience up there. Our Narcotics Affairs Section is building roads, doing training up there for a number of years. The Agency for International Development has built, I think, about half the 65 schools that they have planned to build in those areas. We have child and maternal health programs in the tribal areas already.

So we have some experience working with NGO's, working with contractors, working with people who can get things done in those areas.

Now, obviously, it is easier to do things where the situation is calmer. So, at any given moment, we may be working here and not there, and that will probably continue.

But, yes, we do have plans. We are going to put about $750 million into this area over 5 years, and the central goal is to give these

people a chance at economic opportunity, a chance at jobs and a chance to be part of the national economy.

We will be coming to Congress also with legislation on reconstruction opportunities to open up opportunities there as well.

Mr. PLATTS. Mr. Chair, if I can just have a quick followup.

Mr. Secretary, in my numerous visits to Afghanistan where we have had some important successes in aid investment and development—whether it be roads, schools, hospitals—a key in being out with PRTs and Jalalabad, it was kind of a role model when I was there a few years back for how to do this. A very important part of this effort was partnering our military with our USAID officials and the civilian-military partnership that provided the security along with the investment of the development effort.

How are we going to ensure that same ability in this area where Musharraf is very publicly resisting us having a greater presence?

Mr. BOUCHER. The basic development plan is a Pakistani development plan. It is about a $2 billion plan. We are putting in $750 million over 5 years. They will be about $100 million a year for a slightly longer period.

We are also working with their military on two things. One is to transform the Frontier Corps, the local security forces, into a more capable force and, second of all, to help with some of their units who need to do the job right now of fighting the militancy, and working with them in these parallel tracks and talking to them, working with them about how they can make these two tracks work in tandem, both of fighting the militants but also offering opportunity to the people who live there.

Mr. PLATTS. Thank you, Mr. Secretary.

Mr. TIERNEY. Thank you, Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman.

Mr. TIERNEY. You are welcome.

Ms. McCollum, you are recognized for 5 minutes.

Ms. MCCOLLUM. Thank you, Mr. Chair.

When elections take place on a weak foundation, they can actually create divisions that democracy is supposed to be able to heal. I had the opportunity, thanks to Mr. Tierney, to be in Pakistan and met with many of the people, NGO groups networking on the election issue.

I was pleased to hear in your testimony that they have now published the rolls. When we had lunch and spoke with people at length, the media hadn't been brought into how they were going about setting up the rolls for the elections. There was no transparency. There was no public looking in to see as to how these elections were being prepared which was a huge mistake in my opinion, and I think we all share that and express that.

So it was nice to hear that there has been a little bit of action taken, but I am still very concerned about the upcoming elections in Pakistan. The potential for violence and instability, I mean we saw that recently with the assassination in Pakistan.

We are witnessing now with what is taking place in Kenya, a month since the Kenyan elections, and I don't think anybody in their wildest expectations thought what was taking place in Kenya would, the riots, the killing, the mass, mass killings. In fact, in the city of Nairobi, a moderate opposition leader was gunned down, as-

sassinated. The New York Times said, "Kenyans are literally ripping their country apart, uprooting miles of railroad track, chopping down telephone poles, burning government offices and looting schools."

The potential for a flawed election to destabilize Pakistan is a real one. Considering last year's challenges back and forth with who was even going to be allowed to stand for election and the assassination which I had mentioned already, I am very concerned about a breakdown and the effect it would have on regional stability.

So my question is, what steps should the United States and the international community be taking to prepare in case widespread violence and destabilization would follow an election in Pakistan? What steps have been taken?

What discussions are taking place because the potential of spilling over into affecting NATO forces, into Afghanistan is real?

As we have respected and I believe we should respect the sovereignty of Pakistan and what operations are conducted within its borders, if this comes apart, what happens next?

Is there a Plan B and are we working with the international community, so it is well understood what the international community's reaction would be?

Mr. BOUCHER. Ma'am, I appreciate the question. I think I have to say, honestly, our first plan is Plan A is to try to make this process as good as possible.

We do know the history of elections in Pakistan and where there has been fraudulent elections, widespread abuses, there has been violence afterwards. That is one more reason why it is important to have as good an election as possible, and everybody should work on that, and that is what we are doing and trying to get others to do.

