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Pakistan's institutions: we know they matter, but how can they work better?

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Pakistan's Institutions:

We Know They Matter,
But How Can They
Work Better?



Edited by

Michael Kugelman
and Ishrat Husain



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We Know They Matter, But How Can They Work Better?

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Turning Around Pakistan's Struggling Institutions

Michael Kugelman

Back in 2012, a Pakistani professor named Farakh A. Khan issued a dire warning about the state of his country's public institutions.

"Pakistan suffers from institutional failure," he declared in an essay published about a year before his death. "Failed institutions are unable to correct the problems faced by the society and eventually lead to economic failure... If our leaders are sincere for change in Pakistan then they have to first get the institutions working again. But do they know how or have the will to do it?"¹

Today, the state of Pakistan's institutions of governance remains poor, as illustrated by a slew of measures. The World Bank's latest Worldwide Governance Indicators, based on data from 2016, rank Pakistan in the 29th percentile for government effectiveness, the 27th percentile for regulatory quality, the 20th percentile for rule of law, and the 19th percentile for control of corruption. Pakistan fell from 144th place in 2016 to 148th place in 2018 in the World Bank's ease of doing business rankings. The latest United Nations Development Program Human Development report, published in 2017, ranks Pakistan 147th. The country improved its position on the World Economic Forum's Global Competitiveness Index in 2017, though it was still a lowly 115th out of 137 countries, after coming out 122th in 2016.²

News headlines in Pakistan repeatedly attest to the struggling performance of public institutions—and the highly deleterious implications for the Pakistani people. Consider, for example, what happened over just a one week period in February 2018: Officials in Islamabad admitted that due to

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the poor planning of civic management institutions, less than 40 percent of the city's water needs were being met; an audit report found that government-run hospitals in Sindh province participated in an embezzlement scheme that led to the purchase of substandard medicines worth billions of rupees; and the Supreme Court dissolved the Pakistan Medical and Dental Council, the regulatory body that registers all qualified medical personnel, following complaints that it failed to prevent the establishment of dozens of medical facilities "of compromised quality."³

The reasons cited by analysts for Pakistan's institutional struggles are varied and complex. They include the politicization of the civil service, which has resulted in institutions populated by unqualified political appointees; a strong legacy of military rule, which has undercut and degraded civilian tools of governance; deep institutional dependencies on donor organizations, which constrain the ability of institutions to craft long-term policies; a lack of institutional revenue, thanks in part to Pakistan's woefully low tax base; the political class's insufficient interest in improving the public welfare; and the state's outright neglect of institutions and needed governance reforms.⁴

The consequences of these struggles are stark and sobering: Ineffective institutions complicate efforts to develop and implement effective public policies. This means that Pakistan's broader development challenges—which range from food, water, and energy insecurity to widespread public health epidemics and millions of out-of-school children—will remain in place, if not worsen.

Additionally, Pakistan's institutional shortcomings pave the way for the military as well as problematic non-state actors—including charitable groups tied to militant organizations—to step in and fill service delivery roles that civilian institutions are unwilling or unable to serve. This dynamic not only further marginalizes civilian institutions—it also undermines the institution of democracy. In short, Pakistan's institutional failures have troubling economic, development, and political implications for state and society.

Given the significance and far-reaching consequences of institutional struggles in Pakistan, the Wilson Center and the Fellowship Fund for Pakistan hosted an all-day conference on the topic in 2017. The event

focused on the problems, but also on the encouraging reforms and success stories that highlight the possibilities for turning institutions around for the better. Edited versions of the papers presented at the conference appear in this volume.

Institutional Struggle, Economic Malaise, and Incremental Reform

Professor Khan's warning of economic failure may have been premature. In recent years, Pakistan has enjoyed increases in annual GDP growth and plunges in its average inflation rate, among other macroeconomic bright spots. At the same time, however, the country's overall economic performance has lagged, particularly in relation to that of its neighbors. While Pakistan was one of the top economic performers in the developing world over the first four decades of its existence, its economic fortunes took a major tumble in the early 1990s—with its growth rate plunging from 6.5 to 4.5 percent. “The most powerful explanatory hypothesis” for this shift, writes **Ishrat Husain** in a comprehensive opening essay, is not a worsening security situation, patterns of foreign assistance, disproportionate defense expenditures, or external economic factors, among other frequently cited explanations, but rather “the decay of institutions of governance.” He highlights a range of data from many countries, including Pakistan, which underscore the strong, direct links between good governance and robust economic performance.

Husain, a Wilson Center global fellow and one of Pakistan's most distinguished economists, lays out an “incremental and selective” reform plan to make his country's institutions work better. Acknowledging the likely resistance from vested interests and other powerful stakeholders if there were to be wholesale, across-the-board reform, Husain instead identifies about two dozen institutions—focused on service delivery, justice, oversight, and several other spheres—that should be the subject of initial reform. He calls on Pakistan's fractious political class to reach a consensus on the urgent need for institutional reform, noting that political parties would be major beneficiaries. Better institutions, he notes, would mean major improvements in accessing and delivering basic services—“a

dramatic transformation that would bolster the public's confidence in a political class that today is highly unpopular.”

Parliament, the Judiciary, and the Board Room

Three essays focus on prospects for governance reform within three key institutions—the legislature, the courts, and state-owned enterprises. **Ahmed Bilal Mehboob**, the president of the Pakistan Institute of Legislative Development and Transparency, or PILDAT, focuses on Parliament. Because political party leaders in Pakistan are so powerful, he explains, most policy decisions are made from the top and parliamentarians consequently don't play a major role in the policy process, or in Parliament on the whole—even though Pakistan is a parliamentary democracy. Instead, members of parliament (MPs) spend as much as 85 percent of their time outside Parliament addressing the concerns of their constituents and focusing on local development. As a result, Mehboob writes, MPs face little scrutiny or expectations from the public regarding their performance in Parliament. And yet, this neglect of parliamentary duties ensures that Parliament has little to no role in policy. “It is perhaps ironic,” Mehboob writes, that “despite being a key political institution... Parliament remains completely irrelevant in resolving any political crisis.” Additionally, it has no ability to “discuss, much less lead, a comprehensive reform process on major policy issues.” To this end, he presents a blueprint for parliamentary reform meant to empower the legislature “to lead and steer” the policy reform agenda.

