

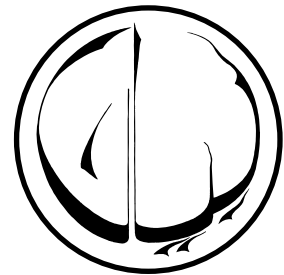
ВЯУЯН

OF THE PEOPLE
BY THE PEOPLE
FOR THE PEOPLE

VOLUME VIII NOVEMBER 2023
BI-ANNUAL SOCIO-LEGAL JOURNAL



ВЯУЯН



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Simorgh Women's Resource and Publication Centre is a non-government, not for profit feminist activist organisation. Simorgh's main focus is research and dissemination of information that will enable women and men to challenge the dominance of ideas that support social and economic divisions on the basis of gender, class, caste, religion, race and nationality.

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БРҮҮҢ

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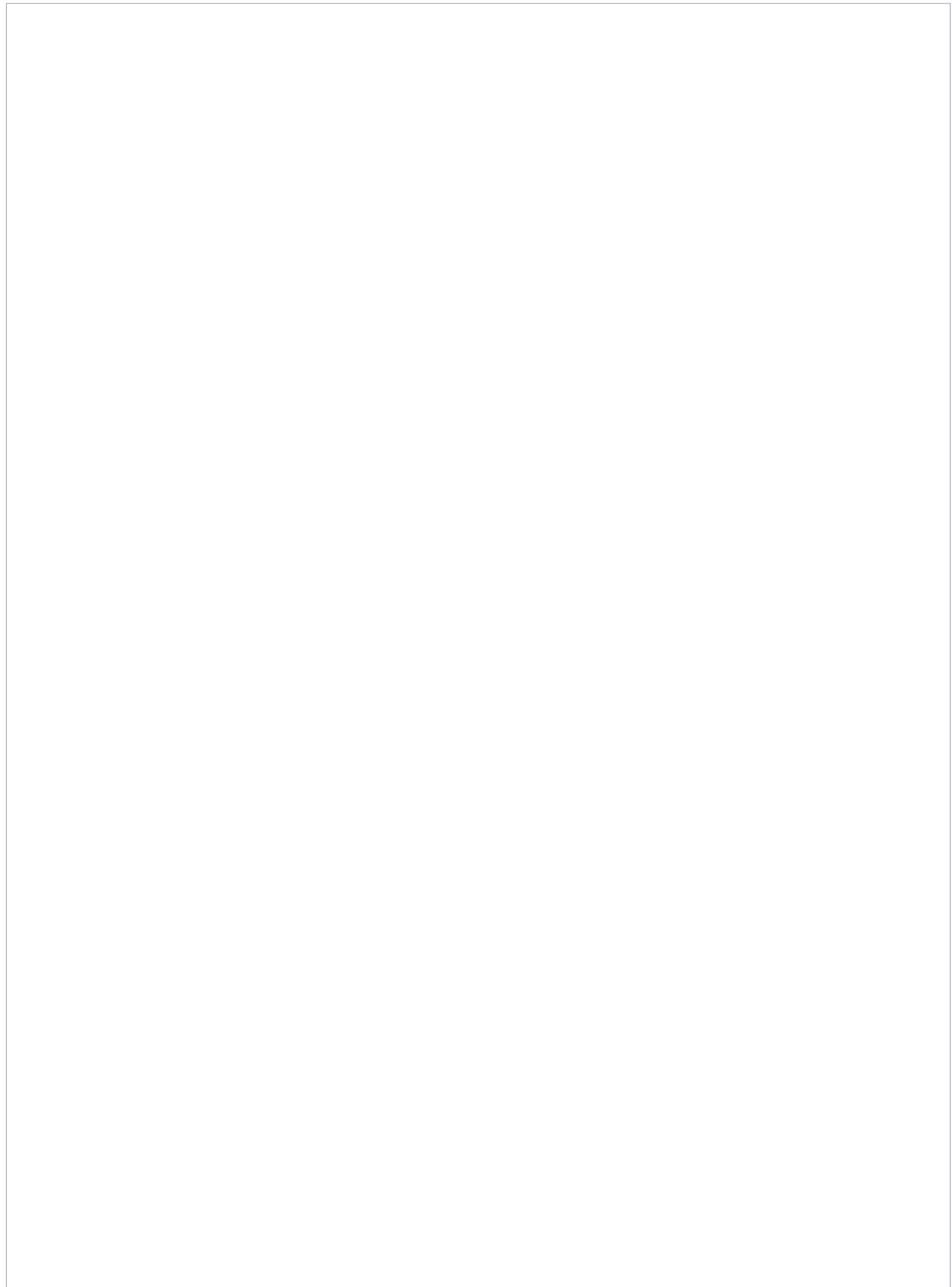
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(فیض احمد فیض)

editorial

This issue of Bayan seeks to understand the complex and troubled history of local governance in Pakistan. As the vital third tier of representative government that enables participation of the larger public, particularly marginalised sections of society, such as women, transgender individuals and non-Muslim minorities, the importance of local governments cannot be denied. The immediate context of this volume, is provided by the delay in holding the long overdue local government elections, repeated changes and modifications in local government laws especially in the Punjab, and the consistency with which the larger public, particularly disempowered communities, such as women, non-Muslims, and rural-urban working classes are denied numerically appropriate representation and access to voice and decision-making in local government structures. At a deeper, more complex level, the context is provided by the conflicts and contradictions engendered by the oppositional pull between Pakistan's aspiration towards democracy and decentralisation of power through democratic processes, and the will to centralisation of power by authoritarian systems of rule engendered by decades of direct and indirect military rule. Depicted by the ongoing process of decentralisation and recentralisation, this tussle for power has not only transformed the institution of local government into a contentious terrain, it also draws attention to the historical conundrum or paradox of Pakistan's politics where the institution of local government, which paves the way to the equal representation of women and non-Muslim communities in the political sphere, faces resistance by political parties, but has been supported by military dictatorships.

The first four essays discuss the betrayal of the local government system by political parties and the support given to it by military dictatorships, including the dynamics of the socio-cultural barriers and behavioural norms and practices that impede the entry of women and marginalised communities to the political sphere. The last two essays, based on field research and interviews, highlight the urgent and imperative need for building and strengthening communication channels between local communities, policy makers and legislators for a meaningful democracy that is for the people, of the people and by the people.

Usama Khawar explores the role of local governments in Pakistan as instruments of power transfer to the people including marginalised communities and dilates upon the potential of local governments to strengthen democracy. Drawing attention to the conflict-ridden history of local governments in Pakistan, and the ways they have been used by successive military governments to centralise power and disenfranchise elected governments, and the subsequent resistance by elected governments to share power with local governments, Khawar traces the role of constitutional courts in the evolution and devolution of local governments. Questioning the use of local government as a tool for undermining political parties and centralising power, the essay highlights the absence of sustained public debate as critical to the general understanding of the role and function of local governments. Khawar argues how this lack, combined with conflicting political interests and agendas of dominant actors, has hampered the identification of specific core functions to be devolved, and highlights the need for serious legal and academic attention to core issues leading to a balanced sharing of power between local governments and provincial authorities.

Farida Shaheed focuses on the crosscutting norms and patterns of patriarchal resistance to women's political participation and explores the impact of quotas on enhancing women's representation in local government in Pakistan. Drawing directly on field experience with women's communities including those in local government and discussions with women

parliamentarians, she shows how, despite the unequal playing field, women have made a space for themselves in the political sphere. At the same time, the essay sheds light on the under-representation of women in politics due to gender inequitable policies, and practices. Critically analysing the complexities of gender dynamics and socio-cultural challenges faced by women in Pakistani politics, Shaheed argues that quotas alone are insufficient for the political and social empowerment of women and non-Muslim communities, and emphasises the need for broader and deeper societal change.

Jawad Tariq makes a comparative analysis of the relationship between democratic decentralisation and political participation of women in four post-colonial states, namely Pakistan, India, Bangladesh, and Tunisia. Using case studies and empirical evidence to analyse the impact of quota systems as affirmative action and decentralisation on women's and non-Muslim minority representation and political participation, he argues that though these factors have seen a numerical increase in women's political participation, they have made no significant impact on gender disparity in the political sphere. The essay speaks about the social and cultural barriers to women's involvement in local government including their low access to resources especially education. The major impediments include patriarchy, gender discrimination, economic inequality, inadequate training, and power concentration by political parties. Tariq suggests that awareness campaigns, discussions, improved communication strategies, educational programmes, and training can enhance the involvement of women and other marginalised groups in local and national politics.

Nadeem Malik¹ and Ahsan Raza's essay, "The History of Local Governance in Pakistan: What Lessons to Learn?" provides a historical overview of local governments in Pakistan based on two critical interventions by military regimes, namely Basic Democracies, introduced by General Ayub Khan in the 1950s, and the Local Government Ordinance 2001 introduced by General Musharraf as a means to strengthen local democracy. A critical assessment of local governments in Pakistan, the essay is premised on the argument that unlike in other developing countries, the failure of decentralisation in Pakistan is due less to inadequate local government frameworks, ineffective implementation or capture by interest groups, and more to the deliberate use of decentralisation as the means to strengthen civil military bureaucracies through centralised and coercive government structures and political marginalisation of political parties and democratic processes, including the cooptation of emerging politicians from local councils etc. The writers show how in this way, military regimes have driven major experiments with local governments and enabled their use to silence dissent, promote 'loyal' politicians and consolidate their own power. This process, they argue, has consistently subverted the democratic process, promoted a corrupt culture of patronage politics, with 'real' authority lying directly or indirectly with non-representative entities.

The next two essays, which are based on field research and interviews with local communities of women and men, stress the importance of bridging the gap between policymakers and local communities. They show how disconnect between the two, especially the disregard for local knowledge and experience results in the continuing neglect of people's, especially women's very real needs with a potential for large scale and long term harm to communities and regional landscapes.

¹ The original paper by Nadeem Malik was written for Bayan. However, due to publication delays on our part due, among other things, to the Covid 19 pandemic, it was published first in the Journal of International Politics, Volume 1, Issue 3 (2019). It is being printed in Bayan as part of the original contract with permission from the author.

Zuhaib Pirzada delves extensively into the disastrous outcomes of the Left Bank Outfall Drain (LBOD) project in the Lower Sindh region. Originally designed to combat waterlogging and salinity, the project has disrupted natural water systems and led to sea erosion, and desertification of fertile land, and caused the breakdown of traditional livelihoods, increased food insecurity, and seen a rise in suicide rates. Raising questions on accountability, Pirzada identifies the gap between international and national project designers, planners and policymakers and the communities impacted by the LBOD, as a major reason for the project's disastrous outcomes. Pirzada speaks about the importance of local knowledge and experience and provides field based evidence of the disregard, indeed arrogant contempt for indigenous knowledges and experience of local terrains by international and national planners and policy makers, including their refusal to rectify the damage, and proposes key principles for future development efforts, such as prioritising community-focused development, conducting comprehensive impact assessments, ensuring sustainability, fostering accountability, respecting cultural sensitivities, and promoting adaptability to local conditions.

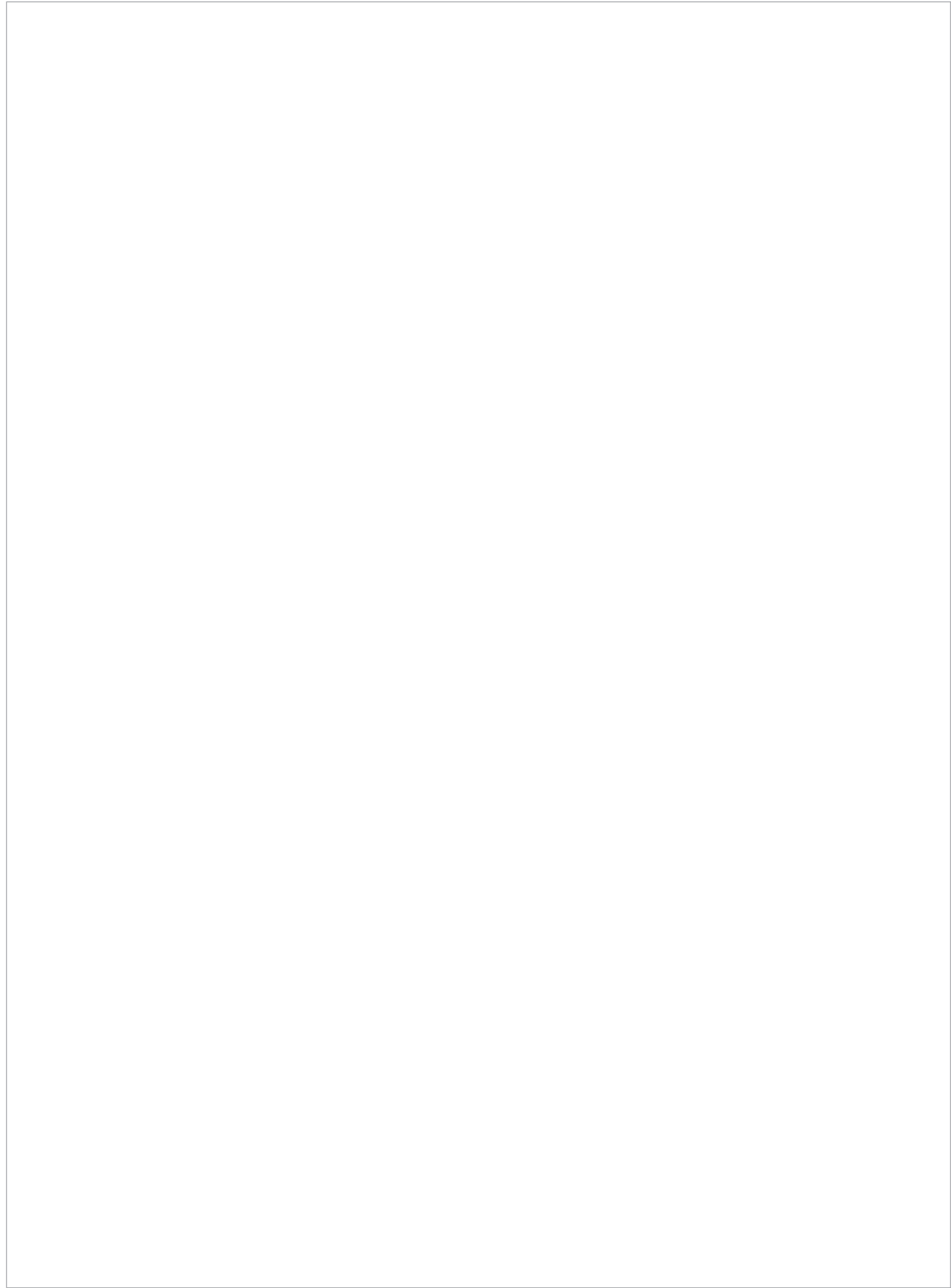
Alefiya Tajammal Hussain's essay, which is journalistic in tone, speaks of the importance of women's participation in the political sphere particularly in local government bodies. Basing her views on field interviews and the work on women's political empowerment by Simorgh in selected Union Councils in Kasur, Toba Tek Singh and Lahore, she speaks about the social, economic and cultural barriers faced by women entering the political sphere, and their will to succeed in the face of all odds. Premised on the understanding of the local government system as a space for democratisation with the potential for the social and political empowerment of women and other marginalised communities including trans groups, Hussain speaks of the systemic and cultural barriers they face. At the former level, these include resistance by male colleagues and lack of access to allocated funds; at the latter they are to do with women's subordinate status in society and include low access to resources such as education, mobile phones and internet and reliance on male family members necessitated by patriarchal norms.

Moving from the written to the visual world, "The People – Visual Narratives by Rahat Ali Dar and Others" take us to the people of Pakistan, who are the central focus not only of this issue but more crucially, of a democratic polity.



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MAKING SENSE OF LOCAL GOVERNMENTS IN PAKISTAN: A CRITICAL REVIEW OF PRECEDENTS



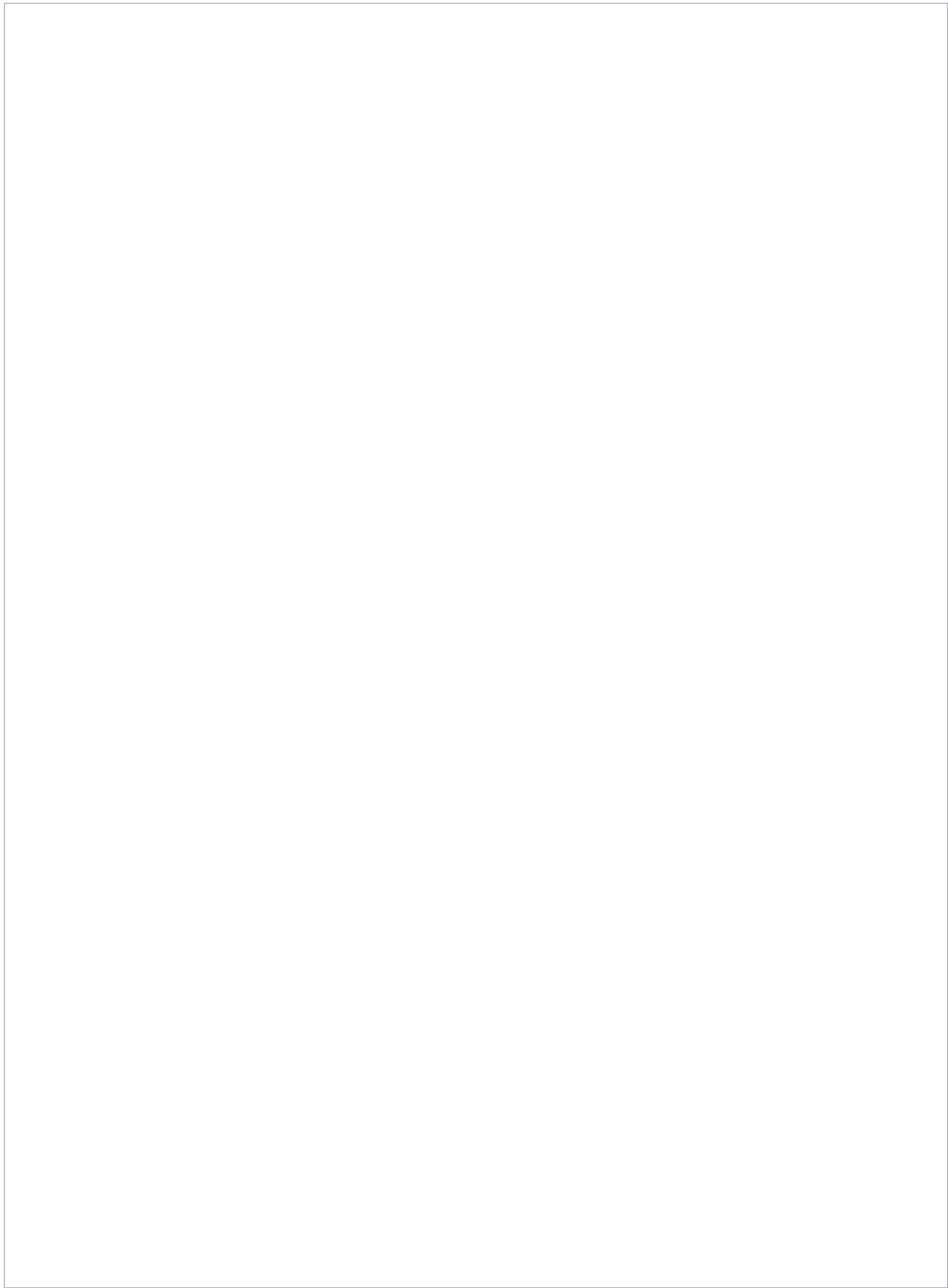
USAMA KHAWAR

ABSTRACT

While exploring the role of local governments, this essay dissects the nuances surrounding the troubled history of local government due to, at one end, lack of support from the civilian governments, and at the other, military dictators utilising them for their own vested interests. While highlighting the significance of the transfer of power to the grass-roots level for the purpose of empowering marginalised communities, the essay dilates upon the role played by Constitutional Courts in Pakistan in defending and expanding the functions of local governments. In doing so, the legislative and precedential history of Article 140-A of the Constitution is examined and it is emphasised that there is a need for legal, as well as academic attention to identify and resolve issues pertaining to local government for a better future, not only for minorities but for the masses in general.

BACKGROUND

Usama Khawar is a seasoned legal and policy expert with a demonstrable history of delivering effective legal solutions to the government, academia and civil society. He has served as the legal advisor to the Minister for Law and Parliamentary Affairs, Punjab, and Deputy Speaker Punjab Assembly. He is a Partner at Indus Law Advocates & Policy Consultants and also teaches at Shaikh Ahmad Hassan School of Law, Lahore University of Management Sciences. Usama holds two Masters of Law degrees, one from Columbia Law School in International Law and Legal Studies and the other from Central European University in Constitutional Law. His expertise lies in areas of governance, law and order, justice sector, law and technology, human rights. and public interest litigation.



INTRODUCTION

Local governments in Pakistan have emerged as institutional modes of transfer of power to the people at the grassroots level. Despite their chequered history,¹ they have provided political representation and participation to the sections of society that have been historically marginalised in Pakistan, i.e., women² and religious minorities. For example, 23,981 women were elected as officials in local government elections held across Pakistan in 2015.³ Ironically, although local governments hold tremendous potential for strengthening democracy, the civilian governments and political parties, have, at best, shown little interest in empowering local government bodies,⁴ or, at worst have rolled them back, and actively made them dysfunctional.⁵ Conversely, military dictatorships in Pakistan have actively promoted local governments as alternatives to the restoration of democracy at the provincial and national levels.⁶ Since the mid-1990s, our constitutional courts, namely, the Supreme Court of Pakistan and the provincial High Courts, have emerged as institutions that have not only defended local governments from encroachment but have also progressively expanded the scope of their functions through creative interpretation of the Constitution of the Islamic Republic of Pakistan, 1973 (Constitution).

This essay attempts to critically chart out and evaluate the legal and constitutional history of local governments, and their present constitutional exegesis by constitutional courts, and their potential for representing

¹ Nadeem Malik and Ahsan Rana, "The History of Local Governance in Pakistan: What Lessons to Learn," *Journal of International Politics* 1, no. 3 (2019): 26–35, https://www.academia.edu/40143023/The_History_of_Local_Governance_in_Pakistan_What_Lessons_to_Learn; Dr Mughees Ahmed, Saadia Saleem, and Irqa Iftikhar, "Political System of Pakistan: Analysis of Political Structure of Local Bodies in Pakistan," *Berkeley Journal of Social Science* 2, no. 10-11 (2012): 1–11, https://www.researchgate.net/publication/260714964_Political_System_of_Pakistan_Analysis_of_Political_Structure_of_Local_Bodies_in_Pakistan.

² Saba Gul Khattak, "Women in Local Government: The Pakistan Experience," *IDS Bulletin* 41, no. 5 (September 10, 2010): 52–61, <https://doi.org/10.1111/j.1759-5436.2010.00166.x>.

³ Ministry of Human Rights, "Fifth Periodic Report Submitted by Pakistan under Article 18 of the Convention, Due in 2017" (Islamabad: Government of Pakistan, October 23, 2018), [https://mohr.gov.pk/Detail/NDY5N2JkMDMfYzNlZi00NmJlLWFIMTIhNTc5N2E1OGQyNmRh#:~:text=The%20Government%20of%20Pakistan%20\(GoP,of%20the%20Constitution%20of%20Pakistan](https://mohr.gov.pk/Detail/NDY5N2JkMDMfYzNlZi00NmJlLWFIMTIhNTc5N2E1OGQyNmRh#:~:text=The%20Government%20of%20Pakistan%20(GoP,of%20the%20Constitution%20of%20Pakistan). At Page No. 16-17 of Periodic Report which bears Report No. CEDAW/C/PAK/5.

⁴ Asad Rehman, "Appraisal of Informal Political Associations and Institutions: Implications for Democratic Decentralisation in Punjab," *Development Studies Working Papers* 2 (2016), https://www.researchgate.net/profile/Asad-Rehman-22/publication/307908633_Development_Studies_Working_Paper_No_2_2016_Appraisal_of_Informal_Political_Associations_and_Institutions_Implications_for_Democratic_Decentralisation_in_Punjab/links/5aa9ef31a6fdccd3b9ba37fd/Development-Studies-Working-Paper-No-2-2016-Appraisal-of-Informal-Political-Associations-and-Institutions-Implications-for-Democratic-Decentralisation-in-Punjab.pdf.

⁵ Umer Gilani, "The Case against Dissolution of Local Governments," *Courting the Law*, September 17, 2019, <https://courtingthelaw.com/2019/09/17commentary/the-case-against-dissolution-of-local-governments/>.

⁶ Arshad Syed Karim, "Local Governments under Military Regimes in Pakistan: A Comparative Analysis," *Pakistan Perspective* 21, no. 1 (2016): 90, <https://journal.psc.edu.pk/index.php/pp/article/view/96/95>.

and empowering women. Accordingly, it is divided into three parts. The first part critically traces the evolution of local governments, particularly focusing on case law, highlighting their ‘countercyclical’ history, and the role played by the military regimes and judiciary at various foundational moments. The second part reviews the status of local governments in the current scheme of the Pakistani constitutional law, focusing on an exegesis of Article 140-A of the Constitution. Finally, the third part examines the potential for the empowerment of women representatives in local governments.

PLACING LOCAL GOVERNMENTS IN THE JURISPRUDENCE OF PAKISTAN

A critical review of the legal history of local governments in Pakistan demonstrates that not only have the institutions evolved, but they have also been progressively empowered. In their empowerment, apart from military regimes, the constitutional courts⁷ of Pakistan have played a major role.

The first two Constitutions of Pakistan, which were promulgated in 1956 and 1962 respectively, did not have any provision concerning the encouragement or protection of local governments. The lack of constitutional protection for local governments in the 1962 Constitution is conspicuous by its absence. This is because the role of local governments created through the Basic Democracy Order, 1959 and the Municipal Administrative Order 1960, was limited to enabling elections to the legislative assemblies and the Presidency. This is not surprising as the structure of General Ayub Khan’s most celebrated political project, Basic Democracies, was crafted to control the political class and ‘manage’ democracy. As such, it betrayed the lack of genuine commitment of the military dictatorship towards local governments, despite its rhetoric to the contrary.⁸ The experiment of ‘Basic Democracies’ disappeared with the demise of Ayub’s regime.

The Pakistan People’s Party (PPP), under the leadership of Zulfikar Ali Bhutto, promulgated Punjab People’s Local Government Ordinance, 1972. This was followed by all four provinces making new laws in this connection, however, the government failed to hold the elections during its tenure until the democratic government was sent packing in a military coup.

Ironically, again it was the military regime of Zia-ul-Haq, that after overthrowing the democratically elected government of PPP, re-introduced local governments through the promulgation of the Punjab Local Government Ordinance, 1979 (1979 Ordinance), which became a reference point in all subsequent local government elections until 2001. Three successive rounds of local government elections were conducted in all four provinces in 1979, 1983 and 1987, respectively, under the 1979 Ordinance during Zia’s regime. However, these elections were held on a non-party basis to preclude the possibility of political parties mobilising opposition to the military regime around the elections and local governments.

Zia’s local governments became defunct with the demise of his regime. The government of the PPP, during both its tenures in the 1990s (1988-1990), did not attempt to hold local government elections.

CRITICAL EVALUATION OF SEMINAL LOCAL GOVERNMENT CASES

The most stable tenures of local governments and successive elections were witnessed during the three military regimes. When the military regimes departed, their systems of local governments either departed with them or were rendered dysfunctional by the succeeding civilian governments. Starting from

⁷ **Editors Note.** The expression ‘constitutional courts’ refers to the Supreme Court of Pakistan and the provincial High Courts.

⁸ Saima Khan and Uzma Khan, “Local Government in Pakistan Tool for Legitimacy: A Case Study of Gen. Ayub Khan’s BD System,” *The Discourse* 1, no. 2 (2015): 43–56, <https://discourse.org.pk/index.php/discourse/article/view/17>; Kunal Mukherjee, “Ayub Khan’s Basic Democracy and Political Continuity in Contemporary Pakistan,” *India Quarterly* 72, no. 3 (2016): 268–77, <https://doi.org/10.2307/48505506>.

the early 1990s, during civilian rule, the constitutional courts emerged as key defenders of and favourable adjudicators for local governments. Almost all the seminal cases, except one, as discussed below, were litigated during the tenure of civilian governments. A critical history of the seminal judgments of the superior courts on the local governments is given below.

MEHER ZULFIQAR ALI BABU

One of the first major cases in which the Supreme Court of Pakistan adjudicated upon the issue of local governments was *Mehar Zulfiqar Ali Babu v. Government of Punjab*.⁹ After Nawaz Sharif formed the national government, local government elections were held for the first time under a civilian regime, that too only in two provinces: in 1991 in Punjab under Punjab Local Government Ordinance, 1979 and in Balochistan in 1992. The Governor of Punjab, however, dissolved the local governments, before the expiration of their statutory tenure, through a notification, and appointed bureaucrats as administrators of the local councils.¹⁰ A Division Bench of the Lahore High Court, although modified the findings of the Single Bench upheld the decision because of two reasons, firstly ‘there was allegations of large-scale embezzlement in Local Councils Funds’ and secondly, ‘members had openly announced their affiliation with a particular political party’, which, according to the Lahore High Court, was against the law ‘as elections of members of the Local Bodies under the law were required to be held on non-party basis with a view to keep the Local Bodies free from the influence of the political parties’.¹¹ The Supreme Court, in appeal, set aside the verdict pronounced by the Lahore High Court and dismissed the allegations of misappropriation of funds and affiliations with political parties.

By the time the Supreme Court delivered the judgement, the tenure of local governments was almost over. Meanwhile, while this case was pending before the Supreme Court, the government of PPP repealed the 1979 Ordinance through the enactment of the Punjab Local Government Act, 1996.

The PPP Government replaced the Pakistan Muslim League (Nawaz) (PML-N) Government, however, once it regained power after winning the general election in Punjab, PML-N revived the 1979 Ordinance through the Punjab Local Government (Revival of Law) Act, 1997.

KHAWAJA AHMAD HASSAAN

The next major developments after the revival of the 1979 Ordinance took place under another military regime, i.e., General Pervez Musharraf. Legally, the two major developments were: (a) the promulgation of local government ordinances in all four provinces in 2001; the Punjab Local Government Ordinance, 2001 (2001 Ordinance) was promulgated in Punjab; and (b) Article 140A was inserted in the Constitution in 2002.¹² Both of these developments from a military era have become a reference point in the evolution of local governments in Pakistan.

The significant features of the local governments formed under the 2001 Ordinance were: non-party elections,¹³ reduction of the voting age from 21 to 18, and subordination of the police administration and local bureaucracy to the control of local governments.

One of the legal conundrums raised in *Khawaja Ahmad Hassaan* was that the case hinged on the vires of the statutory rule that allowed the Provincial Government the power to nominate a bureaucrat to perform the functions of a Nazim during the pendency of the recall motion.¹⁴ The Supreme Court of Pakistan, after examin-

⁹ *Mehar Zulfiqar Ali Babu v. Government of Punjab* 1997 SCMR 117.

¹⁰ Ibid.

¹¹ Ibid.

¹² Serial No. 16, Article/Chapter Part IV, Chapter 3, The Schedule, Article 3 (1), Legal Framework Order, 2002. Available at: https://www.pakistani.org/pakistan/constitution/musharraf_const_revival/lfo.html.

¹³ Section 153, Punjab Local Government Ordinance, 2001 states that: ‘Local government elections shall be held on non-party basis’.

¹⁴ Rule 14, Punjab Local Government (Recall Motions against Nazim and Naib Nazim) Rules, 2003.

ing the scope of the Punjab Local Government (Recall Motions against Nazim and Naib Nazim) Rules, 2003 declared that the rules ‘must meet certain considerations such as consistency with democratic decentralisation and subsidiarity, enhancement of welfare of people, fairness and clarity and natural justice and the process of law’.¹⁵ The Court, while declaring ‘rule 14 of the Rules is (sic) ultra vires of the Punjab Local Government Ordinance’ inquired [h]ow the Government could nominate any bureaucrat to perform such functions which [were] required to be performed by an elected person’.¹⁶

RAHEELA MAGSI

R *aheela Magsi*¹⁷ is generally referred to as the first constitutional case that scrutinised the true scope and ambit of Article 140A. This case also has contemporary significance, because it became a key determinant of the ongoing litigation on local governments pending before the Lahore High Court. It is similar to the facts of the challenge thrown by Ahmad Iqbal, deposed Chairman of District Council Narowal, and other elected local government representatives of Punjab.¹⁸

Dr. Raheela Magsi, a professional woman, was the petitioner in this case. Despite the patriarchal social structure of rural Sindh, she not only managed to be elected as the Zilla Nazim of District Tando Allahyar but also led the Local Council Association of Sindh as its President. She challenged six amendments made in the Sindh Local Government Ordinance, 2001 (SLGO), through various Acts and Ordinances that were promulgated to weaken the local governments, postpone the elections indefinitely, and appoint non-elected and hand-picked bureaucrats as administrators in place of elected representatives of the local governments.

The High Court of Sindh, while relying on the Supreme Court judgement of *Khawaja Ahmad Hassaan*¹⁹ struck down all the impugned laws and declared them unconstitutional on the touchstone of Article 140A:

‘... because the main object of the Punjab Local Government Ordinance, 2001, (which is pari materia with the SLGO) was "to devolve political power and decentralise administrative and financial authority to accountable local governments for good governance, effective delivery of service and transparent decision making through institutionalised participating of the people at grass-roots level"; and that Government could not nominate any bureaucrat to perform such functions which were required to be performed by an elected person’.²⁰

Interestingly, the High Court of Sindh recognised that there is a basic structure of the institutions of the local governments. This was an unprecedented exercise of judicial review in our jurisprudence, where an amendment to a statute was struck down on the basis of the basic structure of the original law. The Court further went on to hold that the Government ‘had no power or authority to amend the basic structure and provisions of the SLGO by dissolving Local Governments and by substituting/appointing non-elected and handpicked bureaucrats as Administrators in place of elected representatives of the people’.²¹

RAJA RAB NAWAZ LITIGATION

Coincidentally, the military authorities, who insisted on holding elections in civilian jurisdiction, were reluctant to hold elections in the military-dominated cantonment boards of the country. In 2009, Raja

¹⁵ Section 191 (3), Punjab Local Government Ordinance, 2001 provides that: ‘The rules made shall meet the following considerations:-

- (a) consistency with democratic decentralization and subsidiarity;
- (b) enhancement of welfare, of the people;
- (c) fairness and clarity; and
- (d) natural justice and due process of law’.

¹⁶ *Khawaja Ahmad Hassaan v. Government of Punjab* 2005 SCMR 186 at Para No. 34.

¹⁷ *Dr. Raheel Magsi v. Province of Sindh* 2013 CLC 1420 Sindh.

¹⁸ “LHC Hears Petitions against New Local Govt Law,” *Daily Times*, May 29, 2019, <https://dailytimes.com.pk/402687/lhc-hears-petitions-against-new-local-govt-law/>.

¹⁹ See f.n. 17 (*Khawaja Ahmad Hassaan*).

²⁰ *Ibid* at Para No. 13.

²¹ See f.n. 18 (*Dr. Raheel Magsi*) at Para No. 19.

Rab Nawaz, a former local government representative, filed a constitutional petition before the Supreme Court against non-conducting of the elections in the Cantonment Boards as required by the Cantonment Act, 1924.²² The Supreme Court of Pakistan, in the public interest, under its original jurisdiction,²³ widened the scope of the litigation to conduct elections in the entire country in a series of reported judgments collectively referred to as *Raja Rab Nawaz v. Federation of Pakistan*.²⁴

The Supreme Court repeatedly issued a set of orders directing the Federal and Provincial Governments to fulfil their constitutional obligations under Article 140A, and conduct elections in their respective jurisdictions. *Raja Rab Nawaz's* litigation is significant for advancing the jurisprudence of local governments in two substantial ways: (a) Supreme Court unequivocally linked the interpretation of the local government law with the enforcement of Fundamental Rights; and, (b) a constitutional court of Pakistan, for the first time, recognised local governments as “a third tier of government”. The Supreme Court²⁵ held that:

... local government is the most vital element in a democracy, though not generally recognized as such... The existence of local self-government provides mechanisms for the enforcement of Fundamental Rights of the people. Such government bodies are helpful for development including education, health, social services as well as in improving law and order. In short, the local self-government is necessary not only for strengthening democracy in the country but also for securing good governance, which is essential to ensure the welfare of the citizens. This tier of government is always appreciated by the general public because it remains within their approach, as such they get involved in the decision making process.²⁶

It was also for the first time that a constitutional court held that the establishment and conducting of elections of local governments regularly was not a discretion of the Federal or Provincial governments, it was ‘imperative upon the Government to ensure ... so that the representatives of the people are enabled to participate in managing their affairs at the gross (sic) root levels and the Fundamental Rights ... are protected and enforced’.²⁷

Moreover, it was in the litigations emanating from enforcement of the *Raja Rab Nawaz* orders that for the first time in our jurisprudence,²⁸ the Supreme Court interpreted Federal and Provincial Governments’ obligations under Article 140A in the light of Principle of Policy, and Article 32 which is not enforceable through courts.²⁹ The Court declared that ‘holding the election of the local bodies, which otherwise is the obligation of the Government in term of Article 32³⁰ ... [w]e are of the opinion that after passing of 18th Amendment in the Constitution, under Article 140-A, each provincial government is bound by law to establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments’.³¹ Unfortunately, however, the Supreme Court did not provide its reasoning for declaring how Article 32 could be enforced despite the bar imposed upon the Court in Article 30.