The army is going to deploy to try to provide security at polling places and keep down what you might call the level of violence, the fact that the elections themselves are targeted by the violent extremists. Just as Benazir Bhutto was, other political leaders and government officials in Pakistan are still being targeted.

The militants are anti-election as well as anti-establishment and anti-politics and against the political leaders. So there is a heavy threat that comes from that, from that side of Pakistan, from the militancy and the violent militancy that comes out of the tribal areas.

Exactly what we would do in the case of widespread violence after the election really depends on what it was and where it came from. If it were ignited by the militants, there is a chance that we could work and see the society band together, but if it were the result of electoral fraud, that obviously creates a much more complicated situation.

So I don't think I am really able to give you a clear answer right now as exactly what we would do, but I think what you point out is a very real possibility and we all need to push very hard to try to avoid coming to that point.

Ms. MCCOLLUM. Mr. Chair, I have just a second left.

On an earlier question, you were asked about the Scotland Yard investigation. Mr. Tierney asked you about that.

You, if I heard you correctly and I want to give you an opportunity to make sure I understood what you said correctly. If I heard you correctly, you said that there was no need for the United Nations or any other such organization to be involved in that. You thought that the Pakistanis and this very limited Scotland Yard hearing would hold it.

That wasn't the U.S.'s position with the assassination in Lebanon. How is this so radically different that we would have such a silent voice on having a robust investigation?

Mr. BOUCHER. I think we have been very clear on the need for a robust and thorough investigation. The question is who should conduct it.

I don't think the conditions that led us to conclude that there was an absolute necessity of a U.N. investigation in the Lebanon case necessarily apply in Pakistan.

We will certainly be watching this investigation very, very closely. We think the addition of Scotland Yard, whatever their mandate, does help provide more insight and credibility into the conduct of the investigation, and we will all be watching very carefully to see how thoroughly it is done and what the results are.

Mr. TIERNEY. Thank you, Ms. McCollum.

Mr. Shays, you are recognized for 5 minutes.

Mr. SHAYS. Thank you.

Again, Ambassador, thank you for being here.

I wrestle with this, and I realize there are limits to what you can say publicly, but what I wrestle with is that Musharraf, however well intended, overthrew a duly elected government that was secular, not sectarian, and that in order to retain power, my read is that he has had to play over the past few years to the sectarian interests and that now has put him in the mess that he is in.

I can't get beyond the fact that he basically dissolved the judiciary and put them aside, and it seems that almost everything that follows from that point becomes a farce. I wrestle with the fact that we have elections, and I say, well, you have democratic elections, but you have a government that overthrew a branch that is supposed to guarantee that the constitution is followed in a democratic way.

Walk me through what I have just described and tell me where my fears are misplaced.

Mr. BOUCHER. I think your fears are correct, but we won't know until the process unfolds whether they actually come to pass.

First of all, I think you have to look back at the history of Pakistan and say, you know I am not the world's expert on this, but in my brief readings I think just about every leader has had a confrontation and sometimes a very difficult one with the judiciary.

You referred to Nawaz Sharif and the man that was overthrown by Musharraf. At one point, his party, people went and ran the supreme court out of town or at least out of their building. So it is the confrontation between the executive and judiciary in Pakistan goes back a long way. It has been a very political issue throughout the history.

That doesn't deny the fact that there absolutely needs to be an independent judiciary in Pakistan. The question is how do you get one. At this point, having a legitimately elected prime minister and

political leaders who can come out of this election and be part of that process of deciding how to restructure the judiciary is very important, and that is where.

Yes, the process is distorted by all sorts of things.

Mr. SHAYS. Let me ask this question.

Mr. BOUCHER. By restrictions on the media, the lack of independent judiciary, all that stuff.

Mr. SHAYS. In our judgment, our government's judgment, did the judiciary overstep its bounds? Did it do something that was contrary to their powers?

Mr. BOUCHER. I don't think that is a judgment to us to make. But, no, we thought that kicking out the judiciary was a bad move, was a real mistake.

Mr. SHAYS. Well, I will just conclude by saying that my questions were also going to focus on the violence that is to come, and what happened in Kenya strikes me very likely to happen in Pakistan. I don't know how we respond to it, but I think it is going to be very likely to happen.