Waris Husain, an adjunct professor at Howard University School of Law, highlights needed reforms in four areas of Pakistan's judiciary. First, he faults the civil-military imbalance in the courts. Two recent developments, he writes—the judiciary's failure to prosecute former military leader Pervez Musharraf and the formation of military tribunals to prosecute terrorism suspects—highlight how Pakistan's military has dealt blows to the judiciary's power. Second, he laments the judicial appointment process, which involves judges themselves overseeing appointments and prevents elected officials from weighing in. Third, he calls for changes to Pakistani bar councils, which evince a “protectionist attitude” and frequently fail to

sanction or discipline lawyers who intimidate and even physically assault judges. Fourth, he calls for better security for the legal profession. Lawyers, Husain writes, “represent an inherent threat to extremist groups, which thrive on lawlessness.” And yet investigations find that the state repeatedly fails to provide sufficient protection.

Mehmood Mandviwalla, highlighting the power of Pakistan’s large banks, underscores the importance of good governance within Pakistani public corporations. Mandviwalla, a barrister and partner at the Mandviwalla & Zafar firm, notes that Islamabad announced a Code of Corporate Governance in 2002. This code has instituted regulations—which have in turn been implemented by the Securities and Exchange Commission of Pakistan—that aim, among other things, to strengthen boards of directors and clarify the role and responsibilities of senior corporate officials. Mandviwalla also cites earlier efforts by Islamabad to promote better corporate governance, including a decision in 1997 to replace the senior leadership of Pakistan’s three largest banks. Ultimately, he concludes, good governance depends on the behavior of the individuals that lead public corporations. “No amount of regulation, codes, or standards can replace the integrity, honesty, and responsible conduct of a director in a board room,” he writes.

Case Studies from Punjab

The final trio of essays focuses on institutional reform efforts in Punjab, Pakistan’s most populous province. **Madiha Afzal**, a nonresident fellow at the Brookings Institution and an adjunct assistant professor of global policy at SAIS, offers a largely skeptical appraisal of local government reforms in Punjab. The Local Government Act of 2013, which went into effect in 2017, is meant to initiate a “rationalization and reorganization” of the local government system. However, Afzal contends that in reality this reform has undermined rather than empowered local officials. There is a logic behind this outcome, Afzal explains: Pakistani federal governments in civilian administrations tend to view local government politicians as threats to the power of Islamabad’s federal and provincial officials, because “the spheres of influence” of federal, provincial, and local officials all overlap. While local

officials have been weakened, provincial officials have never been stronger, according to Afzal—thanks in great part to a constitutional amendment passed in 2010 that devolved power from the center to the provinces. This broader political dynamic can be seen in the newly diluted role of Punjab's district education authorities (DEAs): "Because they are appointed by the province, answerable to the province, and can be removed by the province," Afzal explains, "the DEAs are a local government project in name only."

Adnan Q. Khan, the research and policy director of the International Growth Centre at the London School of Economics and Political Science; **Asim I. Khwaja**, the Sumitomo-FASID professor of international finance and development and co-director of Evidence for Policy Design at the Harvard Kennedy School; and **Tiffany M. Simon**, a senior research manager at Evidence for Policy Design, draw on their research on civil service reform in Punjab, with a specific emphasis on property tax collection. They argue that provincial tax collectors respond well to two types of performance incentives, with strong performance translating to more revenue collection. One incentive is a simple financial reward, which entails tax collectors receiving a bonus "directly tied to the revenue they collected above predefined benchmarks." The other incentive is an offer to transfer the tax collector to a new posting if revenue collection improves. However, the authors urge that a carefully calibrated approach be taken when managing these incentives. Their evidence, they note, suggests that bonuses every other year and one-time transfers may lead to better performance than annual bonuses and multiple transfers.

The final essay in this volume offers cause for optimism. **Umar Saif**, the chairman of the Punjab Information Technology Board (PITB), describes how provincial institutions have used technology and innovation to improve governance. The prime "instrument of choice" has been the smartphone—a device that works well because it is relatively cheap, portable, and "intuitive to use"; does not require constant power supplies; and, because it can be used as a personal communication tool, is flush with "social value." Saif chronicles a series of success stories. One is the use of Android phones to track dengue virus prevention efforts—a system used by "17 different government departments and hundreds of field workers." Another involves citizens' use of text messaging to report cases of corruption they encounter

with public sector service providers. Over 13 million citizens have utilized this system, and provincial authorities from 17 government services have taken “nearly 7,000 corrective actions.” Additionally, the PITB has used IT tools to digitize textbooks and monitor school facilities and teacher attendance. This rapid spread of “mobile governance,” Saif declares, is “unprecedented in public sector organizations.” This governance model is also a great bargain: It produces benefits of better institutional capacity and service delivery that are “significantly large to offset their nominal cost to the public exchequer.”

Recommendations

The essays in this volume offer a series of specific recommendations about how to orchestrate governance reforms within Pakistani institutions. Some appear below. They are listed not for the sake of endorsement, but rather to encourage debate about the best ways forward.

Guiding Principles of Institutional Reform

- *Emphasize gradual, incremental actions over rapid, comprehensive measures.* This can be done by singling out for reform a small group of institutions. The chosen institutions should be those that, once successively reformed, can also have positive crossover and spillover effects on other institutions. These institutions should be focused on accountability (such as the National Accountability Bureau and the Auditor General), security (such as the National Counterterrorism Agency and the Federal Investigation Agency), growth (such as the Federal Board of Revenue and the Trade Development Authority) and equity (such as the Pakistan Agriculture Research Council and urban development authorities).
- *Draw lessons from success stories in Pakistan and beyond.* Provincial government institutions in Punjab have used technology—at relatively low expense—to strengthen capacity in disease prevention, education, and anti-corruption efforts. In Khyber-Pakhtunkhwa province, officials

have implemented a promising local government reform plan that uses a third-party monitoring body to document gaps and failures in reform efforts. Additionally, a range of very different types of public institutions—including the National Highway and Motor Police, the State Bank of Pakistan, Indus Hospital, and Aga Khan University—have garnered praise for their strong performance. The reasons for their success are worth studying.

Further afield, Bangladesh and India offer lessons in how a handful of countries have still managed to perform relatively well economically despite major institutional constraints. In both of these countries, several key factors—prolonged macroeconomic stability, the continuity of economic policies even amid political transition, and (in the case of Bangladesh) the empowerment of nongovernment organizations to help with service delivery—have all ensured relatively robust growth. Additionally, legal precedents in India provide useful guidance on what role the courts should play in cases where state-owned enterprises are being privatized.