After numerous hearings in this case and possibility of initiating contempt proceedings against government officials for their failure to comply with the orders of the Supreme Court, namely, that either elections are conducted under the existing laws of the Cantonment Boards or new local government laws are enacted in the respective jurisdictions where elections were not possible under the existing legislations (e.g., four provinces and Islamabad Capital Territory),³² the Government of Punjab finally promulgated the Punjab Local Government Act, 2013 (PLGA 2013).

²² **Editors Note.** Article 185 (3) is invoked to file a Constitutional Petition directly before the Supreme Court of Pakistan provided any of the rights mentioned in the Fundamental Rights Chapter are violated and the contravention thereof involves a question of public importance.

²³ Article 184 (3) of the Constitution.

²⁴ *Raja Rab Nawaz v. Federation of Pakistan* 2013 SCMR 1629; *Raja Rab Nawaz v. Federation of Pakistan* 2014 SCMR 101.

²⁵ *Ibid* (2013 SCMR 1629) at Para No. 16.

²⁶ *Ibid*

²⁷ *Ibid* at Para No. 18.

²⁸ See f.n. 5 (Umer Gilani).

²⁹ *Ibid*

³⁰ *Ibid*

³¹ *Ibid*

³² Islamabad Capital Territory Local Government Act, 2013.

IMRANA TIWANA LITIGATION³³

Despite enacting the PLGA 2013, the reluctance shown by the Government of Punjab, to establish empowered local governments led Imrana Tiwana to knock on the court's door. This case demonstrates how the government was prolonging non-holding of elections. Establishment of empowered local governments means less powers and financial resources for the provincial executive; this had been a sticking point for the government of PML-N in Punjab at that time, which was led by Chief Minister Shahbaz Sharif. He developed a model of governance, in his terms as Chief Minister of the largest province of Punjab that almost exclusively relied on the provincial bureaucracy for service delivery and controlling and micromanaging the entire province from the provincial capital, known as 'Takht-e-Lahore'.³⁴ It allowed the Chief Executive of the Province and the second most powerful leader in the PML-N to manage its vast patronage network and factional interests at the constituency levels. However, if one were to take a charitable view of this model, the most important reason for the non-devolution of powers to local governments would be their inefficiency. To exert direct control and to replace the local governments, the provincial government, during PML-N's tenure, (a) either created numerous executive authorities, headed by the Chief Minister or empowered the already existing ones at the expense of the local governments; and (b) 56 companies in Punjab were made responsible for undertaking functions which had been historically the prerogatives of the local governments.³⁵ Ironically, the reasons for the non-empowerment of local governments appear to be similar to the ones advanced by military dictatorships for wrapping up democratic governments in Pakistan. Corruption, inefficiency, non-readiness of the people to exercise power responsibly, and the messiness of democracy were the justifications cited for the dismissal of every elected government in Pakistan.

It was in this context that a full-bench of the Lahore High Court delivered the most comprehensive judgement on the issue of local government, authored by Justice Mansoor Ali Shah, while adjudicating on the legal challenge to the construction of a multi-billion Signal Free Corridor in Lahore, which was being executed by the Lahore Development Authority (LDA).

A remarkable woman from Lahore, namely, Imrana Tiwana of Lahore Conservation Society and others, instituted this case in public interest by invoking Article 199. She, along with other petitioners, not only pursued the case in court but also mobilised the civil society, affected citizens and garnered support from political parties as well. This is the second seminal case concerning local governments which was led by a female petitioner. The most important ground, among the challenges to the project, was that during the non-functioning of or till the constitution of the local government, in accordance with Article 140A, the LDA, an executive authority controlled by the Government of Punjab, could not take such monumental decisions and spend billions of rupees on a project. The challengers insisted, and the Lahore High Court eventually agreed, that it was the prerogative of the representatives of the elected local government, and until the constitution of Local Governments, the LDA or other executive authorities could only make day-to-day decisions.

The Lahore High Court accepted the public interest petition and stopped LDA from undertaking a multi-billion project, on which substantial work had been completed, by striking down sections of the Lahore Development Authority Act, 1975 (LDA Act 1975) that had usurped powers of the local government. The Court held that 'the powers and functions of LDA under sections 6, 13, 13A, 14, 15, 16, 18, 20, 23, 24, 28, 34A, 34B, 35, 38 and 46 of LDA Act, 1975 to the extent that they usurp, trump, encroach, dilute and abridge the powers, responsibility and authority devolved on to the elected representatives of the Local Government System under Article 140A through PLGA are therefore, declared ultra vires Articles 9, 14, 17 and 25 of the Constitution and further declared to be offensive to Articles 32, 37(i) and 140A of the Constitution'.³⁶ This was the first time in our jurispru-

³³ Ms. Imrana Tiwana v. Province of Punjab PLD 2015 Lahore 522. This decision of a 3-Member Full Bench, authored by Justice Syed Mansoor Ali Shah is hereinafter referred to as 'Ms. Imrana Tiwana'.

³⁴ Khuda Bux Abro, "Takht Lahore and Its Sense of Deprivation," *DAWN News*, June 13, 2013, <https://www.dawn.com/news/1017783/takht-lahore-and-its-sense-of-deprivation>.

³⁵ Numan Wahab, "Mega Scandal of 56 Punjab Companies: NAB Summons Six Chief Executives Today," *The News*, June 14, 2018, <https://www.thenews.com.pk/print/329594-mega-scandal-of-56-punjab-companies-nab-summons-six-chief-executives-today>.

³⁶ See f.n. 34 (Ms. Imrana Tiwana) at Para No. 96 which reads as: 'sections 6, 13, 13A, 14, 15, 16, 18, 20, 23, 24, 28, 34A, 34B, 35, 38 and 46 of LDA Act, 1975 to the extent that they usurp, trump, encroach, dilute and abridge the powers, responsibility and authority devolved on to the elected representatives of the Local Government System under Article 140A through PLGA are therefore, declared ultra vires Articles 9, 14, 17 and 25 of the Constitution and further

dence that a statute was declared ultra-vires and struck down on the touchstone of Article 140A.

The Government of Punjab appealed the decision of the Lahore High Court before the Supreme Court of Pakistan. The Supreme Court partly accepted the appeal against this voluminous judgement. The true significance of the verdict laid down by the Supreme Court lies in its exegesis of Article 140A, discussed in detail in the second part of the article. This judgement has become a reference point for any discussion on local governments in Pakistan.³⁷

LOCAL GOVERNMENTS: A TOOL FOR DECOLONISATION AND “DEEPENING OF DEMOCRACY” OR AN INSTRUMENT FOR MILITARY REGIMES TO UNDERMINE POLITICAL PARTIES AND CIVILIAN OPPOSITION?

One of the positive aspects of judicial precedents is that they analysed the institutions of local governments in Pakistan within their historical context. During the course whereof, the constitutional courts have pointed towards a need for evolution; acknowledging local governments as a tool for ‘deepening of democracy’. In fact, the Supreme Court in *Raja Nawaz’s* case attempted to go back in history, to pre-colonial times, to make an argument that the institutions had been a part of our society since ancient times.

The Supreme Court observed that ‘prior to the Partition of the Subcontinent, the territory of Indo-Pak remained under the foreign domination for a long period, during which its traditional institutions were badly mutilated if they escaped extinction’.³⁸ The localised system of governance functioning in the sub-continent before the colonisation was replaced by conferring extensive discretionary powers upon the ‘District Officer under the British rule’.³⁹

The Supreme Court, however, also pointed out that despite gaining independence, institutions for ‘real democracy’ were not introduced in the post-colonial state. ‘For a real democracy, it is necessary that all the inhabitants must have a say in their affairs’.⁴⁰ It castigated the limited scope of the elections for constituencies of provincial and national legislatures, spread over large areas, held in Pakistan in the aftermath of the Independence.⁴¹

Similarly, the Lahore High Court in *Ms. Imrana Tiwana* also placed the burden of lack of grass-root democracy in Pakistan squarely on colonialism. It urged the political parties to ‘reform the post colonial local state in order to complete the transition to a strong democracy’.⁴²

The Court rummaged through the history of local governments in the subcontinent and evaluated the role they played while deciding the case. In doing so, the Court examined the nexus, if any, with the Objectives Resolution, passed in 1949 by the Constituent Assembly. Examination of Objectives Resolution by the Lahore High Court in this case served three purposes. Firstly, the Court was trying to place the institutions of local governments within our broader struggle for Pakistan. Secondly, it was trying to disassociate local governments from the military dictatorships, especially, Ayub Khan’s Basic Democracies, and trace their lineage to earlier times, similar to what the Supreme Court attempted in *Raja Rab Nawaz*. Thirdly, by employing the Objectives Resolution as a constitutional yardstick, the Court was preparing the ground to strike down provisions of the law, LDA Act 1975, that abridged the powers of local governments. While reaching the conclusion that local governments enjoy vertical separation of powers from the other two tiers of government, namely, Federal and Provincial governments, the Courts again relied on the Objectives Resolution, *inter alia*:

declared to be offensive to Articles 32, 37(i) and 140A of the Constitution’.

³⁷ *Lahore Development Authority v. Ms. Imrana Tiwana* 2015 SCMR 1739.

³⁸ See f.n. 25 (2013 SCMR 1629) at Para No. 7.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

The principles of political and social justice guaranteed under the Objectives Resolution to our Constitution and now a substantive part of our Constitution under Article 2A further support this vertical separation. Therefore, when the clearly delineated devolved powers of the local government are in any manner abridged, diluted or impeded by the provincial government or through its instrumentalities like the LDA, it offends the constitutional principles of political and social justice besides the fundamental rights to life, dignity and political participation.⁴³

The Supreme Court, in appeal, however, rejected the use of Article 2A and held that it cannot be used to strike down statutes.⁴⁴ The Court clarified that although while exercising ‘jurisdiction under Article 184(3) of the Constitution this Court has observed that it can read the Objectives Resolution, Article 2A and the Principles of Policy together with Fundamental Rights’, however, ‘[t]his does not... mean that the Principles of Policy, the Objectives Resolution, and Article 2A either on their own or when read together can be used to strike down laws. All that it means is that these Articles can be used to understand and interpret the chapter on Fundamental Rights in its proper context’. In other words, the approach taken by the Lahore High Court in declaring a statute ultra vires on the touchstone of the Objectives Resolution, Article 2A and Principles of Policy were declared to not be the ‘criterion to test the validity of statutes and to strike them down’ but, as held in *Benazir Bhutto v. Federation of Pakistan*,⁴⁵ ‘can be used to understand and interpret the chapter on Fundamental Rights in its proper context because doing so may facilitate an interpretation of Fundamental Rights in harmony with and not divorced from their constitutional setting’. With that considered, it is pertinent to reiterate that the judgement of the Lahore High Court was partly set aside and the principles which were not set aside by the Supreme Court remain positive law.⁴⁶

Three times in the history of Pakistan, elected institutions of local democracy have been created by military regimes, and each time the subsequent civilian governments have either failed to revive elected local governments or replaced them with unelected administrators. Although there exists considerable academic literature on this aspect, there is a curious silence on the issue in the case law. The Court quoted a paper titled ‘Breaking the Countercyclical Pattern of Local Democracy in Pakistan’ to unfold the historical baggage and uncomfortable truths of Pakistan’s past while acknowledging the same and stated⁴⁷ that ‘[o]ne of the ironies of Pakistan’s history is the paradoxically counter cyclical pattern for local democracy’.⁴⁸

In the same breath, it was observed that the quest for local governance was hindered, first, by the colonial administration, and later, after the creation of Pakistan, by military dictators to undermine political parties and democracy.⁴⁹

In this regard, it was opined that:

Ironically empowered local governments under the military regime and the absence of vibrant local democratic institutions under civilian democracy have both weakened the connection between political parties and their grassroots bases. The absence of local democracy has also retarded the development of the municipal relationship between the citizen and the state, which was a foundational pillar of democracy in the US and many parts of Europe.⁵⁰

Recognising the suspicion, partly justified, with which the political parties have historically viewed local governments, Justice Syed Mansoor Ali Shah, while agreeing with the amicus curiae Professor Osama Siddique, urged the political stakeholders to look within their own democratic traditions, their avowed aspirations, public commitments and take ownership of local governments and stated that:

⁴³ Ibid at Para No. 85.

⁴⁴ See f.n. 38 (*Lahore Development Authority*) at Para No. 29. Editors Note. The author misconstrued the operative part of the judgement. The opinion of the court, as it clarified at paragraph number 31 & 32, was that although the ‘Court can read the Objectives Resolution, Article 2A and the Principles of Policy together with Fundamental Rights’, however, ‘this does not ... mean that [they] can be used to strike down laws’.

⁴⁵ *Benazir Bhutto v. Federation of Pakistan* PLD 1988 SC 416 at Page No. 489.

⁴⁶ See f.n. 38 (*Lahore Development Authority*) at Para No. 31 & 32.

⁴⁷ Ali Cheema, Adnan Q. Khan, and Roger B. Myerson, “Breaking the Countercyclical Pattern of Local Democracy in Pakistan,” in *Is Decentralization Good for Development? Perspectives from Academics and Policy Makers*, ed. Jean-Paul Faguet and Caroline Pöschl (Oxford: Oxford University Press, 2015), 68–79, <https://doi.org/10.1093/acprof:oso/9780198737506.003.0003>; f.n. 34 (*Ms. Imrana Tiwana*) at Para No. 51.

⁴⁸ Ibid (*Ms. Imrana Tiwana*) at Para No. 51.

⁴⁹ Ibid

⁵⁰ Ibid at Para No. 52.

Article 140A denotes the logical culmination point of the wave toward devolution in the federal structure of governance that has taken shape over the last decade or so. Distinct from the Basic Democracies of the 1960s, where the purpose was to displace directly elected public representation at the provincial level and to create a separate constituency loyal to the regime. Now the clear intent is to deepen democracy and create a distinct third tier of public representation at the local level.⁵¹

Because

[w]ithout a clear vesting of certain core functions with the local government it will be unable to play its role -- for democracy to deepen, for diverse opinions and legitimate interests to be taken into account, for service delivery to be closer to and held accountable by the people, for institutions to build capacity and expertise etc., local government institutions have to be empowered and given definite functions...⁵²

It would appear from the aforementioned judgements of the constitutional courts that in spite of the systematic undermining of participatory forms of governance by colonial and post-colonial administrations as well as military regimes, there has always been a deep desire among the people for participatory democracy. As in olden times, Panchayats were the institution that helped realise the desire of the people of a nation-state for a participatory democracy, just as in contemporary nation-states, local governments serve as the institutional tools to achieve this. In 1973, a new Constitution was introduced in the country, which codified the profound yearnings of the populace. Therefore, it would be paramount to examine the status of local governments while focusing on the exigencies of Article 140A.

EXEGESIS OF ARTICLE 140A OF THE CONSTITUTION

In Lahore Development Authority, the Court opined that:

...if Article 140A is not to be a merely hollow constitutional promise the Provincial Government is obliged to devolve, by law, some political, administrative and financial responsibility on the Local Government. This much is beyond doubt. This Court is not inclined to hold that Article 140A is an exercise in futility and the Provincial Government continues to retain the same wide legislative and executive authority that it did before its insertion. The question is where to draw the line.⁵³

Although the constitutional courts have been attempting to address the fundamental constitutional dilemma of local governments, it has not been possible for them to precisely determine the extent to which Article 140A would apply in this case. The closest it has come to determining the scope and extent of its application was to declare that every province shall have its own local government system and that all responsibilities and authority related to local government shall be delegated to local officials and elected representatives.

LOCAL GOVERNMENTS: CONSTITUTIONAL JOURNEY FROM PRINCIPLE OF POLICY TO ARTICLE 140A

For a full understanding of the exegesis of Article 140A in our jurisprudence, it is necessary first to understand the history of local governments contained in the Constitution of 1973, and their complex and evolving relationships with the Principles of Policy, especially Article 32.

As mentioned earlier, Article 140A was originally introduced in the Constitution by a military dictator, General Musharraf.⁵⁴ General Musharraf's long and firm rule was achieved through exile and persecution of the mainstream political parties, PPP and PML-N, and their leadership, but was sustained through the cultivation of the

⁵¹ Ibid at Para No. 58.

⁵² Ibid at Para No. 59.

⁵³ See f.n. 38 (*Lahore Development Authority*) at Para No. 35.

⁵⁴ See f.n. 13 (Legal Framework Order). **Editors Note.** The Legal Framework Order was affirmed as a law *vide* Section 10, Constitution (Seventeenth Amendment) Act, 2003 whereby Article 270 AA was amended.

support base and patronage system among the local elites via local government institutions. The exiled leadership of the political parties also realised the attraction of local government for local elites, and the support that a large number of empowered local government representatives were lending to the regime; therefore, when the political parties agreed on a Charter of Democracy,⁵⁵ they could not ignore the political economy of local governments as a political reality.

While drafting the Constitution (Eighteenth Amendment) Act, 2010,⁵⁶ the two main opposition parties kept their promise despite their dictatorial provenance and had a new Article inserted in the Constitution, namely, Article 140A.⁵⁷ Clause (2) of Article 140A made the Election Commission of Pakistan responsible for conducting the elections of local governments. The significance of Clause (2) is that it gave absolute power of conducting elections to the constitutional body of the Election Commission of Pakistan, which was established under Article 218 instead of the Authorities under the respective Local Government Acts and Ordinances of the provinces. This taken in addition to the divide caused between the multi-tier governance at the federal, interprovincial and provincial levels by reviewing the Federal Legislative List Part I and Part II and repealing the Concurrent Legislative List through the Eighteenth Amendment caused confusion and led to over-burdening the courts with what was otherwise avoidable litigation.⁵⁸

The fact that Article 140A was introduced in the Constitution in 2010 through the Eighteenth Amendment does not mean that the Constitution did not recognise the importance of the local governments before the insertion of Article 140A because even prior to Article 140A being inserted, the Constitution expressly recognised the importance of local government bodies in the chapter on Principles of Policy under Article 32, which for brevity is reproduced as under:

Promotion of local Government institutions.

The State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women.

However, Article 32 is one of the Principles of Policy stated in the Constitution under Chapter 2, as such, Clause (2) of Article 30 overrides it. Due to the overriding effect of Clause (2) of Article 30, the validity of an action of the State or any of its organs or the vires of any act of parliament cannot be called in question before any constitutional court on the ground that it is not in accordance with Article 32.⁵⁹

EMPOWERING LOCAL GOVERNMENTS VIA FUNDAMENTAL RIGHTS AND PRINCIPLES OF POLICY

In order to interpret the importance of the local government, the constitutional courts have utilised Article 140A in progressive and expansive manners by relying on Principles of Policy to interpret fundamental rights. Principles of Policy are the ones that have the most room for inclusivity in our constitutional

⁵⁵ Serial No. 10, Part A, Charter of Democracy, 2006 provides that: ‘constitutional protection will be given to the local bodies to make them autonomous and answerable to their respective assemblies as well as to the people’.

⁵⁶ Constitution (Eighteenth Amendment) Act, 2010. This constitutional amendment may, hereinafter, be referred to as the ‘Eighteenth Amendment’.

⁵⁷ Article 140 A, Chapter 3, Part IV, Constitution states as follows:

‘Local Government:

- (1) Each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments.
- (2) Elections to the local governments shall be held by the Election Commission of Pakistan’.

⁵⁸ *Arshad Mehmood v. The Commissioner* PLJ 2014 Lah. 379 (FB). **Editors Note.** *Province of Sindh v. M.Q.M.* PLD 2014 SC 531.

⁵⁹ Article 30, Chapter 2, Part II, Constitution states:

‘Responsibility with respect to Principles of Policy.

- (1) The responsibility of deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State, is in accordance with the Principles of Policy is that of the organ or authority of the State, or of the person, concerned.
- (2) The validity of an action or of a law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the State or any organ or authority of the State or any person on such ground’.

scheme. They contain provisions for increasing the participation of marginalised sections of the society, such as women, workers, and minorities. For example, Article 32 provides that women are supposed to be represented in local governments, while Article 34 states that their participation in national life is to be encouraged. However, the most important roadblock is that they are non-justiciable, whereas Fundamental Rights are.⁶⁰

To get around the constitutional restriction upon them, constitutional courts have progressively incorporated Principles of Policy in the fundamental rights.⁶¹ However, despite the existence of the unambiguous command of Article 32, the State was unable to effectively 'encourage local governments' between the period of 1973 to 2001. The constitutional courts in the cases of *Raja Rab Nawaz*, *Ms. Imrana Tiwana*, *Lahore Development Authority and Arshad Mahmood* relied heavily on fundamental rights, namely, the right to life and liberty (Article 9), right to dignity (Article 14), and right to form and be a member of a political party (Article 17(2)), among other fundamental rights, in order to interpret the broad language of Article 140A which gave rise to competing interpretations of powers and obligations of provincial and local governments.

The constitutional courts have undertaken exegesis of the scope of the local governments within our constitutional framework through critical re-thinking, re-evaluation, and creative exposition of various doctrines, such as subsidiarity, devolution, federalism, and vertical separation of powers. In the process, the courts have expanded the scope of our traditional explanation of the nature of our federation and separation of powers.

RETHINKING FEDERALISM IN PAKISTAN: VERTICAL SEPARATION OF POWERS

One of the most fascinating aspects of the Lahore High Court decision in *Ms. Imrana Tiwana* was the examination of the doctrine of federalism in Pakistan and included separation of powers as constituent units of the federation; i.e., having existence and recognition in the federal structure that was not dependent upon the provincial units. The doctrine of separation of powers as it had been historically understood in our politics and jurisprudence was re-interpreted. The jurisprudence around it, once subjected to the restricted understanding of separation of powers, i.e., separation between three co-equal branches of the government (legislature, executive, and judiciary), was for the first time in Pakistani's jurisprudence, expanded and the principle of vertical separation of powers was recognised as a legitimate ground of a constitutional challenge.

According to Justice Syed Mansoor Ali Shah, Article 140A was a logical extension of the vertical separation of powers to the third tier of the government, thereby mandating the provinces to share the authority with the local governments. Approaching the doctrine of federalism in this manner is advantageous because it opens up possibilities for deepening democracy and democratic participation in our legal framework. On this, Justice Shah writes that 'Subsidiarity insists that governmental power to deal with a particular kind of problem should rest in the hands of smallest unit of government capable of dealing successfully with that kind of problem'.⁶²

Pertinently, the political and governance Doctrine of Subsidiary was codified in our legal system for the first time through the 2001 Ordinance.⁶³ This is not to say that it was not practised in our legal system, it was but in a weaker form. Justice Shah discussed this principle in *Ms. Imrana Tiwana* while tracing the historical roots of the doctrine and cited definitions advanced by an impressive range of intellectuals from all fronts of the political spectrum from diverse professions, ranging from mediaeval theologians and philosophers, to Nazi political

⁶⁰ Ibid.

⁶¹ **Editors Note.** *Aasim Sajjad Akhtar v. Federation of Pakistan*, Constitutional Petition No. 41/2015; *Ghulam Qasim v. Mst. Razzia Begum*, PLD 2021 SC 812 at Para No. 9.

⁶² See f.n. 34 (*Ms. Imrana Tiwana*) at Para No. 73. **Editors Note.** The judgement quotes Supreme Court of the United States Justice Stephen Breyer's exposition of subsidiarity from his book *Court "America's Supreme Court: Making Democracy Work,"* which is available at: <https://www.penguinrandomhouse.com/books/18123/making-our-democracy-work-by-stephen-breyer/>.

⁶³ Section 191, Punjab Local Government Ordinance, 2001 provides that:

'Rules.-

- (1) The Government may ... make rules for carrying out the purposes of this Ordinance.
- (3) The rules ... shall meet the following considerations:-
 - (a) consistency with democratic decentralisation and subsidiarity'.

theorists (Carl Schmitt), to contemporary political activists and American jurists. Using the wisdom bestowed by these intellects, Justice Shah synthesised his own definition: ‘The principle of subsidiarity therefore holds that where local communities or local governments can effectively govern and manage a municipal service, they should’.⁶⁴

Interestingly, the Lahore High Court insisted that the doctrine of subsidiarity in our constitutional and political schema ‘emerge[d] from the broad principles of political, social and economic justice guaranteed to the citizens under the Objectives Resolution to the Constitution and having subsequently become a substantive part of the Constitution under Article 2A’.⁶⁵

After establishing that subsidiary was rooted within our constitutional tradition, the Court deduced that it required that governance decisions be taken at the lowest permissible level.⁶⁶ This would mean that the Provincial units were bound to devolve certain core functions.⁶⁷ Once the core functions had been devolved to local governments, they could not be “stripped”, “reversed” or “rolled back” without the “legislative design” of Article 140A.⁶⁸ Provincial Governments have only three exceptions for stripping, reversing, or rolling back of functions devolved to local governments. These exceptions include: (i) ineffectiveness of the Local Government; (ii) spillovers; and, (iii) economies of scale.⁶⁹ Justice Shah opined that ‘[d]iluting the core bundle beyond a minimum threshold through centralization is tantamount to stripping these [local] governments of their basic functionality as a tier of government’.⁷⁰

THE SCOPE OF DEVOLUTION: PROVINCIAL GOVERNMENT VERSUS LOCAL GOVERNMENTS

Judicial determination of the precise scope of Article 140A and obligations of the provinces face major constitutional obstacles due to Articles 137 and 142, which confer executive and legislative authority upon the provinces respectively. Articles 137 and 142(c) are reproduced for ready reference as below:

Extent of executive authority of Province.

Subject to the Constitution, the executive authority of the Province shall extend to the matters with respect to which the Provincial Assembly has power to make laws:

Provided that, in any matter with respect to which both [Majlis-e-Shoora (Parliament)] and the Provincial Assembly of a Province have power to make laws, the executive authority of the Province shall be subject to, and limited by, the executive authority expressly conferred by the Constitution or by law made by [Majlis-e-Shoora (Parliament)] upon the Federal Government or authorities thereof.

Subject-matter of Federal and Provincial laws.

Subject to the Constitution-

- (c) Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List.

In *Ms. Imrana Tiwana* an attempt was made to wriggle out provincial powers of these two Articles by placing Article 140A on a higher pedestal compared to Article 142. Lahore High Court limited the provincial powers

⁶⁴ See f.n. 34 (*Ms. Imrana Tiwana*) at Para 75.

⁶⁵ Ibid at Para 76.

⁶⁶ See f.n. 38 (*Lahore Development Authority*) at Para No. 27 ‘(i) The principle of subsidiarity requires that decisions be taken at the lowest permissible level (paragraphs 73, 74, and 83 of the judgement)’.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ See f.n. 38 (*Lahore Development Authority*) at Para No. 27. **Editor's Note.** The Supreme Court of Pakistan analysed the decision of the Lahore High Court and summarised the decision pronounced by the Full Bench of the Lahore High Court at Para No. 27. The statement is a summary of Para No's. 73, 74, and 83 of *Ms. Imrana Tiwana*.

⁷⁰ See f.n. 34 (*Ms. Imrana Tiwana*) at Para 78.

vis-à-vis Article 140A by declaring that while Articles 137 and 142 were prefaced by the qualifier of “Subject to the Constitution”, Article 140A had no such restriction. It meant that the provincial powers were subject to the limitations imposed by the principles of Federalism, Objectives Resolution, Principles of Policy, Fundamental Rights, Article 9, Article 14, Article 17 and Article 25 read with Article 140A.⁷¹

The Supreme Court, in appeal,⁷² however, rejected the Lahore High Court's reading of the Constitution and held that ‘The words, “Subject to the Constitution” do not, therefore, make Articles 137 or 142 subservient to the remaining provisions of the Constitution. All that these mean is that where the Constitution creates a specific bar to the exercise of such executive or legislative authority or provides a different manner for such exercise then that authority must either not be exercised at all or exercised in such manner as the Constitution permits. It does not mean that the provision prefaced with such words is a subordinate constitutional provision. It also cannot mean that once the Province has devolved certain powers on the Local Government, its legislative and executive authority is effaced by that of the Local Government’.⁷³

The Supreme Court, however, realised that even recognition of the “untrammelled” authority of the provinces did not address the problem of the explicit command of Article 140A without making it redundant,⁷⁴ which could neither be the intent of the legislature nor such an interpretation was permitted by rules of statutory interpretation. After discussing the dilemma posed by competing sets of constitutional commands, the Supreme Court declared that ‘[i]t is therefore clear that some meaningful political, administrative and financial authority must be devolved on the Local Governments. The extent of such devolution has to be between nothing and everything’.⁷⁵

The Supreme Court noticed that:

The Constitution makers could have determined the scope of such devolution by enumerating Local Government powers within the Constitution itself. They chose, however, not to do so. The omission by the Constitution makers to specifically enumerate such powers was deliberate. They left the scope of such powers to be determined by each Province, in accordance with the prevailing circumstances and political realities of the day.

However, after discussing the practical and legal difficulties in determining the precise scope of such a determination and pointing out the political wisdom of legislative intent, the Supreme Court did not lay down the exact scope of the devolution countenanced by Article 140A. Noting that the Constitution did not specifically enumerate core functions to be devolved to the local government, but it did make a broad constitutional promise by placing great faith and reliance on the political process, evolution and maturing of democracy, and good faith efforts of the provinces to devolve authority to local governments.⁷⁶

Nonetheless, despite leaving the precise scope of devolution within provincial discretion, and cautioning against judicial “paternalism” on the matter, which is still going through “political debate”,⁷⁷ the Supreme Court kept the power of ultimate arbitration on the matter with constitutional courts.⁷⁸ It did not close the door for judicial interventions on the subject in future by holding that ‘[a]n[y] excessive or abusive exercise of ... authority [by Provinces their powers under Articles 137 & 142] would not be countenanced by this Court. It would be struck down...’⁷⁹ [w]here this mandate is abdicated or exceeded the courts will step in’.⁸⁰ The Supreme Court also pointed out the possible grounds and scope of the challenges that could force the court to ‘step in’ where the:

⁷¹ Ibid at Para 91.

⁷² See f.n. 39 (*Lahore Development Authority*).

⁷³ Ibid at Para No. 53.

⁷⁴ Ibid

⁷⁵ Ibid at Para No. 58.

⁷⁶ Ibid at Para No. 59 & 80.

⁷⁷ Ibid at Para No. 60 & 61.

⁷⁸ Ibid at Para No. 76: ‘We are conscious that at times a Local Government too may decline consent for extraneous reasons. Where such consent is unreasonably withheld or denied for considerations other than in the public interest the Provincial Government would be at liberty to act in the public interest while constantly drawing guidance from the provisions of the PLGA 2013 as for the time being in force. Indeed the courts too can step in and interfere with such a failure to grant consent’.

⁷⁹ Ibid at Para No. 56.

⁸⁰ Ibid at Para No. 81.

... exercise of such authority must, [however], be in the public interest. It should encourage institutional growth and harmony. It must be in consultation and with the participation of the Local Government. To complement is not to take over'.⁸¹

GENDER ASPECT: ENSURING WOMEN'S PARTICIPATION IN GRASS ROOT POLITICS AND GOVERNANCE THROUGH LOCAL GOVERNMENTS

Finally, we examine the potential for women's empowerment through local governments. The discussion, in the case law, about the implications of functioning and empowered local governments for women's empowerment is conspicuous by its absence. This is unfortunate and reflective of the patriarchy pervasive in our society. This omission is all the more egregious considering that powerful and legitimate arguments concerning women's role or its potential could have been persuasively made for advancing the cause of the local governments considering that laws on local governments, both the Statutes of Parliament and the Constitution, and the facts that when local government laws were not being implemented, the litigation was led by women, namely, Raheela Magsi, who was the Nazim of a District and Imrana Tiwana.

None of the four seminal judgements on the issue considered it worth delving in the fact that Article 32, which is the forbearer of Article 140A, directs the state in unequivocal terms to give 'special representation ... to women'. Each of the judgements lays great emphasis on the obligation of the state to establish local governments but fails to appreciate the potential role of women envisaged by the Constitution.

Considering that Article 34 provides that '[s]teps shall be taken to ensure full participation of women in all spheres of national life', it could have been a worthy argument to pursue. A persuasive contention could have been advanced, positing that in light of the stature of local governments as paramount political entities within the framework of the nation and their status as one of the rare domains affording women a "participatory role" in "a sphere of... life", therefore, any attempt to dismantle or weaken the structures of local government or non-holding of elections or non-existence of local governments would transgress the principles enshrined under Articles 32 and 34 read in conjunction with Article 140A. This argument could have been buttressed by the fact that courts are supposed to be more vigilant in case of violations of the rights of groups or classes of people that need special protections.

Women's participation in the political sphere has witnessed the most encouraging progress in the third tier of government. During the first experiment in local government undertaken by Field Marshal Ayub Khan in 1959 called Basic Democracies, no reservation was made for women. In an ironic twist of history, one of the first military dictators to establish seats for women in local governments was Zia ul Haq, who was best known for rolling back women's rights. All provinces, except Khyber Pakhtunkhwa (erstwhile North-West Frontier Province), reserved two union council seats, and all provinces reserved 10 per cent of district council seats for women.⁸² The Ordinance also devolved a number of responsibilities for protecting the women to union councils. The devolved responsibilities included the establishment of socio-economic centres and industrial homes for needy women, rescue homes for insecure women, homes for women without support, hostels for working women, and craft training centres for women.⁸³ However, the reservation of seats for women and devolution of certain women-related functions did not encourage women's participation at the desired rate. For instance, despite multiple rounds of elections, in the 1992 local bodies' elections across the country, women made up only 10.4 per cent of the total number of membership.⁸⁴

The next milestone in women's representation, again ironically, was achieved in the regime of another mili-

⁸¹ Ibid at Para No. 74 & 76.

⁸² Khawar Mumtaz, *Women's Representation, Effectiveness and Leadership in South Asia* (New Delhi: UN Women South Asia Office, 2005), <https://bibalex.org/baifa/en/resources/document/455920>.

⁸³ Section 88, Punjab Local Government Ordinance, 2001.

⁸⁴ See f.n. 83 (Khawar Mumtaz).

tary dictator. General Musharraf increased the number of reserved seats for women in all three tiers of the government, and for the first time in Pakistan's history, 33 per cent of seats were reserved for women in Local Governments,⁸⁵ 17.5 per cent in the National Assembly⁸⁶ and Provincial Assemblies,⁸⁷ and 12 per cent seats in the Senate.⁸⁸ The increased number of reserved seats saw the election of 36,049 women at various levels of local governments, ranging from Village and Neighbourhood Councils, Union Councils, Tehsil and Town Councils, to Zila Councils.⁸⁹

Moreover, the 2001 Ordinance mandated the constitution of a three member panel of impartial persons of Musalihat Anjumans (Conciliation Committees) at the Union Council level to "achieve the amicable settlement of disputes amongst the people in the Union through mediation, conciliation and arbitration".⁹⁰ The Anjumans were elected by the Insaaf Committee and members of the Union Council, who in turn had 33 per cent women representatives. The Union Council constituted a Musalihat Anjuman, a three person "panel of impartial persons" whose task was to "dispense justice to victims of gender violence".⁹¹ According to a Report submitted by Pakistan to the Committee on the Elimination of Discrimination against Women (CEDAW), in pursuance of the 2001 Ordinance, of the 1,050 Musalihat Anjumans formed in 20 Districts, 92 per cent had at least one woman member.⁹² These Musalihat Anjumans provided an important avenue for women to become part of the institutions that had been historically very exclusive and women's representation in dispute resolution mechanisms had been almost non-existent. These institutions allowed women to be adjudicators and perform quasi-judicial functions in a large number of disputes involving a large number of women. For these Musalihat Anjumans mostly dealt with cases involving violence against women, a variety of issues relating to marriage, divorce, and inheritance. Musalihat Anjumans dealt with 9,942 cases between 2006 and June 2009. Until June 2008, about 39.45 per cent of cases involved at least one woman and 25.53 per cent of the cases involving women concerned domestic violence. Matrimonial disputes accounted for 11.05 per cent of cases.⁹³

The Musharraf regime to its credit not only empowered women on paper, i.e., legislative enactments, but also took several initiatives to make women's participation in local governments meaningful. In 2001, the Federal Ministry of Women Development started the Women's Political School (WPS) Program for women councillors with the objective of enabling the elected women Councillors to fulfil their responsibilities effectively. Until 2007, around 30,000 elected women Councillors from across the country had been trained.⁹⁴ Moreover, the WPS Program conducted Gender Sensitivity workshops for Government agencies and NGOs, trained 12,000 Nazims (Mayors) and Naibs (Assistants) of Union Councils from across the country.⁹⁵

The results of encouragement through legislative design and initiatives of the Musharraf regime for effective participation were observed in the second round of elections held in 2005 under the 2001 Ordinance. A significant number of women were elected to the highest and most powerful institutions in the districts, i.e., District and Tehsil governments and Councils: eight women were elected as Nazims of Districts Tehsil Councils each. In total, thirty-two women were elected as Nazims and Naib Nazims of District, Tehsil, and Unions Councils.⁹⁶

In the later rounds of local government enactments in Punjab, the women's share in the elected membership of the local governments was reduced from 33 per cent to 15 per cent in a Union Council under the PLGA 2013⁹⁷ and 14 per cent at various levels of local governments under the newly enacted Punjab Local Government Act, 2019 (PGLA 2019),⁹⁸ and 25 per cent in Panchayats and Neighbourhood Councils constituted under Punjab Vil-

⁸⁵ Section 37 & 65, Punjab Local Government Ordinance, 2001.

⁸⁶ Article 51, Chapter 2, Part III, Constitution.

⁸⁷ Article 106, Chapter 2, Part IV, Constitution.

⁸⁸ Article 59, Chapter 2, Part III, Constitution.

⁸⁹ See f.n. 83 (Khawar Mumtaz).

⁹⁰ Section 103, Punjab Local Government Ordinance, 2001.

⁹¹ Chapter XI, Punjab Local Government Ordinance, 2001.