Mr. BOUCHER. Well, we will know in a few weeks whether we have violence, whether we have, how good an election we have.

Mr. SHAYS. Right, and that is true. Do we have a contingency plan to respond to violence if it takes place?

Mr. BOUCHER. I said we have to deal with how it comes from.

Mr. SHAYS. I don't need to know what it is. I don't need to know what it is, but do we have plans if that happens?

Mr. BOUCHER. We have looked at various scenarios, but until you find, you know until you see the actual situation, it is very hard to decide precisely how to deal with it.

Mr. SHAYS. Well, thank you again for being here.

Mr. Chairman, thank you for holding these hearings in such a timely way.

Mr. TIERNEY. Thank you, Mr. Shays.

Mr. Boucher, I just want to followup on that particular thing because we have made that an emphasis of the hearing on this.

Mark Schneider, who was here on behalf of the International Crisis Group, spends a lot of time over there. His testimony was this: Musharraf, by permanently barring the previous supreme court and the provincial high court judges who refused to bow to his edict, has assured that the commission will be compromised of his handpicked choices.

District returning officers and assistant returning officers, who supervise the actual polling process in each province, are either district court judges themselves or appointed by district court judges, all under the guidance of the provincial high courts, whose new members are suspect.

Remember that Musharraf has sacked 13 of the 17 supreme court judges and more than 40 high court judges, and any electoral complaint of fraud, rigging or electoral violation ultimately would be heard on appeal to those courts. Stacking the full range of high courts nationally and provincially, including naming a totally new high court in Islamabad, amounts to hijacking the electoral process itself.

That is our concern, I think, in a nutshell, that the very people that are supposed to set up the process before balloting, assure

that the voting polls are there, assure that the balloting process is legitimate, assure that complaints about that are determined in a fair way are people that have been put in place by President Musharraf whose own election is suspect, whose dismissal of the original court was suspect and now whose appointees are suspect.

The people we have heard from and all the parties, they may be participating in this election, but all of them feel strongly that is the crux of the matter and that, in essence, again they can't get a fair election. They can just get the best that they can get.

The question is how tainted is it going to be. If it is too tainted, all hell is going to break loose.

So I just leave that to tell you the ground work of some of the testimony that raises that question and why we think it is important.

Mr. BOUCHER. Can I make one quick comment on that?

Mr. TIERNEY. Certainly.

Mr. BOUCHER. I don't disagree that is a serious concern, but I do think that there are a number of ways to deal with it.

No matter how beholden or dishonest any individual returning officer is along the chain, if he has to do his counting and his business in full transparency with media watching and the parties watching and the observers watching, it is a lot harder for him to add in a few thousand votes here and a few thousand votes there. We have pushed very, very hard on the transparency issue for that reason.

Mr. TIERNEY. Except, Ambassador, there are 64,000 polling places. There will not be observers at every one. There will not be media at every one.

Mr. BOUCHER. There will be.

Mr. TIERNEY. There will be plenty of opportunity, as historically has happened in the past, for mischief to occur, and that is the problem. It is such a vast area.

Now we would like that to be cleared up before the election. We would like the media code of conduct to be changed before the election. We would like the people that are in prison to be out before the election changes.

But when we have Mr. Negraponte, Ambassador Negraponte making statements that President Musharraf is indispensable to the United States, what leverage do we have?

What motivates him to changing his conduct if we already told him you are indispensable, we put all our chips with you, we don't care how the election comes out, you are going to be there, we are going to deal with you?

What leverage do we have with him to change any of these things?

Mr. BOUCHER. He has put himself in a new position, and we are going to have to deal with him in that new position. He has committed himself to a democratic transition, to a transparent election, and I think the leverage is his own commitments.

The leverage is that he has made those statements. He has made them in public repeatedly to us and to others, and we expect him to live up to those commitments.

Mr. TIERNEY. Well, according to the latest poll over there, a really comprehensive public poll, 67 percent of Pakistanis want him to

resign immediately and 70 percent say his government doesn't deserve reelection. So he is treading on some incredibly thin ice.