Specific Interventions

- *Implement legislative reforms geared toward improving Parliament's ability to carry out its three core functions.* These functions are drafting and passing legislation, providing oversight of the government, and representing citizens and their interests. Reforms should include increasing the number of working hours for parliamentarians; strengthening parliamentary committees so they can provide more robust oversight of legislation; empowering a petitions committee to take in complaints from the public; and providing more transparency by televising relevant Parliamentary deliberations more widely and making public more information, including MPs' voting records.
- *Undertake far-ranging reform within legal institutions.* Key steps include easing the military's considerable influence within the judiciary by strengthening civilian anti-terrorism courts; making the appointment process for judges more transparent by enhancing Parliament's

oversight role; introducing mechanisms in bar councils that ensure that lawyers cooperate with judges when accused of wrongdoing and that there are proper investigations and, if necessary, punishments for these lawyers (the same should apply for judges); and enlisting executive agencies—such as the Ministry of the Interior and the federal police—to provide proper security for legal professionals.

- *Adapt a three-step process to oversee the privatization of eligible state-owned enterprises.* First, corporatize them by converting them into companies. This will bring more uniformity and standardization in their legal structures. Second, commercialize these new companies by streamlining their finances and labor pool, bringing an end to their noncommercial activities, introducing modern technology, and phasing in a more commercial mindset and culture. The third step, the actual privatization, will be easier to complete after getting through the first two steps.
- *Craft local government reforms that truly strengthen local governments.* While Pakistan's recent trend of devolution, which transfers responsibilities and resources away from the central government, has strengthened provincial officials, local administrations—even after purportedly being strengthened—remain relatively weak. Truly effective local government reform must give officials and their institutions greater and better-delineated roles. These local measures should be implemented quickly, in order to minimize disruptions to service delivery—a critical function of local governments. Additionally, governing authorities should let the changes in local government systems implemented by previous governments remain in place. More institutional effectiveness is achieved by building on what is already in place than by repeatedly starting from scratch.
- *Strengthen performance incentives within the civil service.* Consider the use of financial awards (such as simple bonuses) and non-financial rewards (such as the offer of new postings) to recognize good work. Ensure that these incentives are structured appropriately, so that

they are not deployed excessively, or not enough. At the same time, strengthened incentives will also require mechanisms—such as rigorous auditing processes or third party verification systems—to ensure that strong performance incentives do not create an enabling environment for bribery and other forms of corruption within the civil service.

A Need to Act With Alacrity

The Pakistani government is well aware of the country's institutional incapacities. To its credit, on some levels it has already sought corrective measures. In the early part of 2018 alone, these steps included implementing reforms to strengthen emergency response services; considering new measures within the agricultural sector to improve rice seed production; and conducting international training sessions to improve teaching standards within higher education. In addition, in an encouraging case of cooperation between Pakistan's Drug Regulatory Authority and provincial healthcare departments in Punjab, a joint task force has been established to focus on the provision of safe medications and the availability of lifesaving drugs.⁵

These examples, and the others that preceded and will succeed them, are to be applauded. However, a major challenge will be sustaining such efforts into the long term—while at the same time addressing so many other areas in urgent need of institutional reform. To be sure, more broadly, Pakistan confronts so many different types of pressing challenges—political, security, and economic. For many policymakers, who may shrug off institutional capacity and governance reform as mere abstractions that don't require immediate attention, the idea of according extensive policy space to these institutional issues may appear misguided. And yet, as Ishrat Husain emphasizes in this volume, many of Pakistan's immediate policy challenges can be attributed to poorly performing institutions.

The need to move quickly on institutional reform cannot be overstated. Pakistan faces a raft of natural resource challenges, including the prospect of outright water scarcity in the not-too-distant future.⁶ Numerous factors, including urbanization, climate change, intensifying economic activity, and above all a rapidly growing population, will exacerbate these

challenges in a major way.⁷ Meanwhile, despite admirable progress in addressing some public health challenges—including the technology-driven approaches highlighted by Umar Saif in these pages—Pakistan continues to face alarming public health crises. These include deep levels of child malnutrition, the highest newborn mortality rate in the world, and deadly waterborne illnesses that claim thousands of lives every year.⁸ Meanwhile, Pakistan's economy is once again struggling with afflictions that have frequently ailed it in the past—a growing fiscal deficit and falling levels of foreign reserves. These are all daunting policy problems, and Pakistan will need well-performing institutions to resolve them effectively.

The sobering reality is that failing to act now on institutional reform could make today's daunting challenges wholly insurmountable down the road—with deeply unsettling implications for Pakistan's 200-million-strong-and-fast-growing population.

* * * *

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Finally, one more round of gratitude is due to this book's contributors for their participation in the conference as well as for their essays. Much appreciation is due to all of them for putting in the time to participate in this project.

Notes

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Why Institutional Capacity Matters and Where Reforms Should Start¹

Ishrat Husain

Pakistan was one of the top 10 economic performers among the developing countries in the world during the first 40 years of its existence. Given its very weak economic base at the time of independence in 1947 and a tumultuous period of nation building marked by continuing political instability in the aftermath of the death of its founder, Pakistan's record of achievements in its first four decades was impressive. It successfully absorbed and rehabilitated 8 million refugees or one fourth of the total population, fought a war with a much larger and powerful neighbor, India, in 1965, and went through a painful and traumatic dismemberment of the country in 1971.

The emergence of a populist political regime that indulged in a massive nationalization of private assets in the 1970s accompanied by an external shock of major oil price increases gave a big blow to business confidence and contributed to the dislocation of the economy. Close involvement with the United States to oust the Soviet Union from Afghanistan in the 1980s and the associated fallout—including the spread of sectarian violence, drugs and Kalashnikovs—shook the social fabric of the country. Despite these and many other challenges, internal and external, Pakistan was able to register a 6 percent average annual growth rate during the first 40 years of its

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existence. In fact, Pakistan was ahead of India and Bangladesh in all economic and social indicators.

Since 1990, however, the country has fallen behind its neighboring countries and has had a decline in the growth rate from 6.5 percent to 4.5 percent.² This period has featured both booms and busts.

The booms have been short lived and could not be sustained over extended periods of time. Political instability and frequent changes in governments in the 1990s may have created uncertainty for investors, thus slowing down the pace of economic activity. While there has been a smooth and orderly transition of power from one elected government to another twice since 2008, economic and social indicators have not shown much improvement.