⁹² Ministry of Human Rights, "Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Fourth Periodic Reports of States Parties: Pakistan" (Islamabad: Government of Pakistan, September 24, 2011), <https://mohr.gov.pk/Detail/YTNjOGViN2EtODhINy00MGY5LWFjZjgtZjgyZjgwNTNmYWl3>. At Page No. 30 of Fourth Periodic Report which bears Report No. CEDAW/C/PAK/4.

⁹³ Ibid at Page No. 31.

⁹⁴ Ibid at Page No. 8.

⁹⁵ Ibid at Page No. 19.

⁹⁶ Ibid at Page No. 60.

⁹⁷ Section 13; 14; & 15, Punjab Local Government Act, 2013.

⁹⁸ Part A & B, Second Schedule, Punjab Local Government Act, 2019.

lage Panchayats and Neighbourhood Councils Act, 2019.⁹⁹

Some of the reforms instituted by the previous regime under the 2001 Ordinance were, however, not only retained but also encouraged in the PLGA 2013 on the one hand; on the other, PLGA 2019 reversed these modest gains and completely abolished the role of informal dispute resolution mechanisms. PLGA 2013 made it mandatory through the statute, unlike the 2001 Ordinance, that each Panchayat or Musalihat Anjuman was to have at least two female members out of its nine total members.¹⁰⁰ Ironically, PLGA 2019 has the term ‘panchayat’, which means local informal dispute resolution institution in rural sub-continent but does not have any role resembling that of the panchayat assigned to the institutions envisaged by the Panchayat Act. Abolition of the dispute resolution institutions - which had a substantial presence of women and provided opportunities for engagement and gaining leverage to women in local politics - is a major reversal in the gains made for ensuring meaningful participation and empowerment of women at the local levels of the government.

CONCLUSION

A critical analysis of the legal history of local governments demonstrates that the traditional understanding of local governments from the lens of civil-military relations and local governments as tools for undermining political parties and civilian governments is no longer valid. Over the period of time the institution has evolved and another civilian institution of the state, i.e., the judiciary, has emerged as a strong defender of local governments. Similarly, mainstream political parties have accepted, albeit reluctantly, the crucial role of the local government institution in our polity, e.g., Charter of Democracy, Eighteenth Amendment, and strong commitment to the institutions articulated by Pakistan Tehreek-e-Insaf (PTI), the then ruling party in the Centre and two Provinces, in its manifestos and public declarations and massive transfer of power witnessed in Khyber Pakhtunkhwa.¹⁰¹

In absence of a sustained and engaged public debate around the issue of local governments, however, there is a lack of scope of the “core functions” to be devolved to local governments. The democratic “consensus” that was codified in the form of Article 140A in the Eighteenth Amendment agreed on very broad principles, promising devolution of ‘political, administrative and financial responsibility and authority to the elected representatives of the local governments’, but did not enumerate any specific core functions to be devolved as the other constitutions of the world, who have chosen to provide constitutional protections, have done. This “democratic consensus” has thrown a very difficult challenge to the constitutional courts in turn. If the Courts interpret the Article strictly and according to the broad language employed by the Article, then the provinces can be entirely denuded of their power and authority; on the other hand, if the Courts leave the issue of devolution of core functions to the local governments, provinces have demonstrated their lack of faith and political will to share power in a meaningful way with the local governments. This is the real dilemma and serious legal and academic attention needs to be paid to identify core functions of the local governments.



⁹⁹ Ibid; Section 2 (ww) & (aaa), Punjab Local Government Act, 2019.

¹⁰⁰ Sections 96 (3), Punjab Local Government Act, 2013.

¹⁰¹ Pakistan Tehreek-i-Insaf, “The Road to Naya Pakistan: PTI Manifesto 2018,” 2018, <https://www.pmo.gov.pk/documents/manifesto-pti.pdf>.

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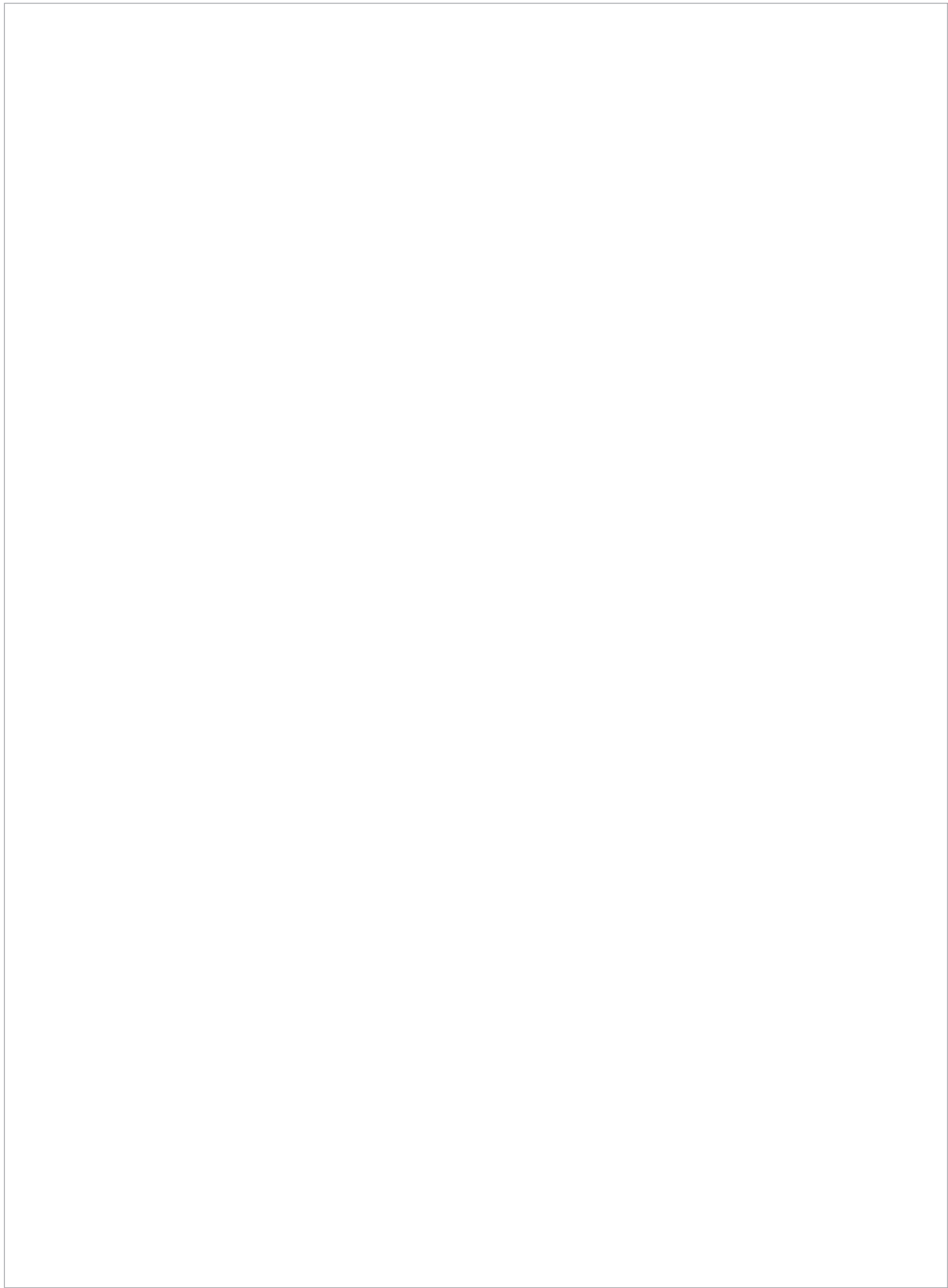
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AGAINST THE ODDS – WOMEN IN LOCAL GOVERNMENT IN PAKISTAN



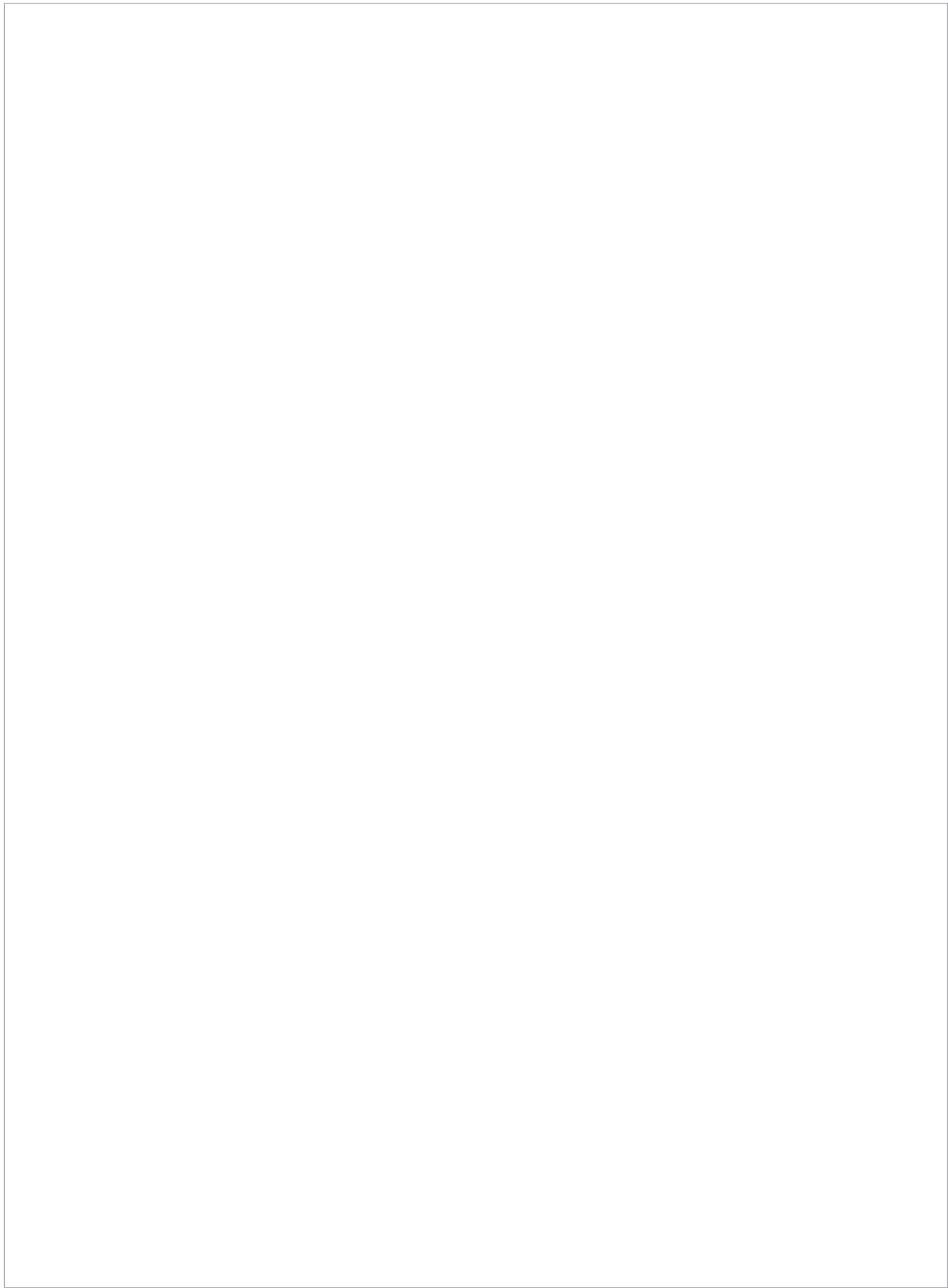
FARIDA SHAHEED

ABSTRACT

While exploring the role of local governments, this essay dissects the nuances surrounding the troubled history of local government due to, at one end, lack of support from the civilian governments, and at the other, military dictators utilising them for their own nefarious designs. While highlighting the significance of the transfer of power to the grassroots level for the purpose of empowering marginalised communities, the essay dilates upon the role played by Constitutional Courts in Pakistan in defending and expanding the functions of local governments. In doing so, the legislative and precedential history of Article 140-A of the Constitution is examined and it is emphasised that there is a need for legal, as well as academic attention to identify and resolve issues pertaining to local government for a better future, not only for minorities but for the masses in general.

BACKGROUND

*Farida Shaheed is a sociologist and feminist activist. She assumed the role of Special Rapporteur of the United Nations on the right to education in 2022. Formerly a member of Pakistan's National Commission on the Status of Women, she explored diverse education issues during her tenure as UN Independent Expert and Special Rapporteur in the field of cultural rights from 2009 to 2015. Shaheed, who is one of the founding members of Women's Action Forum (WAF), and a member of the Transnational Feminist Network Women Living Under Muslim Laws (WLUML) is presently the Executive Director of Shirkat-Gah Women's Resource Centre in Lahore. She is known for her extensive work on gender and class analysis. In 2014, she was awarded the International Award UCLG - Mexico City Culture 21, for her work on gender, culture, religion, and state. She has written three books, namely, *Great Ancestors: Women Asserting Rights in Muslim Contexts*; *Diversification of Women's Employment Through Training: Pakistan*; and *Interrogating the Norms: Women Challenging Violence in an Adversarial State*. Shaheed has also received a number of other awards including the Pakistan Prime Minister's Award for her co-authored book, *Two Steps Forward, One Step Back*. Her work encompasses children's rights in the digital world, the impact of advertising in schools, history teaching, and the right to scientific education.*



"Places and territories are social constructs - the fruit of the historical interaction of human groups in their appropriation and transformation of the natural landscape, reflecting the history, identity, and values of the populations that inhabit them... in line with a society's aspirations for the future."¹

This essay examines the role of quotas as affirmative actions for increasing women's representation and meaningful participation in local government in Pakistan. In particular, it reviews the 2001 Local Government Order that reserved an unprecedented 33 per cent of seats for women. The essay draws on the voices of women councillors and others as cited in various studies, as well as the experience of Shirkat Gah-Women's Resource Centre in engaging and working with women councillors between 2001 and 2018. Identifying the challenges and achievements of women, it suggests that quotas are necessary but insufficient to truly empower women.

The under-representation of women at all levels of governance and decision-making inevitably creates a democratic deficit, leading to laws, policies and practices that do not respond to the needs and aspirations of half the people. This is particularly true when it comes to representing the interests of citizens at the local level that impact people's daily lives. Female representation in local government can significantly improve the quality of governance as a whole and for example, a case study of 141 Spanish municipalities with more than 50,000 inhabitants for the period 2014–2018 showed that the presence of women correlates positively with municipal efficiency. However, the study also noted this is only true if the number of female councillors is relatively high, otherwise their voices become diluted or muted by male counterparts, reducing efficiency.²

In 2021, recognising the need for a new paradigm for local government and development as a whole, women mayors, town planners, architects and others who were engaged in local government across the globe, launched the Global Feminist Municipal Movement as a way to bring about a new type of society built from the bottom-up with local leaders that are committed to equality as the only possible pathway. The Movement calls for 'a new way of thinking about and exercising politics that sees a bottom-up co-creation with local leaders committed to equality as the only possible sustainable pathway for the future' that would transform urban and rural spaces to be as accessible and enjoyable for women and girls as they are for men and boys and 'most importantly', enable women's talents to thrive in all territories with their experiences and visions contributing

¹ Committee on Culture, United Cities and Local Governments, "Culture 21: Actions Commitments on the Role of Culture in Sustainable Cities Actions" (Bilbao, Spain: Committee on Culture, 2015), https://www.agenda21culture.net/sites/default/files/files/documents/multi/c21_015_en_2.pdf.

² Ana-María Ríos, María-Dolores Guillamón, and Beatriz Cuadrado-Ballesteros, "The Role of Women in Local Governments: An Analysis of Efficiency in Spain," *Urban Affairs Review* 59, no. 4 (2022): 1013–45, <https://doi.org/10.1177/10780874221113217>.

to improving livelihoods for all.³

A primary task for achieving this new paradigm, of course, is ensuring the presence of women in local government, as well as other tiers of government and decision-making. A 2021 global review indicated that if women's representation in local government is higher than in parliament, it is still not on equal terms with men: very few countries have reached gender balance in local decision-making bodies, and women's under-representation remains severe in most countries.⁴ The report also notes that legislated quotas for women have a significant positive impact on women's representation in local government, particularly in Africa and Asia, as these can disrupt the cycle of male dominated political leadership. This holds true elsewhere too, and, for example, the ability of women in Spain's local government to improve the efficiency of municipalities, is due in no small part to the quotas introduced in 2007 and 2011 that increased women's representation from 26 per cent in 2003 to 35 per cent in the 2015 elections. But are quotas sufficient by themselves?

No policy operates in a vacuum. Policies, including quotas, are grafted onto pre-existing, often complex, realities of people's lives embedded in particular socio-economic and cultural dynamics. At the core of governance lie issues of power: the power to decide how people and societies relate to each other as individuals, communities, societies and states; the power to erect the rules for social, economic, cultural interactions at different levels *and* the power to enforce these through structures and systems established for this purpose and punitive actions for any transgressions of the rules. Rules and governance encompass not only formal structures of state institutions, political processes and parties at all tiers, but also the myriad informal mechanisms through which people organise their lives. A 2008 review of women in politics in Asia, noted that ironically women had consolidated considerable voting power in recent years, but they had been simultaneously disenfranchised with regard to political representation, occupying only a fraction of positions in various levels of government. Furthermore, according to the Secretary General of the Inter-Parliamentary Union, at the current rate of incremental increase, women would not reach the critical mass of 30 per cent recommended by the 1995 Beijing Platform for Action until 2025 and not achieve gender parity until 2040.⁵ Kazuki Iwanaga concluded that while 'the political status of women in Asia is anything but uniform and that women's opportunities vary considerably from country to country', a 'number of factors, including religious and other cultural variables, impose limits on women in Asia and determine the amount of political opportunities available to them'.⁶

In Pakistan, the factors impeding women's participation in Local Government – and all forms of politics – include persistent gender inequality and lack of political commitment to local government as an essential tier of government. Entrenched patriarchal attitudes are reflected in Pakistan's consistent low ranking in the World Economic Forum.⁷

Ironically enough, Pakistan's WEF ranking Gender Gap Report would be even lower were it not for the reserved seats for women in different tiers of government, as it ranked 95 – compared with, for example, 145 out of 146 in economic participation and opportunity. But women's access to power, to political influence and to structures of governance still confronts numerous challenges, as discussed below.

Reflecting varying political commitments, local government structures have changed significantly over the years, with significant gaps in functioning. Until 1973, There were no special measures for ensuring women's participation until Article 32 of the Constitution of the Islamic Republic of Pakistan, 1973 (Constitution) stipulated that '[t]he State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women.' However, before the Devolution Plan and Local Government Order in 2000, local government elections were

³ United Cities and Local Governments and United Nations Development Programme, "A Global Feminist Municipal Movement: The Transformative Commitment of Cities and Territories to Generation Equality" (City2City Network, June 30, 2021), <https://city2city.network/global-feminist-municipal-movement>.

⁴ Ionica Berevoescu and Julie Ballington, "Women's Representation in Local Government: A Global Analysis" (New York: Governance and Participation Section, UN Women, December 2021), <https://www.unwomen.org/sites/default/files/2022-01/Womens-representation-in-local-government-en.pdf>.

⁵ Kazuki Iwanaga, ed., "Women's Political Participation and Representation in Asia. Obstacles and Challenges," *Women and Politics in Asia* 17, no. 2 (2008): 314.

⁶ Ibid.

⁷ World Economic Forum, "Global Gender Gap Report 2023" (Switzerland: World Economic Forum, June 20, 2023), <https://www.weforum.org/reports/global-gender-gap-report-2023/>. 142 out of 146 countries in 2023 female literacy is 51.8 per cent compared with male literacy of 72.5 per cent, the female labour force participation rate is 21.5 per cent as opposed to the male rate of 67.8 per cent (Labour Force Survey).

held six times and the reserved seats for women in the Local Government system was a mere 2 per cent until 1991, when it was increased to 10 per cent. In 1988, Punjab reserved 12.7 per cent seats for women in the local councils; Balochistan reserved 25.8 per cent seats for women. Sindh reserved 23 per cent and NWFP, now Khyber Pakhtunkhwa, a meagre 2.9 per cent. However, elections were only held in Punjab (minus union councils) and Balochistan where women's representation rose to, respectively, 12 and 25 per cent.

In the 1990s, civil society organisations called for affirmative measures to enhance women's political representation at all levels, helping to focus attention and catalyse discussion on the numbers and percentages; modalities for quotas, including especially whether elections to such seats should be direct or indirect, with civil society advocating for direct elections. However, elected governments wanted an arrangement that would allow them to reap the benefits, but none had sufficient numbers to achieve this.⁸ The 2000 Devolution Plan and Local Government Order (LGO) introduced by General Musharaf's unelected government accepted the civil society demand of reserving 33 per cent of seats for women. This translated into almost 40,000 seats across the country. Under the new system, 36,105 women came into a 150,000 strong local government system: 35,963 on the specially reserved seats (against the total allocated seats of 39,964); 16 were elected to the Nazim and Naib Nazim (head and vice head of councils) and 126 were elected on seats reserved for minorities.⁹ A second important innovation was the establishment of Citizen Community Boards as a way both to encourage participation and as a means of community accountability. The 4-year tenure of the first councils ended in August 2005 as elections had taken place in a phased manner between 2000 and 2001. The Punjab Ordinance also prohibited any changes being introduced until 31 December 2009.

Across the world, the proportion of women in elected governments has increased thanks to either an 'incremental track model' or 'fast track model'.¹⁰ The incremental approach involves a slow but steady incremental increase to reach gender parity. This can take many decades – for example, taking Nordic countries some 80 years – but the incremental approach brings about structurally embedded sustainable change in gender dynamics and power balances. In contrast, the 'fast track approach' brings into play various affirmative actions, such as diverse forms of gender quotas, to help level the playing field. Affirmative action measures are meant to be temporary arrangements that facilitate the marginalised by providing a stepping stone to increase opportunities otherwise denied. The fast track approach inserts changes in the landscape and may have certain drawbacks. Specifically, with respect to women's public representation, quotas may not have the desired effect unless these are accompanied by, or catalyse, broader changes that empower women more generally. The question is were the unprecedented 36,000 women entering the political arena thanks to the 33 per cent reservation of seats for women in local government were able to seize this moment to make their imprint, if so how, and if not, why not?

On the positive side, the sheer number of women entering the political arena was impressive, and also unexpected, as many political pundits had predicted that it would be impossible to find such a large number of women candidates. Some new entrants were teachers, social workers or worked in civil society organisations (CSOs), a handful came from political families. To encourage women and recognise their precarious economic situation, women councillors were to receive an honorarium of PKR.1,500/- per month (men PKR.1,000/-). However, this was left to the discretion of the district council.

While the new law provided an unprecedented opportunity, there were several structural problems, starting with the manner in which reserved seats for women, as well as minorities, and labour in urban and peasants in rural areas were filled. Direct elections were restricted to the lowest tier of the Union Council (UC) – also the basic administrative unit – which served as the electorate for the Tehsil or Taluka and District Councils. As the majority of elected UC councillors were men, women who entered higher tiers on the basis of men's votes were thus beholden to male colleagues. The same principle applies to reserved seats in the assemblies, with similar consequences. Indirect elections deprive women (and others) of a vote-constituency, the basic coin of political

⁸ Saba Gul Khattak, "Women in Local Government: The Pakistan Experience," *IDS Bulletin* 41, no. 5 (September 10, 2010): 52–61, <https://doi.org/10.1111/j.1759-5436.2010.00166.x>.

⁹ The value of 33 per cent was calculated on the basis of the base number of seats in each district, tehsil and town and union council not the total number at each level. This decreased the reserved seats to 27.7 per cent. Nasira Jabeen and M. Zafar Iqbal Jadoon, "Gender and Local Governance in Pakistan: Representation vs. Participation," *International NGO Journal* 4, no. 5 (May 2009): 264–76, <https://academicjournals.org/journal/INGOJ/article-full-text-pdf/E9CC6E640075>.

¹⁰ See f.n. 5 (Kazuki Iwanaga).

leverage. Without constituencies women have less power, as a woman councillor noted in 2017, 'when I was elected through open elections, I was more respected and recognized (sic), now coming in on the quota basis, I feel less respected and also voiceless'.¹¹

To build the capacity of women councillors, the United Nations Development Programme (UNDP) and Ministry of Women ran an ambitious two-year USD 3 million project: *Women's Political Participation and Gender-Sensitive Poverty Reduction Strategy Project*. Commonly referred to as W3P, the aim 'was to impart needs-based training to women councillors in the District, Tehsil and Union Councils, so as to maximise the impact of their presence by enhancing their participation in the formulation, advocacy and implementation of a gender-sensitive economic strategy' by training all women councillors through a 'mentoring and nurturing' strategy.¹² The Project did manage to train 27,000 women councillors, but the impact is more difficult to assess and confronted a number of challenges: illiterate and semi-literate councillors preponderantly from the UC level, had difficulties absorbing the lessons, some were unable to retain anything concrete or specific. More educated women councillors were not always supportive and of the opinion that:

Uneducated women come to the workshop or trainings to eat biscuits and cookies, not to learn something. Due to lack of education they cannot concentrate properly during workshops and soon became bored and start creating disturbance in the session.¹³

The end-of-project W3P evaluation indicated that some women attended more than one training, while some attending were not councillors. Others noted that sometimes men attended training sessions in their place.¹⁴ Some women were prevented from attending by their family/family men, others were impeded by the distance to training venues and travel-related issues. Handout materials intended to help women councillors were only finalised after most of the training had been completed and councillors who were illiterate or semi-literate still found these difficult to understand, trainings were a one-off event with no follow up or refreshers. The important gender-sensitive training of some 6000 male councillors and staff of District Line Agencies did not happen.¹⁵

Few of the women had any previous political experience and to be effective, training needed to be an iterative process over a longer period of time. Most of the women councillors returned to office were new entrants, more than half the women councillors elected in 2001 were illiterate.¹⁶ Illiterate women confronted problems in understanding what their role was and lacked the confidence to ask about their own job description and their own rights, such as participation in council meetings, honorarium and budget for their own constituencies. As the vast majority of UC councillors (commonly two-thirds) was male this translated into similar male domination at the higher level councils too. Tehsil/Taluka women councillors had better educational levels as well as social connections and political affiliations than at the UC level; and District Councillors more than Tehsil Councillors.¹⁷ Factors such as class, culture and family structures all influenced women's participation.

Many women were catapulted into the political arena by others in what has been called 'mask representatives'¹⁸ or the 'maasi-proxy' syndrome¹⁹ – *maasi* referring to household servants. In either case, these were women pushed into the political amphitheatre to be members in name only, with no idea of their responsibilities or rights. A significant number were proxies for husbands or other male relatives, who would replace women

¹¹ Shirkat Gah, "Final Reports: Vehari, Hyderabad, Mardan and Vehari," 2017.

¹² Atif Humayun Khan and Shahla Zia, "Evaluation Report: Women's Political Participation Project (W3P)," May 2004, <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Ferc.undp.org%2Fevaluation%2Fdocuments%2Fdownload%2F567&wdOrigin=BROWSELINK>.

¹³ Nasira Nasreen, Noor Sanauddin, and Seema Gul, "Patriarchal Politics: Factors Limiting Women's Participation in Local Government in Pakistan," *PUTAJ - Humanities and Social Sciences* 23, no. 2 (December 2016): 73-86, <http://journals.uop.edu.pk/papers/Document1.pdf>.

¹⁴ Ibid.

¹⁵ See f.n. 11 (Atif Humayun Khan and Shahla Zia).

¹⁶ Shirin Rai et al., "Gender Quotas and the Politics of Empowerment – a Comparative Study," in *Women, Quotas and Politics*, ed. Drude Dahlerup (London: Routledge, 2006), <https://www.taylorfrancis.com/chapters/mono/10.4324/9780203099544-19/south-asia-gender-quotas-politics-empowerment-comparative-study-drude-dahlerup?context=ubx&refId=9372935b-7851-44f5-b266-4849571616cb>.

¹⁷ Fauzia Yazdani, "Women's Representation in Local Government in Pakistan: Impact Analysis and Future Policy Implications" (Center for Policy Studies, Central European University, 2023), <http://pdc.ceu.hu/archive/00002555/01/yazdani.pdf>.

¹⁸ Dr. Khalid M. Butt and Victor Tabita, "Women Empowerment by Local Representation: A Case Study of Lahore," *Journal of Political Science* 32 (2014): 67-84, <http://ps.gcu.edu.pk/wp-content/uploads/2015/02/2014-Butt-Victor.pdf>

¹⁹ Sahar Z. Bandial, "The Women-For-Women Hypothesis: Women Gender Interests and Politics in Pakistani Local Government" (B.A. Hons. (Political Science), (2008).

in council meetings and sometimes even attended trainings for women councillors in their stead.²⁰ Class was an important factor in selecting female candidates, especially at the UC level. Many women were pushed into the political arena by the local influential who expected to win, simply to fill a seat with the aim of controlling voting for the upper tiers. This could be a local landlord, *wadera*, chaudhry, sardar or malik (depending on location) or political party leader – roles which are often conflated in rural Pakistan.²¹ Often these women – or their male relatives – depended on the influential for their livelihood and/or homes, and therefore could be counted on to be compliant. Many felt coerced and had no desire to enter politics as articulated by women councillors in the second round of elections under this dispensation. For instance, women councillors told researchers:

- I had no wish to stand. My husband was interested in politics, and so it became an obligation for me...I usually do not leave the house and mostly remain busy with housework.
- I was made to contest the election. The local party leader made a lot of women contest, and I was one of them...I did not get anything in return...They forced me to stand.²²
- 'I had never heard the word politics or councillor but [the local influential] of our village called my husband to his Hujra [male meeting spaces in private homes] and told him that 'your wife will contest elections from our panel'. My husband had to obey as he said that Arbab sahab has honoured us by selecting us for this seat.²³
- 'When [a retired Army officer] of our village conveyed a message to my son that your mother will contest election and will become a councillor, my son was very happy. I told him that I am not educated so I cannot do politics, he said that you need not to worry; Major sahab will manage everything. So I had to agree'.

Some women were chosen because they were known to be socially active in the community and therefore sure to win votes as one councillor said, 'I had no wish to work [as a councillor]; my Nazim forced me...People in my locality knew me due to my work. That's why the Nazim wanted me to contest, as it was sure that I would win'.²⁴

Those who pushed women into the fray would bear all the expenses of contesting and carrying out voter mobilisation. Consequently, so many women did not gain essential political skills such as engaging with communities and canvassing votes. While some women, from poorer families and therefore lower societal status, may have considered it an honour to be elected as UC members, their status after assuming office did not change. If the gender segregation normative rules were less strict for them, because of 'their lower socio-economic status, these women were not given their due respect even by their male and female counterparts of the same council'.²⁵ The lack of education was considered a major drawback for the effective participation of women in the local government system by both women councillors and CSOs supporting their efforts.²⁶

Apart from men wanting to fulfil their political aspirations through female relatives, a major reason for selecting poor women was to ensure that women UC councillors would vote for the 'right' candidates for Tehsil/Taluka and District Councils selected by the men who had helped them become councillors.²⁷ The council heads, Nazims were assigned a disproportionately powerful role, with a propensity to control the economic resources and decision-making, and only 16 women were elected as Nazims or Naib Nazims in the first round under the Local Government Ordinance (LGO) of 2001. Women councillors desiring to play an active role complained that their Nazim did not consult them on any matter, completely ignored their requests and often decided on the use of funds at his own discretion and merely informed the council.²⁸ This was especially true at the UC

²⁰ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

²¹ Ibid; f.n. 11 (Atif Humayun Khan and Shahla Zia); f.n. 19 (Sahar Z. Bandial); f.n. 17 (Women's Representation in Local Government in Pakistan: Impact Analysis and Future Policy Implications); f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

²² See f.n. 19 (Sahar Z. Bandial).

²³ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

²⁴ See f.n.19 (Sahar Z. Bandial).

²⁵ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

²⁶ See f.n. 18 (Dr. Khalid M. Butt and Victor Tabita).

²⁷ Confirmed by Tehmina Daultana, and politician from a political family who served as a member of the national assembly to author in conversation during her election campaign.

²⁸ See f.n. 19 (Sahar Z. Bandial); See f.n. 17 (Women's Representation in Local Government in Pakistan: Impact Analysis and Future Policy Implications).

level where women were present in the largest number but also where women's literacy/education levels, social connections and political affiliations were the lowest, '[a]s a Union Councilor (sic)' said one, 'I felt that everything was under the control of the Nazim, and that I could not accomplish much'.²⁹

Still, despite the odds, a sizable number of women councillors proactively entered the political arena because they wanted to, despite patriarchal structures of control where men don't allow women to be in politics because they don't want women to be empowered.³⁰

If many women councillors were nominated by male relatives or the local influential (usually the largest land-owner), a number of teachers and women working in civil society organisations also joined local government. In different parts of the country, community elders and political party officials forbade women from voting.³¹ Women's keenness to engage is reflected in the fact that in some areas where women were forbidden to vote by family members and/or political parties, women candidates came up with an innovative solution. To sidestep the issue of voting, they instead arranged to select one female candidate's name out of a hat; all the other candidates stood down, allowing the lucky woman to be elected unopposed. In all, around a quarter of the women councillors were returned unopposed.³² Some women braved incredible pressures and resisted threats to contest the elections as described in Aurat Foundation's Citizen's Report around their campaign to support women during the 2000-2001 elections.³³

It is true that, '[a]t the higher level, our husbands used their connections to get votes and would visit people's houses to campaign for us',³⁴ so a number of women never had to canvas votes. Yet, it is perhaps unfair to dismiss all such women as mere proxy candidates for men, for it is equally true that contesting seats without such male support was far harder for women than men. Women who personally canvassed votes, confronted closed doors and open hostility. Women who were not maasi-proxy candidates were especially ridiculed, treated almost as pariahs, even by women voters. One woman recalled approaching her grandmother's relative for votes only to be met with the retort, '[a]ll sorts of bitches are now contesting elections!'³⁵

Many women's campaign posters did not show their faces while women whose posters showed them without a head cover were criticised by religious parties. Most such women defied both societal norms and family censure to enter politics, pushed by a desire, as eloquently expressed by one woman UC counsellor who disregarded the censure of her brothers and other relatives, 'to be free like a bird and reach the skies; I want to attain a name for myself...and to stand and move with the men; I don't care what people say'³⁶

Women who graduated from local councils to the provincial and national assemblies also noted that in some ways, campaigning for local government could be more difficult than contesting provincial or national seats, as the smaller constituencies lent themselves to more microscopic scrutiny as well as personalised attacks.³⁷

And contesting seats was only the first obstacle. Once in office, women confronted the full gamut of patriarchal controls in their roles as councillors. Women's presence was not a requirement for the quorum, prevalent norms of gender segregation meant many women felt uncomfortable attending UC sessions; in Peshawar for example, women related feeling unable to talk when they were curtained off, or had faces fully covered in the councils to maintain purdah norms. Many were actively discouraged from attending the sessions either by male relatives telling them not to attend or Nazims conveying messages to women they were not to attend

²⁹ See f.n. 19 (Sahar Z. Bandial).

³⁰ Farzana Bari, "Women's Political Participation: Issues and Challenges" (Bangkok, Thailand: United Nations, November 2005), <https://www.un.org/womenwatch/daw/egm/enabling-environment2005/docs/EGM-WPD-EE-2005-EP.12%20%20draft%20F.pdf>; f.n. 18 (Dr. Khalid M. Butt and Victor Tabita).

³¹ Ibid; Huma Yusuf, "The Evolving Role of Women in Pakistani Politics" (The Norwegian Peacebuilding Resource Centre (NOREF), May 2013), <https://www.files.ethz.ch/isn/164192/c832356e4ede2cff568363e27bb152b0.pdf>; f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

³² Munawwar Alam, "New Local Government Reforms in Pakistan - a Way Forward towards Inducing Social Change" (MBA Thesis (Public Service), 2004), https://www.researchgate.net/publication/280713165_New_Local_Government_Reforms_in_Pakistan_-_A_Way_Forward_Towards_Inducing_Social_Change.

³³ Aurat Foundation, "Citizens' Report of the Citizens' Campaign for Women's Representation in Local Government in Pakistan 2000-2001" (Islamabad: Aurat Publication and Information Service Foundation, 2001), <https://www.af.org.pk/Citizens%20Reports/Citizen%20%20Report/ccwr-2000-2001.pdf>.

³⁴ See f.n. 19 (Sahar Z. Bandial).

³⁵ Ibid.

³⁶ Ibid.

³⁷ Nilofer Bakhtiar to Farida Shaheed, n.d. Bakhtiar started her political career as a local councillor and then went on to be a member of the national assembly and federal minister.

as ‘you are not required to attend meetings; you can send your male representative instead’, or nazims holding meetings not in the council houses but in their private homes in the spaces reserved for men from which women are excluded such as *hujras* or *otaqs*.³⁸

Too often, male counsellors neither accepted nor tolerated the presence of women councillors.³⁹ Women who attended council sessions were prevented from speaking out: some Nazims did not deign to speak with women councillors; others asked female colleagues to share their concerns before the sessions so he could take these up in the council sessions as ‘it was not seemly for women to be speaking in public forums’. Women who did speak up and raised issues confronted sarcastic and at times derogatory responses of male colleagues and the Nazim. Women who refused to adhere to gender normative rules of subordinate silent womanhood and spoke out were reprimanded by male colleagues, unceremoniously told to sit down and be quiet; some even became targets of malicious campaigns questioning their moral standing. Requests for funds could be dismissed with derisive comments such as ‘funds for your cosmetics?’ or dismissed with ‘you’re on a women’s reserved seat, why should there be funds for you?’ and/or ‘what do you know about funds and work? You’re here to fill seats so just sit’.⁴⁰ Consequently, women councillors had little to no say in setting council agendas. Family support was essential to enable women’s participation and, ironically enough, women in joint family systems were better able to participate in the local government meetings as they could count on other female relatives to assume the responsibilities of childcare and household chores.⁴¹

Nevertheless, and despite the odds stacked against them, women councillors across all tiers demonstrated resilience and fought to carve out a space for themselves as public representatives, simultaneously challenging patriarchal normative rules, including those internalised by women. As averred by one UC Councilor, ‘I have to fight for the right to speak in the Council. If he [the Nazim] does not give me the opportunity to talk, I will grab it myself.’ Resistance manifested in many shapes, including simple acts such as Tehsil Counselor sitting in the front of the council in sessions, and refusing to be relegated to the back benches. Noting that women, too, internalise and abide by the societal mindset that considers women secondary to men, she related that when she first sat in the front at the first council meeting, she was approached first by other women councillors and then the Council Secretary and told that ‘women were meant to sit in the back’. She categorically refused, saying that ‘we women have legitimately come into government through the electoral process and not through some charitable pity!’⁴² The defiance of this single woman changed the practice, ensuring that women sat in the front of the council in all sessions. In one district, learning at a workshop that the combined seats of women, minorities and labour/peasant representatives gave them a majority, women were able to have their Nazim replaced.⁴³

While the new local government system was indeed an unprecedented opportunity for women, and hailed as a wide-open space for strategically influencing the agenda-setting in local governments,⁴⁴ perhaps the expectations of what 36,000 women councillors, mostly new entrants, could achieve were unrealistic.