I just hope that we concentrate on not necessarily bucking up Mr. Musharraf but bucking up the people's choice over there and working with them on that and somehow find leverage, despite the fact that the administration has turned him into indispensable. Find some leverage maybe in view of the fact that General Kayani has set some distance to him now, saying that the army will stay out of the elections, maybe since the retired army officers have made a statement against Musharraf or whatever. Maybe we can capitalize on that for some leverage to get him to do what we think needs to be done before the elections.

Mr. BOUCHER. We will work with all the institutions in Pakistan, the civil society, the presidency, the army, the politicians, the elected prime minister. It is very important for us that there be a balanced and stable leadership and group in Pakistan.

But I think, fundamentally, our view is let the people vote and let the votes be counted fairly.

Mr. TIERNEY. Well, I don't want to go around in a circle on that.

What are we doing? What is the United States doing to press for the release, the immediate release of those, the political opposition leaders, the judges and the bar association members who are in prison, Aitzaz Ahsan, the president of the Supreme Court Bar amongst them?

Are we just passively asking nicely and then letting whatever the answer is go or are we aggressively insisting that these people ought to be released?

Mr. BOUCHER. No. We have pursued this at all levels. We have raised it repeatedly. We have made public statements, like my statements today, that these people should be released from detention.

Mr. TIERNEY. It was reported that the Government of Pakistan expelled an American journalist, Nick Schmidle, because of an article that he wrote in the New York Times Magazine about the next generation of Taliban, local Taliban in Pakistan and the electoral prospects for the religious political parties. Are we doing anything with regard to that expulsion? Have we taken a position?

Mr. BOUCHER. We have raised it with the Pakistani Government and don't think it was justified.

Mr. TIERNEY. Mr. Welch, do you have any further questions?

Mr. WELCH. No, thank you.

Mr. TIERNEY. Mr. Platts, do you have any other questions?

Mr. PLATTS. Thank you, Mr. Chairman.

Just an observation, we seem really to have a dilemma, that we need Musharraf more than he needs us and we are willing to and want to hope that he supports free and fair elections, but we will continue to support him if he doesn't. It seems to boil down to that.

In the world of terrorist threat, maybe that is the decision that the U.S. Government has to make, but I wonder whether we should be more explicit about the real balance of interest is here so that there is not a cynical reaction on the part of Pakistanis.

Mr. BOUCHER. I have to say I think you know we have a fundamental interest in the Pakistani people and their success. We have a strong interest in fighting terrorism. But we also see a suc-

cessful transition to democracy as part of that process, as part of the stability and the platform, if you wish, to fight terrorism.

Our interests are not dominated by any one segment of society or any one leader. We look forward to working with all segments of society and all the leaders that emerge, particularly those who emerge from the election.

Mr. TIERNEY. Ambassador, I can't leave without asking you one question. I don't mean to be a wise guy on this, but I am trying to assess our degree of importance that we put on this issue, and I think it is high.

I think your earlier statement of this, of General Musharraf's actions in dismissing the court and declaring emergency and changing the constitution were regarded at one time as a bump in the road. Is it fair to say that was an unfortunate expression, that we put a much higher degree?

Mr. BOUCHER. I said a lot of things that day. That was, unfortunately, one phrase that I used and I immediately regretted it. It was a very serious problem, and we are trying our best to overcome some things.

Mr. TIERNEY. That is terrific to hear, and I am glad you say that. Yes, sir.

Mr. SHAYS. We have made a few of those.

Mr. TIERNEY. We have, which that is why I want to give the Ambassador a chance to do a do-over, as they say on the playground, on that.

Ambassador, the last question I have is on December 21st, I sent a letter to the President, outlining a number of issues and concerns that have been raised here today. Do you have any understanding of where that letter response is in process and when we might expect a reply?

Mr. BOUCHER. I am sure there are people working on it right now, and you will get your reply. As soon as I can find out who they are and what they have done with it, we will get it to you quickly, sir.

Mr. TIERNEY. Fine then.

Ambassador, let me close just by thanking you for making yourself available today. We give you a little bit of time to maybe take a breath before you go before the Intelligence Committee where I will see you and Mr. Issa, I believe, will also be there. Again, thank you.

Mr. BOUCHER. Thank you, sir.

Mr. TIERNEY. The meeting is adjourned.

[Whereupon, at 12:25 p.m., the subcommittee was adjourned.]

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