This paper examines several hypotheses that may explain this slowdown and the overall volatile and inequitable growth of the last 25 years, and it advances theoretical and empirical evidence to show that the most powerful explanatory hypothesis lies in the decay of institutions of governance. The paper also suggests a selective and incremental approach of restructuring some key public institutions that is meant to help boost accountability, transparency, security, economic growth, and equity.

Unsatisfactory Explanations for Pakistan's Economic Malaise

The Rise of Extremism and Terror

The popular image of Pakistan externally is that of a fragile or failed state with a large and expanding arsenal of nuclear weapons encircled by Islamic extremists, and of a safe haven for nurturing and training terrorists who pose a threat to other countries. There is considerable unease in the international community about the unending rivalry and hostility between nuclear-armed India and Pakistan, bitter enemies that have fought three wars. The eastern part of Pakistan was separated in 1971 as a result of a war in which India played a decisive role. Kashmir continues to remain a highly contentious and volatile powder keg. Relations with Afghanistan remain tense, and mutual recriminations and mistrust have vitiated the atmosphere. Though Pakistan is a non-NATO ally of the United States, popular sentiment in both countries about the other is largely unfavorable. The United States considers

Pakistan duplicitous in its dealings with the Afghan Taliban and Haqqani network, while Pakistan is bitter that despite incurring such huge losses and sacrificing hundreds of thousands of lives, its role in the war against terror is not fully appreciated.³ Indeed, Pakistan has been hit hard by terrorist attacks for a decade.⁴ Pakistan is perceived by some outsiders as a source of regional instability, and even as an ungovernable country.

Therefore, one popular hypothesis about Pakistan's economic drift is explained by this increasing influence of religious extremists and terrorists who have threatened law and order and disturbed peace and security. Economic agents are reluctant to undertake new investments under this kind of environment.

This hypothesis may be partially valid, but in fact Pakistan's economic decline started in the 1990s—well before the country got embroiled in the war against terror in the post-2001 period. The average growth rate in the 1990s when the country was relatively peaceful and tranquil was already down from 6.5 percent in the 1980s to 4 percent. Investment ratios, export growth, and social indicators all took a dip in the 1990s. Poverty, which showed a downward decline until the 1980s, had worsened by the end of the 1990s. By contrast, the 2002–08 period was one of violence and terrorist activity including assassination attempts and other violent assaults on the sitting president and prime minister. Even so, in these years the country recorded a remarkable economic turnaround. The growth rate touched 6 to 7 percent on average, the investment/GDP ratio peaked to 23 percent, and foreign direct investment flows reached above \$5 billion. One of the chief investment officers of a Swedish fund, who has invested heavily in Pakistan, had this to say:⁵

“It was not until the end of 2008 that I first travelled to Pakistan and met with around 30 companies. Some of these companies were family-owned and had been around for 40–50 years. Their businesses were growing at an average of 10 percent and the political or security situation was not having much negative impact on their performance.”

The recent experience of the 2013–16 period is illuminating. Macroeconomic stability has been achieved and economic growth rates are

moving in an upward direction. The confidence of domestic and international investors has been regained: Pakistan has been upgraded to the MSCI emerging market index from the less prestigious frontier market index, and its credit ratings by Moody's and Standard and Poor have improved. These recent developments also negate the view that Pakistan's security situation and particularly its deep involvement in the war against terrorism, which continues to the present day, is responsible for poor economic and social performance. Therefore, the security deficit hypothesis does not stand up to serious scrutiny.

Patterns of Foreign Assistance

Another group of analysts argues that the availability of generous foreign assistance has been the main determinant of Pakistan's economic success or failure and that the country's fortunes vacillate with the ebb and rise of flows from external donors. It has been argued that the three periods of economic spurts in the history of Pakistan—the 1960s, 1980s and early 2000s—can be ascribed to the heavy infusion of this money into the country. According to this theory, Pakistan was a recipient of large military and economic assistance and that was the major reason for the turnaround in these three periods of growth spurts. Despite this popular perception, the empirical evidence does not prove this assertion.

Let us examine the data on the foreign capital flows in the slow-growth periods of the 1950s, 1970s, 1990s, and post-2008 period. In the 1950s, Pakistan received huge amounts of military, civilian, and food aid. It was in fact large quantities of imports of food from the United States that kept Pakistan away from hunger. In the 1970s, Western aid amounted to \$700 million annually. Additionally, official grants and concessional loans (some of which were subsequently transformed in grants or waived off) from oil-rich Arab countries and workers remittances financed the huge imbalances in the current account. From 1973–74 to 1977–78, commitments of assistance from Iran and Arab countries totaled \$1.2 billion, mostly on concessional terms. Parvez Hasan⁶ has calculated that aid disbursements during the mid-1970s were at a level far above what was reached during the 1965–70 period (when they averaged \$600 million annually and included flows to East Pakistan), after allowing for international inflation. In

the 1990s, foreign currency deposits of resident and nonresident Pakistanis in Pakistani banks amounting to \$11 billion were utilized to finance external payments. The International Monetary Fund (IMF), World Bank, and Asian Development Bank continued to make loans amounting to several billion dollars between 1988 and 1998, while Japan was the largest bilateral provider of concessional loans and grants. In the post-2008 period, the Kerry Lugar Berman Act authorized \$7.5 billion of economic and military assistance from the United States to Pakistan for a five-year period. Multilateral banks and the IMF increased the quantum of their support while Pakistan also became the largest recipient of British aid, which has numbered 1 billion pounds over a five-year period. And yet, despite higher volumes of foreign assistance, the average growth rate has hovered around 3 to 4 percent. It can therefore be seen that there was no significant difference in the availability of foreign capital flows between the periods of high and low growth rates. Thus the hypothesis of high quantum of foreign assistance resulting in high economic performance is not validated by the facts.

Military Dictators and Western Support

Coterminous with the foreign aid dependence theory is a widespread belief that America and other western countries have supported military dictators at the expense of democratic regimes. They are able to twist and turn the arms of the strongmen running the country to follow their agenda and interests. So, according to this theory, Pakistan's economy has done well only under autocratic regimes and with the blessing of the United States and its western allies. The frequent dismissal of elected regimes in the 1990s, the suspension of U.S. aid under the Pressler amendment in the early 1990s and later after Pakistan's nuclear weapons tests in 1998, the coup to overthrow Zulfikar Ali Bhutto in 1977—all of these events were engineered under the compact with outside powers, and the drop in economic performance was caused by the consequential political instability that emerged from these disruptions. Or so goes the theory.