Entering the public domain meant women councillors confronted, and had to negotiate through, ‘public patriarchy’, meaning the exclusion of women from all arenas of social life other than the household, reinforced by the policing of social opinion, in addition to overcoming the private patriarchy within their own homes. This presented numerous challenges. First, women were ill-equipped to meet community expectations of councillors: to deal with the police and resolve administrative matters with government departments and officials.⁴⁵ The paucity of women’s engagement with any state body or official at the time, was so negligible that the report of an extensive Pakistan-wide field-based research was called *Imagined Citizenship: Women, State & Politics in Pakistan*.⁴⁶ The study also found pockets where women had never even voted, let alone contested any election because family members, community elders and local officials of political parties forbade women from voting

³⁸ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul); See f.n. 19 (Sahar Z. Bandial).

³⁹ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

⁴⁰ See f.n. 17 (Women’s Representation in Local Government in Pakistan: Impact Analysis and Future Policy Implications).

⁴¹ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

⁴² See f.n. 19 (Sahar Z. Bandial).

⁴³ Shirkat Gah, “Internal Report: Training of Local Government Women Councillors,” 2006.

⁴⁴ See f.n. 11 (Atif Humayun Khan and Shahla Zia).

⁴⁵ Tehmina Daultana to Farida Shaheed, 2013.

⁴⁶ Farida Shaheed, “Imagined Citizenship: Women, State & Politics in Pakistan” (Lahore: Shirkat Gah Women’s Resource Centre, 2002), <https://shirkatgah.org/wp-content/uploads/2023/07/Imagined-Citizenship.pdf>.

in several parts of the country.⁴⁷ Few women councillors were aware of the existence or purpose of Citizen Community Boards (CCBs) established by the LGO that enabled a minimum of 25 citizens to register with the District authority and become eligible to submit proposals for matching funds from the local government to undertake development activities. The performance of the CCBs was uneven, performing well when facilitated or undertaken by civil society organisations.⁴⁸ Given the odds stacked against them, what is remarkable is that women councillors managed to achieve anything at all.

Effectiveness was impeded by the irregularity of council sessions, especially at the UC level, the lack of notification of such meetings to councillors, and the stringent funds available to even District councils. Governance in Pakistan has always favoured centralising power, a characteristic it shares with other South Asian countries, along with other features such as 'socio-economic inequalities based on class, gender, and cast; and nationalistic divisive claims on ground of ethnicity, language, and religion',⁴⁹ which created challenges for the local government system itself as well as women's participation. Notably, revenue generating powers were never devolved and decentralising governance was resisted by provincial authorities which imposed administrative restrictions. In the initial years the level of non-cooperation of the bureaucracy led a number of District Nazims to approach provincial high courts for relief. Eventually this led to a backsliding on decentralisation through amending the law to grant greater authority to provincial governments to control district councils and elected representatives.⁵⁰ Male councillors complained that budgets would be made by provincial authorities and sent to them for rubber-stamping with little to no input from councils. Decisions about available funds tended to be made behind closed doors and excluded women.

Despite hurdles, women, especially District councillors, did successfully submit proposals, which were mainly related to improving community amenities, such as waste management, street lights and roads, rather than a gender-corrective agenda.⁵¹ While this has been seen as a missed opportunity to promote the specific interests of women,⁵² such actions respond to community needs and can help create a constituency base amongst both men and women – it was also what women councillors saw their male colleagues do. Additionally, it has to be noted that while women may not have initiated gender-transformative projects, they did respond to women-specific issues, such as taking up and helping resolve cases of domestic disputes, including cases of violence, or requesting sewing machines as asked for by female constituents.⁵³

In sum, the LGO enabled women otherwise deprived of a chance to enter politics, to engage with institutions and intervene at the local level even in the very limited and narrow space available to them to engage. Where they managed to access funds, women councillors played an important role. After this first opportunity, a sizable number of women entering the political arena, used the experience to run for office repeatedly and continued to serve in local government. In the 2005 Local Government elections the reserved seats for women dropped to 24,463, but nominations increased to 2.3 per seat, compared with 1.7 per seat in 2000-2001 elections, and almost twice the number of candidates contesting (1.9) each seat compared with 1.3 per seat. The number of unopposed seats dropped to 17 per cent from 25 per cent; seats left vacant to 3 per cent from 11.3 per cent. Moreover, a significant albeit numerically small number of councillors went on to become members of provincial assemblies and a few became members of the national assembly. These changes all indicate a positive trend of women's active participation, not merely representation in local government. For this reason, the local government system was seen as an important nursery that boosted women's political participation.

The LGO experiment ended in 2009. Following the Eighteenth Constitutional Amendment, local government became the remit of provincial authorities, as well as women, health, education and other subjects, ending a uniform system of local government. Except for Balochistan, provinces took years to formulate alternative Local Government Acts, due to the higher level political dynamics. No province retained the Citizen Community

⁴⁷ See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul); f.n. 31 (Huma Yusuf); f.n. 30 (Farzana Bari).

⁴⁸ M. Zahid Islam, *Local Government in Pakistan 1947-2015: Past, Present & Future*, Google Books (Islamabad: Sangat Development Foundation, Local Government Resource Center, 2015), https://books.google.com.pk/books/about/Local_government_in_Pakistan_1947_2015.html?id=8MvlnQAACA&redir_esc=y.

⁴⁹ Aditya Pandey, *South Asia: Polity Literacy and Conflict Resolution* (New Delhi, India: Isha Books, 2005), <https://www.abebooks.com/South-Asia-Polity-Literacy-Conflict-Resolution/605408110/bd>.

⁵⁰ See f.n. 48 (M. Zahid Islam).

⁵¹ See f.n. 19 (Sahar Z. Bandial); f.n. 9 (Nasira Jabeen and M. Zafar Iqbal Jadoon); f.n. 11 (Atif Humayun Khan and Shahla Zia).

⁵² See f.n. 13. (Nasira Nasreen, Noor Sanauddin and Seema Gul).

⁵³ See f.n. 19 (Sahar Z. Bandial).

Boards that had provided a platform for citizens' greater engagement in governance and all provinces greatly reduced the number of council members.

The Balochistan Local Government Act 2010 retained the 33 per cent reserved seats for women and introduced 3-member Musalihat (reconciliation) Committees that included one woman. There is no indication that these committees were ever functional, and the Act significantly increased the dependency of Local Government institutions on provincial authorities, especially the Chief Minister, Commissioners, and municipal mayors.⁵⁴ Only UC councillors were directly elected with UC chairmen becoming members of the next tier, largely excluding women.

The Local Government Act of 2013 of Khyber-Pakhtunkhwa (formerly NWFP) also retained the principle of reserving one third of the total seats for women. However, based on population, this varied from 31 to 35 per cent at the district level; in some Tehsils the percentage dropped to 20 per cent.⁵⁵ The Act replaced UC councils with 10 to 15-member Village and Neighbourhood Councils respectively in rural and urban locations. At this tier, elections were held on a non-party basis; candidates with the highest and second highest number of votes became the Nazim and Naib Nazim; tasks were very limited. The district and tehsil councils were elected on the basis of party affiliation; councils formed the electorate college for Nazims and Naib Nazims; women's reserved seats were filled through proportional representation.

In Sindh, consensus on the Local Government Act was complicated by sharply divided rural-urban ground realities that overlap with ethnic divides and are reflected in political leadership. After several attempts to operate under different laws, the Sindh Local Government Act of 2013 was passed but elections were postponed until 2015 and finally held at the insistence of the Election Commission of Pakistan. The 2013 Act reserved 22 per cent of seats for women for most tiers but lowered the number of seats: at the UC level 9-member councils had 4 directly elected councillors who then 'elected' two women members, one member each from amongst labourers/peasants, youth and non-Muslims. However, 33 per cent seats were reserved for women in the District Municipal Corporations (DMCs) and Karachi Metropolitan Corporation (KMC).

Punjab too saw delays as political actors contested the parameters of local government. Between February 2010 and January 2013 six amendments were made to the 2001 Local Government Ordinance before the Punjab Local Government Act 2013 was finally passed and elections were held in two phases in 2015. Like Sindh, UC seats were reduced to nine: 2 seats reserved for women; minorities and labour/peasants had one seat each. Fewer than 300 women contested the 50,000 directly elected seats in the 2015 local elections and 60 contested the elections for the council chair and vice-chair. Still this was more than the numbers under the LGO. Some became council Chairpersons or Nazims.

The fundamental challenges for women under these systems remained much the same as before, as evidenced in Shirkat Gah's PEHL project that sought to empower women councillors and community leaders – who did not necessarily coincide⁵⁶ – to become more active in the public political spheres. It also engaged cohorts of community men to expand the support base of active women. Training encompassed the functions of the local councils, but also boosted leadership skills for communication, and provided introductory visits to police stations and government departments. The ground realities varied considerably but in general women faced much the same problems as before. Many UC councillors were illiterate and therefore hesitated to speak out on any issue; many women had never met the Chairperson or Nazim. Few had been attending council sessions, and mostly sat silently, and at the back of the hall. It was especially difficult to break the patterns in UC and village councils 'because the majority of people there are men' and women feared because:

usually when we go to UC offices – they listen but they tell us to go away; men keep sitting for hours and talking; the women are usually heard and then told 'ok we'll look into it and now you can go'. We aren't heard as much as men but I keep going back till they listen – more effort is required than men.⁵⁷

At the UC level, councillors admitted they were 'just nominated by our landowners to fill seats so how can we

⁵⁴ See f.n. 48 (M. Zahid Islam).

⁵⁵ Second Schedule, Khyber Pakhtunkhwa Local Government Act, 2013.

⁵⁶ See f.n. 11 (Final Reports: Vehari, Hyderabad, Mardan and Vehari).

⁵⁷ Ibid.

speak in front of them?'. Such women also pointed out that they could not absorb any training when they were unable to engage in any activity as councillors. Speaking up remained a challenge because, '[p]eople criticize (sic) the character of women, if they speak up or meet male colleagues'. The 'fear of being taunted by male colleagues for whatever they say and... shaky confidence in their ability to raise question (sic), argue and object'⁵⁸ evident in 2001-2009 still had to be overcome. Most UC councillors felt uncomfortable to talk with male colleagues and UC chairmen, 'afraid they will make fun of us and ignore our recommendation'.

Community constituents, both female and male, were far less familiar with even the names of women councillors than their male counterparts; few female constituents approached women councillors, and men only exceptionally and sometimes through their husbands. The fear of social censure led some women to send their sons to talk to the Chairman, or send husbands to attend councils in their stead. Communities had less confidence in the ability of women councillors to achieve anything, although to be fair, many also had little confidence in lower tier male counsellors and only believed the Chairman had power.

Women on reserved seats who had previously been elected directly echoed the same sentiments, such as a woman twice elected directly saying, 'when I was elected openly, I had more respect and recognition [in the community] but now being on the quota basis, I feel less respected and also voiceless'. Some women who contested the directly elected seats again confronted threats in some places, but perhaps signalling a change, one woman contested despite threats and lost, was then brought in on a reserved seat. Women continued to defy the odds, and earned respect. As one councillor said:

We cannot wait for powers – we have to fight! I was sick, despite that, I fought; I went and stood with 50-60 persons to protest [the lack of electricity]; I just got there and the men said addi [elder sister] is here so the problem is fixed... (UC counsellor Hyderabad)

The key change in confidence to change the patterns was notable, so that women started regularly attending sessions, using the council tools to table resolutions, make demands and ask questions about the budgets and other matters, as also attested to by Council Chairmen at all tiers.⁵⁹ Women shared the change:

- We feel confident talking with men. We also realized (sic) that we have some power to help our community people and chairmen about development schemes.
- We learnt, we can decide development priorities with recommendation of community women. (Vehari)
- We have learnt to demand our rights sitting with men...before we would sit at the back [as] we were told to and now we sit at front – the house has now dedicated seats for us in the front row. (HMC)

Learning about procedural matters, women started demanding that the agenda and minutes of council sessions be shared; they managed, usually with the support of the Chairman, to improve health and educational facilities for women and secure equal scholarships for girls, in addition to improving community amenities: street lights, waste management, electricity, water and roads. Learning about personal status laws enabled councillors and visiting police stations to overcome hesitation; women responded to and guided community women more appropriately, sometimes with the help of the Chairman, sometimes through arbitration committees. Breaking the stigma of going to police stations, a number ensured that police registered cases of domestic violence. They became more familiar with government offices and complaint procedures. Many made all-out efforts to secure Computerised National Identity Cards (CNIC) for women to access government schemes. Learning that a delegation makes a difference, women councillors and community leaders started working together to make change happen. Community women who were not counsellors also started approaching the councils. One woman in Mardan, surprised at her own audacity, exclaimed: 'I got the courage to meet Nazim and highlight village issues with him. It's unbelievable that I would have such level of confidence!'. The key lesson of the project was that to be effective in local government, women need to know much more than just the formal rules of council procedures. They need the courage and support to overcome deeply embedded prejudices that politics is a 'male-only profession' and therefore prevent their family women to enter politics, as ex-

⁵⁸ See f.n. 17 (Women's Representation in Local Government in Pakistan: Impact Analysis and Future Policy Implications).

⁵⁹ Indeed, in Mardan District, women became so adept in council matters, that the District Chairman asked Shirkat Gah to train the male councillors too.

pressed by the Vehari District Election Commissioner, and that ‘vote casting is mainly men’s domain so being a woman we should ask to our husbands who we should cast our vote for’ as expressed by some community women. This requires a radical rearrangement of prevalent gender normative rules, starting with increasing women’s education, livelihood options and decision-making at all levels and removing strictures on mobility and social engagements.

CONCLUSION

Women are at a great disadvantage when it comes to entering the political arena and offices anywhere. If globally politics is still largely viewed as a ‘man’s world’,⁶⁰ matters are complicated in Pakistan due to prevalent gender normative rules. As Ms. Nasim Wali Khan, leader of the Awami National Party said:

If you thrust the job of decision-making on a woman in a society where women’s lips have been sealed, her hands and feet tied and she’s been given the impression that you are not fit to do anything and you cannot do anything, she may not be able to deliver...Unless a woman attains a certain status in society, her decision are not respected...By taking the initiative from the home, women can slowly and gradually come out of the home, enter every walk of life and attain such positions where they can make decision.⁶¹

Regardless of the number of reserved seats any ‘fast track’ model adopts, if the basic socio-cultural gender dynamics and women’s generally disempowered conditions persist, these will have far less impact than purported on paper. In local government, the expectations from councillors renders the task far more complicated for women. Constituents expect counsellors to help resolve issues of community amenities or deal with educational or health matters, all of which require engaging with government offices and officials. Denied mobility and with far less education, women however have few links with institutions and little knowledge of the procedures for applying for government services, schemes and relief, of legal frameworks or complaint mechanisms, in part because this means engaging with men. Social disapprobation also means far fewer women have telephones – which was the primary means of communication amongst councils even in 2017, and is increasingly pivotal. Moreover, entering politics does not reduce women’s household care and nurturing tasks, unless other women step up to help. Then there are expectations of dealing with police matters, but even in 2021, for women, merely ‘approaching the police means braving the censure of being bad immoral women’,⁶² and are often dismissed or not taken seriously by their male colleagues. They have to work twice as hard for the recognition and enter politics against some serious odds, obliged to operate in a tough environment. As noted by the UN-Habitat, ‘most local governments are inherently patriarchal institutions. Their structures and procedures are designed for and by men’, ignoring women’s multiple familial and social responsibilities, as well as gendered differences of communications and decision-making styles.⁶³

At the end of the day, if local government is needed to transform power relations in the country, local government can only truly reflect the needs of all people if gendered power relations are radically transformed. As the feminist municipal movement stresses, it is not about women’s rights ‘but about a new type of society – a new way of thinking about and exercising politics that sees a bottom-up co-creation with local leaders committed to equality as the only possible sustainable pathway for the future’. In the meantime, exceptional women entering politics must be ‘the first drop of rain that will bring about change’.⁶⁴

⁶⁰ Farida Jalalzai and Mona Lena Krook, “Beyond Hillary and Benazir: Women’s Political Leadership Worldwide,” *International Political Science Review* 31, no. 1 (January 2010): 5–21, <https://doi.org/10.1177/0192512109354470>.

⁶¹ See f.n. 46 (Imagined Citizenship: Women, State & Politics in Pakistan).

⁶² Shirkat Gah and Punjab Social Welfare Department, “Social Barriers to Access & Uptake of Public Sector GBV Services by Women Survivors of Violence” (Lahore: Shirkat Gah, 2022).

⁶³ Prabha Khosla and Bernhard Barth, *Gender in Local Government: A Sourcebook for Trainers* (Nairobi: United Nations Human Settlements Programme (UN-HABITAT), 2008), https://www.un.org/womenwatch/directory/pdf/Source_BK_9-May.pdf.

⁶⁴ Neelum Hayat (National Convention for Women’s Political Empowerment, December 2018).

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DEMOCRATIC DECENTRALISATION AND WOMEN'S EMPOWERMENT IN PATRIARCHAL SOCIETIES: CASE STUDIES OF PAKISTAN, INDIA, BANGLADESH, AND TUNISIA



Jawad Tariq

ABSTRACT

The article highlights the intricate relationship between democratic decentralisation and political participation of women in Pakistan, India, Bangladesh, and Tunisia. Through an in-depth analysis of case studies of these countries coupled with available empirical support, the article examines the role of decentralisation in increasing women's political representation and participation and any consequent empowerment, in addition to highlighting the barriers to women's political participation in local government structures. Though the quota system has increased women's political participation in local governments, gender disparity continues to exist in the political sphere as evidenced by the gender disparity in Pakistan: 84.8 per cent, Tunisia: 80.3 per cent, India: 74.7 per cent, and Bangladesh: 44.8 per cent. Patriarchy, gender discrimination, economic inequality, lack of adequate training and power concentration by political parties through a centralised system were the major impediments to women's effective participation in local politics. The article concludes that awareness campaigns, fostering discussions, improving communication strategies and channels for effective information dissemination, and adequate educational programmes and trainings can improve the situation of women and other marginalised groups in local and national level politics.

BACKGROUND

Jawad Tariq has a PhD in Sociology and is currently working as Associate Professor of Sociology at Forman Christian College (A Chartered University) [FCCU] Lahore. He is also serving as a Coordinator of the Population Research Center and Poverty Action Lab at FCCU. He has a number of research publications in national and international journals. His research interests include marginalised and vulnerable communities, organisational dynamics, public health, and political sociology.

INTRODUCTION

Feminist theories posit that men have historically controlled decision-making processes by monopolising power positions.¹ Studies have highlighted various constraints and barriers to women's political participation such as: structural (e.g. low availability of resources and lack of literacy), cultural (housewifery and domestication), and institutional (denial of key positions and disparity in allocation of party tickets).² Political scholars have favoured the quota system as a means to gender equity in politics, as implementing quotas can considerably increase women's political participation and ensure their representation in decision-making spheres. A beneficial consequence of such a system is the breakdown of traditional, institutional, and structural barriers that have historically barred women's access to political power.³ Additionally, quotas provide legal support to inclusivity, thereby challenging gender norms and stereotypes that support and sustain gender inequalities. By increased participation in the political process and assuming leadership positions, a domino effect can occur for other women, providing them the confidence to take part in the political process resulting in the development of women's agency.⁴ However, other political scholars have questioned the efficacy of quotas for women's empowerment by arguing that quotas can only increase women's political participation but may not necessarily lead to their empowerment as it fails to recognise and resolve the core systemic barriers that obstruct their political participation.⁵ Likewise, women as well as other minorities on reserved seats might feel marginalised in a political setting dominated by members elected on general seats, hence, reducing their say and involvement in the decision-making process within parties as well as local governments and legislative assemblies. A response to this criticism can be given by considering women's political involvement and access to legislative bodies as a foundational step towards their empowerment, providing them visibility in public political spaces where they can raise a voice for themselves as well as for their agency and can strive to resolve problems pertinent to their wellbeing to ensure gender equality.

¹ Mohammad Vaqas Ali and Jawad Tariq, "Empowerment and IPV in Married Women of Reproductive Age: Evidence from Pakistan Demographic Health Survey 2017-2018," *Journal of Interpersonal Violence* 37, no. 11-12 (January 12, 2021), <https://doi.org/10.1177/0886260520980380>.

² Office of the High Commissioner for Human Rights, "Factors That Impede Equal Political Participation and Steps to Overcome Those Challenges" (Office of the High Commission: United Nations Human Rights, June 30, 2014), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/069/52/PDF/G1406952.pdf?OpenElement>. Bearing Report No. A/HRC/27/29.

³ Medha Naniwadekar, "Are Quotas a Good Idea? The Indian Experience with Reserved Seats for Women," *Politics & Gender* 2, no. 1 (March 2006): 119-28, <https://doi.org/10.1017/s1743923x06241011>.

⁴ Amal Sajjad et al., "Affordability and Work-Family Balance as Key Predictors of Favorable Attitude towards Online Businesses in Women E-Entrepreneurs of Pakistan," *Annals of Social Sciences and Perspective* 2, no. 2 (October 28, 2021): 177-85, <https://doi.org/10.52700/assap.v2i2.59>.

⁵ Cecilia Josefsson, "Who Benefits from Gender Quotas? Assessing the Impact of Election Procedure Reform on Members of Parliament's Attributes in Uganda," *International Political Science Review* 35, no. 1 (January 2014): 93-105, <https://doi.org/10.1177/0192512113507797>.

Scholars of politics have long contended that political decentralisation (also referred to as devolution or democratic decentralisation in literature)⁶ has the potential to increase political participation of women in developing countries and this political involvement can result in gender inclusive and responsive policies. Political scholars have held that democratic decentralisation can ground democracy in a society leading to improved quality and efficiency of development processes by enhancing participation of all categories in governance, development, and decision-making mechanisms and processes that affect their lives and wellbeing.⁷ The mere devolution of governance and decision-making to local levels can result in more inclusive, comprehensive, and accessible political processes that can be particularly beneficial to women as well as other political, religious, and ethnic minorities. Absence of women and other minorities from the spaces of governance and decision-making would result in absence of input from these communities in policies and interventions designed at the national, provincial, and local levels for the distribution of resources, leading to further disempowerment of these categories. The mere numerical increase of vulnerable communities in local governance structures can drive more egalitarian and inclusive policies, resulting in decreased marginalisation and furthering empowerment. Figure 1 below highlights this link. Nevertheless, it is important to realise that marginalisation of certain categories in a society is historically grounded and therefore implementing and achieving equality is a lengthy process and cannot be guaranteed through overnight interventions.⁸

Figure 1. Political Decentralisation and Empowerment of Marginalised Groups

Political Decentralisation
Numerical increase of marginalised groups in decision making spaces
Agency Development: Voicing and designing inclusive policies
Political Empowerment leading to empowerment in other spheres

This article will attempt to highlight the intricate association between democratic decentralisation and the political participation of women in four democracies that are patriarchal and traditional in nature: Tunisia, India, Bangladesh, and Pakistan. Gender equality has become a global imperative for understanding the role of decentralised governance, and women's engagement in politics and other spheres of decision-making has gained vital significance. Through an in-depth analysis of case studies coupled with empirical facts wherever possible, the article will present several key aspects: firstly, an examination of democratic decentralisation mechanisms in each country to understand how decision-making and power are distributed at various levels in these countries; secondly, assessing the extent to which such decentralised initiatives have created opportunities for women at the national level, increased their political representation and participation, and improved the gender parity score across various dimensions of gender equality. The article will also explore barriers to women's political participation at local levels and will locate success stories in the selected countries to provide valuable insights for policymaking, contribution to the global discourse on decentralisation and women's empowerment, and identifying best practices to foster inclusive governance.

TUNISIA

In 2014, after the revolution of 2011, Tunisia opted for a decentralised model under Article 14 of the Constitution of Tunisia which mandated the state to implement and strengthen decentralisation by empowering the concept of local authority and providing autonomy to the local structures. The new decentralised system included three local structures for each part of the Tunisian territory, which comprised the town, region,

⁶ Sajjad Khan, "Decentralization and Women Empowerment: Exploring the Linkages," *Journal of Political Studies* 18, no. 1 (2011): 61-75, <https://ocd.lcwu.edu.pk/cfiles/Gender%20&%20Development%20Studies/Maj/GDS%20-%20402/DecentralizationandWomenEmpowermentExploringtheLinkages.pdf>.

⁷ Francisco Cos-Montiel, "Equal Participation of Women and Men in Decision-Making Processes at All Levels," in *Commission on the Status of Women: Fifty-Third Session* (United Nations, 2009), <https://www.un.org/womenwatch/daw/csw/csw53/panels/decision-making/Francisco%20Cos-Montiel.pdf>.

⁸ Amy C. Alexander, Catherine Bolzendahl, and Farida Jalalzai, "Defining Women's Global Political Empowerment: Theories and Evidence," *Sociology Compass* 10, no. 6 (June 2016): 432-41, <https://doi.org/10.1111/soc4.12375>.

and district.⁹ The town and regional councils were to be elected through direct voting and then these elected councils were mandated to direct the districts. In addition to Article 14, several other articles of the Constitution of Tunisia, such as Articles 132 to 139 and 142, guaranteed legal support to decentralisation to local structures in the form of free administration, democratic election of local leaders, participatory democracy, financial independence, subsidiaries, reducing inequalities between communities, and judicial powers to courts against state.¹⁰ It is noteworthy to discuss the role of women in the Tunisian movement for democracy and rights that played an important role in the post-revolution decentralisation process. The circulation of students, working class and professional women's protest photos on social media applications and networking websites in 2010 and 2011 documented empirical evidence of their active political participation in the Tunisian revolution.

Women from all walks of life actively participated in the strikes, protests, and other public forums and shared personal and family stories of suffering before and during the protests.¹¹ In addition to offline political protests and participation, many women through social media and blogging, for example Emna Ben Jemaa, Neila Kilani, and Lina Ben Mhenni, played an integral part in the revolution by disseminating protest updates and advocacy for the movement thereby generating a contagion effect and contributing to the national spread of the movement.¹² However, it is important to state here that the participation of women in these activities was not the starting point of a feminist revolution in Tunisia as women long before the revolution were active in Tunisian society, had a noteworthy legal foothold, and played a major role in socio-economic and political life. Therefore women participating in these protests labelled their efforts as part of the general struggle for democracy and not specifically as a women's rights movement.¹³ As highlighted by Khalil in 2014, many political parties gendered the elections of October 2011 in Tunisia recognising the political involvement and contribution of women in the movement and also referring to the historic construction of nation, nation-state and nation-building as feminine, for example, the Ettajdid party flyer showing a pregnant belly symbolised the belly as the October 2011 election and the baby as a new Tunisia.¹⁴ The post-October elections of the Tunisian Parliament comprised 24 per cent women members and of the 49 women who became part of the parliament, 42 belonged to Ennahdha party.¹⁵ It must be clarified here that the share of women in pre-revolutionary Tunisia in 2010 was 28 per cent, however a majority of this percentage comprised women who were hand-picked by the then regime and did not represent the 'real' women of Tunisia, the weak, poor, rural, and underprivileged women.¹⁶ Likewise, as a result of the 2014 parliamentary elections, women won 31.3 per cent seats (68 out of 217 seats).¹⁷ The Local Elections in May of 2018 resulted in the success of 47 per cent women municipal councillors of which 37 per cent were youth (less than 35 years of age).^{18, 19} The same elections also observed the historic election of the first woman mayor for Tunis, the capital city of Tunisia.²⁰

Post-revolution Tunisia like other Middle Eastern and North African (MENA) countries faced many hurdles on its route to democratisation such as political assassinations, terrorist attacks, political instability, financial turmoil, corruption, and widespread protests.^{21, 22} Nevertheless, the country managed to stay on the democ-

⁹ Néji Baccouche, "Decentralization in Tunisia: Challenges and Prospects," in *Federalism - a Success Story?*, ed. Hanns Bühler, Susanne Luther, and Volker L. Plän (Hanns-Seidel-Stiftung, 2016), https://www.hss.de/download/publications/Federalism_2016_12.pdf.

¹⁰ *Ibid.*

¹¹ Andrea Khalil, "Tunisia's Women: Partners in Revolution," *The Journal of North African Studies* 19, no. 2 (January 13, 2014): 186-99, <https://doi.org/10.1080/13629387.2013.870424>.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Courtney Joline, "Women in Post Revolutionary Tunisia: Political Inclusion and Prospects for the Future," Independent Study Project (ISP) Collection, May 7, 2012, https://digitalcollections.sit.edu/isp_collection/1272.

¹⁶ Andrea Khalil, "Tunisia's Women: Partners in Revolution," *The Journal of North African Studies* 19, no. 2 (January 13, 2014): 186-99, <https://doi.org/10.1080/13629387.2013.870424>.

¹⁷ Youssef Mahmoud and Andrea Ó Súilleabháin, "Improvising Peace: Towards New Social Contracts in Tunisia," *Journal of Intervention and Statebuilding* 14, no. 1 (January 30, 2020): 101-18, <https://doi.org/10.1080/17502977.2019.1629377>.

¹⁸ Anna Parke, Vanessa Farr, and Laila Alodaat, "Eighteen Years On: Assessing the Implementation of the UNSCR 1325 Women, Peace and Security Agenda in the Arab States Region," ed. Rachel Dore-Weeks (UN Women, January 2019), <https://peacetrackinitiative.org/wp-content/uploads/2022/11/unw-report-eighteen-years-on-a4-rnd-9-web.pdf>. Editors Note. This pattern of women's involvement in the freedom movements, such as the right to vote, education, purdah, round table conference, etc., before independence movements, has also been observed in Pakistan and most other post-colonial countries.

¹⁹ Mohamed Eymen Gamha, "Civil Society Advocacy for Decentralization and Youth Participation in Local Elections through Facebook: The Tunisian Case" (M.A. Thesis (Communication for Development), 2019), <https://www.diva-portal.org/smash/record.jsf?pid=diva2%3A1483724&dswid=9317>.

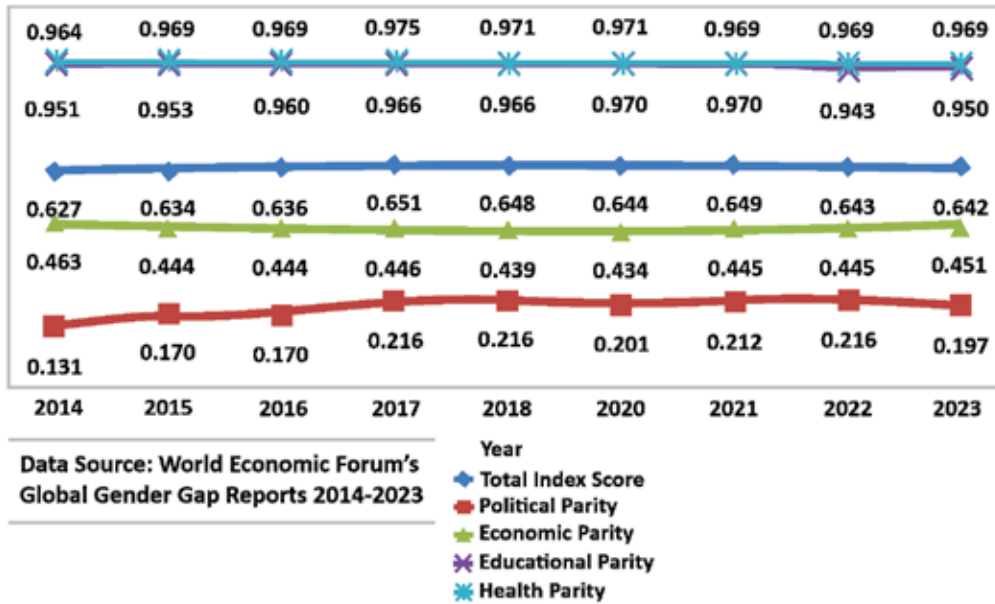
²⁰ Youssef Mahmoud and Andrea Ó Súilleabháin, "Improvising Peace: Towards New Social Contracts in Tunisia," *Journal of Intervention and Statebuilding* 14, no. 1 (January 30, 2020): 101-18, <https://doi.org/10.1080/17502977.2019.1629377>.

²¹ *Ibid.*

²² Nicole Rowsell, "Tunisia: Foundations of Democratic Compromise," in *North Africa in Transition: The Struggle for Democracy and Institutions*, ed. Ben Fishman (London: Routledge, 2015), 19-38, <https://www.taylorfrancis.com/chapters/edit/10.4324/9780429031656-2/tunisia-foundations-democratic-compromise-nicole-rowsell>.

ratification route due to the political and civil society involvement, particularly the engagement of women’s associations.^{23, 24} These factors have been considered to be major contributory reasons for the revolutionary constitution of 2014, holding of four national elections and successful accession of power to eight governments between 2011 and 2018, holding of local elections, and enactment of various progressive laws in Parliament such as The Violence Against Women Act and tabling a draft of the equal inheritance law for women.²⁵ However, Tamaru et al. (2018) caution that without further socio-economic, political, and judicial reforms, the small gains achieved so far may not be sustainable and might not avail their complete potential.²⁶ This concern gains empirical support from Figure 2, which shows the overall gender parity index of Tunisia, as well as gender parity across four dimensions included in the index. The score of the index ranges from 0 – 1 where higher

Figure 2. Gender Parity in Tunisia



score represents more gender parity, for example, a score of 0.627 on the index would mean that the country has achieved 62.7 per cent parity overall or in a specific dimension. Figure 2 highlights that Tunisia observed an increase in overall gender parity from 2014 (0.627) to 2017 (0.651), representing a 3.83 per cent increase in overall gender parity, nevertheless, it decreased in 2018 (0.648) and 2020 (0.644), but increased again in 2021 (0.649). However, since 2021, a decrease has again been reported in 2022 (0.643) and 2023 (0.642). With respect to political parity, an increase was observed from 2014 (0.131) to 2018 (0.216), representing a 64.9 per cent increase in political parity across genders, however the score declined in 2020 (0.201), increasing again in 2021 (0.212) and 2022 (0.216), and decreasing again in 2023 (0.197), which shows an 8.80 per cent decline in 2023 compared to 2022.

INDIA

India, since ancient times (200 B.C.), has one of the oldest mechanisms of local governance in the form of village councils (*Panchayats*) formalised post-Independence, under the Panchayati Raj (PR) through a three-tier system of elected bodies at the village (village panchayat), block (panchayat samiti), and district

²³ Valentine M. Moghadam, “Explaining Divergent Outcomes of the Arab Spring: The Significance of Gender and Women’s Mobilizations,” *Politics, Groups, and Identities* 6, no. 4 (January 31, 2017): 666–81, <https://doi.org/10.1080/21565503.2016.1256824>.

²⁴ Youssef Mahmoud and Andrea Ó Súilleabháin, “Improvising Peace: Towards New Social Contracts in Tunisia,” *Journal of Intervention and Statebuilding* 14, no. 1 (January 30, 2020): 101–18, <https://doi.org/10.1080/17502977.2019.1629377>.

²⁵ Ibid.

²⁶ Nanako Tamaru, Olivia Holt-Ivry, and Marie O’Reilly, “Beyond Revolution: How Women Influenced Constitution Making in Tunisia” (Institute for Inclusive Security, March 2018), <https://www.inclusivesecurity.org/publication/beyond-revolution-women-influenced-constitution-making-tunisia/>.

levels (zilla parishad)²⁷ on the basis of recommendations given by Balwant Rai Mehta Committee in 1957 and formalised in 1958, which also included the proposal of appointment of women in Panchayats. This was followed by the Ashok Mehta Committee that proposed the inclusion of women as well as other marginalised groups in the Panchayats.²⁸ Since the Constitution (Seventy-third Amendment) Act of 1992 in the Constitution of India in 1993 that mandated reservation of one-third seats for women at each PR level and a one-third of these reserved seats for women belonging to scheduled castes and tribes, women have actively started engaging in PR elections and consequently have enlarged their representation beyond the one-third allocated seats.²⁹ For example, in 2015, women were 46 per cent of the total 1.34 million elected representatives in PR Institutions across India.³⁰

Scholars have argued that the participation of women in PR Institutions have resulted in multiple functions, such as, women remaining updated, presence in panchayat meetings, and active participation in discussions.³¹ Nevertheless, there have been limitations reported such as, a small percentage of women get elected for the second and third term, male local politicians using their influence to get their women relatives elected, dynastic politics, and low nomination of women on general/open seats.³² Other studies have highlighted factors such as illiteracy barred many women from active participation in Panchayats as they had little to contribute on issues such as gender justice and legal affairs and felt alienated in these settings.^{33, 34} Despite these problems, studies have argued that the involvement of women in PR Institutions has resulted in their empowerment as it enabled women to play a role in decision-making, influence decisions that affect them, allocate resources to support their agency, exercise power over ideas and values that concern them, reduction in corruption, improvement in education and increase in schools, and provision of adequate goods and services to other marginalised groups.^{35, 36, 37, 38, 39, 40, 41} Another study found that Indian states that implemented the Seventy-third Amendment to the Constitution of India prior to 1998 had lower multidimensional deprivation and multidimensional poverty among disadvantaged groups in 2005, compared to the states who implemented the amendment post 1998 or did not put it into practice at all.⁴²

The Indian State of Kerala is often cited as a role model for decentralisation for its institutional reforms resulting in greater devolution of power, increased funding and power to the local structures, successful transformation from centralised to decentralised development planning, and mobilising support of women neighbourhood

²⁷ Prakash Chand, "Proxy or Agency? Women in Rural Local Government in India," in *Women in Governing Institutions in South Asia: Parliament, Civil Service and Local Government*, ed. Nizam Ahmed (Palgrave Macmillan, 2017), 267–84, https://doi.org/10.1007/978-3-319-57475-2_15.