Alas, it must be recalled that the United States suspended or curtailed economic and military assistance at crucial times in Pakistan's history when military dictators were still in power. U.S. aid was suspended soon after the 1965 war with India, after the 1971 separation of East Pakistan, and

during the early period of Zia-ul-Haq's rule, and sanctions were imposed in 1999 when General Pervez Musharraf took over the reins of government. Whenever U.S. interests have converged with those of Pakistan (such as in the 1950s, when the two nations were part of the anti-Soviet SEATO/CENTO arrangement; in the 1980s, when they were cooperating to oust the Soviets from Afghanistan; and to a somewhat lesser extent most recently from 2001 to the present day, when the United States and Pakistan have tried to partner—albeit with ample difficulty—in the war in Afghanistan), America—despite irritations and quibbles on both sides—chose to assist Pakistan irrespective of the type of regime in power.

External Economic Factors

Another explanation that may account for the decline in Pakistan's economic performance in recent decades is global economic conditions—ranging from international trade and financial flows to remittance patterns.

The fact of the matter, however, is that the external environment between 1990 and 2008 was highly favorable. Most emerging and developing countries made great strides in this period, a fact chronicled in the 2016 book *The Great Surge*.⁷ Per capita incomes in emerging and developing countries (EDCs) increased by more than 70 percent between 1995 and 2013. The number of poor people was halved from 2 billion in 1990 to 897 million by 2012—bringing down the share of poor people in the total population of EDCs from 37 to 13 percent in 2012. The share of EDCs in world exports rose from 24 to 41 percent. International capital flows jumped from \$91 billion to \$1145 billion. Social indicators such as life expectancy, maternal mortality, infant mortality, adult literacy, net enrollment ratios, and average years of schooling showed significant improvement. In sum, the external economic environment cannot be blamed for Pakistan's poor performance.

The “Garrison State” Syndrome

Some analysts have attributed the overall poor performance of Pakistan to the “garrison state” syndrome.⁸ As Pakistan has been obsessed with confronting a much larger archrival—India—since its formation, it has had to allocate a much larger proportion of its resources to defense expenditures and to preserve and expand the corporate interests of the military. Hence

according to this hypothesis, the neglect of education, health, and human development in general as resources are diverted to meet the demands of defense, nuclear capability, and other security-related expenditures has led to the present unfavorable economic and social outcomes.

In actual fact, however, the ratio of defense expenditure to GDP was consistently high in the first 40 years of Pakistan's existence but is now 2.9 percent of GDP—falling from an average of 6 to 7 percent in the 1980s and earlier years. Most of the nuclear-related expenditure was also incurred in the 1970s and 1980s. In FY2016, the budgetary allocation for education was 2.7 percent of GDP.⁹ Combining health and education together, the budgetary allocation is 3.7 percent—higher than that of defense and internal security but certainly lower than what is required to address the huge gap in education enrollment and primary health care services. In the education and health sectors, it is governance and management factors that are impediments to the delivery of these services, not budgetary allocations.

Another dimension of the garrison state theory—a popular myth that has now become quite entrenched and almost accepted as the gospel truth in many circles—is that of the large corporate interests of the military.¹⁰

It is true that the armed forces have established foundations and trusts that run enterprises, but the proceeds and profits they earn are mainly utilized for the welfare of Army pensioners—particularly soldiers who retire at an early average age ranging from 45 to 50. The education and health care costs of their families are financed by the income generated by these foundations and trusts. To put this in perspective, the total market cap in November 2016 of all the listed companies owned by the Fauji Foundation (FF), Army Welfare Trust (AWT), Shaheen Foundation, and Bahria Foundation (all military-run corporations) was only 4.5 percent of the total market cap of the companies listed on the Pakistan Stock Exchange.

Ayesha Siddiqi¹¹ has stated “that the military has arrived at the point where its business today control[s] about 23 percent [of the] assets of the corporate sector with two foundations—Fauji Foundation and the Army Welfare Trust representing two of the largest conglomerates in the country.”

It is true that the listed companies owned by the FF, AWT and so on are big players in the fertilizer sector, but there are also equally large non-military conglomerates competing with them such as Engro and Fatima Group. All of

these companies pay full taxes on their income, sales, and imports, and they do not enjoy any exemptions or concessions of a preferential nature. The share of other unlisted companies owned by these foundations and trusts in the total assets of unlisted companies is not known, but it would likely be quite insignificant as the universe of privately owned enterprises and businesses is substantial. Therefore the garrison state hypothesis, despite its highly attractive appeal, also does not meet the test of evidentiary confirmation.

In effect, factors such as security and terrorism, inflows of foreign assistance, preferences for military rule, the external economic environment, and the diversion of public expenditures toward defense may have all played some role in Pakistan's economic downturn in recent decades. However, they were not the main determinant of this poor performance. The answer to the riddle lies in the institutions of governance.

The Links Between Strong Institutions, Good Governance, and Economic Growth

Available evidence across countries suggests a positive relationship between good governance and economic growth. An IMF empirical study from 2003 found that governance has a statistically significant impact on GDP per capita across 93 countries and governance explains nearly 75 percent of cross-country variations in income per head.¹² An Asian Development Bank study from 2010¹³ shows that developing Asian economies with government effectiveness, regulatory quality, and rule of law scoring above the global mean (after controlling for per capita income) grew faster on average during 1998–2008 than those economies scoring below the global mean. The authors conclude that good governance is associated with both a higher level of per capita GDP and higher rates of GDP growth over time. Numerous other studies have demonstrated the linkages between good governance and healthy economic growth. A 1998 World Bank study explicitly linked governance to the notion of institutions, defining it as “all aspects of the exercise of authority through formal and informal institutions in the management of the resource endowment of a state.” The World Bank study found a high correlation between governance quality and per capita income.¹⁴ The positive correlation between the 10-year economic growth

rate and governance quality supports the argument that good governance is an important determinant of economic development. A later World Bank study found a direct causal effect from better governance to higher per capita income across 175 countries between 2000 and 2001.¹⁵ A negative causal effect is found from per capita income to governance, implying that improvements in governance are unlikely to occur merely as a consequence of development. One scholar has reported that better maintenance of the rule of law and political stability affect economic growth.¹⁶ Other research finds that the rule of law indicator is positively and significantly correlated with the growth in per capita incomes of the poorest quintile.¹⁷ A 2004 Asian Development Bank study¹⁸ discovered that political stability and rule of law exhibit negative and significant relation with inequality as measured by the Gini coefficient. World Bank analysis¹⁹ concludes that rule of law and accountability were both positively correlated with growth. Some research argues that pro-poor reforms cannot have the intended impact unless there are significant changes in the institutions of governance.²⁰ Cross-country studies have demonstrated that political instability, corruption, poor bureaucratic quality, absence of rule of law, and expropriation risk are strongly correlated with lower investment and growth rates.²¹

A new branch of economics, coined by Douglass North as New Institutional Economics, has identified institutional capabilities that states need to make markets function efficiently. North²² has defined institutions as “humanly devised constraints that structure political, economic, and social interactions and include the laws, rules, customs, [and] norms constructed to advance and preserve social order.” Regarding the connection between institutions and economic development, his view is as follows:

How do we account for poverty in the midst of plenty? We must create incentives for people to invest in more efficient technology, increase their skills, and organize efficient markets. Such incentives are embodied in institutions.

Other analysts²³ demonstrate that institutions determine the fate of nations. Success comes when political and economic institutions are “inclusive” and pluralistic, creating incentives for everyone to invest in the future.

Nations fail when institutions are “extractive,” protecting the political and economic power of only a small elite that takes income from everyone else. Institutions that promote good governance and facilitate broad-based and inclusive growth have come to occupy the current consensus on development strategy. According to one study,²⁴ good institutions ensure two desirable outcomes: relatively equal access to economic opportunity (a level playing field) and the likelihood that those who provide labor or capital are appropriately rewarded and their property rights are protected.

Among the components of good governance, human capital is associated with both economic growth and equity. In a study on human capital and economic growth, the authors,²⁵ using data for the 1996 to 2011 period for 134 countries, found strong evidence that the relationship between human capital and economic growth is much less pronounced in countries with a low quality of governance. Preconditions in the form of good governance are necessary for an educated labor force to contribute to the economic growth of a country. Weak governance indicated by deteriorated law and order conditions, corruption, and maladministration result in an inefficient utilization of human resources.

Researchers have explored linkages between governance and pro-poor growth in Pakistan for the period of 1996 to 2005.²⁶ This analysis indicates that governance indicators have low scores and rank at the lowest possible percentile as compared to other countries. The results of this study show a strong link between governance indicators and pro-poor growth. The authors’ econometric analysis shows a strong relationship between good governance and reductions in poverty and income inequality.

The model of an elitist economy that was articulated in *Pakistan: The Economy of an Elitist State*²⁷ sets out the historical context and drivers of the capture of the state and rigging of markets in Pakistan. It is postulated that a narrow elite constituting about 1 to 2 percent of the population has used the state and markets for political power and self-enrichment to the neglect of the majority of the population, particularly the poor and the less privileged segments of society. This small minority has thus been able to enjoy this unjust accumulation of wealth in the midst of widespread poverty and squalor. In the absence of a neutral umpire, markets are rigged by the elites for their own advantage and thus market outcomes and resource

allocations are inefficient. The state, which should be ensuring the equitable distribution of gains from economic growth, is also controlled by the same elite that evades taxes and appropriates public expenditures for its own benefit. Inequities—whether interpersonal, regional, or gender-focused—become commonplace in such an environment. Access to the institutions that deliver public goods and services is intermediated by the elite through a patronage-based system.

In sum, both theoretical and cross-country empirical evidence, coupled with Pakistan's own experience, lend a lot of weight to the argument that poor governance manifested in weak institutions is the predominant explanation for the unsatisfactory economic and social performance of Pakistan over the last quarter century. The evidence to substantiate this point of view is the gradual decline in Pakistan's ranking and score on the following indices:

- World Bank world governance indicators
- World Economic Forum global competitiveness report
- UNDP human development index
- Freedom House economic freedom index
- Transparency International corruption perception index
- International country risk guide
- UNESCO education for all index
- Legatum prosperity index

Sakib Sherani²⁸ has reviewed world governance indicators for the 1996 to 2015 period. His analysis shows that Pakistan has performed poorly in all six sub-components of governance. The average percentile rank for the 16 years, excluding political stability and absence of violence (extremely low), ranges from 18 to 32. He notes that in four out of the six parameters—government effectiveness, control of corruption, regulatory quality, and political stability and absence of violence—the best scores were recorded under

President Musharraf (a period when economic growth was also averaging 6 to 7 percent annually). There was some modest improvement in two indicators—ease of doing business and corruption perception index—in 2015 and 2016, when the economy was beginning to perform well.

The same picture emerges by examining other indicators and indices compared to India and Bangladesh. Pakistan has fallen below both these countries in the human development index, corruption perception index, and the Legatum prosperity index. It continues to lag behind India and Bangladesh in the education for all and economic freedom indices. The gap with India has also widened in the global competitiveness and global innovation indices.

The main argument of this paper is that the intermediation process through which good economic policies are translated into a rise in incomes and equitable distribution of benefits involves the institutions of governance. It is the quality, robustness, and responsiveness of these institutions that can transmit social and economic policies. The main institutions of governance revolve around the judiciary, which is needed to protect property rights and to enforce contracts; the legislature, which prescribes laws and the regulatory framework; and the executive, which makes policies and supplies public goods and services. If access to institutions of governance for common citizens is time-consuming, costly, or in any way hampered, then the benefits from growth get distributed unevenly. The only winners are those enjoying preferential access to these institutions.

The Decline of Civilian Institutions and the Impact on Civil Military Relations

The decay of civilian institutions can also partially explain the nature of civil-military relations in Pakistan, and the gradual ascendancy of the military in the post-1990 period.²⁹ For many Pakistani and international scholars, the strength of the military as an institution is also the reason why it should be blamed for the way Pakistan has failed to make progress economically, politically, and socially. A key question that needs to be asked is: How did the military acquire this superior position in the institutional architecture of the country?

In earlier decades of Pakistan's history, the civil services were at the forefront of nation-building and economic development efforts. This was because they attracted the best talent, enjoyed high standards of competence and integrity, and demonstrated a strong commitment to resolve problems faced by common citizens. The armed forces, on the other hand, recruited mostly mediocre personnel with limited education and exposure. Over succeeding decades, however, the civil services abandoned the principles of selection on merit, rigorous training to prepare for higher levels of responsibility, promotions based on performance, and the regular weeding out of those who did not meet performance standards.