²⁸ Ibid.

²⁹ Ibid.

³⁰ "This Article Is from Dec 17, 2015 Women Constitute 46 per Cent Representation in Panchayati System: Minister," NDTV India, December 17, 2015, <https://www.ndtv.com/india-news/women-constitute-46-per-cent-representation-in-panchayati-system-minister-1256125>.

³¹ Prakash Chand, "Proxy or Agency? Women in Rural Local Government in India," in *Women in Governing Institutions in South Asia: Parliament, Civil Service and Local Government*, ed. Nizam Ahmed (Palgrave Macmillan, 2017), 267–84, https://doi.org/10.1007/978-3-319-57475-2_15.

³² Ministry of Panchayati Raj, "Study on EWRs in Panchayati Raj Institutions" (Government of India, 2008), https://accountabilityindia.in/sites/default/files/document-library/330_1260856798.pdf.

³³ Niraja Gopal Jayal, "Engendering Local Democracy: The Impact of Quotas for Women in India's Panchayats," *Democratization* 13, no. 1 (2006): 15–35, <https://doi.org/10.1080/13510340500378225>.

³⁴ Erik Bryld, "Increasing Participation in Democratic Institutions through Decentralization: Empowering Women and Scheduled Castes and Tribes through Panchayat Raj in Rural India," *Democratization* 8, no. 3 (September 2001): 149–72, <https://doi.org/10.1080/714000213>.

³⁵ Evelin Hust, "Political Representation and Empowerment: Women in the Institutions of Local Government," in *Decentralization: Institutions and Politics in Rural India*, ed. Satyajit Singh and Pradeep K. Sharma (New Delhi: Oxford University Press, 2007), 245–77, <https://global.oup.com/academic/product/decentralization-9780195687729?cc=us&lang=en&>.

³⁶ Raghendra Chattopadhyay and Esther Duflo, "Women as Policy Makers: Evidence from a Randomized Policy Experiment in India," *Econometrica* 72, no. 5 (September 2004): 1409–43, <https://doi.org/10.1111/j.1468-0262.2004.00539.x>.

³⁷ Pamela Singla, *Women's Participation in Panchayati Raj: Nature and Effectiveness, a Northern India Perspective* (Jaipur: Rawat Publications, 2007), <https://cir.nii.ac.jp/crid/1130282270518150656>.

³⁸ Institute of Social Sciences, South Asia Partnership Canada, and International Development Research Centre, "A Decade of Women's Empowerment through Local Government in India: Workshop Report," October 2003, <http://www.sapcanada.org/wp-content/uploads/2014/06/SAP-WE-workshop-final-report.pdf>.

³⁹ Sonia Bhalotra and Irma Clots-Figueras, "Health and the Political Agency of Women," *American Economic Journal: Economic Policy* 6, no. 2 (May 2014): 164–97, <https://doi.org/10.1257/pol.6.2.164>.

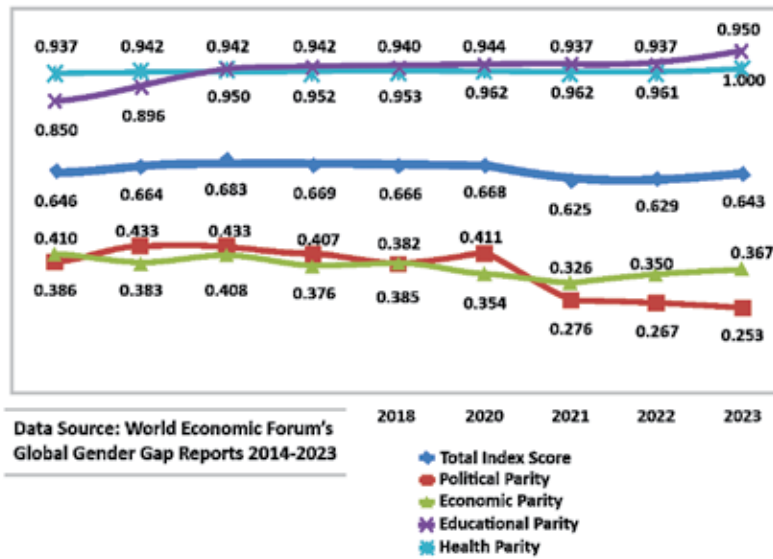
⁴⁰ Farzana Afridi, Vegard Iversen, and M. R. Sharan, "Women Political Leaders, Corruption, and Learning: Evidence from a Large Public Program in India," *Economic Development and Cultural Change* 66, no. 1 (October 2017): 1–30, <https://doi.org/10.1086/693679>.

⁴¹ Jan Priebe, "Political Reservation and Female Empowerment: Evidence from Maharashtra, India," *Oxford Development Studies* 45, no. 4 (March 2, 2017): 499–521, <https://doi.org/10.1080/13600818.2017.1298740>.

⁴² Kshitij Chaudhary, "The Effect of Political Decentralisation and Affirmative Action on Multidimensional Poverty Index: Evidence from Indian States," *Journal of Social and Economic Development* 17, no. 1 (March 10, 2015): 27–49, <https://doi.org/10.1007/s40847-015-0004-5>.

groups to reduce the gap between local governments and communities.^{43, 44} *Kudumbashree* (Malayalam word meaning prosperity of the family), one of the most successful women’s empowerment programmes in Kerala, is a distinctive poverty alleviation initiative with active participation of 4.5 million women and 0.28 million neighbourhood groups with 4.3 million households as members.⁴⁵ The microcredit programme started in 1997 by the National Bank for Agriculture and Rural Development, Government of India and Government of Kerala with the cooperation of PR Institutions and Community Development Society of poor women. *Kudumbashree* has a fund base of 110 billion Indian rupees and has involved more than 0.35 million women in the agricultural sector. The programme also provides industrial training as well as development of other skills through capacity building initiatives. Though Kerala ensured sufficient participation of Scheduled Castes and Tribes in the local governments, fund allocation for these categories either remained stagnant or declined over the years compared to the general category.⁴⁶

Figure 3. Gender Parity in India



The recent data on India suggests mixed trends with respect to women’s political empowerment as well as in other domains. As can be seen in Figure 3 above, the overall gender parity in India increased from 2014 (0.646) to 2016 (0.683) showing a 5.73 per cent increase, however it declined in 2017 (0.669) and 2018 (0.666) with a slight increase in 2020 (0.668) followed by a decline of 6.44 per cent in 2021 (0.625). The overall gender parity score started to increase again in 2022 (0.629) and 2023 (0.643). With respect to political parity, there was an increase of 12.2 per cent from 2014 (0.386) to 2015 (0.433), the score remained stagnant in 2016, declined in 2017 (0.407) and 2018 (0.382), and increased again in 2020 (0.411). Since 2020, there has been a continuous decline in political parity scores of various genders. The political parity score was 0.276 in 2021, 0.267 in 2022, and 0.253 in 2023, highlighting a decrease of 38.4 per cent from 2020 to 2023.

BANGLADESH

Women’s participation through reserved seats in local governments in Bangladesh dates back to 1976, nevertheless the *Mahila* (Women) members have gained higher visibility, representation and active participation in contemporary Bangladesh.⁴⁷ Articles 9, 11, 28 (2), 59, and 60 of the Constitution of

⁴³ M A Commen, “Deepening Democracy and Local Governance: Challenges before Kerala,” *Economic and Political Weekly* 49, no. 25 (June 21, 2014): 42–46, <https://www.jstor.org/stable/24479678>.

⁴⁴ K.S. Hari, “Role of Democratic Decentralisation and Empowerment of Local Bodies: A Case of Kerala,” *Review of Market Integration* 14, no. 1 (April 2022): 53–63, <https://doi.org/10.1177/09749292221102220>.

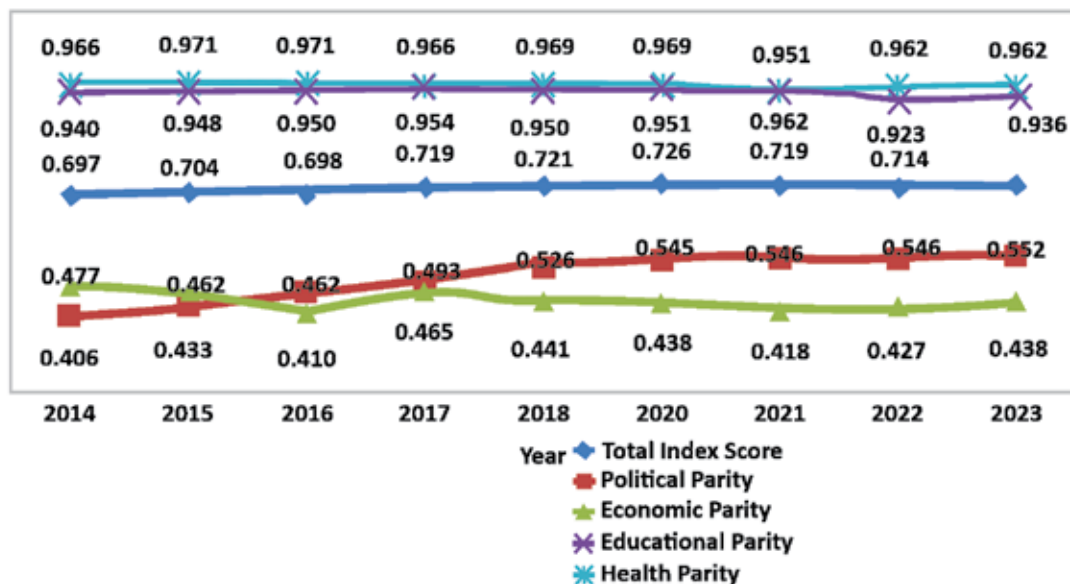
⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Maheen Sultan, “Women’s Representation and Participation in Local Government in Bangladesh: New Openings and Remaining Barriers,” in *Women in Governing Institutions in South Asia: Parliament, Civil Service and Local Government*, ed. Nizam Ahmed (London: Palgrave Macmillan, 2018), 245–65, https://doi.org/10.1007/978-3-319-57475-2_14.

the People's Republic of Bangladesh guarantee democracy, democratic decentralisation, equal participation of women in all spheres, and special representation of women in local government bodies. Studies have highlighted the inequitable composition of Union *Parishad* (Councils) in Bangladesh that is considered to be a barrier to women's effective participation in these councils.⁴⁸ For example, there were 4,132 men chairpersons of Union Parishads compared to only 22 women chairpersons, whereas there were 12,236 women in the *Parishads* compared to 38,036 men.⁴⁹ Prodip (2023) argues that due to the low number of women in the *Parishads*, they fail to significantly affect the decision-making process.^{50, 51} Haque (2021) notes that in the current Bangladesh cabinet excluding the Prime Minister (Sheikh Haseena Wazed), there were only four women ministers out of 53 members. In the general election of 2018, only 36 were nominated for open seats (300 in total) of which 22 women won the elections. Likewise, there were only 44 women in local governments' leadership positions compared to 5,541 men.⁵² Studies have highlighted several factors behind the barriers to women's active participation at the national and local level which include the patriarchal mindset, fewer women in key positions within parties, dynastic politics, and the violent nature of politics in Bangladesh.^{53, 54} Nevertheless, efforts are being made by the government to further enhance women's participation in the political sphere as well as bolster their empowerment in other spheres.⁵⁵ The data highlights (see Figure 4 below) that over the years in Bangladesh, women's empowerment in the political sphere has increased. For example, an increase of 36 per cent was observed with respect to women's political empowerment in Bangladesh from 2014 (0.406) to 2023 (0.552). Though not significant enough in itself, an increase of 3.59 per cent was observed in the overall gender equality score between 2014 (0.697) and 2023 (0.722). However, there was a decline observed in the remaining spheres of empowerment (economic, educational, and health) when compared to the years 2014 and 2023.

Figure 4. Gender Parity in Bangladesh



⁴⁸ Mahbub Alam Prodip, "What Determines Quota-Elected Women's Political Empowerment in India and Bangladesh? A Comparative Perspective," *Gender, Technology and Development* 27, no. 2 (January 4, 2023): 287-317, <https://doi.org/10.1080/09718524.2022.2144104>.
⁴⁹ Maheen Sultan, "Women's Representation and Participation in Local Government in Bangladesh: New Openings and Remaining Barriers," in *Women in Governing Institutions in South Asia: Parliament, Civil Service and Local Government*, ed. Nizam Ahmed (London: Palgrave Macmillan, 2018), 245-65, https://doi.org/10.1007/978-3-319-57475-2_14.
⁵⁰ Mahbub Alam Prodip, "What Determines Quota-Elected Women's Political Empowerment in India and Bangladesh? A Comparative Perspective," *Gender, Technology and Development* 27, no. 2 (January 4, 2023): 287-317, <https://doi.org/10.1080/09718524.2022.2144104>.
⁵¹ Ruaksana Haque, "Despite a Woman at the Top, Bangladesh's Politics Are Still Male Dominated," *International Republican Institute*, October 28, 2021, <https://www.iri.org/news/despite-a-woman-at-the-top-bangladeshs-politics-are-still-male-dominated/>.
⁵² Ibid.
⁵³ Ibid.
⁵⁴ Md. Anwar Hossain, "Influence of Social Norms and Values of Rural Bangladesh on Women's Participation in the Union Parishad," *Indian Journal of Gender Studies* 19, no. 3 (October 2012): 393-412, <https://doi.org/10.1177/097152151201900303>.
⁵⁵ Ruaksana Haque, "Despite a Woman at the Top, Bangladesh's Politics Are Still Male Dominated," *International Republican Institute*, October 28, 2021, <https://www.iri.org/news/despite-a-woman-at-the-top-bangladeshs-politics-are-still-male-dominated/>.

PAKISTAN

Pakistan is a struggling democracy^{56, 57} as well as a patriarchal and traditional society,⁵⁸ where women, religious minorities, and other vulnerable categories are marginalised and underrepresented in spheres that are primarily involved in decision-making and policy formulation.⁵⁹ Democratic decentralisation has been considered a necessary step towards the empowerment of women and other minorities and has even been mandated by the Constitution of the Islamic Republic of Pakistan under Articles 32 and 140-A.⁶⁰ The Devolution Plan of 2000 and the Local Government Ordinance of 2001 in Pakistan implemented several local government reforms of which reserving 33 per cent seats for women and 20 per cent for workers/peasants at all three tiers of local government (District, Tehsil, and Union) and 17 per cent reserved seats in national and provincial assemblies were significant developments in the political empowerment of women and other disadvantaged groups.⁶¹ Yazdani (2003) notes that approximately 40,000 women contested elections of which 36,000 were elected as local councillors in the lowest tier of the union councils, which was a historic moment in the political history of Pakistan.⁶² Reyes (2002) presents that the total number of reserved seats for women in Union, Tehsil, Town, and District Councils was 39,964 and 35,963 women were elected against these seats. Furthermore, 126 women were elected on reserved seats for minorities and 16 were elected on *Nazim/Naib-Nazim* (Chairperson/Vice Chairperson) seats.⁶³ It was expected that this would give women and other marginalised groups an opportunity to gain a voice in a traditional society and actively participate in the monetary, political, and community decision-making processes. The profiles of representatives elected in local elections showed that decentralisation gave political representation and inclusion to marginalised and disadvantaged categories (young women, housewives, illiterate women, working and middle class women, and political neophytes) in a political culture dominated by patronage, patriarchy, and dynastic politics.⁶⁴ Nevertheless, institutional, organisational, and human resource limitations have affected the process of democratic decentralisation in Pakistan.⁶⁵

The provincial governments in Pakistan developed their local government laws in 2013 but tried delaying the elections (except Balochistan) and only conducted elections in 2015 after the intervention of the Supreme Court.⁶⁶ A report titled 'The Punjab Local Government Act 2019' by Women in Struggle for Empowerment (WISE) highlighted that representation of women reduced from 33 per cent in 2001 to 10 per cent in 2020. Likewise, the representation of religious minorities declined to 2 per cent from 5 per cent and special representation of workers/peasants was refused.⁶⁷ Studies have argued that the quota system generated a new wave of political mobilisation among women and furthered legislation on women's empowerment and protection.⁶⁸ Though women have been utilising their political voices effectively, the broader structural constraints and historical institutionalisation of gender inequality have barred complete equality of women in Pakistani society.⁶⁹ The Free and Fair Election Network (FAFEN) in its report titled 'Women Parliamentarians Performance Report 2020-21'

⁵⁶ Jawad Tariq, Ahmed Usman, and Amal Sajjad, "Politics of Defection in Struggling Democracies," *Pakistan Perspective* 20, no. 1 (2015): 117-27, https://www.researchgate.net/publication/313820795_Politics_of_Defection_affecting_Struggling_Democracies.

⁵⁷ Jawad Tariq et al., "Democratizing Political Parties: A Case Study of Intraparty Elections and Factional Politics from Pakistan," *Pakistan Vision* 17, no. 1 (2016): 206-23, http://pu.edu.pk/images/journal/studies/PDF-FILES/Artical-10_v17-1-16.pdf.

⁵⁸ Mohammad Vaqas Ali and Jawad Tariq, "Empowerment and IPV in Married Women of Reproductive Age: Evidence from Pakistan Demographic Health Survey 2017-2018," *Journal of Interpersonal Violence* 37, no. 11-12 (January 12, 2021), <https://doi.org/10.1177/0886260520980380>.

⁵⁹ Sajjad Khan, "Decentralization and Women Empowerment: Exploring the Linkages," *Journal of Political Studies* 18, no. 1 (2011): 61-75, <https://ocd.lcwu.edu.pk/cfiles/Gender%20&%20Development%20Studies/Maj/GDS%20-%20402/DecentralizationandWomenEmpowermentExploringtheLinkages.pdf>.

⁶⁰ Zain Rafique, Yeni Rosilawati, and Shahid Habib, "Development of Local Governance and Decentralization to Empower Citizens in Pakistan: A Historical Analysis," *UNISCI Journal* 18, no. 53 (May 2020): 207-20, <https://doi.org/10.31439/unisci-92>.

⁶¹ Iqtidar A. Shah, Arshad Aziz, and M. Shakil Ahmad, "Women Councilors for Women's Empowerment in Pakistan," *Journal of International Women's Studies* 16, no. 3 (July 2015): 203-19, <https://vc.bridgew.edu/jiws/vol16/iss3/14/>.

⁶² Faizia Yazdani, "Women's Representation in Local Government in Pakistan: Impact Analysis and Future Policy Implications" (Center For Policy Studies: Central European University, 2004), <https://core.ac.uk/download/pdf/11872313.pdf>.

⁶³ Socorro L Reyes and Wan Azizah, "Quotas for Women for Legislative Seats at the Local Level in Pakistan," in *Perempuan Di Parlemen: Bukan Sekedar Jumlah* (Stockholm: International IDEAS, 2002), https://iknowpolitics.org/sites/default/files/cs_pakistan_reynes.pdf.

⁶⁴ Ibid.

⁶⁵ Aneela Salman, "Decentralization in Pakistan - Lessons and Challenges," *SSRN*, 2009, <http://dx.doi.org/10.2139/ssrn.2051887>.

⁶⁶ "Representation of Women, Workers Drops in LG System," *DAWN News*, July 26, 2020, <https://www.dawn.com/news/1571111/representation-of-women-workers-drops-in-lg-system>.

⁶⁷ Ibid.

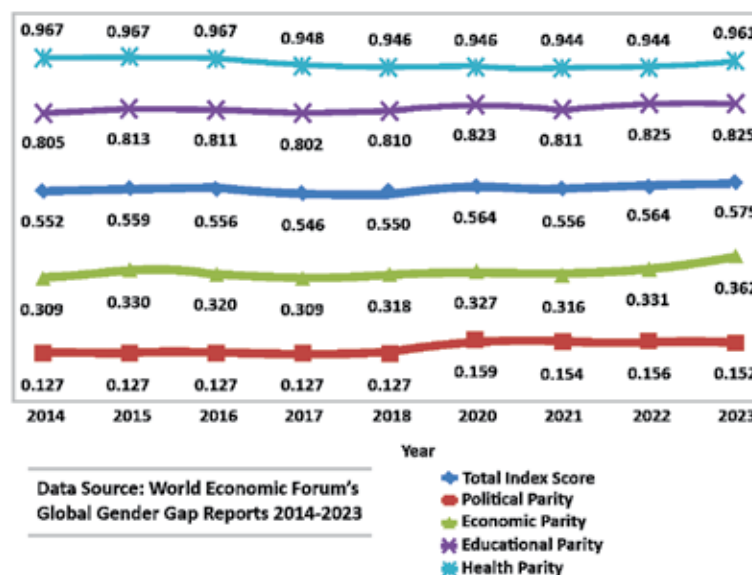
⁶⁸ Ayesha Khan and Sana Naqvi, "Dilemmas of Representation: Women in Pakistan's Assemblies," *Asian Affairs* 51, no. 2 (May 5, 2020): 286-306, <https://doi.org/10.1080/03068374.2020.1748414>.

⁶⁹ Ibid.

found that women lawmakers contributed to 28 per cent parliamentary agenda despite constituting only 20 per cent of the parliament and their attendance and participation in debates surpassed male parliamentarians.⁷⁰ The data by FAFEN showed that each female member of the National Assembly (MNA) on average attended 76 per cent sessions compared to the average of 60 per cent attended by male MNAs, which represents 26.7 per cent higher participation. Likewise, each female MNA tabled on average eight agenda items compared to five agenda items tabled by men MNAs. Female senators attended 67 per cent of the sittings compared to 60 per cent by male senators. There were 3,562 members in 274 union councils of Lahore in 2018, of which 85 per cent were male councillors whereas only 15 per cent were female councillors. Likewise, of the 319 members of the Metropolitan Corporation Lahore, 9 per cent were female and 91 per cent were male.⁷¹ 82 per cent of the women at the union council level were elected for the first time and 56 per cent of the women at the Metropolitan Corporation Lahore level were elected for the first time. The Cantonment Board Elections of 2021 revealed that out of a total of 870 candidates who contested these elections, only 7 were women.⁷²

Political scholars have attributed multiple reasons for a weakened local government system in Pakistan, which includes designing the act without a process of political consultations, more focus on expensive and vast infrastructures than targeting service delivery to the public, intervention of the Centre in the political affairs of provinces through bureaucracy, lack of capacity building trainings to local bodies, and influence and election of powerful local elites, e.g. feudal lords in the local governments.⁷³ The local governments elected in Punjab in 2015 were dissolved in 2019 and fresh elections for local bodies were guaranteed under the Punjab Local Government Act of 2019, however, the Supreme Court restored the local governments. The new act was enacted in 2021, which generated a controversy among scholars of decentralisation as it allowed the provincial government to significantly control and exercise authority over the local governments.⁷⁴ Another highlighted problem in the Act was the odds of disproportionate representation keeping in view the population size, for example, smaller districts having 31 per cent women representation in local councils compared to 23 per cent in districts with population over 10 million.⁷⁵ Despite some of the steps taken in Pakistan to empower women politically, statistics suggest that Pakistan is far off the road to political parity as the figure below shows that the political parity score of Pakistan remained constant from 2014 to 2018 (0.127), increased by a few points in 2020 (0.159), declined slightly in 2021 (0.154), and increased again in 2022 (0.156) followed by a decline in 2023 (0.152).

Figure 5. Gender Parity in Pakistan



⁷⁰ Trust for Democratic Education & Accountability (TDEA) and Free and Fair Election Network (FAFEN), "Women Parliamentarians Performance (2020-2021)" (Pakistan: FAFEN, 2021).

⁷¹ Punjab Commission on the Status of Women, "Punjab Gender Parity Reports 2018" (Pakistan: Government of Punjab, 2018), https://pcsw.punjab.gov.pk/system/files/PGPR-2018_0.pdf.

⁷² Ibid.

⁷³ Aneela Salman, "Decentralisation in Pakistan - Lessons and Challenges," SSRN, 2009, <http://dx.doi.org/10.2139/ssrn.2051887>.

⁷⁴ Punjab Commission on the Status of Women, "The Punjab Gender Parity Report 2021" (Pakistan: Government of Pakistan, 2022), https://pcsw.punjab.gov.pk/system/files/PGPR-2021_6.pdf.

⁷⁵ Ibid.

DISCUSSION

The four countries discussed in this article share many similarities as they all have a history of colonial rule and a struggle for independence, where India and Pakistan remained a British colony until 1947, with the Eastern wing of Pakistan forming Bangladesh in 1971, and Tunisia remained under the French Protectorate until 1956. Another similarity in these countries is the economic challenge resulting in unemployment, inequality, and poverty. Likewise, all four countries are primarily agricultural societies with a substantial number of citizens involved in farming. Religion also plays a key role and influences the social, cultural, economic, and political spheres of these countries. The data presented in the article highlighted that despite some initiatives, the gendered political disparity continues to exist: for example, in 2023, it was 84.8 per cent in Pakistan, 80.3 per cent in Tunisia, 74.7 per cent in India, and 44.8 per cent in Bangladesh. These statistics present a grave picture with respect to women's empowerment, particularly in Pakistan, Tunisia, and India.

The relative failure of democratic decentralisation to effectively bolster women's empowerment in Pakistan at the grassroots level can be attributed to multiple barriers. A foremost factor in this regard has been the deeply ingrained patriarchal norms that limit the participation of women in public spheres. These societal norms favour men and perpetuate discrimination against women to hold decision-making positions. Though Pakistan has implemented various legislations to increase participation of women in local governance, practical implementation is lacking, as is evident from the fact that the number of women contesting elections at local levels has declined over the years. Lack of resources as well as economic instability have underscored the success of democratic decentralisation in Pakistan, thereby hindering the increased participation of women in the political spheres, resulting in barriers to their empowerment. Many local governments face funding shortages that impede their ability to exercise efficient delivery of essential services, resulting in higher gender disparity as women rely on these resources for their socio-economic advancement and general empowerment. The excessive reliance on foreign bodies to fund the local governance plans has also been considered a major obstacle in decentralisation. Additionally, inadequate capacity building programmes and trainings render women ineffective to learn governance knowledge and skills. Political parties are a major platform for democratic institutionalisation, however these groups lack acceptance of local governments as authentic platforms for genuine democratisation and have frequently exploited them through a patron-client relationship. Women and other political minorities, particularly those who lack power connections, feel marginalised and this system of patronage limits the opportunities of these groups to engage in political spheres. Another impediment to gendered political parity has been the economic dependence of women, which restricts political space for them. The data highlighted in figure 5 shows that over the time (from 2014 to 2023), women's equal participation in the economic domain has remained somewhat stagnant, as there was only a 17.2 per cent increase in women's economic involvement from 2014 (0.309) to 2023 (0.362). In addition to the factors discussed above, security issues have also posed a threat to women's political participation discouraging them from entering the political domain. A limitation that the author faced in this article that can also be considered a limitation to the decentralisation project in Pakistan was the unavailability of comprehensive data and research studies on the impact of decentralisation on women's empowerment in Pakistan. This lack of empirical evidence hinders the development of evidence based policies, interventions and practices.

Like Pakistan, Tunisia also ranks low on gender-political parity with similar barriers that hinder the Tunisian journey to democratic decentralisation. The deeply ingrained patriarchal attitudes and rigid societal norms relegate women to the powerless spheres and block their active participation in the political sphere. The lack of funding, capacity building initiatives, and expertise in running the affairs of the local governments also acts as a major barrier to effective decentralisation and higher women participation in these processes. Political instability, frequent changes in leadership, manipulation of the local governments by their respective political parties, and lack of accountability have disrupted decentralisation efforts in Tunisia resulting in lower empowerment and higher marginalisation of various categories including women. The lack of awareness, mobilisation, education, and training create a lag in awareness among Tunisian women about their rights and they remain unaware of their potential roles in local governments and local decision-making structures.

India, compared to Pakistan, has a more elaborate constitutional framework for decentralisation and consequent local government structures. The Indian Panchayats (rural union councils) and Municipalities (urban

union councils) have a significant degree of autonomy, power, and resources, whereas the decentralisation project in Pakistan has undergone several changes over the past, for example, the Punjab Local Government Act of 2013 was replaced with the Punjab Local Government Act of 2019 and the local governments elected under the Act were dissolved in 2019 to be later reinstated by the Supreme Court. The local elections in India are conducted at regular intervals whereas elections are often delayed, postponed, and disrupted in Pakistan due to political and administrative factors. Nevertheless, the lower gender-political parity score of India that has been declining further since 2020 highlights that like Pakistan and Tunisia, patriarchal attitudes and norms also persist in India. The lack of support, mobilisation, and encouragement for women to assume positions in decision-making structures has been a major hindrance in India. Other issues such as illiteracy and limited access to education for rural women are also a major barrier, as women lack the confidence and skills to engage in decentralised governance frameworks and effectively advocate for their rights through local politics. Though there are reserved seats for women in Panchayati Raj Institutions, the quota system has met with resistance by male local politicians, and even the women who make it to Panchayats may face challenges by their male counterparts rendering them incapable of exercising their real influence and furthering their agency.

Compared to Pakistan, Tunisia, and India, the gender-political parity score of Bangladesh was much higher. The active participation of women in the 1971 East-Pakistan freedom movement for separation from West-Pakistan gave a broader recognition of women's rights and their role in politics and society. Bangladesh, the third most populous Muslim country, is the only Muslim country that has had two women Prime Ministers, Khaleda Zia who served for 5 years and Sheikh Hasina Wazed who is the incumbent Prime Minister and has been serving at this position for the last 15 years. The presence of these strong women role models in politics prompted women's participation in politics. However, political centralisation remains a significant problem in Bangladesh as the power and decision-making is concentrated at the national level, hence limiting the authority and autonomy of local governments.

CONCLUSION

Inclusive democratic decentralisation, that is involvement of women and minorities in local government structures, is a pivotal strategy to ensure empowerment and equity within and between various minority categories. The decentralisation project has the potential to help women address the unique challenges that affect them in the community, for example gender-based violence, education, economic opportunities and healthcare, by participating in local governments and advocating for rights, policies and initiatives to strengthen their agency. Likewise, democratic decentralisation allows for inclusive decision-making processes that embed women's voices into the fabric of policies and legislations. Women, through such leadership positions, stimulate other women to participate in politics and other spheres of decision-making and are better positioned to monitor and assess effectiveness of gender policies and reforms.

Democratic decentralisation can also play an important role in empowering minorities by redistributing power, reallocating resources, amplifying diverse voices, and fostering inclusivity within society. Historically, centralised systems of governance and decision-making have often subjugated and marginalised minority groups by limiting their participation in structures that could impact their destinies. The decentralisation of power, however, can result in equitable distribution of authority and resources which can empower marginalised groups to shape their own lives. The diffusion of authority and power encourages the establishment of diverse and representative leadership structures making marginalised groups more likely to participate in and acquire leadership positions at different levels of national and local institutions.

The study concludes that democratic decentralisation cannot be achieved without including women, minorities, and other marginalised groups in local governments and decision-making structures. In spite of the quota systems in all the discussed countries, the participation of women and minorities in local governments remains low, which points to a complex involvement of various other factors and highlights that only reserving seats and allowing these categories to enter decision-making structures do not necessarily convert into empowerment. These initiatives need to be coupled with awareness campaigns, fostering discussions, developing communication strategies and channels to facilitate information dissemination and community outreach, and de-

signing educational programmes to inform minorities and women about the reserved seats and the importance of their participation in the political and decision-making spheres. Government and non-government organisations such as political parties, NGOs, and women's rights platforms such as the Women's Action Forum (WAF), Aurat March, and others should provide mentorship and training to women and minority groups to develop necessary skills and expertise for effective involvement in decentralised structures.



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THE HISTORY OF LOCAL GOVERNANCE IN PAKISTAN: WHAT LESSONS TO LEARN?



Nadeem Malik & Ahsan Rana

ABSTRACT

Most studies on decentralisation in developing countries reveal that the failure of decentralisation was due to an inadequate local government framework, ineffective implementation or capture of local government by interest groups or a combination of these factors. The result was the inadequate delivery of services at the local level and failure to strengthen grassroots democracy. We argue that unlike most developing countries, the lessons learned from the case of Pakistan demonstrates that right from the outset the purpose of decentralisation was not to decentralise power and authority but to meet two prime objectives. First, strengthening of civil and military bureaucracies to establish the most centralised and coercive government structures through the political marginalisation of mainstream political parties and second to co-opt newly emerging politicians from local councils who could act as conduits between the local constituencies and military established governments.

BACKGROUND

Dr. Nadeem Malik is a Senior Lecturer in Development Studies at the University of Melbourne. He did his PhD in Development Studies from the University of Melbourne and has worked in the development sector as a development researcher and trainer for almost 20 years. His areas of specialisation include Decentralisation and Local Governance, Third World Development, Globalisation, Gender and Development, Governance, Civil Society and the State, Anthropology of Development, Political Anthropology and Art/Theatre and Development, Project and Program Management and Monitoring and Evaluation of Development Projects. Malik has a vast catalogue of academic writings. These include books which he has co-authored, for example, 'African Experience in the Application of the Development Aid Effectiveness Principles: The Case of Kenya'; Journal articles, 'Friendly Fire: Wheat Subsidy in Punjab, Pakistan'; Newspaper publications, 'Imran Khan's failure exposes Pakistan's military problem' in the "Pursuit", etc.

INTRODUCTION

Decentralisation of power and authority is considered to be a key to achieving more democracy at the grassroots level by policy analysts, international financial institutions, and donor countries.¹ Decentralisation is also a major condition for development aid provided by international donors. As “democratisation has become a central concept introduced by the donor countries and international financial institutions in the developing world in both reality and international donor thinking, democratic decentralisation has also taken on increased importance”.²

Democratic decentralisation is defined as a strategy that brings service delivery closer to consumers, improves the responsiveness of the central government to public demands, improves the efficiency and quality of public services and empowers lower units to become more involved.³ Most importantly, it significantly adds to a democratic culture at the local level.⁴ Decentralisation is classified into four types, i.e. privatisation; administrative (delegation and deconcentration) decentralisation; fiscal decentralisation; and devolution (political/democratic decentralisation).⁵ Overall, however, effective evolution needs to be accompanied by administrative and fiscal decentralisation. The recent wave of decentralisation in most developing countries preferred a devolutionary form of decentralisation.

The states of Karnataka and Kerala in India and Porto Alegre in Brazil present a success story of decentralisation. Karnataka’s success was because of already existing strong governance based on a competitive party system, free press, a professional civil service.⁶ However, Karnataka could achieve more success in political rather than administrative and fiscal decentralisation, whereas Kerala did much more towards this end.⁷ In Porto Alegre

¹ Malik Nadeem, “Analyzing Good Governance and Decentralization in Developing Countries,” *Journal of Political Sciences & Public Affairs* 04, no. 03 (2016): 2, <https://doi.org/10.4172/2332-0761.1000209>.

² Ibid.

³ James Manor, *The Political Economy of Democratic Decentralization* (The World Bank, 1999), <https://doi.org/10.1596/0-8213-4470-6>.

⁴ Ibid.

⁵ Ibid.

⁶ Richard C. Crook and James Manor, *Democracy and Decentralisation in South Asia and West Africa: Comparative Politics* (Cambridge: Cambridge University Press, 1998), <https://www.cambridge.org/hk/universitypress/subjects/politics-international-relations/comparative-politics/democracy-and-decentralisation-south-asia-and-west-africa-participation-accountability-and-performance>; Satyanarayana Sangita and Anil Vaddiraju, *Decentralised Governance and Planning in Karnataka, India* (Cambridge Scholars Publishing, 2011).

⁷ Anand Inbanathan, “Local Governance, Patronage and Accountability in Karnataka and Kerala,” *Institute for Social and Economic Change, Bangalore Working Papers* 224 (2009), <http://www.isec.ac.in/WP%20224%20-%20Anand%20Inbanathan.pdf>.

in Brazil, the success of decentralisation was because of a strong and efficient central state, a well-developed civil society, and highly organised political forces.⁸ In other countries such as Cote D'Ivoire and Ghana, where the pre-conditions mentioned in the above cases were absent, the experiments with decentralisation were not that successful.⁹ In Cote D'Ivoire, the weak links between elected councillors and the population resulted in an enhancement of the public profile of the commune at the expense of local development.¹⁰ The major issue was central government controls over local government revenue-raising making decentralisation ineffective.¹¹ In Ghana, fiscal and political decentralisation did not accompany administrative decentralisation.¹² Opting for mere administrative decentralisation 'made LGs so subordinate to the central government that CG politicians and executives who benefited from weak LG systems did not have any desire to break free of the path'.¹³ Decentralisation, therefore, eventually led to re-centralisation. Decentralisation in Ethiopia though followed the narrative of "equity and fairness" and "efficiency and productivity", did devolve important land administration prerogatives to the local administrative structures. However, it further strengthened the hierarchical system of local administration,¹⁴ at the expense of participation and empowerment of local communities. In South Asia, decentralisation in countries such as Bangladesh has also been a failure.¹⁵ The local governments' performance has been disappointing. Decentralisation significantly increased corruption.

In East Asian countries such as Indonesia and the Philippines also, decentralisation could not achieve the desired goals. Decentralisation increased corruption and policy uncertainty across different levels of government¹⁶ and promoted organisations and groups that were not accountable and evaded the rule of law.¹⁷ Further, Hadiz (2010)¹⁸ argued that the design of institutional change resulted in unintended consequences. Decentralisation brought a social and institutional change that eventually led to social conflict in local areas of power.¹⁹

In the Philippines, though the local government system provided a strong framework for local government discretion and downward accountability²⁰ and allocated 40 per cent of the national taxes to local government, the culture of patronage obstructed the discretion on paper to translate into downward accountability.²¹ The result was the weak implementation of decentralised government. There are limits to the way the examples above can be generalised across all countries within the less-developed world; they, however, suggest that excluding few exceptions, decentralisation efforts vividly illustrate the distorted picture of local governance and in some cases (such as Ghana and Brazil) the failure of decentralisation led to re-centralisation of governance. However, it can be argued that the failure in most cases (excluding decentralisation during Ershad's period), was due to either an inadequate local government framework, ineffective implementation or capture of local government by interest groups or a combination of these factors. It is in this context that the case of decentralisation in Pakistan adds to the literature on decentralisation in developing countries. As will be demonstrated in this article, unlike most other countries, local governments in Pakistan failed because most of the time, the primary aim of decentralisation, was to create a setup that could serve the predatory interests of military dictators. Decentralisation aimed to strengthen the military's power to establish the most centralised government structures. Coercive centralisation through decentralisation was achieved by the political marginalisation of existing political parties and by co-opting newly emerging politicians from local councils who could act as conduits between the local constituencies and military established governments. These newly emerged local leaders eventually be-

⁸ Seth Wyngowski, "Local Participation in Brazil: Porto Allegre's Model for 21st-Century Local Government," *Gnovis Journal* 12, no. 11 (2013), <http://www.gnovisjournal.org/2013/12/11/local-participation-in-brazil-porto-alegres-model-for-21stcentury-local-government/>.

⁹ Diana Conyers, "Decentralisation and Service Delivery: Lessons from Sub-Saharan Africa," *IDS Bulletin* 38, no. 1 (2007): 18-32, <http://dx.doi.org/10.1111/j.1759-5436.2007.tb00334.x>.

¹⁰ *Ibid*

¹¹ *Ibid*

¹² Nicholas Awortwi, "An Unbreakable Path? A Comparative Study of Decentralization and Local Government Development Trajectories in Ghana and Uganda," *International Review of Administrative Sciences* 77, no. 2 (June 2011): 347-77, <https://doi.org/10.1177/0020852311399844>.

¹³ *Ibid* at Page No. 370.

¹⁴ Davide Chinigo, "Decentralization and Agrarian Transformation in Ethiopia: Extending the Power of the Federal State," *Critical African Studies* 6, no. 1 (2014): 40-56, <https://doi.org/10.1080/21681392.2014.853986>.

¹⁵ See f.n. 6 (Crook and Manor); Mohammad Mohabbat Khan, *Decentralization in Bangladesh: Myth or Reality?* (Bangladesh: A.H. Development Publishing House, 2009), 1-115, https://books.google.com.pk/books/about/Decentralization_in_Bangladesh.html?id=hDY6SQAACAAJ&redir_esc=y.

¹⁶ Vedi R. Hadiz, "Decentralization and Democracy in Indonesia: A Critique of Neo-Institutionalist Perspectives," *Development and Change* 35, no. 4 (September 2004): 697-718, <https://doi.org/10.1111/j.0012-155x.2004.00376.x>.

¹⁷ *Ibid*

¹⁸ *Ibid*

¹⁹ *Ibid*

²⁰ Serdar Yilmaz and Varsha Venugopal, "Local Government Discretion and Accountability in Philippines," *Journal of International Development* 25, no. 2 (2013): 227-50, <https://doi.org/10.1002/jid.1687>.

²¹ *Ibid*.

came more active in establishing their links with the central government than strengthening their links in their respective constituencies. The military regimes, therefore, always laid more emphasis on introducing new local governments. A brief history of decentralisation in Pakistan will illuminate the point. However, before providing a glance at the history of decentralisation in Pakistan, a brief section on research methodology is in order.

METHODOLOGY

Following the Labaree²² typology of literature review, this article is based on a combination of “theoretical” and “historical” review of the literature on decentralisation using the case study method. The theoretical review is conducted to examine relevant studies regarding decentralisation in developing countries. The literature review is concept-centric. Thus, the review of concepts such as better service delivery, accountability of state institutions, and grassroots democracy through decentralisation form the framework of a review. These concepts cover relevant literature on the topic not confined to one geographic location. The review constructively, albeit briefly informs about what has been learned about decentralisation in various developing countries. The theoretical review helps to establish the reasons behind the successes and failures of decentralisation in most of these countries. On the other hand, the “historical” review of the literature illuminates how the case of Pakistan is different to most developing countries and how it adds to the existing literature on decentralisation. The historical review focuses on examining the historical context of decentralisation in Pakistan, starting with the pre-colonial period.

The case study approach is used to answer the major question, i.e. ‘what lessons to learn from decentralisation in Pakistan and how it adds to the existing research on decentralisation in developing countries?’ Following Simons,²³ the case study approach is considered to be an appropriate method for qualitative research such as this one that necessitated the examination of the history of all tiers of state institutions in Pakistan. This method allows the researcher to develop an in-depth understanding of specific actors, their policies, and behaviours through time.²⁴ This article explicitly demonstrates such an understanding.

According to Markus and Robey et al.²⁵ and Mohr,²⁶ theoretical models (including historical) are more commonly derived from the variance (factor) or process theories. Variance theories incorporate independent variables that cause variation in dependent variables. In contrast, process theories use events and states to help explain dynamic phenomena.²⁷ Both models were considered appropriate for this paper, and the literature survey selected journal articles, books, newspaper reports and non-government organisations (NGOs) reports to analyse the variation in dependent variables underlying successes and failures of decentralisation as well as social and political processes that led to such a phenomenon. Finally, though the general relevance of a specific case might have its limitations, it is hoped that this paper presents the case of decentralisation in Pakistan in a manner that it may have broader relevance.

HISTORY OF LOCAL GOVERNANCE IN PAKISTAN

Pakistan is in Southern Asia, bordering the Arabian Sea, between India to the east, Afghanistan in the northwest, and China in the north. According to initial estimates of the 2017 census, the country’s population consists of 210 to 220 million.²⁸ Pakistan is a federal parliamentary state with a three-tier governance structure. It consists of the central government (comprising the national assembly and the Senate),

²² Dr. Robert V. Labaree, “Organizing Your Social Sciences Research Paper: The Literature Review,” USC Libraries, 2009, <https://libguides.usc.edu/writingguide/zliteraturereview>.

²³ Helen Simons, *Case Study Research in Practice* (SAGE Publications, Ltd, 2009), <https://doi.org/10.4135/9781446268322>.

²⁴ Arch G Woodside, *Case Study Research: Theory, Methods, Practice* (Bingley: Emerald, 2010), <https://cat2.lib.unimelb.edu.au/record=b4333164~S30>.

²⁵ Daniel Robey, Marie-Claude Boudreau, and Gregory M Rose, “Information Technology and Organizational Learning: A Review and Assessment of Research,” *Accounting, Management and Information Technologies* 10, no. 2 (April 2000): 125–55, [https://doi.org/10.1016/s0959-8022\(99\)00017-x](https://doi.org/10.1016/s0959-8022(99)00017-x).

²⁶ Lawrence B Mohr, *Explaining Organizational Behavior* (San Francisco: Jossey-Bass, 1982), https://books.google.com.pk/books/about/Explaining_Organizational_Behavior.html?id=vzBHAAAAMAAJ&redir_esc=y.

²⁷ See f.n. 25 (Robey); Ibid (Mohr).

²⁸ “Initial Estimates after Census 2017 Put Population at 21-22 Crores,” *Dunya News*, May 26, 2017, <https://dunya.com/news/en/Pakistan/390117-Initial-estimates-after-20Census-2017-put-populationPakistan>.

provincial governments, and local governments. A village comprising approximately 404.68 hectares of land is the basic unit of administration at the local level. A collection of villages forms a union council. Similarly, a group of union councils creates a Tehsil (town) council, and a collection of Tehsils councils forms a district council. The history of local government in the areas that became Pakistan in 1947 goes back to the middle of the second to first millennium B.C. when the Aryans for the first time introduced the local government system in the Indian subcontinent.²⁹ The local government system in India was much more extensive compared to other parts of the world.³⁰

The villages and towns were small, isolated states-in-miniature, where assemblies with chief executive officers served the local needs.³¹ According to Alderfer,³² since agriculture was the major way of life in India, a village was, therefore, the centre of social life and the dominant political institution. Almost all of their affairs were governed and regulated by custom and community leadership with authority vested in a Panchayat.³³ Iqbal³⁴ noted that the responsibilities of the Panchayat were to allocate land to peasants for cultivation, collect taxes and pay them to the central government, settle disputes, and take care of the provision of the basic needs of the people. The state functionaries were interested primarily in maintaining law and order and collecting revenue for the central government. Besides this, villages were able to develop their systems and institutions through an evolutionary process.³⁵ These local bodies flourished as an active organ of the village community and performed development, administrative and judicial functions, not in the modern sense, but in their own way.³⁶

Later, during the Muslim period, locally governing bodies continued to function much as before. The Arabs, Ghaznavids, Khiljis, Tughlaqs, and Afghans made no significant changes to the local government system during their rule in the Indian Subcontinent. The village people carried on their affairs in a peaceful and congenial atmosphere.³⁷ The Mughals, during their period of rule in the sixteenth century, also did not make any significant changes to the traditional patterns and practices of rural government. It was the British who for the first time broke away from the previous legacy and introduced a new system of local governments after powerfully establishing a highly coercive, centralised state apparatus over diverse regions and nationalities in the Indian subcontinent. The whole system of agricultural production was changed and with it the entire power structure at the village level. The British introduced "feudalism from below"³⁸ for the first time by privatising the land through the law of permanent settlement enacted by Lord Cornwallis in 1870.³⁹ This law introduced a new class of feudal lords. This new class of rural elite was patronised by giving limited representation to them in local councils in the countryside, though the bureaucracy mainly controlled these councils. While on the other hand, urban councils were primarily created to provide municipal services in urban areas.⁴⁰ Such a policy created the rural-urban divide regarding the provision of essential services because rural councils mainly served the interests of rural elites, whereas any such interest groups did not significantly circumscribe the urban council's ability to provide municipal services in urban areas.

The colonial legacy persisted in the postcolonial period. Sustenance of such a legacy was because the middle class educated in the English language during the colonial period led the nationalist movements for independence from the British Empire.⁴¹ This middle class served in British administration and got exposure to

²⁹ Harold F. Alderfer, *Local Government in Developing Countries* (New York: McGraw-Hill, 1964), <https://search.worldcat.org/title/local-government-in-developing-countries/oclc/504787>.

³⁰ John Matthai, *Village Government in British India* (United Kingdom: T Fisher Unwin Ltd, 1915), https://openlibrary.org/books/OL23356654M/Village_government_in_British_India.

³¹ Ibid.

³² See f.n. 29 (Harold F. Alderfer).

³³ See f.n. 30 (Matthai).

³⁴ Muhammad Shahid Iqbal, *Development of Local Self-Government in the Punjab, 1882-1900* (Research Society of Pakistan, 1976), https://books.google.com.pk/books/about/Development_of_Local_Self_government_in.html?id=KTwKAQAIAAJ&redir_esc=y.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Damodar Dharmanand Kosambi, *An Introduction to the Study of Indian History* (1956; repr., Popular Prakashan, 2016), <https://www.amazon.com/Introduction-Study-Indian-History/dp/9386042215>.

³⁸ Ibid.

³⁹ Hassan Nawaz Gardezi, *Pakistan, the Roots of Dictatorship: The Political Economy of a Praetorian State* (Zed Press, 1983), https://books.google.com.pk/books/about/Pakistan_the_Roots_of_Dictatorship.html?id=Mv6NAAAAAMAAJ&redir_esc=y.

⁴⁰ Kamal Siddiqui, ed., *Local Government in South Asia* (Dhaka University Press, 1992), <https://catalogue.nla.gov.au/catalog/677818>.

⁴¹ Ranajit Guha and Gayatri Chakravorty Spivak, eds., *Selected Subaltern Studies* (Oxford: Oxford University Press, 1989), [https://global.oup.com/academic/product/selected-subaltern-studies-9780195052893?cc=pk&lang=en&"\); Ian Talbot, Pakistan: A Modern History \(Palgrave Macmillan, 1999\), \[https://www.amazon.com/Pakistan-Modern-History-Ian-Talbot/dp/0312216068#detailBullets_feature_div\]\(https://www.amazon.com/Pakistan-Modern-History-Ian-Talbot/dp/0312216068#detailBullets_feature_div\).](https://global.oup.com/academic/product/selected-subaltern-studies-9780195052893?cc=pk&lang=en&)

metropolitan culture and ideologies.⁴² The nationalist movements were, therefore, inspired by the western ideologies, and reproduced modern organisations, such as associations, parties, trade unions, and farmers' cooperatives to fight British rule.⁴³ In the end, the primary agenda of indigenous leadership was not to destroy the colonial state structure but to get control over it through modern organisations.⁴⁴

Pakistan inherited the local government model established by the British colonial powers.⁴⁵ In the beginning, however, little attention was paid to local governments. Local government members were not elected, and in cases where elections were held, they took place through limited franchise.⁴⁶ The state was highly centralised and dominated by the civil and military bureaucracy.⁴⁷ Later since the 1950s, for various historical reasons, the military has dominated the state. Consequently, the military conducted the major experiments of decentralisation in Pakistan to co-opt local elites. Decentralisation was usually introduced by first dissolving the higher-tier elected governments.⁴⁸

LOCAL GOVERNMENTS DURING 1959-71 AND 1977-88

After the independence of Pakistan, the first extensive local government system was introduced in 1958 when the military assumed power through the military coup of General Ayub Khan. The Basic Democracies Ordinance 1959 established the new local governments.⁴⁹ Ayub Khan dissolved the higher-tier of elected governments in 1959 and revived local governments as the only representative tier of the government. The objective was to control the centre and cultivate pro-military leadership at the local level. For this reason,⁵⁰ Friedman argued that the Basic Democracies Scheme did not introduce democracy as it did not empower people to have control over the government's power except in a tokenistic sense.

Later General Ayub introduced the Municipal Administration Ordinance 1960, which comprised a hierarchical system of four linked tiers. The lowest tier was union councils consisting of elected members. The union council members elected the chairman from amongst themselves.⁵¹ The higher tiers of local government had some members elected indirectly by these directly elected members and some official members nominated by the government.⁵²

Overall, following colonial legacy, local governments were controlled by the bureaucracy. Deputy Commissioners and Commissioners, chief bureaucrats at the district and the division level respectively had the power to annul any proceedings or decisions taken by the local councils. The prime motivation for introducing local governments by Ayub Khan was to legitimise his Presidential Constitution (1962) that gave control of the state to the military through the office of the President.⁵³ After a short democratic term under Zulfikar Ali Bhutto (1972-77), the military once again got control of state power through General Zia-ul-Haq's military coup in 1977 and ousted the government of late Prime Minister Zulfikar Ali Bhutto (the founding father of Pakistan

⁴² Hamza Alavi, "India: Transition from Feudalism to Colonial Capitalism," *Journal of Contemporary Asia* 10, no. 4 (January 1980): 359-99, <https://doi.org/10.1080/00472338085390251>.

⁴³ Ayaz Muhammad, *Local Government Finance: Some Political Aspects: A Case Study of Punjab*, Amazon (Karachi, Pakistan: Oxford University Press, 2004), <https://www.amazon.com/Local-Government-Finance-Political-Aspects/dp/0195799178>; See f.n. 40 (Siddiqui).

⁴⁴ Shahid A. Rizvi, *Changing Patterns of Local Government in Pakistan, 1688-1975*, Google Books (Pakistan Historical Society, 1976), https://books.google.com.pk/books/about/Changing_Patterns_of_Local_Government_in.html?id=9jMHAAAAMAAJ; Ibid (Siddiqui).

⁴⁵ Mughees Ahmed, Saadia Saleem, and Iqra Iftikhar, "Political System of Pakistan: Analysis of Political Structure of Local Bodies in Pakistan," *Berkeley Journal of Social Science* 2, no. 10-11 (2012), https://www.researchgate.net/publication/260714964_Political_System_of_Pakistan_Analysis_of_Political_Structure_of_Local_Bodies_in_Pakistan.

⁴⁶ Mohammad Waseem, *Politics and the State in Pakistan*, 1st Edition (the University of Michigan: Progressive Publishers, 1989), https://books.google.com.pk/books/about/Politics_and_the_State_in_Pakistan.html?id=eJtAAAAMAAJ&redir_esc=y.

⁴⁷ Ayesha Jalal, *Democracy and Authoritarianism in South Asia: A Comparative and Historical Perspective* (Cambridge University Press, 1995), <https://www.cambridge.org/core/books/democracy-and-authoritarianism-in-south-asia/9FAFF3003868CB9272AC84CBF17B2F9C>; See f.n. 41 (Ian Talbot).

⁴⁸ Harry J. Friedman, "Pakistan's Experiment in Basic Democracies," *Pacific Affairs* 33, no. 2 (1960): 107-25, <https://doi.org/10.2307/2752939>.

⁴⁹ Razia Musarrat and Muhammad Salman Azhar, "Decentralization Reforms in Pakistan during Ayub and Zia Era," *Journal of Public Administration and Governance* 2, no. 1 (January 2, 2012): 123, <https://doi.org/10.5296/jpag.v2i1.1501>.

⁵⁰ See f.n. 48 (Friedman).

⁵¹ Lubna Batoool, "Electoral System in Local Governments: A Case Study of Pakistan," *International Conference on Local Representation of Power in South Asia*, 2014, 65-98, https://scholar.google.com/citations?view_op=view_citation&hl=en&user=Cbd3L1EAAAIAJ&citation_for_view=Cbd3L1EAAAIAJ:qUcmZB5y_30C.

⁵² Ibid.

⁵³ Ali Cheema, Asim Ijaz Khwaja, and Adnan Qadir, "Decentralization in Pakistan: Context, Content and Causes," *Working Paper Series Rwp05-034*, Harvard University, John F. Kennedy School of Government, April 1, 2005, <https://ideas.repec.org/p/ecl/harjfk/rwp05-034.html>.

Peoples Party). Local governments were revived and reformed, and the Local Government Ordinance 1979 was enacted that remained operational until 2000 in Pakistan. Zia-ul-Haq introduced the most coercive and centralised state apparatus through the imposition of Martial Law and put the 1973 Constitution (introduced by late Prime Minister Zulfikar Ali Bhutto) in abeyance. Local governments were introduced in the absence of national or provincial governments under the direct control of the military. Local government elections were held on a non-party basis in all provinces in Pakistan.⁵⁴ Once again the prime reason for introducing a new local government system was to create a new class of politicians prepared to legitimise military rule and ready to serve the interests of the military regime.⁵⁵

It is important to note that both during Ayub Khan and later Zia-ul-Haq's military regimes, gave much importance to local governments. However, no efforts were made to empower local governments by providing them with constitutional protection. Lack of constitutional protection made local governments vulnerable to the whims of other tiers of government to suspend local government heads, make changes at their will or abandon them altogether in the long run.

Another important feature of both regimes was that they followed the colonial policy of the urban-rural divide. Ayub Khan increased the share of development funding for rural areas compared to the past because he was relying on significant political support in these regions. Nevertheless, similar to the British period, the significant urban bias in federal and provincial development spending still existed.⁵⁶ Zia-ul-Haq also maintained the rural-urban divide, as his local government system did not require urban councils to share the benefit of such councils increased per capita income with that of rural councils. Cheema et al.⁵⁷ noted that: Urban councils were privileged for not sharing their resources with rural councils because Zia sought to accommodate the interests of the urban middle classes who had formed the core of the anti-Bhutto movement and it appears that the decision to retain the urban-rural divide, at a time when urban local council incomes were increasing, allowed the state to accommodate strong anti-Bhutto urban middle-class political mobilisations by giving them control, albeit circumscribed, over funds that could be used for the entrenchment of localised clientelist networks.

The system of non-party elections for local governments introduced by Ayub Khan and Zia-ul-Haq had a long-lasting impact on Pakistani politics. The candidates could not mobilise people on party bases and consequently relied on their clans and castes to support them in local government elections. Consequently, local government elections led to politics based on clan and caste loyalties and significantly segregated the population on clan and caste lines. Such loyalties ultimately strengthened the politics of patronage. The case of Zia-ul-Haq is of particular importance in this regard. In 1985, after several years of direct military rule through Martial Law, he revived the 1973 Constitution. The Constitution was, however, significantly amended through 8th Constitutional Amendment that distorted the Constitution of 1973 and established indirect military rule through a quasi-Presidential form of government.⁵⁸

The new political elite that emerged from local councils during his time was elected to national and provincial parliaments through a non-party system of elections and came to power through military patronage and the strength of their clan and caste.⁵⁹ These new politicians after becoming members of national and provincial parliaments introduced politics based on their experience of local governance, i.e., they introduced the politics of personalised patronage and started patronising their clan based constituencies by using development funds to boost their chances to be re-elected.⁶⁰ Such a situation also created conflict between different tiers of governance, as provincial politicians started considering local councils' representatives as their competitors with regards to development funds.⁶¹ The situation persisted even after Zia-ul-Haq's death in an aeroplane crash in 1988, due to a systematic weakening of the political party system through local governments by the military in Pakistan. Resultantly, civilian governments after 1988 resisted any meaningful efforts to decentralise power

⁵⁴ See f.n. 51 (Batool); Ibid (Cheema).

⁵⁵ See f.n. 47 (Ayesha Jalal).

⁵⁶ Rashid Amjad, "The Management of Pakistan's Economy 1947-82," *MPRA Paper 35850*, University Library of Munich, Germany, 1984, <https://ideas.repec.org/p/prs/mprapa/35850.html>.

⁵⁷ See f.n. 53 (Cheema) at Page No. 392-393.

⁵⁸ See f.n. 51 (Batool).

⁵⁹ Omar Noman, *Pakistan: A Political and Economic History since 1947*, 1st Edition (1988; repr., London: Routledge, 2013), <https://doi.org/10.4324/9780203037966>.

⁶⁰ Andrew Wilder, *The Pakistani Voter, Electoral Politics and Voting Behaviour in the Punjab* (Oxford University Press, 1999), <https://www.abebooks.com/9780195790726/Pakistani-voter-electoral-politics-voting-0195790723/plp>.

⁶¹ Ibid.

and authority.

GENERAL MUSHARRAF'S LOCAL GOVERNMENT SYSTEM

General Musharraf introduced a new local government system, through the Local Government Ordinance (LGO) 2001. His LGO has some distinctions, and is therefore worthy of close examination, as it substantially restructured the local governments. Previously the powers of the local governments were somewhat limited, and most of the functions were carried out by provincial line departments (a de-concentrated bureaucratic tier that did not report directly to the provincial elected representatives).⁶² Under devolution, a newly elected government was created at the district level and politically linked to local governments at the sub-district levels, Tehsil (town) and union council.⁶³

The major distinction of the Local Government Ordinance (LGO) 2001 compared to previous ordinances was that it overcame the urban-rural divide and established the local government at three levels: Union Council, Tehsil Council, and District Council.⁶⁴ The Union was the core unit and the Union Nazims (mayor), and Naib Nazims (deputy mayor) were directly elected by the voters and became members of the District and Tehsil Councils, respectively.⁶⁵ The LGO removed the previously existing hierarchical relationship between the local and provincial governments. Local governments were instead directly linked to the President's office through several institutions, such as the National Reconstruction Bureau and the Devolution Trust for Community Empowerment.⁶⁶ Even after the quasi-civilian government was reinstated in 2002 through a presidential referendum that elected Musharraf as the head of the state, and the military-sponsored political alliance under the banner of Muslim League (Quaid-e-Azam group) won the elections and formed national and provincial assemblies, for all practical purposes the hold of the central government on local governments remained.

Unlike previous local government systems, Musharraf devolved administrative, financial and development powers to the elected officials in the local councils and all the government departments became accountable to the District Council. The devolution abandoned the Deputy Commissioners' rule, and their successors in office; the District Coordination Officers (DCOs), were subordinated to the District Nazims legally and administratively.⁶⁷ For the first time, Musharraf also introduced the Provincial Finance Commission to provide an institutional framework to allocate resources between provinces and local governments. Previously only the National Finance Commission existed to provide an institutional framework for resource allocation between the federal government and provinces. Another distinctive feature of the LGOs 2001 was that it allocated 33 per cent reserved seats for women. Musharraf prided his regime for empowering women for the first time in the history of local government in Pakistan. The LGO 2001 also introduced District Monitoring Committees to monitor the work of government departments, Citizens Community Boards to empower citizens to participate in designing and overseeing development projects, and Citizen Police Liaison Committees for promoting the rule of law and protection of civil rights.⁶⁸

Despite several distinctions, however, the LGO 2001 had some similarities with previous local government systems. For example, Musharraf also followed the legacy of previous military regimes and conducted local government elections on the non-party basis that further entrenched the politics of personalised patronage based on clan and caste loyalties.

Moreover, though Musharraf gave a short-term constitutional status to the local government up till 2009 through a Presidential Order (i.e., up till 2009 no government could dissolve local governments formed by Musharraf); the local governments were still not given a constitutional status permanently. Also, though unlike

⁶² See f.n. 51 (Batoool); f.n. 53 (Cheema).

⁶³ Punjab Local Government Ordinance, 2001.

⁶⁴ See f.n. 51 (Batoool).

⁶⁵ Ibid.

⁶⁶ See f.n. 53 (Cheema).

⁶⁷ See f.n. 51 (Batoool).

⁶⁸ Zahid Hasnain, "Devolution, Accountability, and Service Delivery: Some Insights from Pakistan," *The World Bank: South Asia Region: Poverty Reduction Economic Management Department Policy Research Working Paper 4610* (April 1, 2008), <https://doi.org/10.1596/1813-9450-4610>.

previous military regimes, much fiscal decentralisation was carried out, the planning of the budget remained in the hands of the bureaucracy. The District Coordination Officers (DCOs) and other bureaucrats appointed by the provincial governments prepared the budget proposals, and the district Nazim could propose the prepared budget to the council for approval. If the council failed to approve the budget, it would lead to zero spending fourteen days after the expiration of the financial year.⁶⁹

The council was, thus, effectively presented with a *fait accompli* when a bureaucratically prepared budget proposal was submitted to it by the Nazim for approval. After the dismissal of Musharraf's government in 2008, the Pakistan People's Party under the leadership of Mr. Zardari introduced the 18th Constitutional Amendment that enhanced provincial autonomy. By this time, the constitutional restriction on amending local government ordinance of 2001 had already expired in 2009. After that, it became possible for provinces to legislate a local government system of their choosing. Consequently, different provinces opted for different structures for their local governments. The provincial assembly of Balochistan passed the Local Government Act in 2010, whereas the provincial assemblies of Punjab, Sindh and Khyber Pakhtunkhwa passed their Local Government Acts in 2013.⁷⁰

The Local Government Acts for each province, in their current form, provide limited autonomy to the local councils concerning fiscal management and control over service delivery, revenue, and tax and police departments. While all the Local Government Acts devolved some service delivery functions to local governments, provinces still retained control of large entities such as the Karachi Water and Sewerage Board, Sindh Building Control Authority, Lahore Development Authority (LDA), and Solid Waste Management (SWM), etc.⁷¹ They also had administrative control of education and health service delivery.⁷² Moreover, The Local Government Acts of all four provinces subordinated the local governments to the provincial governments in numerous ways. For example, they allowed the provincial Chief Ministers to dismiss a local government or head of the council and appoint officeholders after the dismissal of council leaders.⁷³ Unlike Local Government Acts introduced by the military regimes, the new local government laws introduced by civilian governments in different provinces opted for party-based elections of local governments.

However, the laws provided were excessively deferential to provincial governments and were limited in their scope in providing any meaningful 'democratic ethos which is at the very heart of the idea of Local Government'.⁷⁴ Overall, the reluctance of provincial governments during the civil rule for establishing strong local governments was because provincial ministers and members of provincial parliaments could keep the development funds in their hands to build their networks of personalised patronage. Such a situation exists because of continuous and long periods of military rule that systematically weakened political parties and a democratic political culture that could bring any meaningful change.

The military force silenced dissenting voices and promoted politicians loyal to the military. Local governments were effectively used for this purpose and promoted the politics of patronage. Power and patronage being zero sum games, any real authority exercised by local governments could only come at the cost of its political use by provincial and federal governments directly or indirectly controlled by the military even during the civilian rule.

⁶⁹ See f.n. 53 (Cheema).

⁷⁰ United Nations Development Programme, "A New Way Forward for Local Governance in Pakistan?," *Development Advocate Pakistan* 1, no. 1 (2014), <https://www.undp.org/sites/g/files/zskgke326/files/migration/pk/dev-final-versions.pdf>.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Pakistan Institute of Legislative Development And Transparency, "Comparative Analysis: Local Government Laws 2013," December 2013, 26, <https://pildat.org/parliamentary-development1/local-government-laws-2013>.

DECENTRALISATION DURING THE PRESENT REGIME

A new government took power in Pakistan in August 2018 and Imran Khan, the cricket legend from the 1990s, became the Prime Minister. There have been widespread comments in local and international media that the military establishment orchestrated Khan's rise to power. Soon upon assuming power, and in keeping with the tradition of military governments, Khan dismantled the local government structures in the provinces controlled by his party and introduced a new system.

In Punjab, the Local Government Act of 2019 codified the new system. Other provinces have not yet introduced the new Local Government Acts. The 2019 Act dissolved the existing local government institutions and gave the Punjab government until April 2020 to hold elections for the constitution of new local governments.⁷⁵ It reintroduced the rural-urban distinction and prescribed establishment of Metropolitan/Municipal/Town Corporations/Committees for urban areas and Tehsil Councils for rural areas. In a clear departure from earlier local government regimes, the head of each local government will be directly elected by the people. The elected head will have a cabinet to assist him in the discharge of functions (an extensive list [including education, but excluding healthcare] provided in Schedules 3, 4 and 5) by a set of councillors and professionals as specified in the 4th Schedule to the Act.⁷⁶ In another significant departure from the past, the councillors will be elected on a closed list proportional representation basis. Thus, elections will be held on a political party basis, and each party will provide a list of its candidates in order.

Depending upon the percentage of votes a party obtains in a local government; its nominees will become councillors for the local governments concerned. In other words, each local government will comprise a multi-candidate constituency. Another unique feature of the new system is the establishment of panchayat and neighbourhood councils for rural and urban areas, respectively. These are envisaged as grassroots forums to ensure democratic participation at the village and ward levels. These forums do not have any inherent power or function under the Act, but they can be assigned/delegated any function by a local government forum. In other words, there will be institutions which can be used if the Metropolitan/Municipal Corporation or a Tehsil Council intends to do so. Whether the higher forums will be ready to delegate any of their powers and functions will depend upon the pressure grassroots forums can exert. History of devolution in Pakistan, however, does not provide much ground for optimism. As the previous experience since the 1950s has shown, each governance tier wants the higher tier to delegate authority but is reluctant to delegate the same to lower tiers.

The new law maintains the supervisory role of the provincial government by expressly requiring local governments to comply with provincial directions. This oversight extends, in particular, to financial matters. Section 137 requires the Chief Officer of every local government to send to the provincial government for prior appraisal every estimate of receipts and expenditure. The provincial government may suspend any resolution or stop any action of a local government if the same is deemed to be "prejudicial to public interest".⁷⁷ The Act also authorises the Minister, the Secretary or any functionary so deputed by them to attend (and speak to) any meeting/proceedings of a local government.

Further, the Act envisages the creation of a new institution, namely, the Inspectorate of Local Governments, with the exclusive function of inspecting, monitoring and reviewing local governments. This Inspectorate will inspect in detail each local government at least once every year and may commission as many special inspections as deemed appropriate. These inspections are additional to the usual audit processes already in vogue. In a sense, all this undermines the spirit of devolution by making local government subordinate to the provincial government not only in policy but also implementation. Unlike the 2001 system, the new local governments will neither be "governments", nor will they have an independent, robust revenue stream to support their initiatives.

⁷⁵ Punjab Local Government Act, 2019.

⁷⁶ Section 19, Punjab Local Government Act, 2019.

⁷⁷ Section 228, Punjab Local Government Act, 2019.

CONCLUSION

The article explicitly demonstrates that the reasons behind unsuccessful cases of decentralisation in developing countries were inadequate local government frameworks, ineffective implementation or capture of local government by interest groups or a combination of these factors. On the contrary, the history of decentralisation in Pakistan reveals that the central tendency underlying major experiments with local governments primarily conducted by non-representative military regimes, was to establish the most coercive central state through decentralisation to further accumulate power. The civilian governments, on the other hand, were reluctant to establish strong local governments because provincial ministers and members of provincial parliaments wanted to keep development funds in their hands to build their networks of personalised patronage. Such a situation existed because of continuous and long periods of military rule that systematically weakened political parties and democratic political culture that could bring any meaningful change. The military force silenced dissenting voices and promoted politicians loyal to the military. Local governments were effectively used for this purpose and promoted the politics of patronage. Power and patronage being zero sum games, any real authority exercised by local governments could only come at the cost of its political use by provincial and federal governments directly or indirectly controlled by the military even during the civilian rule.

Such a state of affairs represents a significant paradox as, excluding few exceptions, the purpose of decentralisation was further centralisation of power. The legitimacy of military regimes was established by creating the localised patronage structures through local governments that produced a class of “collaborative politicians” who acted as conduits between local level constituencies and the non-representative centre. The non-party basis of elections for local governments strengthened the politics of patronage and systemically destroyed the prospects of democratic governments accountable to the people. The practice has been similar to the British period. Before the British period, however, the part of the Indian Subcontinent that became Pakistan had a strong tradition of locally governed self-sufficient village communities.



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EXAMINING THE LEFT BANK OUTFALL DRAIN FROM AN INDIGENOUS PERSPECTIVE



Zuhaib Pirzada

ABSTRACT

This essay, titled Examining the Left Bank Outfall Drain from an Indigenous Perspective investigates the wide-ranging consequences of the LBOD project in the Lower Sindh region. Originally intended to address waterlogging and salinity, the LBOD project instead disrupted natural water systems, resulting in waterlogging, salinity, sea erosion, floods, and a devastating decline in agricultural output. Traditional livelihoods crumbled, forcing communities into precarious sectors, exacerbating food insecurity, malnutrition, and elevating suicide rates. Migration patterns shifted, altering coastal community life. The study also highlights the alarming gap between policymakers and affected communities, reflecting the top-down nature of such projects and the neglect of local knowledge. To rectify this, the paper proposes principles for future development efforts, including community-focused development, thorough impact assessments, sustainability, accountability, cultural sensitivity, and adaptability.

BACKGROUND

Zuhaib Ahmed Pirzada is an eco-socialist and freelance journalist who researches and writes on climate justice, politics, fascism, patriarchy, and capitalism. He holds an M.Phil degree in International Relations from the National Defence University, Islamabad. He serves as a Lecturer at Habib University and is Former Visiting Faculty at University of Karachi.

INTRODUCTION

The Left Bank Outfall Drain (LBOD) stands as a testament to the complex interplay between International Financial Institutions (IFIs); The World Bank, The Asian Development Bank, state policymakers, federal and provincial institutions, and the communities affected by large-scale development projects. LBOD was a mega-project that was considered as a hallmark for the development of the state as well as local people. Instead, the project became a source of devastation for lower Sindh. This development project has been disastrous for the people in many ways, ranging from the region's enhanced vulnerability to floods and sea-erosion, it has also done much harm to the local ecology and socio-economic landscape of the local communities.

The disastrous outcomes of the LBOD may be traced to the approach and work ethic of the concerned state institutions, such as the Pakistan Water and Power Development Authority (WAPDA), and policymakers who were reluctant to consult with local communities over the construction of this mega project based on the view that the locals were ignoramuses and only they, the specialists, knew what was right for the development of the region. As a result, instead of resolving the issue of water logging and salinity and enhancing the land's productivity, the LBOD has caused multiple ecological, social and economic problems, especially population displacement, food insecurity, irreversible harm to tangible and intangible cultural heritage and biodiversity loss. It is a fact that this approach and behaviour of the state institutions and policymakers, particularly their neglect of indigenous knowledge systems and unconsented design of the LBOD have been the cause of great suffering for the local people and constitutes one of the main reasons behind the floods.

Given the challenges posed by the LBOD, it is necessary to stress that the prevailing development model must undergo a critical reevaluation, shifting its focus from short-term economic gains to long-term ecological and social sustainability. In this regard, a holistic approach that considers the well-being of communities, ecosystems, and future generations is imperative. This rethinking should prioritise regenerative practices that harmonise human activities with the natural world, safeguarding both human and non-human lifeforms for a more equitable and ecologically balanced future.

This essay uses the LBOD project as a case study of the challenges posed by large-scale development projects where the work approach of international institutions like The World Bank, intersects with national state institutions but fails to take account of local contexts and traditional community based understanding of their land. It contends that the environmental and social disasters resulting from LBOD underscore the urgent need

to prioritise the knowledge and experiences of the affected communities so as to bridge the gap between the conceptualisation, design and implementation of such projects. In doing so, the essay calls for a reevaluation of development paradigms and greater accountability from policymakers and planners in order to avoid future ecological and social catastrophes.