And yet, during this same time, the armed forces engineered a major shift. They adopted and then continued to religiously follow these very principles that the civil services abandoned. They transformed mediocre workers into a first-rate human resource, while the civil services, ever since the 1990s, have turned previously first-rate talent into cynics or self-serving individuals. Thanks to sloth, inertia, the stubborn preservation of the status quo, and constantly catering to the parochial interests of the ruling parties, the civil services in the post-1990 era have not served the populace as they did in decades past. Instead, the civil services and the institutions they oversee have become unresponsive, inefficient, and ineffective.

The reasons for this unfortunate shift are varied. The removal of a constitutional guarantee for security of service; the introduction of new measures that brought people into the civil services on the basis of connections and loyalty rather than merit; and the discretion of politicians to remove officers all contributed to the decline in the intake and quality of civil servants.

This is not to suggest that the 1947 to 1990 period was perfect, that everything was well, that all institutions were functioning without interference from politicians, and that there was no indulging in corrupt practices by bureaucrats. On the contrary, there were indeed cases of political leaders and some of the ruling military classes indulging in corruption, nepotism, and favoritism. For example, there were allegations of election rigging during Ayub Khan's presidential election. Prime Minister Zulfikar Ali Bhutto used the Federal Security Forces to settle personal scores against his opponents. Thousands of civil servants were thrown out of service summarily and arbitrarily by Ayub Khan, Yahya Khan, and Bhutto on charges of corruption

and malfeasance. Petty corruption and extortion by lower government functionaries was rampant during that earlier period too. Patronage, kinship, and extended familial, tribal, and feudal relations pervaded the system.

However, all this said, on balance the contribution of civil servants and the institutions they ran during Pakistan's first four decades far outweighed the negative damage done by the acts of a minority among their ranks. In informal online consultations conducted in recent years, focus group participants³⁰ asserted that out of 10 randomly selected higher civil servants in the pre-1990 period, only two or three would have been known to be corrupt or pliable to extraneous influence. They believed the tables began turning around 1990, and that today, out of a sample of 10 such officers, only two or three would enjoy the reputation of being honest, conscientious, and immune from political pressure. A 2016 survey of nationwide public opinion conducted by the independent think tank PILDAT shows that the armed forces had the top approval rating of 76 percent, while government officers (specifically civil servants and police officers) were at the bottom, with approval ratings of 29 and 25 percent, respectively.

Whenever there is an institutional vacuum, the stronger entity fills the space. Whether it is fighting the Taliban, cleaning up Karachi of criminals and extortionists, evacuating people from flood-affected or earthquake-struck areas, constructing highways in difficult terrain, or even collecting electricity bills, the Army is called upon by the civil administration to take the lead and deliver. The constitutional requirement of holding a census every 10 years has not been met because soldiers have not been available for assistance (in 2017, Pakistan successfully completed its first census since 1998).

The incapacities of civilian institutions of governance have in fact facilitated the ability of the military to assert itself directly or indirectly and to become a dominant player in public policy. The institutional imbalance between military and civilian structures can, *inter alia*, be ascribed largely to this growing gap in the capabilities of these two structures. This does not, by any means, absolve some army chiefs and their close confidants, whose personal ambitions to take over power have been a major factor in the disruption of Pakistan's democratization. However, the collective malaise of corruption, incompetence, mismanagement, personal vendettas,

and point-scoring among politicians and their cronies and the failure to deliver public goods and services to the population at large have provided the generals with the opportunity and justification to intervene. Hence, those who took over power by removing elected governments through extra-constitutional means cannot be absolved of blame for retarding the process of political development and orderly democratic transition. This periodic disruption in constitutional rule has also contributed to the weakening of political institutions.

Diagnostic studies, particularly those that emerge from the Wilson Center's frequent conferences on Pakistan's development challenges, suggest that every single crisis faced by the country—including low tax mobilization, energy shortages, a lack of law and order, losses of public sector enterprises, poor delivery of education and health services, and stagnating trade—can be traced back to governance deficits and institutional weaknesses.³¹ Tax collectors enjoy wide discretionary powers that they use to extort money and enrich themselves rather than raising additional revenue for the exchequer. Power and gas companies find huge gaps between the sales revenues they assess, bill, and collect, and the purchases of units they have to pay for. Law and order suffers and the common citizen feels insecure because police officials are appointed on the basis of recommendations from elected members of Parliament and assemblies in exchange for outright payment, rather than on the basis of professional capabilities. Public sector enterprises face losses from serving as a dumping ground to accommodate thousands of unneeded employees put in place at the behest of the ruling party. In competitive markets, they lose market share. In public monopolies, they fleece consumers but still incur losses due to inefficiency, waste, and corruption.

There is a general consensus in Pakistan—and endorsed by international organizations—that the country's civilian institutions have decayed over time. According to the World Bank³² in a 2013 policy note: "In a recent analysis of binding constraints to Pakistan's economy, bad governance and a poor civil service appear to be undermining economic growth. Without improving governance, other efforts in realizing the country's growth potential are destined to be less effective than they would be otherwise."

One main message of this essay is that the existing asymmetric power relationship between the military and the civilian sectors needs to be

reversed. Frequent calls to the military for overt or covert interventions to aid civilian administrations do not serve the long-term political, economic, or social stability of Pakistan. The armed forces are best left to do the job for which they are so well-equipped and capable—the provision of external security. There is a widely accepted belief that if district administrations, law enforcement agencies, and civilian intelligence agencies had performed their job well, then the unlawful activities of militant and extremist elements would have been nipped in the bud and the country would have avoided massive dislocations in its economic and social life. If basic services such as education, healthcare, and justice had been accessible to common citizens, then the drift toward the criminal-extremist nexus would not have taken root in society.

Toward an Incremental Reform Plan for Civilian Institutions

The challenge, therefore, is how to make an ungovernable state democratically governable once again. This can be achieved by rebuilding vibrant, agile, and effective institutions of democratic governance that establish the writ of the state; that eliminate non-state actors engaged in criminal and militant activities; that deliver basic goods and services, including justice, to the majority of the population in a fair and equitable manner; and that reignite the growth impulses that characterized the first half of the country's existence.