BEGINNING OF THE LEFT BANK OUTFALL DRAIN (LBOD)

The LBOD, a massive engineering project located in lower Sindh, was conceived with the aim of addressing waterlogging and salinity issues while simultaneously boosting agricultural productivity in the region. The introduction of irrigation networks in Sindh in the first half of the nineteenth century had marked a transformative moment for the region that allowed for the cultivation of previously barren lands.¹ However, while the adoption of irrigation practices breathed life into the once-desolate landscape, it also led to unanticipated consequences, such as salinity and waterlogging, arising from the very non-programmability and unpredictability of nature. These issues prompted the Pakistan government, with the financial backing of The World Bank, to embark on the ambitious Left Bank Outfall Drain (LBOD) project in the 1980s and '90s.²

Stage-1 of the LBOD project was primarily designed to increase agricultural production in the region, targeting approximately 1.27 million acres of a Cultivable Command Area. Its main objective was to mitigate waterlogging and salinity issues in the three districts of Nawabshah, Sanghar, and Mirpurkhas, all located on the left bank of the Indus River. This particular project received significant funding from the International Development Association (IDA) and the Asian Development Bank (ADB).

To facilitate the disposal of saline effluent into the Arabian Sea, the district of Badin played a crucial role as the conduit for the Spinal Drain of the project. This effluent was directed to the sea through a 42-kilometre-long Tidal Link Canal.³

The project's Spinal Drain ultimately splits into the eastern Dhoro Pura Outfall Drain (DPOD) and the western Kadhan Pateji Outfall Drain (KDOP). These two branches serve different purposes, with the DPOD discharging into the Arabian Sea and the KDOP into Shakoor Lake. Despite being designed to handle a maximum flow of 4,500 cusecs of water, with 2,000 cusecs directed through the DPOD and 2,500 cusecs through the KDOP, the LBOD system often struggles to cope with heavy rainfall. In 2022, heavy rains overwhelmed the system, resulting in breaches and devastating consequences. It is estimated that around 10.7 lakh (1.07 million) people were displaced, and approximately 5 lakh (500,000) acres of agricultural land were affected in the regions of Badin, Umerkot, Mirpurkhas, and Tharparkar, highlighting the ongoing challenges associated with this complex drainage network.⁴

THE GENESIS OF LBOD: WORLD BANK INVOLVEMENT AND FINANCING

This section of the essay discusses the genesis of the LBOD. The term genesis is employed here to imply a systematic trajectory of the origin and transformation of the LBOD project in its final structure through various collaborative efforts between IFIs and local government institutions.

The World Bank's role in the LBOD project cannot be overstated. The institution, with its mandate to reduce poverty and promote sustainable development, saw the LBOD as a potential solution to the region's pressing

¹ Editors Note. **Sukkur Barrage, Sindh:** built during the British Raj from 1923 to 1932. The largest single irrigation network of its kind in the world, it irrigates land from Sukkur district in the north, to Mirpurkhas/Tharparkar and Hyderabad districts in the south of Sindh covering almost all parts of the province.

² "Pakistan - Indus River, Plains, Agriculture," in *Encyclopaedia Britannica*, 2023, <https://www.britannica.com/place/Pakistan/The-Indus-River-plain#ref989603>.

³ Naseer Memon, "Failure of a Mega Drainage Project," *DAWN News*, October 23, 2006, <https://www.dawn.com/news/215976/failure-of-a-mega-drainage-project>.

⁴ Zuhaib Ahmed Pirzada, "Rivers," *Fifty Two* (52), March 11, 2023, <https://fiftytwo.in/story/rivers/>.

issues of waterlogging and salinity. Its financial support and technical expertise were instrumental in bringing the project to fruition. In the beginning, many people, especially academics, saw this project as a way towards progressive development.⁵ From removing the salinity and waterlogging from fields to generating hydropower.⁶

The World Bank's involvement raises questions about the accountability and oversight of such projects. Critics argue that the institution's primary focus on economic development sometimes overshadows environmental and social considerations. This usually can be seen among the academics who have focused on the waste waters, salinity and waterlogging issues created by the construction design of the LBOD.⁷ This has led to situations where projects like LBOD, initially hailed as solutions, end up exacerbating the very problems they were meant to address.

Furthermore, there were many problems regarding this mega-project, which were also highlighted with The World Bank Group by the local community. After the 2003 rains and deaths of dozens of people in Badin, the Inspection Panel of The World Bank received a request for inspection related to the Pakistan National Drainage Program Project (Project). In September 2004, the request was submitted by Khadim Talpur, Mohammad Ali Shah, Mustafa Talpur, Munawar Hassan Memon, Iqbal Hyder, Mir Mohammad Buledi, and Najma Junejo on their own behalf and on behalf of other residents of district Badin. In the request, they mentioned that there was increased flooding due to the absence of a weir, which had reduced the livelihood of fishermen and caused damage to heritage sites. Further, the complaint mentioned that there were fears that the National Drainage Plan (NDP) of Pakistan's Left Bank Outlet Drain would lead to inundation of cultivated land and involuntary resettlement. It also highlighted the general lack of attention and consultation with local communities on environmental issues during project preparation, and there had been non-compliance with the Bank's disclosure and environmental guidelines.⁸

Thus, in 2004, the Inspection Team had acknowledged serious flaws in planning, design, execution and supervision of the Left Bank Outfall Drain. However, though the acknowledgement was a step in the right direction, it did not make a significant difference as the risk of floods and threat of displacement persisted.

The Save Coast Action Committee (SCAC) Badin, a coalition comprising various non-governmental organisations (NGOs) and traders' associations, had raised concerns over the design flaws in the LBOD and had called for its redesign. They argued that the faulty design of the LBOD had caused significant damage to the agricultural economy of the entire Badin district. Leaders of the action committee highlighted the extensive damage caused by the KPOD and the LBOD during the 1999 cyclone and, particularly, in 2003, which was widely reported in newspapers.⁹

In 2004, the secretary of SCAC, Badin had stated in a press conference that The World Bank's Board of Executive Directors had agreed to investigate the negative effects of the National Drainage Programme on the coastal areas of Badin district of Sindh.¹⁰ According to the members of the SCAC, the design of the Tidal Link Canal was faulty as in spite of falling into the sea, the drainage system had destroyed their land and wetlands. They stated that the LBOD had caused problems like flooding, sea intrusion, loss of crops and agricultural land, reduction in fish catch and loss of lives.

⁵ Rahim Bux Vistro et al., "Evaluating the Performances of Surface Drainage Efficiency in Left Bank Outfall Drain (LBOD) at Sanghar Component, Sindh," *Journal of Pure and Applied Agriculture* 6, no. 1 (March 2021): 54–63, https://www.researchgate.net/publication/350992964_Evaluating_the_performances_of_surface_drainage_efficiency_in_left_bank_outfall_drain_LBOD_at_Sanghar_component_Sindh.

⁶ Dr. Amjad Ali, Fahad Saleem Baig, and Abdul Hameed Memon, "Designing Hydel Power Generation Capacity Using a Mini/Micro Hydro Power Plant at Left Bank Outfall Drain Drainage System, near Goth Ahori, Jhuddo, Sindh," *Mehran University Research Journal of Engineering and Technology* 39, no. 3 (June 2020): 554–63, <https://doi.org/10.22581/muet1982.2003.11>.

⁷ Abdul Latif Qureshi et al., "Impact of Releasing Wastewater of Sugar Industries into Drainage System of LBOD, Sindh, Pakistan," *International Journal of Environmental Science and Development* 6, no. 5 (May 2015): 381–86, <https://doi.org/10.7763/IJESD.2015.V6.622>; Mohammad Amin Qureshi et al., "Heavy Metal Pollution Investigation of Left Bank Outfall Drain of Coastal District Badin, Sindh, Pakistan by Using Arc GIS," *International Journal of Environmental Monitoring and Analysis* 3, no. 3 (June 2015): 122–32, <https://doi.org/10.11648/ijjema.20150303.13>.

⁸ "The Inspection Panel: Report and Recommendation" (Washington, DC: World Bank Group, November 17, 2004), <https://documents1.worldbank.org/curated/en/963611468290115625/pdf/30704.pdf>.

⁹ "HYDERABAD: World Bank, ADB Blamed for Faulty LBOD Design," *DAWN News*, December 12, 2003, <https://www.dawn.com/news/129123/hyderabad-world-bank-adb-blamed-for-faulty-lbod-design>.

¹⁰ "World Bank Team to Visit Badin in March," *BRecorder*, February 14, 2005, <https://www.brecorder.com/news/3129534>.

In a critical oversight, The World Bank had initially categorised the LBOD project as category B, implying that only an environmental analysis, rather than a full environmental assessment, was required. This initial classification raised questions about the level of seriousness and scrutiny afforded to the project by the donor. It was only when the inspection panel highlighted this mistake in its report that the bank's management acknowledged this omission.¹¹ Since the LBOD came into being, lower Sindh has faced the floods of 2003, 2011, 2020 and 2022, continuous sea-erosion and destruction of local environment and dispossession of indigenous people's cultural history and memory.

The situation of destruction and devastation in the tail-end region of Sindh has remained the same for two decades. In 2006, the Dawn Newspaper reported a massive protest by the SCAC. The SCAC members claimed that '(t)he scheme had already forced tens of thousands of fishermen and other people to change their occupations and migrate to other areas and the situation was worsening day-by-day'.¹² The protestors urged the federal government to compensate the devastated families, however, there is no news of any compensation being extended to the people who have suffered due to this project.

STATE INSTITUTIONS AND POLICYMAKERS

LBOD's genesis was not limited to international actors alone; state institutions and local policymakers played pivotal roles. At the heart of this were policy decisions that shaped the project's objectives and execution. Policymakers, driven by political imperatives and economic considerations, pursued the project as a means to bolster agriculture and economic growth in the region, but the drive to achieve specific targets led to compromises that had severe consequences for local communities and the environment.

The Sindh Irrigation and Drainage Authority (SIDA), the provincial authority that deals with Sindh's irrigation and drainage, also acknowledges that the LBOD has affected the lives of millions in many ways. In his paper titled *Environmental Concerns for Water Consumption from Polluted Water Bodies in Watershed Area of Sindh Province*, Mahessar cites SIDA, and writes:

... the seawater intrusion and highly toxic laden industrial effluents disposal into surface drains of the main drainage Left Bank Outfall Drain (LBOD) system, have directly affected drinking water quality, aquatic life and soil.¹³

Since the implementation of the project, Sindh has faced a spate of floods in 2003, 2011, 2020 and 2022. At the occasion of each of these floods, government officials and ministers acknowledge and blame the design of LBOD, however, no efforts have been made to remodel it. It appears that for these policymakers and state actors, regional issues regarding the environment, resettlement and ecology were neither a concern during the planning of this project nor in its aftermath. It is the local population that continues to suffer various problems including floods, waterlogging, destruction of wetlands, salinity and rising migration.

PROJECT DESIGN AND IMPLEMENTATION

The design and execution of the LBOD were, in theory, guided by the principles of sustainable development. Engineers and experts sought to find solutions to the region's waterlogging and salinity problems while ensuring minimal harm to the environment. However, the practical realisation of these goals was challenging.

LBOD's construction involved massive earthworks, extensive canal networks, and the redirection of water

¹¹ See f.n. 3 (Failure of a Mega Drainage Project).

¹² "KARACHI: Negative Effects of LBOD Highlighted," *DAWN News*, December 1, 2006, <https://www.dawn.com/news/221260/karachi-negative-effects-of-lbod-highlighted>.

¹³ Ali Asghar Mahessar et al., "Environmental Concerns for Water Consumption from Polluted Water Bodies in Watershed Area of Sindh Province," *Journal of Pollution Effects & Control* 5, no. 4 (January 2017), <https://doi.org/10.4172/2375-4397.1000204>.

flows. While these interventions were well-intentioned, their execution did not result in the ideals that were aimed at. The project disrupted local ecosystems and altered natural water courses and led to unintended consequences, such as increased waterlogging in some areas and salinisation in others.

In the year 2013, SIDA collaborated with international organisations to formulate a comprehensive Regional Master Plan aimed at the restoration of natural watercourses spanning the area from Ghotki to Thatta. Simultaneously, discussions were initiated concerning the rectification of the deficiencies inherent in the LBOD system. It is noteworthy that the LBOD system had originally been conceived and designed by WAPDA; however, responsibility for its incrementally phased maintenance was transferred to SIDA commencing from the year 1999.¹⁴

The World Bank's involvement highlighted the global significance of the project, but also raised concerns about the prioritisation of economic development over environmental and social factors. State institutions, driven by political and economic motives, shaped the project's objectives and execution, often to the detriment of local communities and ecosystems. The practical implementation of LBOD's goals was challenging, leading to unintended consequences that continue to impact the region to date.

ENVIRONMENTAL AND ECOLOGICAL IMPACT: EFFECTS ON LOCAL ECOLOGY

The transformation in the socio-economic landscape of coastal Sindh is indeed a poignant reflection of the region's changing fortunes. Historically known for its hospitality, Sindh's prosperity was once evident in its ability to provide for both its own inhabitants and visitors. The people of Sindh were renowned for their generosity, offering butter, milk, and rice to anyone who sought sustenance. However, the stark contrast between the region's past affluence and its current struggles is a testament to the profound challenges faced by its people. Today, many who were once providers find themselves in dire circumstances, where securing even basic sustenance like a piece of bread has become a pressing concern.

The LBOD project unleashed significant environmental changes in Sindh. One of the most notable consequences was the alteration of natural water flows and the disruption of local ecosystems. The extensive canal networks and earthworks disrupted the delicate balance of water distribution, leading to waterlogging in some areas and drainage issues in others.

The LBOD's construction led to the loss of valuable wetland areas that played a critical role in supporting local biodiversity. The disappearance of these ecosystems disrupted the breeding and feeding patterns of various species, some of which were already endangered.

A study published in the South Asia Citizens Web quotes a local grower, Natho Khan who remarked: 'There were more wildlife, fish and plant species which have disappeared due to receding fresh water in the River Indus and its tributaries, inundating fertile land'.¹⁵ For Natho, the LBOD project was disastrous, as not only has it caused displacement of the communities, it is also the reason for the disappearance of the area's flora and fauna. This mega-project is called a monster by the locals because it has eaten away the natural habitats and people's homes and security.¹⁶

In the past years, the LBOD and the subsequent NDP raised significant concerns primarily rooted in environmental and social impacts. The disposal of saline upcountry effluents into the already flawed LBOD system caused apprehensions of future flooding, putting villages at constant risk of displacement. The existing disposal system through the Tidal Link was deemed unsustainable, having already resulted in substantial land

¹⁴ See f.n. 4 (Rivers).

¹⁵ Jan Khaskheli, "LBOD Project in Southern Pakistan Is a Social and Ecological Disaster - 'People's Tribunals' of 2008 and 2007," *South Asia Citizens Web* (SACW), November 2, 2008, <https://sacw.net/article264.html>.

¹⁶ Allah Bachayu Jamali, interview by Zuhaib Pirzado, December 16, 2022.

loss. Moreover, the project disregarded natural disposal systems in favour of engineering solutions, further exacerbating the adverse effects on local communities and the environment.

A significant number of bird species, both locally and globally important, find their habitat in this region, with some species classified as endangered, notably the Dalmatian Pelican (IUCN Red List, 2021). Additionally, the area serves as a habitat for two species of marine turtles: the green turtle (*Chelonia mydas*) and the loggerhead turtle (*Caretta caretta*), underscoring its ecological significance and importance for the conservation of these vulnerable marine species. But, due to ecological devastation caused by LBOD, these birds and other species have been affected as the main wetlands, Narreri Lagoon and Indus Delta have become saline.

Naseer Memon, a local Sindhi academic, who has provided significant insights into the matter of LBOD's effects on the local ecology, writes:

The LBOD system, combined with the partial destruction of the tidal link, has heightened the risk to local people from flooding... Floods during monsoon rains in 2003 led to the loss of many lives. In addition, increased salinity has affected large tracts of agricultural land and the tidal link failure has led to major harms to the wetlands, wildlife and fisheries. People in these areas also face serious problems of drinking water and have lost grazing lands.¹⁷

This clears the mind that the LBOD since its inception has made a thorough impact on the local ecology.

In the context of the tidal link canal, it is noteworthy that there exists a cyclical pattern in which the canal alternately conveys its waters into the sea and receives seawater back into its course. As stated by Natho Khan Lund, a resident of a coastal village, '[t]his fluctuation in the flow dynamics of the tidal link canal has resulted in the salinisation of the subterranean aquifers within the region.'¹⁸ This phenomenon underscores the multi-faceted environmental consequences associated with the operation of the tidal link canal, with implications for the quality and sustainability of groundwater resources in the area.

Since the people of lower Sindh are largely fisherfolk, by doing harm to fisheries, the livelihood of people has significantly changed. It has been noted that once the forms of occupation are reduced people tend to migrate. As Mohammad Ali Shah, chairman of the Pakistan Fisheries Forum, said in a press conference in Karachi: 'The situation is aggravating further and we fear another mass migration from Sindh's coastal areas to other towns and cities'.¹⁹ He further added that around 200,000 people have already moved from the coastal areas of Badin and Thatta districts to other cities.

Due to technical flaws in this mega-project, this artificial waterway has destroyed vast swathes of wetlands and agricultural lands.²⁰ The destruction of wetlands and agricultural lands has caused problems for people at multiple levels. This is corroborated by both water experts and civil society members who blame the LBOD design rather than the rains as the major cause of the destruction in the coastal regions. They claim that in spite of directing the flow of water into the Arabian Sea, the LBOD is destroying the internationally recognised wetlands.²¹

The proposition to connect the KPOD with Shah Samado creek via the Tidal Link, traversing the wetlands is fundamentally flawed. Prior to the execution of the LBOD project, these drainage systems were naturally replenished by inflows originating from Kotri drains, precipitation events, and surface runoff during the monsoon season. It is essential to note that the proposed link has had adverse implications for the ecological and hydrological balance of the region.

The floods of 2022 have completely devastated the livelihoods and local ecology. These floods contributed to

¹⁷ See f.n. 3 (Failure of a Mega Drainage Project).

¹⁸ Zuhaib Ahmad Pirzada, Interview with Natho Khan Lund, August 2023.

¹⁹ See f.n. 12 (KARACHI: Negative Effects of LBOD Highlighted).

²⁰ Shahid Shah, "World Bank Drainage Project Leads to Loss of Livelihoods in Pakistan," The Third Pole, July 15, 2015, <https://www.thethirdpole.net/en/climate/world-bank-drainage-project-leads-to-loss-of-livelihoods-in-pakistan/>.

²¹ Ramzan Chandio, "Faulty LBOD, Not Rains, Ravaged Badin," *The Nation*, September 15, 2011, <https://www.nation.com.pk/15-Sep-2011/faulty-lbod-not-rains-ravaged-badin>.

massive destruction on a wide scale. People suffered a huge setback not only financially but also ecologically. The farmers and their agricultural lands were ruined. Their experience was more than agonising. A news correspondent who went on a fact finding visit to the flood affected people, found them in tears as their fields of cotton, chilli, and onions in Mirpurkhas had been destroyed.²²

The Tidal Link Drain (TLD) was constructed as an aid to the LBOD in carrying saline wastewater to the sea. However, as a result of the more than two dozen breaches caused in its build by the cyclone of 1999, the seawater has entered the TLD and created problems in the lakes and wetlands of the area.²³

The KPOD drainage system and the Tidal Link Canal have effectively obstructed the natural flow of runoff water towards the Runn of Kutch and adjacent grazing zones. As a consequence, there has been a notable reduction in vegetation in the southern region of KPOD, leading to habitat loss for forest species and a diminishing of available grazing lands. This has had significant repercussions on the livelihoods of local communities, forcing many to seek alternative means of sustenance, ultimately resulting in a pattern of migration among these affected populations.

DISASTROUS CONSEQUENCES FOR COMMUNITIES

The LBOD, from the time it was conceived, was championed as a beacon of hope for the agricultural and economic development of Sindh. However, the results delivered the opposite of these dreams. The communities living in the coastal region of Sindh have faced various challenges because of this project such as floods, migrations, destruction of agricultural lands, and economic insecurity. Thus, millions of lives have suffered since the inception of this mega-project initially funded by The World Bank and Asian Development Bank.

Since the initiation of the Left Bank Outfall Drain project, a notable linguistic transformation has occurred in the vernacular of the affected region's inhabitants. The LBOD has led to a semantic evolution in the daily speech of the people, who refer to it as 'monster', 'devastation' and 'calamity'. This linguistic shift signifies not only a stark departure from the original nomenclature associated with the LBOD but also encapsulates the profound impact of the project on the socio-cultural and environmental fabric of the region.

Many communities that depended on agriculture for their livelihoods found themselves facing a crisis. Waterlogging and salinisation rendered large swathes of agricultural land unusable, leading to crop failure and economic distress. Moreover, the altered water flows disrupted local water supply systems. Access to clean drinking water has become a significant concern in many areas. Health issues related to water quality have emerged as a pressing problem, affecting the well-being of communities.

Apart from the destruction caused by the LBOD itself, the sugar factories have been releasing their poisonous waste into the LBOD surface water. This practice of releasing chemical wastewater into LBOD has also made people vulnerable to different waterborne diseases.²⁴ Newborns have been highly affected by the diseases carried by these waters. The districts where the LBOD runs, especially Badin District, have suffered the most from waterborne ailments.

In an interview conducted at the Kadhan Press Club with Mr. Abdul Ghafoor, a journalist and prominent rights activist, he discussed the dire circumstances prevailing in the local villages. Mr. Ghafoor emphasised that the women residing in these villages are facing severe challenges related to night vision impairment, and both they and their children grapple with malnutrition. Furthermore, he noted that the prevalence of hepatitis is alarmingly high in the region and is underscoring the multifaceted health and well-being issues of the local

²² Sana Fatima, "Pakistan Floods: Peasants, Women Worry about the Looming Food Crisis," *Dunya* (blog), November 1, 2022, <https://blogs.dunyanews.tv/29675/>.

²³ Ali Asghar Mahessar et al., "Environmental Impact Assessment of the Tidal Link Failure and Sea Intrusion on Ramsar Site No. 1069," *Engineering, Technology and Applied Science Research* 9, no. 3 (June 2019): 4148-53, <https://doi.org/10.48084/etasr.2686>.

²⁴ Abdullatif Latif Qureshi et al., "Impact of Releasing Wastewater of Sugar Industries into Drainage System of LBOD, Sindh, Pakistan," *International Journal of Environmental Science and Development* 6, no. 5 (May 2015): 381-86, <https://doi.org/10.7763/IJESD.2015.V6.622>.

populace.²⁵

Not only is the LBOD responsible for the floods, but it has also been the cause of the people's health issues due to an increase in contagious and infectious diseases. As observed by blogger Sana Fatima: 'Due to stagnant water for more than two months, contagious and infectious diseases are on the rise'.²⁶ The social fabric of these communities has also experienced a strain. Disputes over water rights and access to resources have become increasingly common. The economic security of many households has been compromised, leading to migration and displacement.

In an interview with Mr. Allah Bachayu Jamali, author of the book *LBOD, A Great Calamity*, it was highlighted that Roopa Marri, once a thriving centre, is currently facing the pressing threat of sea erosion. The gradual encroachment of the Arabian Sea poses a significant hazard, particularly concerning the preservation of historical sites, including the final resting place of revered figures such as Dodo Soomro. Should this relentless incursion persist unabated, there is a genuine risk that these hallowed sites could be submerged, resulting in the irreplaceable loss of historical heritage and the narratives of valour that are integral to the region's identity.²⁷

People of Southern Sindh know their foes as well as friends, but despite memories of agonising loss and great sorrow, they have hope for the future. Southern communities which are mostly fishermen, herdsman, and farmers know that the LBOD is the reason for their devastation. These people depend upon agriculture, and agriculture without a sound drainage system has poor yields. The future of these people has been drastically affected by the LBOD in multiple ways.

As borne out by the above, there is little doubt about the adverse effects on the region of these drainage canals, specifically the Left Bank Outfall Drain and the Right Bank Outfall Drain (RBOD) have had deleterious effects on the region, which may represent some of the most extreme instances of the detrimental outcomes associated with river infrastructure projects.²⁸

CHANGES IN LIFE PATTERNS AND ECONOMIC INSECURITY

The LBOD's influence goes beyond environmental and economic consequences as it has had profound effects on the daily lives of the people in the affected region. Traditional farming practices that had sustained communities for generations have become untenable. Many individuals and families have been forced to adapt to new livelihoods, often in less stable and more precarious sectors.

The shift in economic patterns has led to changes in social dynamics. Communities that had previously relied on agricultural cooperation now find themselves competing for limited resources. Traditional knowledge and practices related to sustainable farming have been eroded, further disconnecting communities from their land and heritage.

Food insecurity in Badin has reached alarming levels, with over 44 per cent of children suffering from malnutrition. The primary cause of this crisis is the adverse impact of the Left Bank Outfall Drain project, which has disrupted agricultural practices and water sources, leading to reduced crop yields, floods, and sea erosion. As a result, local communities struggle to secure an adequate and nutritious diet. Tragically, Badin has witnessed the second-highest number of suicides in Sindh due to the social and economic distress caused by hunger and exacerbating mental health challenges in the region.²⁹

Once the occupation and livelihood were affected, people began to migrate. There have been significant chang-

²⁵ Abdul Ghafoor, interview by Zuhair Pirzado, September 7, 2022.

²⁶ See f.n. 22 (Sana Fatima).

²⁷ See f.n. 16 (Allah Bachayu Jamali interview).

²⁸ Ahsan Kamal, "Saving Sindhu: Indus Enclosure and River Defense in Pakistan" (PhD. Thesis (Doctor of Philosophy), 2019), <https://cdr.lib.unc.edu/concern/dissertations/4m90f0686>.

²⁹ Dr. Jamil Junejo and Ali Murad Talpur, "A Study of Registered Cases of Suicide: Last Five Years in Sindh Province 2016 to 2020" (Karachi: Sindh Mental Health Authority, 2021), <https://smha.sindh.gov.pk/files/SMHA/Research%20on%20Registered%20Suicide%20cases%20final-compressed.pdf>.

es in the life patterns of the people of the coastal belt in Sindh. According to a report, by October 2022, around 50,000 families had moved to other cities from Badin District.³⁰ However, this number is less than the families that have migrated from the Badin District to other cities that has made their lives more troublesome. In the year 2011, a distressing scenario unfolded in the Badin district, where over one million individuals experienced forced displacement. This displacement was chiefly attributable to the intertwining dynamics of the LBOD system with small wetland ecosystems known as 'dhand', which traditionally served as essential breeding grounds for aquatic life, particularly fish. Concurrently, the local water resources, which had already been dwindling as a result of upstream diversions within the Indus irrigation system, encountered escalating challenges. These challenges manifested in the form of brackish and noxious water conditions brought about by the encroachment of saline seawater and the deposition of agricultural pollutants through the drainage canals.³¹

In an interview with the Director of *Water Scars*, a documentary by Log Sujag, that sheds light on the calamitous repercussions of the Left Bank Outfall Drain, it was revealed that the LBOD has had particularly adverse effects on women in the region. The disruptions caused by the LBOD project to local water systems and agriculture have disproportionately impacted women, who often play pivotal roles in household farming and water management. With increased waterlogging and salinisation, women have been burdened with the task of finding alternative water sources, coping with reduced agricultural yields, and managing the health consequences of contaminated water. Their burden has increased significantly, as when there was access to fresh water; they could obtain it from nearby areas. However, now they are forced to travel to more distant areas, carrying the psychological burden of dwindling resources along with heavy pitchers of water.³²

The economic insecurity posed by the LBOD in the Southern coastal belt of Sindh has created problems for its people. People lost their jobs, as most of them were fishermen or herdsman, with no other skills or livelihood options. Once the floods came they became vulnerable. The accounts of people who suffered these disasters are very hard to hear. Laung Mallah, aged 50, is one of those who have suffered from the outcomes of the LBOD. He claimed: 'We are unable to catch fish from the lake, as it has turned poisonous. Women travel many miles to fetch water from neighbouring areas for domestic use'.³³

In conclusion, the LBOD project has had a catastrophic environmental and ecological impact on the affected region. It disrupted natural water flows, leading to waterlogging and salinity issues that devastated local ecosystems and agricultural productivity. Communities bore the brunt of these consequences, experiencing economic distress, health issues, and social upheaval. The changes brought about by LBOD altered not only the landscape but also the way of life for the people in the region.

THE IMPORTANCE OF LOCAL KNOWLEDGE AND EXPERIENCE

In an interview with the offspring of the deceased Natho Khan Lund, an individual who staunchly opposed the LBOD project from the start, and had long inhabited the environs of Badin, proximate to the confluence point of the tidal link canal with the sea, the following sentiment was expressed: 'During the 1990s, when the construction of the LBOD was underway, local inhabitants with in-depth knowledge and insight into the region's geography and ecological dynamics were regrettably marginalised as illiterate'. They earnestly conveyed to the administrative authorities that the implementation of the LBOD scheme would inevitably lead to calamitous outcomes for both the local populace and the wider region. Regrettably, the present state of affairs bears witness to their prescient warnings, as we now find ourselves grappling with a multitude of afflictions, encompassing diseases, inundations, and an acute scarcity of potable water. Yet, the poignant question that persists is, 'Who heeds our counsel?'³⁴

The communities living in the affected region possess generations of wisdom about sustainable farming prac-

³⁰ Hunain Ameen and Areesha Rehan, "LBOD: A Development Disaster That Haunts Badin, Two Decades after Its Inception," *DAWN Prism*, February 25, 2023, <https://www.dawn.com/news/1737278>.

³¹ See f.n. 28 (Saving Sindhu: Indus Enclosure and River Defense in Pakistan).

³² Aisha Tahir, interview by Zuhaib Pirzadao, September 25, 2023.

³³ See f.n. 15 (Jan Khaskheli).

³⁴ Offspring of Natho Khan Lund, interview by Zuhaib Pirzadao, September 8, 2023.

tices, water management, and ecosystem dynamics. This knowledge was overlooked or undervalued during the project's planning and implementation phases. This is borne by the interview with Ali Nawaz Dalwani of Jhuddo, who states:

The LBOD project has effectively obstructed the natural watercourses of Hakro and Puraan. Consequently, during each monsoon season, these watercourses experience a reverse flow due to the absence of a proper outlet, resulting in extensive inundation of our locality. This unsettling phenomenon has been recurrent since 2003. It is disheartening that the authorities have failed to grasp this elementary concept: by impeding the natural waterways, they inadvertently invite the occurrence of these devastating floods.³⁵

Three potential alternatives were evaluated as prospective terminus points for the LBOD: the first option entailed directing a significant portion of LBOD discharge into the KPOD, ultimately leading to Pateji Dhand, which interfaces with the Rann of Kutch during periods of heightened water levels; the second option involved channelling the drain's effluent directly into the Rann of Kutch, allowing it to follow a natural course towards the sea; the third option proposed the direct discharge of the drain's contents into the sea through the utilisation of an autonomous canal directly connected to an active tidal creek. The first two alternatives were deemed unviable, partly due to the international designation of the Rann of Kutch as a wetland and partly owing to potential detrimental consequences for Pateji Dhand and the interconnected small wetlands. Consequently, the third option, employing an independent link canal known as the Tidal Link, was selected as the preferred course of action.³⁶

As already discussed in another article *Rivers*: '[i]t is a well-established fact that water naturally flows from north to south, rather than in a westerly direction. This diversion westward is the core reason behind the recurrent inundations we are currently experiencing'.³⁷ Local communities understand the intricacies of the land, its hydrology, and the delicate balance required for coexisting with the environment. Their insights would have been invaluable in designing a project that accounted for the geography and environmental nuances of the region. The failure to recognise the importance of this local knowledge is crucial to understanding the failure of the LBOD project.

DISCONNECT BETWEEN POLICYMAKERS AND AFFECTED COMMUNITIES

The implementation of the LBOD project reveals a significant disconnect between policymakers and the communities directly affected by the project. This disconnect stems from various factors, including the top-down approach to development, insufficient consultation with local communities, and a lack of consideration for and failure to understand the value of indigenous knowledge and experiences.

Starting with the critical issue of the top-down nature of development projects like LBOD, policymakers and international institutions often formulate and impose development plans without meaningful engagement with the communities they impact. This lack of involvement leads to projects that may not align with the needs, values, traditions and topographies of local terrains and the affected communities. In the case of LBOD, the project's goals were established without adequate input from those who relied on the land for their livelihoods and sustenance.

Not only was the consultation process with local communities during the planning and implementation of LBOD insufficient, but decision-makers also failed to recognise the value of the knowledge held by indigenous communities about the region's ecology, water management, and sustainable agriculture practices. As a result, these communities were excluded from crucial discussions that could have informed better project design and mitigated potential negative consequences. As it stands: '(t)hese Mega projects are built upon people, not for the people'.

³⁵ Ali Nawaz Dalwani, interview by Zuhaib Pirzadao, November 15, 2022.

³⁶ See f.n. 8 (The Inspection Panel: Report and Recommendation).

³⁷ See f.n. 4 (Rivers).

In an interview, a resident of a coastal village, Ghulam Shabbir Mallah shared his frustration: ‘No one ever asked us what we needed or what would work best for our communities. They imposed this project on us without our consent or input. We have been living here for generations, and we know our land better than anyone, but they didn't listen to us’.³⁸

BRIDGING THE GAP BETWEEN CONCEPTION AND REALITY

The glaring disparity between the conception and execution of the LBOD project underscores the urgent need to bridge this gap in future development endeavours. Bridging this gap requires a holistic approach that incorporates the following key principles:

- **Community-Centric Development:** Policymakers and international institutions must prioritise community engagement and participation from the project's inception. Local knowledge and perspectives should be sought and integrated into project planning to ensure that development initiatives align with the needs and aspirations of the affected communities.
- **Environmental and Social Impact Assessments:** Rigorous and comprehensive assessments of the potential environmental and social impacts of large-scale projects like LBOD are essential. These assessments should be conducted transparently and independently, and their findings should inform project design and decision-making.
- **Sustainability and Resilience:** Projects should be designed with long-term sustainability and resilience in mind. This includes considering the potential effects of climate change, incorporating adaptive strategies, and ensuring that ecosystems and communities can withstand unforeseen challenges.
- **Accountability and Oversight:** Policymakers and institutions involved in development projects must be held accountable for their decisions and actions. Independent oversight and evaluation mechanisms should be established to monitor project progress and outcomes, ensuring that the interests of communities and the environment are protected.
- **Cultural Sensitivity:** Recognising and respecting the cultural heritage and traditions of indigenous communities is vital. Development projects should not disrupt or erode cultural identities and should aim to preserve and celebrate tangible and intangible local cultures.
- **Adaptive Management:** Flexibility and adaptability should be built into project plans to allow for adjustments based on evolving circumstances and feedback from communities.

In conclusion, the Left Bank Outfall Drain project serves as a stark reminder of the challenges inherent in large-scale development projects. The environmental and social catastrophes resulting from LBOD underscore the imperative to prioritise local knowledge, community engagement, and sustainability in future development initiatives. By bridging the gap between project conception and reality, we can work toward a more equitable, environmentally responsible, and socially just approach to development. As the philosopher Francis Bacon wisely said: ‘We cannot command nature except by obeying her’.³⁹ The LBOD project stands as a stark testament to the consequences of attempting to bend nature to our will without heeding her wisdom. It underscores the imperative to transition from a stance of dominance to one of partnership with the natural world and the communities it sustains.

³⁸ Ghulam Shabbir Mallah, interview by Zuhaib Pirzado, September 8, 2023.

³⁹ Editors Note. “Bolivia at UN: ‘We Cannot Command Nature except by Obeying Her,’” *Climate & Capitalism*, April 28, 2011, <https://climateandcapitalism.com/2011/04/28/bolivia-at-un-we-cannot-command-nature-except-by-obeying-her/>.

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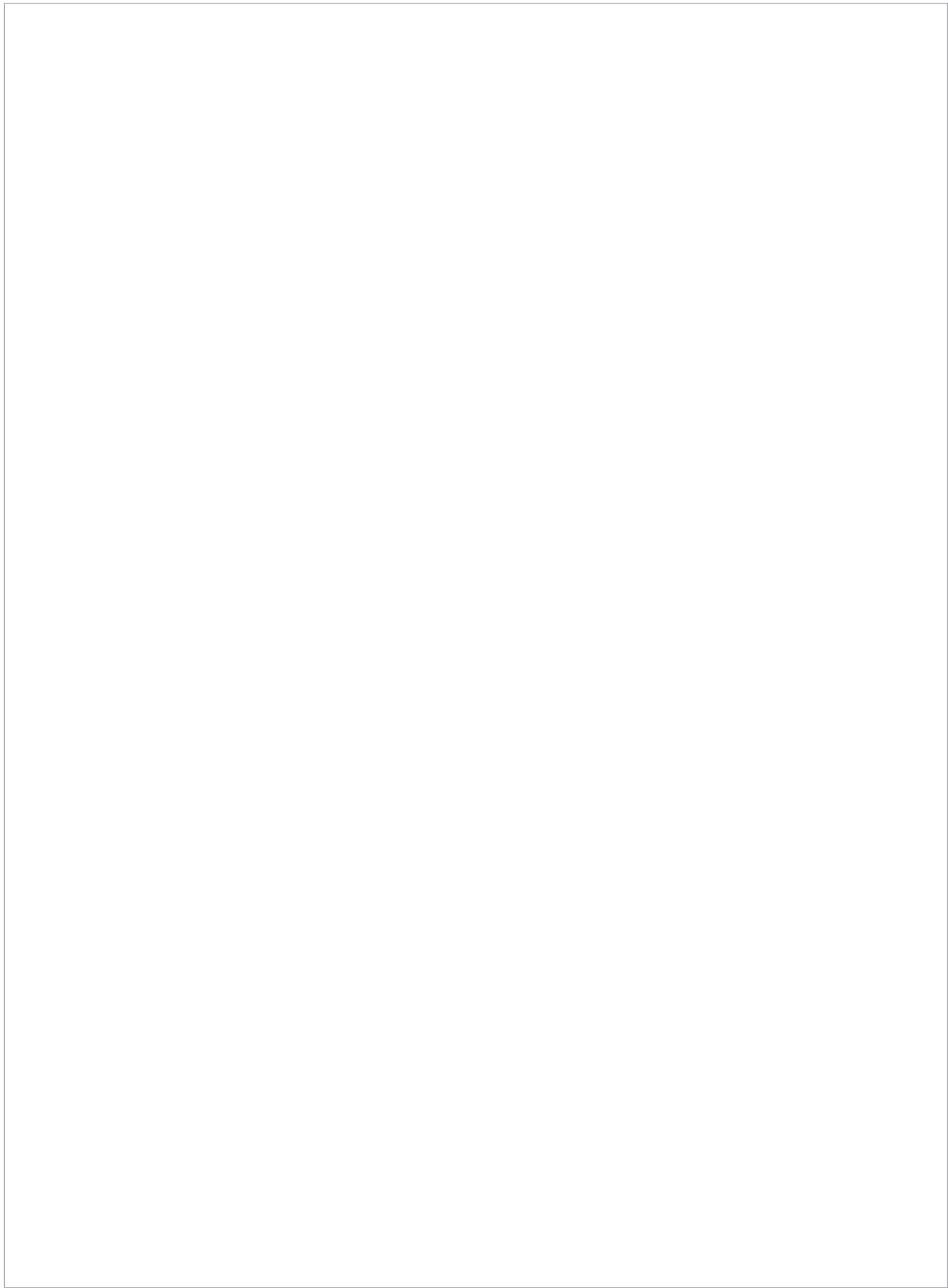












VOICES FROM THE FIELD



Alefa Hussain

ABSTRACT

This paper discusses the work by Simorgh and its partners, and how they brought together determined and confident women involved in grassroots communities and local governance. Despite facing challenges and uncertainty, including the postponement of local government elections in Punjab, these women, often relying on their familial connections to men in power, have been serving their communities effectively. The absence of a robust local government system, exacerbated by political turmoil and economic crises, has left women representatives struggling to envision a future. “Voices from the Field” sheds light on the perceptions and experiences of ordinary people, particularly women and marginalised communities, who are often overlooked in discussions about local governance in Pakistan. Limited space, male control, and low education persist as barriers to women’s participation in local government politics in Pakistan. Fempower Pakistan’s research reveals women often align preferences with male family members while facing barriers despite formal guarantees. Men act as gatekeepers, hindering empowerment and controlling access to resources. Despite promises, reserved seats for women decreased in local governments. The paper posits that education, consistent governance, and supportive environments are crucial for empowering grassroots women and challenging male dominance.

BACKGROUND

Alefa Tajammal Hussain is a Lahore-based journalist with a background in both editing and writing. Her expertise covers politics, environment, and human rights. She holds a Master’s degree in Political Science from Government College University (GCU), Lahore.

INTRODUCTION

Slowly but steadily women, mostly middle aged, sauntered into the marriage hall in Toba Tek Singh, a town in Pakistan’s biggest province of Punjab, on a warm summer day in August 2023. The stage was set for a meeting of the Women’s Political Forum organised by Simorgh as part of its work on women’s political empowerment with grassroots women’s communities and local government members. The participants included local councillors, civil society organisation (CSO) representatives, healthcare and social workers. They all talked about how well they have served their local communities before and after the local government term expired in 2021, without much support from the local government authorities. They also noted that they were able to carry out these services by leveraging their roles as wives, sisters or daughters of men in positions of authority.

Nevertheless, their determination and confidence showed that if the patriarch allowed, the women were both willing and able to effectively take part in and contribute to the political life of the community. They can be a force for change.

It has been eight years since the local government (LG) elections were last held in Punjab. Since the end of the term in 2021, uncertainty has grown over the fate of the next LG elections. They were scheduled to be held in April 2023, but, in the middle of political turmoil in Punjab – after Pakistan Tehreek-e-Insaf (PTI) Chief Imran Khan was ousted as Pakistan’s Prime Minister, and successive changes in the office of chief ministers of the province – the local government elections seemed to be least of the state’s concerns. The economic crisis, marked by the inflation rate exceeding over 40 percent, further diminished the likelihood of holding LG elections.

In such a climate of confusion and doubt, it has been hard for women representatives of the LG systems to see a future; local government elections are out of sight, funds are hard to get and men are too controlling. The absence of a robust LG system is becoming a norm.

“I’ve been unable to get work done,” said Yasmeen Akhtar, who claimed she was a ‘sada bahar councillor’ – a seasoned, all-time councillor, after serving her community for two terms on elected seats. “I’ve been around for long”, she says, and in her years of service she has got road works done, solid waste disposed off, and water supply laid in Toba Tek Singh. Alongside, she has arranged marriages, ordered *lehengas* and *jahez* (wedding

dresses and trousseaus) for brides, advised them on reproductive healthcare and if their marriages became troublesome, she has counselled to save their relationships. She has also mediated domestic violence cases.

In the situation of political uncertainty, “getting work done is impossible. I have no funds,” she said.

Still, Yasmeen is undeterred – “I continue to help people of my community because they need me and I need them to vote for me in elections.”

Usually, the understanding of Local Governments in Pakistan is focused on efforts to interpret various local governments acts and experiments undertaken by both non-elected and elected governments. As such, discussions are limited to procedural matters, and provide a ‘top-down’ view of what is democracy’s key institution. Ordinary people, particularly women and other marginalised communities, who are the ones most affected by local government systems, are left out of the equation.

Based on interviews with women from grassroots communities, members of local CSOs, including members of the Simorgh team that is working for women’s political empowerment in districts Lahore, Kasur and Toba Tek Singh of Punjab, this paper is an attempt to provide insights into the ways ordinary people – those who are most concerned with the way local governance works – perceive and experience local government.

WOMEN, POLITICS AND LOCAL GOVERNMENTS

The Local Government (LG) system provides a space for democratisation, empowering women and marginalised sections of the society. It allows aspiring grassroots politicians an opportunity to emerge as leaders, enables women and minority communities including trans groups to exercise agency through representation and encourages broader public participation in decision-making processes.

LG representatives gain a greater understanding of what the local people need, making this institution essential to democracy. However, the history of LG in Pakistan has been patchy.

The local government system has been scarred by lack of political commitment on part of political governments and in complete disregard for people’s democratic rights in Pakistan. In the country’s largest province, Punjab, the LGs have largely remained dormant, if not non-existent. The last LG elections were held in 2015, that is eight long years ago. The bureaucracy is currently performing the essential functions of the local governments.

COMPLEX PICTURE OF LOCAL GOVERNMENTS

General Ayub Khan was the first to introduce the LG system in the country through the Basic Democracies Ordinance 1959. The system was marred as it was designed to centralise power rather than devolve it to the people. Zulfikar Ali Bhutto introduced the concept of local governments in the 1973 Constitution under Articles 32 and 37, in the section entitled ‘Principles of Policy’. However, the LG elections were not held during his term in office. General Zia-ul-Haq and General Pervez Musharraf activated the local governments on a non-party basis during their dictatorial rules in the country. In fact, Musharraf provided 33 percent representation to women across all three tiers of local governments in Pakistan.

Oddly, but for strategic reasons, the military dictators, Ayub Khan, Zia-ul-Haq and Pervez Musharraf gave more importance to local governments than political governments in Pakistan. Yet, the military rulers did not strengthen the local governments because they did not grant them constitutional protection.

The 18th Constitutional Amendment devolved the LG to provinces under Article 140-A on the basis of elected representation. Punjab developed its own local government law, Punjab Local Governments Act in 2013, which provided for reserved seats for women (and other marginalised sections) in varying numbers to be filled through indirect elections. It also reduced women’s representation from 33 percent under LGO 2001 to 15 percent.

Local government elections were held in Punjab in 2015 by the Pakistan Muslim League-Nawaz (PML-N) government. The Pakistan Tehreek-e-Insaf government (PTI) of Imran Khan dissolved the LG on April 30, 2019 before the completion of its 5-year term. However, the Supreme Court of Pakistan declared the dissolution of local governments unconstitutional and restored them in March 2021.

After the PTI government was removed in Punjab, an intense tussle between the government and the opposition followed over a new local government law for most of 2022. The Punjab Assembly passed the Local Government Act 2022 (Act XXXIII of 2022) which came into effect on Nov 16, 2022, and repealed the Local Government Act 2022 (Act XIII of 2022) which was promulgated by the PML-N government.

IN PURSUIT OF EQUAL NUMBERS

As per a report compiled by Women in Struggle for Empowerment (WISE), titled *Preventing Political Marginalisation of The Poor – An Analysis of Share of Women, Peasants, Workers and Non-Muslims in Local Governance in Punjab*, Pakistan's local governments have failed to empower women and marginalised communities.

Showing the troubled history of local governments in Pakistan as exemplified in the Punjab, the report states that the LGO 2001 system provided 33 percent representation to women (as well as workers, peasants and minority candidates) in all LG tiers – in district or city, tehsil and town level. “As a result, under LGO 2001, around 36,000 women entered local governments across Pakistan, filling 90 percent of the seats reserved for women”. However, major changes were made in the Local Government Ordinance 2001 through promulgation of the Punjab Local Government (Amendment) Ordinance 2005, and, “...the number of seats in a union councils were reduced to 13 from 21. The major reduction of seats occurred on the Muslim general seats as their number was decreased from 8 to 4. Reserved seats for women were lowered to 4 from 6. Over all a total of 24,000 seats were available to women in 2005 LG system, showing a decrease of around 12,000 seats from 2001 system.”

The Punjab Local Government Act 2013 followed the Local Government Ordinance 2001 in which, “The representation of women was significantly reduced from 33 percent to an average 15 percent at various tiers of the local governments in Punjab. A total of 9,286 women represented themselves in 4,244 local government units across Punjab. Their highest representation was 15.4 percent at union council level. In upper tiers it was further down to a minimum of 7.8 percent at metropolitan level.”

Under PLGA 2013, the average ratio of women's representation in all tiers of local government institutions in Punjab was around 14.9 percent... “The maximum ratio of women representation was 15.4 percent at the levels of municipal corporations and union councils. While the lowest was 7.8 percent at level of Metropolitan Corporation.”

The Punjab Local Government Act 2019 followed the Punjab Local Government Act 2013, which introduced two parallel LG laws – Punjab Local Government Act 2019 and Punjab Neighborhood Council and Village Panchayat Act 2019. The twin laws provided for direct election on reserved seats for women, peasants, workers and non-Muslims. “The polls under PLGA 2019 would be held on party basis to induct some 11,138 to 20,412 candidates; including women, peasants and non-Muslims in 455 local government units across Punjab. But the Neighborhood Council and Village Panchayat elections would be held on a non-party basis.”

Before LG Act 2019 could be fully implemented, the Punjab Local Government Act 2022 was introduced for the local governments in Punjab. Section 2 of PLGA 2022 defines youth, workers, traders and farmers. However, they are left as gender neutral with no distinction being made between male and female youth, male and female traders, workers, farmers and peasants. “Looking at past trends”, the Report expresses fears “that these reserved seats will mostly be filled by men”, and stresses that to ensure the equitable representation of girls and women, reserved seats should include minorities and girls, and stresses that “each such position should have been bifurcated i.e. 01 seat for female and 01 seat for male youth, minority members, workers, farmers, peasants, etc. The Report also stresses on the need for Pakistan to think beyond the 33 percent mindset i.e. 33 percent seats for women in parliament, provincial assemblies and local councils – “Why should it not be 50

percent when women make up half of Pakistan's population?"

According to the formula laid down on the composition and structure of seats in the LG Act 2022, women have a much less chance to get elected on the general seats in the first place, and reaching or working on managerial or decisive positions like mayor, deputy mayor, chairperson or speaker will not be easy. "It is most likely that this trend will continue even in the upcoming elections for local governments. If this trend continues, women's representation will be only 15 percent."

The report states that experience from past local government setups suggests that women who get selected or elected on reserved seats have only ceremonial or token representation. In many instances, it adds, only those women had been able to reach the councils on the reserved seats who were either close to powerful quarters or those who were represented by their husbands, brothers or fathers.

WOMEN AS COMMUNITY LEADERS

Since 2019, Simorgh has been working with grassroots communities in three districts of Punjab: Lahore, Kasur and Toba Tek Singh on women's political empowerment with a strong action research component. Titled Fempower, this project is part of a consortium on women's political empowerment with ShirkatGah as lead partner. The overarching sentiment recorded by the researchers was that women had joined politics out of their own interest in community work, and their families had supported them in every way, although they were not entrusted with authority and power to exercise their abilities fully. This showed that though women were ready to assume new community roles, men have the power to hold them back in their pursuit of their empowerment.

The researchers interviewed women councillors representing the three tiers of local government in Punjab: district councils, municipal/tehsil councils and union councils. The selected group of interviewees comprised those elected on general seats as well as those selected on reserved seats for women in local government elections held in 2015. A number of them had served as party workers previously so they were more independent.

It was observed that the ones elected on general seats exercised greater authority than those nominated on reserved seats. In Kasur, for instance, all women councillors were selected on reserved seats and as such were given the least value by male councillors and colleagues. That this attitude was not limited to Kasur is borne out by an example from Lahore, where despite the slightly elevated status granted to elected women representatives, a woman councillor was forced to step down, as the town Nazim was 'uncomfortable' with her position.

The educational qualifications among the selected interviewees varied between no-schooling and Masters degrees. Irrespective of their educational background, they all expressed keenness to acquire training in LG systems to enhance their capacity.

Women councillors complained of men unnecessarily creating obstacles in their way to serving their community. A councillor in Toba Tek Singh said men rarely informed them about scheduled meetings related to their work. Another one faced problems because her party affiliation was different from her in-laws. Her husband did not support her work; this led to arguments and domestic violence.

Even though they did not enjoy any benefits as councillors – no salaries or allowances – the women councillors were determined to persist with their work; they thought the position gave them a status and a feeling of importance.

CHALLENGES FACED BY WOMEN COUNCILLORS

MALE DOMINANCE

Women councillors said they faced challenges particularly from their male colleagues. They are not welcome at council sessions, and male members feel uncomfortable in their presence. Therefore, their fathers, husbands or brothers attend council meetings on their behalf.

This has impacted their performance as well as their reputation as councillors. They said that as women councillors, their understanding of women-related concerns is more in-depth and real than that of their husbands, sons or brothers, who in any case have an 'outsider's' view of women's issues. Consequently many community concerns, especially those of women remain unaddressed, and women councillors get the blame.

The researchers observed that men dominated budget sessions and council meetings. It was therefore difficult for women councillors to be heard when they raised their concerns. As such, their position was nominal and they had no role or authority in municipal affairs. Even the more experienced ones were reluctant to handle police cases and asked their husbands, brothers or sons to represent them before the police.

However, despite the non-conducive work environment, women councillors were adamant that they want to work for their community. They were not reluctant in approaching local chairmen or using personal contacts to get work done.

FUND ALLOCATION

Women councillors unanimously complained they had no access to the allocated funds. They stated that the chairmen controlled the flow of money that was never passed on to women councillors – unless they had good relations with them or used powerful political connections. The chairmen appropriated most of the powers, including control of budget, transport and other expenses. They said they had not undertaken any development work for the simple reason that neither were they given any information about the union council budgets nor were they involved in budgetary meetings.

In one instance in Kasur, the funds allocated to a district councillor were used for organising a sports event. This was just a one-time surprise allocation of funds.

An experienced district level woman councillor in Kasur, who had been elected twice to local government bodies – once through direct elections and once on reserved seats – stated she was able to get funds for her work through family members who had connections with parliamentarians. This enabled her to bypass procedural requirements and get on with her work.

Family connections and favouritism (if councillors had 'good relations' with higher authorities) emerged as a significant factor in enabling women to work around the gender bias among male local body members. At the same time it also undermined procedural rules and regulations of local governments.

WOMEN'S MOBILITY

A perennial cause of frustration among all women councillors was that: "*Mardon ke baghair kuch nahi ho sakta*" – nothing can be done without men by our side. This is more so because of women's dependence on men for transportation. Women's mobility is governed by social and cultural norms that dictate that a woman must have a male escort when she leaves the home. This restricts their ability to travel freely and unaccompanied.

ACCESS TO MOBILE PHONES, LAPTOPS AND INTERNET

Men control women's critical resources, like cellphones and internet access. For instance, because of Covid-19 lockdowns, project activities had to be modified. This included a shift from face-to-face meetings to online communication. The Fempower team took the decision to divert the money thus saved towards financial relief to the most vulnerable in the communities. The survey undertaken in this regard, along with the shift to online communication, confirmed women's low access to communication resources. Zoom and WhatsApp meetings revealed women's lack of ownership and access to smartphones, laptops and internet facilities as they had to rely on men for these facilities. The refusal or reluctance of men to hand over the mic or phone to women participants during discussions indicated that women get limited opportunities to express unmet needs.

Similarly during relief dispersal, it was found that women who most needed relief were reliant on telephones owned by male members of the family. As a result, in some cases they failed to access relief money which was claimed by men who owned phones and who were the first to be notified that the money had arrived.

At the same time it was found that women were quick to learn how to handle new technology. Given their poor access to smartphones, laptops and internet connectivity as well as low literacy levels, this bodes well for future communication.

LEVEL OF EDUCATION

The literacy levels of women workers the Fempower team engaged with was on average low. It varied between more no-schooling and a few Masters degrees. However, regardless of their educational qualifications, all the women expressed keenness to acquire training in LG systems to enhance their capacity. Clearly, the low level of education is an obstacle in challenging gender roles in LG politics. Equal male and female access to quality education will ensure equal participation of women in public and political space.

ALLIANCES WITH CIVIL SOCIETY AND COMMUNITY BASED ORGANISATIONS

Local Community Based Organisations (CBOs) and local government institutions work hand in glove. However, and specifically in Punjab's context, in the absence of LGs, and hence the lack of civic ambitions and leadership, the CBOs have played an instrumental role in promoting democratic values by staying close to the people they serve. They have kept the people informed and have strengthened democracy through citizen participation. They assume the role of missing councillors, influence decision-making, and promote participatory local governance. They are considered as stakeholders in policy-making processes.

Yet, the Fempower team's findings show that though the CBOs working in the three districts of Lahore, Kasur and Toba Tek Singh in Punjab facilitated citizens' particularly women's political participation on the ground to some degree, they themselves lack the absorptive capacity and organisational skills to maximise their potential. For instance, during one meeting in Toba Tek Singh with CBOs and healthcare representatives and social workers, the researchers had to repeatedly encourage them to list the activities they had undertaken in their areas, report the progress they had made and suggest a timeline for completing the projects. The researcher leading the session had to painstakingly record their activities on chart paper to demonstrate the efficient approach to solving community problems. She had to refer to previous sessions, the suggestions made during those sessions, and point out instances where they fell short of meeting the efficiency requirements.

The CBO partners also demonstrated poor report writing skills and late submissions of reports. Training workshops were held to strengthen their institutional capacity in areas of proposal writing, project M&E, social accountability and finance management.

Therefore, to enhance the capacity of CBOs and bolster their role as active participants in society with a clearer

understanding of community issues, the Fempower project engaged them in various activities that would pave the way towards gender equality and inclusive democratic governance systems.

REGISTERING WITH NADRA

As part of an advocacy campaign, themed 'From Voters to Representatives', the project team partnered with CBOs to link community members to the local display centres for registration related issues, such as correction and transfer of votes to new addresses or on the basis of marital status.

They carried out awareness actions on the process and importance of computerised marriage certificates (nikahnama). They stressed on how CNIC registration is linked with computerised marriage certificates, B-form registrations of children and voter registration of married women, and access to Sehat Sahulat Programme, Kafalat, Naya Pakistan Housing Scheme, Waseela-e-Taleem and other safety net programmes.

It was found that because of illiteracy and lack of relevant information, a majority of women were either unaware of the significance of these documents or unaware about the process of acquiring them. A CSO representative reported there were almost 1,500,000 women in Kasur who did not have National Identity Cards (CNIC) in the last LG elections. To facilitate the CNIC process, mobile Nadra van services were requisitioned at all project sites, thereby enabling women and the elderly to get themselves registered with ease.

DEVELOPING SOCIAL ACCOUNTABILITY ACTION PLANS

To develop and implement Social Accountability Action Plans, CBOs were facilitated to increase access of the communities towards citizens' basic rights. For instance, a CBO, Commission for Research and Human Development (CRHD), from district Lahore raised its voice against the unavailability of Sui Gas in the residential area of Misri Shah in Lahore. The CBO, along with some active local women, filed a complaint with the Sui Southern Gas Company (SSGC) and was successful in rectifying the problem. This action benefitted 300 households in the area.

The Simorgh team conducted awareness sessions on the use of other social accountability tools e.g. online portals and apps, helplines, complaint processes to increase community participation for improved public service delivery.

REDUCING GENDER DISCRIMINATION

The patriarchal behaviour of some community based organisation (CBO) partners is a major challenge to women's political empowerment. Men assume leadership roles, control resources and decision-making. At a few project sites male participants tried to dominate the conversation and usurp the women's leadership roles. To mitigate this risk, the CBO partners were requested to nominate a female representative from their organisations to take part in project activities that are especially designed for female participants.

STRENGTHENING WOMEN'S POLITICAL PARTICIPATION AND LEADERSHIP

In February 2022, the Election Commission of Pakistan (ECP) announced to hold the Local Government (LG) elections on May 29, 2022, in 17 districts of Punjab, after which CBO partners geared up to conduct community level seminars, awareness sessions and meetings to highlight the need of women councillors at community level to promote gender equitable governance at grassroots level. These sessions aimed to encourage community members to identify potential female candidates for the LG elections. Almost all CBO partners in Toba Tek Singh and a few in Lahore and Kasur organised these sessions with emphasis on the need to promote women in leading positions.

TRAINING TRAINERS TO LEAD

A leadership training of trainers (TOT) was organised with CBO partners in Lahore to enhance participants' leadership capacity as change makers. The workshop focus was on gender-based systems; intersecting systematic discriminations; citizen-state relationship, human rights-based development approach and the importance of advocacy to amplify their voices.

PERSONAL WELL-BEING

Recognising the personal as political, different awareness sessions were organised on the rehabilitation of differently abled children, women's sexual and reproductive health, menstrual health and hygiene, postnatal care and adverse effects of drug use and addiction.

GENDER-BASED VIOLENCE

Sessions were conducted with community women on incidents of gender based violence for better understanding of the issue of violence against women. One CSO carried out a training session with community women in self-defence techniques to protect themselves from any kind of physical attack. Another session on cyber harassment was carried out to create awareness on online harassment.

SKILLS TRAINING

The CBOs initiated training in computer literacy and small business trades, such as tie and dye, soap making, dish cleaner and detergent making to improve their skills and start their own businesses with low resources.

CHALLENGES IN COLLABORATING WITH CBOS

POLITICAL TURMOIL

The CBOs have had to overcome many barriers to sustain their role in the civil society. The persistent political unrest since the ouster of Imran Khan's Pakistan Tehreek-e-Insaf (PTI) in April 2022 delayed the local government elections. Initially they were scheduled for May 2022, later shifted to April 2023. With the ongoing political turmoil, it is uncertain when the local government elections will actually be held. Frequent changes in local government laws and delays in holding the elections have both disappointed the LG candidates and disrupted their activities.

ECONOMIC CRISES

The Pak rupee losing value against USD, almost 40 percent inflation, and unprecedented spike in the cost of living have affected the lives of ordinary citizens particularly those living on or below the poverty line.

UNINVITED MALE PARTICIPATION

Male CBO heads had helped arrange 'women's only' discussion sessions and provided them with meeting space and internet facilities. However, it was observed that during these sessions, they found it difficult to hand over control of the proceedings to women participants. Not only did they refuse to leave the sessions; they consistently interrupted women speakers and often refused to give them the mic or mobile phone. It took sustained effort by the Simorgh team to convince them of the fact that these were women specific sessions where women could comfortably share their experiences, and not spaces for men to tell women what they should do

or explain their experiences to them.

ACCESS TO MODERN WAYS OF COMMUNICATION

The limitations of the CBOs working in the selected research area became more apparent during the COVID lockdowns. They were not well-versed in modern communication methods, which made the transition from in-person to virtual communication challenging. This was further exacerbated by fragmented internet connections. Additionally, it was reaffirmed that most CBOs are male-led, with communication channels predominantly controlled by men.

KHULI KATCHEHRIS

Although the project team found that presenting community demands to government officials in Khuli Katchehris (open courts) is an effective platform for voicing community concerns, including those of transgender people, the CBOs in Lahore, Kasur, and Toba Tek Singh displayed a lack of interest in attending such meetings as they were reluctant to share space with ex-councillors and political workers.

VOICES FROM THE FIELD

The following voices from the field illustrate that based on information and capacity building, women can effectively take part in meaningful public political life.

RAFIA ASHFAQ

“Being a woman I have struggled hard to justify my position as many of my male colleagues tried to dislodge me from my position, but I kept my focus on my work which showed results too. I have learned a lot from this project – women and community issues were raised on which communities never talked before. I have mobilised people, talked to them and identified their problems with them – and have been successful in solving some of them. One of such examples is the project led Khuli Katcheries where we mobilised marginalised community members to raise their voice in front of higher officials to get their problems solved.

As CSO members we identified broken roads, violation of traffic rules, insufficient health facilities, voter registration, cleanliness, unavailability of clean drinking water and damaged sewerage issues and brought them to the notice of government officials in project led Area Support Network meetings. As a result many of these issues were resolved. We ran advocacy campaigns at community level to increase awareness among local women and connected them with local officials and service providers and raised women’s awareness through the Women’s Political Forum. I have also learned through this project that nothing is impossible – when we struggle, work gets done and solutions can be found. I have also learned the importance of mobilising women.

Before this project I held a prestigious position in a reputed social welfare organisation of Toba Tek Singh but I lacked confidence and was unable to talk directly with government officials. This was mainly because such work was done by male colleagues. Through this project I have learned to present my point of view, develop my communication skills and have gained confidence.”

SAJIDA PARVEEN

“I have been working with Pakistan Bhatta Mazdoor Union – this project has taught me many different things (e.g. kitchen gardening and rescue techniques) that I have never learned before. I have attended Area Support Network and Women’s Support meetings in this project and worked with Tahafuz Markaz to resolve disputes, and have accessed NADRA 5 to register ID cards and B-forms, proceeded FIRs against the sexual assaults through the help of CSO and media partners such as Sultan Mehmood. This project gave me the opportunity

to sit with like-minded women and identify the problems which many women are facing alone. This project taught me that a woman should have confidence in her actions, where she should go, whom to talk to and where to present her problems.

As this project has contributed to teach me about the services offered by different government departments, provided platforms where I presented my issues and got them solved. I have visited many departments e.g. 1122, Sanatzar, Food Authority, Aab-e-Pak, PCSW, Labour department, Women Ombudsperson. I'm hoping to take the work forward in future. I'm also sharing the information I received through Fempower with brick kiln worker women about why a woman should come out for herself and where to go to seek justice. I would appreciate it if more such programmes are designed for the empowerment of women in our district."

THE WAY OUT

Over the years, not much has changed for women on the ground. Their participation in local government politics continues to be marginal due to limited space provided to them in local government systems, men controlling their decision making and assets, including low levels of education and much more. Research conducted under the Fempower Pakistan - Feminist Leadership for Accountability and Political Rights programme, where researchers engaged with dozens of grassroots women workers in collaboration with partner CSOs, healthcare and other community representatives, revealed that though women have begun to raise concerns not exclusive to women but also those that concern men, still they overwhelmingly voice preferences of the male members of their households, be it husbands, sons, fathers, or fathers-in law. Even in cases where women have been granted greater guarantees to be equal participants in political processes, they are denied the opportunity to express their preferences, and continue to face barriers to equal representation and participation in political processes. They may spearhead activities, such as re-laying of roads, disposing of waste and applying for identity cards and other documents, yet they still act as a 'front' for their men.

In spite of that, it was observed that women councillors play power politics themselves too - in the same way as their male counterparts. It indicates that women have internalised male mainstream norms and behaviours because they think that such behaviour is a sign of success in the world of politics.

As expected, in a patriarchal society like ours, men hinder women's empowerment. Men not only exercise control over women's access to education, family assets and employment opportunities but also closely monitor their daily activities. Men often accompany women workers to LG meetings, where they control the discussion. Additionally, women's access to mobile phones, laptops and Internet connection is limited. They depend on their fathers, husbands and sons for transportation.

Therefore for any social change to come about, men must be involved in all activities and advocacy and awareness sessions on an equal footing as women. Segregating them during meetings and activities has not generated satisfactory results. This was confirmed by Ali Cheema, Sarah Khan, Shandana Mohmand and Asad Liaquat, in the research paper titled, *Canvassing the Gatekeepers: A Field Experiment to Increase Women Voters' Turnout in Pakistan*. It states:

"Situations where prevailing attitudes and norms are permissive of women's participation but where women depend on men to enable participation for the reasons discussed above provide a window of opportunity for effecting change in the short-term... Interventions that encourage men to take enabling actions may be successful in improving women's participation. Moreover, as women's participation depends on such actions, interventions that leave men out are likely to be unsuccessful."

It further argues that gatekeeping by men...

"... manifest(s) as direct control over women's participation through explicit formal or informal restrictions or indirect control, whereby women depend on men to enable their participation."

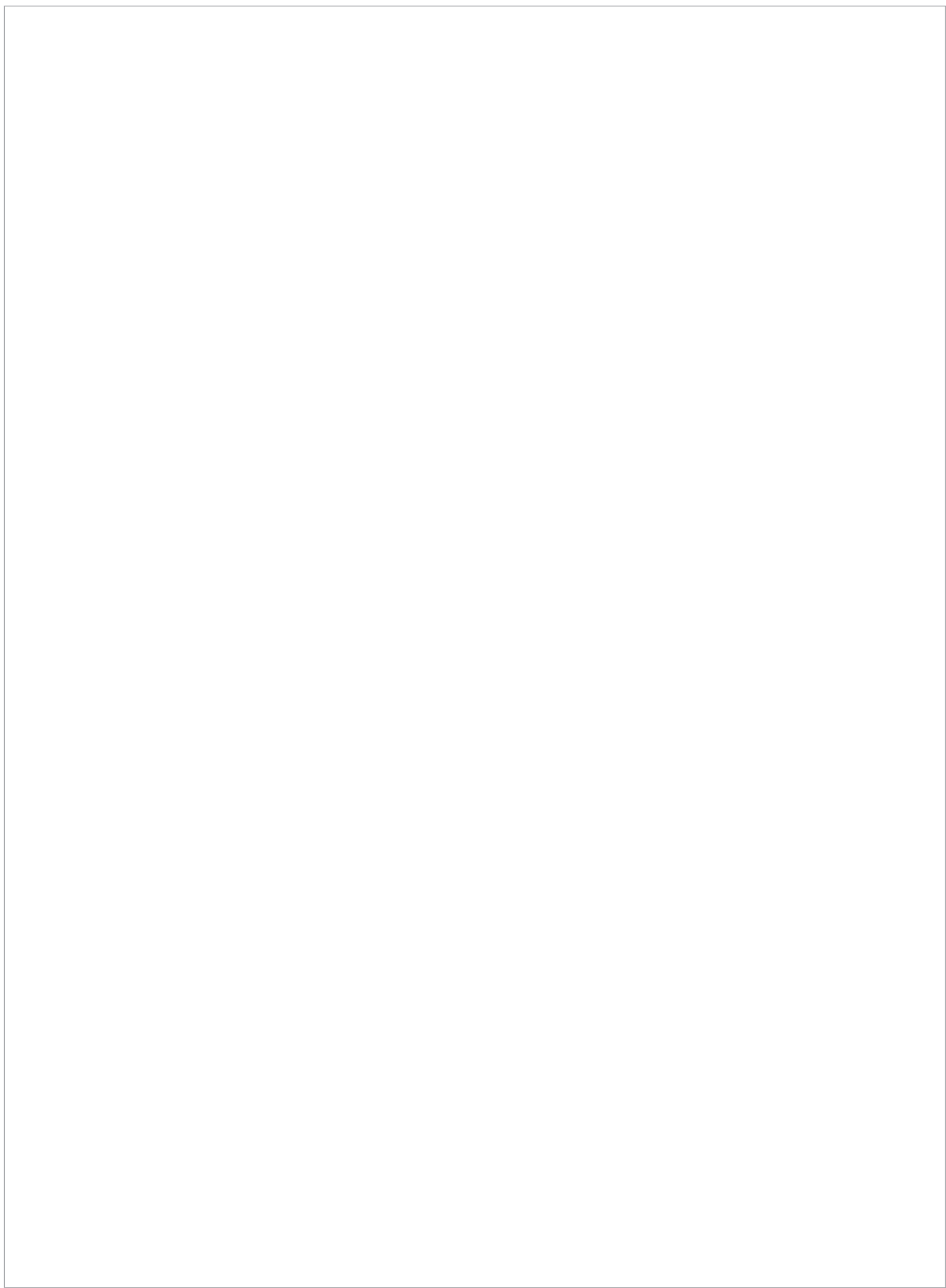
Despite tall promises of higher women's representation in local governments by lawmakers, the outcome has been disappointing. The lack of political will to create more space for women's participation on grassroots is

reflected in the frequently changing LG laws. The number of seats reserved for women has decreased over time. From the 33 percent women's quota guaranteed in the LGO 2001, the quota has been reduced to a mere 10 percent in the new LG Act of 2022.

The lack of standard education for women and girls is another impediment in the way of empowering grassroots women. The project team noted that education levels of their women partners and interviewees varied from no formal education to Masters degrees. Expansion of girls' education will be viewed as fundamental to women's effective participation in local politics. Education will change their mindset and enable them to set clear goals.

In a province with a history of inconsistent local governments, where they appear one day and disappear for an extended period on the next, facilitating women led CBOs and building their absorptive capacity including those already in the field, is of paramount importance. Their capacity to handle organisational matters, including report writing, and their access to modern communication tools, such as smartphones, will enhance their role as agents of change in a society where the political landscape is visibly unequal. A supportive political and economic environment, improved strategies for addressing climate changes, and training to challenge male dominance while fostering professionalism will contribute to creating space for women in grassroots politics.











"THE PEOPLE" A PHOTO NARRATIVE BY RAHAT DAR AND OTHERS



Rahat Ali Dar

ABSTRACT

Democratic uncertainty in Pakistan worsens with economic recession and high unemployment, especially among marginalised groups. These communities suffer from poverty and exclusion from governance, leading to frustration and alienation. Despite efforts, their voices and local knowledge are ignored, contributing to Pakistan's turbulent democratic picture. Rahat Dar's visual narrative, "The People", depicts the struggles of marginalised individuals - women, children, and wage workers - striving to support their families amidst overlooked hazardous labour which sustains households and the nation's economy, and highlights the core of local democracy.

BACKGROUND

A photojournalist, Rahat Ali Dar uses his camera instead of words to tell his tale. Dar began his career as a photojournalist with the daily Siyaasat where he soon made a name for himself. Since then he has worked with some of Pakistan's major newspapers which include Nawa-e-Waqt, The Frontier Post, The Nation and currently, with The News. Other than these he has worked for weeklies such as Viewpoint and Newslines including BBC Urdu. His sense of the newsworthy and ability to be at the right place at the right time has resulted in photographs that capture significant moments of Pakistan's lived history. These include scenes from Benazir Bhutto's processions, police violence at a Women's Action Forum protest and a serial of the Saima Waheed marriage by choice case that resulted in the Supreme Court judgement on the adult woman's right to marriage of choice. Dar's work has been displayed in international art galleries including in India.



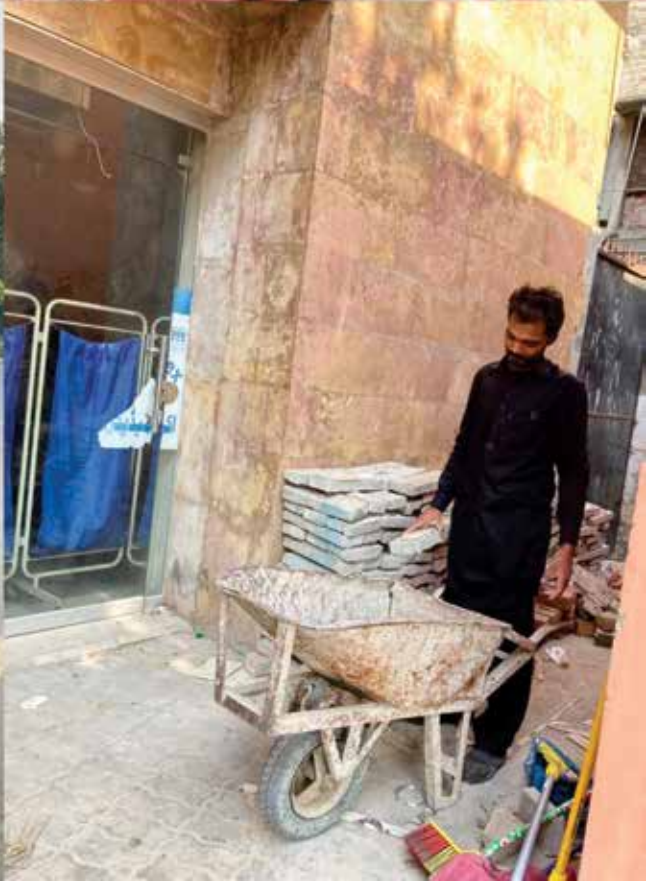












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