The National Commission for Government Reforms (NCGR), consisting of members drawn from both the private and public sectors, travelled throughout Pakistan between 2006 and 2008, consulted with different stakeholders, carried out field studies, made on-the-spot observations about the delivery of public services, reviewed research work, and compiled a report.³³ The commission made exhaustive recommendations regarding institutional structures; human resource policies; and the reengineering of the federal, provincial, and local governments, public enterprises and corporations, and autonomous bodies. The recommendations of the commission have been welcomed by the previous and current governments but have not been formally accepted or implemented. Ideally, a future government

would move with vigor to implement this full set of recommendations, but it seems more realistic to begin with the proposition that it is unrealistic to expect that a comprehensive reform of the civil services and of all the civilian institutions of governance is feasible given current political realities.

The dilemma facing academics and technocratic policy reformers is that the status quo of inefficient policies and institutions is defended because it suits politically influential elites. Additionally, the constituency and coalitions for efficient policies and strong institutions do not exist. If the ideal solution of across-the-board and comprehensive reform is not feasible, then perhaps a second- or third-best solution can be a more selective and incremental approach—one that focuses on a few key institutions of democratic governance. Such an approach would be formulated on the assumption that it would not meet the fierce resistance that would ensue if there were to be full-scale, comprehensive reform, given that those affected by more modest reforms would comprise a very small percentage of the overall population of Pakistani civil servants.

To that end, this paper proposes an incremental and selective reform of some key institutions, with the goal of restoring the efficacy, efficiency, and effectiveness of democratic governance. The hope is that these institutions can once again take on the admirable characteristics—merit, integrity, dedicated service, and problem-solving – that they enjoyed in earlier decades.

There are already many examples of successful institutions working well in the midst of this general atmosphere of institutional decay. The performance of the Punjab provincial government in many respects is much better than that of other provinces. This can be attributed to strong exemplary leadership. However, its sustainability would be better assured if its institutional infrastructure were to be strengthened.

A study titled *Candles in the Dark*³⁴ has documented at least 10 such well-functioning institutions run by the government, private foundations, and NGOs, and the authors have drawn lessons explaining their success. In addition, the State Bank of Pakistan, the National Highway and Motor Police, the National Data Registration Authority (NADRA), the Sindh Urology and Transplant Institute (SUIT), the Indus Hospital, the Aga Khan University and Hospital, the Punjab Education Foundation, the Benazir Income Support Program (BISP), the Hussain Ebrahim Jamal

Research Institute of Chemistry, and the Skills Development Council are usually considered islands of institutional excellence in the midst of overall decay. A new form of organizational structure—by which companies are established by the government of Punjab under the Companies Act—is providing an alternate model for the organizational architecture of government. So it is possible that the lessons learned from these success stories can be applied to the key institutions proposed for restructuring in this essay.

The experience of Pakistan and lessons from other developing countries suggest that it is the interaction between policies, institutions, and leadership that promote good governance. Sound economic policies do not get implemented because of poor institutions and weak leadership.

The analytical framework for this study on institutions and their linkage with economic and social development in Pakistan is based on the World Bank's 2017 World Development Report on Governance and Law.³⁵ Accordingly, this essay first identifies the development objectives for Pakistan that are broadly shared by a vast majority of people as well as by political parties and other stakeholders. These are security, growth, and equity. Before identifying the institutions that carry out these functions, it is important to spell out the contours of a long-term agenda of reforms to transform the structure and processes of governance that would help attain these shared development objectives.

A Long Term Governance Reform Agenda

A long-term roadmap to achieve a better and enduring system of democratic governance would have to contain certain essential ingredients. Their pace, sequencing, and implementation would depend upon a consensus among the major political parties, as the time horizon would cover several electoral cycles. No government in power can afford to take upon itself the sole responsibility to carry this forward, knowing full well that there would be resistance by their opponents or that the process would be disrupted after a change in government. Partial, incomplete, and half-hearted actions would not alter the course set out.

First, there is a need to reform the electoral process whereby constituencies are delimited afresh on the basis of the new population census.

Electoral rolls should be prepared from the new data generated through this census. The Election Commission and the chief election commissioner should be given unfettered powers to organize the elections by directly taking over the administrative apparatus of the provincial and district governments. Electronic machines should be used for voting. After careful screening, candidates for the national and provincial assemblies who do not meet eligibility criteria should be disqualified by the Election Commission from contesting elections. This weeding out process would improve the quality of elected representatives.

Second, political parties should institute more democracy within. In the 1950s, for example, elections for party office bearers were held at the grass-roots level. This process has been substituted by the discretionary choices conferred upon the powerful top party leader, who selects office bearers of the party at all levels, nominates central working committee members, and allocates party tickets for the national and provincial assemblies along with the Senate. This leader also chooses ministers for federal and provincial governments if the party gains power. Such high concentrations of power in the hands of a single individual are inimical to the essence of democratic governance, which is based on debate, consultation, and consensus. Thus, dissent and difference of opinions within the party have given way to sycophancy and pleasing the boss at all costs. Furthermore, the combination of the offices of the party chief and chief executive in the same person has withered away what little accountability could otherwise be expected.

Third, the 18th amendment to the Constitution and the 7th National Finance Commission have very rightly devolved administrative, legal, and financial powers and authority from the federal to the provincial governments. However, this devolution remains incomplete. The provinces have not transferred powers and resources further down to local governments, where most of the interaction between an ordinary citizen and the government takes place. Since 2008, the powers of local governments have been assumed by provincial governments. With the exception of the Khyber Pakhtunkhwa administration, provincial governments enjoy tremendous power under newly enacted laws, making elected local governments subservient to them. This disconnect between the wishes of provincial governments to centralize power in their own hands and the aspirations of the

people to access basic public services at their doorsteps needs to be resolved. Attempts to strengthen democratic governance are bound to fail in the absence of the decentralization of decision making, of the delegation of powers, and of the devolution of authority and deconcentration of resources.

Fourth, the administrative machinery of the civil services as a whole has broken down. Reforms in the police, administrative services, land management, the judiciary, and the delivery of social services need to be undertaken to set the country in the right direction. The capacity of civil servants to remain neutral and objective, which used to be their hallmark, has to be rebuilt and their morale and motivation revitalized so that they are able to once again assume their lost space in the country's governance structure and processes. Institutions that promote skill formation, higher education, scientific research, and technology transfer have to be brought to the front burner.

Fifth, the dispensation of justice in Pakistan has become time consuming, expensive, convoluted, and unnecessarily layered. A backlog of millions of cases pending in the lower courts has taken away the deterrent effect of punishment for criminals, defaulters, and other violators of laws. State revenues and bank loans, amounting to hundreds of billions of rupees, are held up due to litigation. Property titles and exchanges of deed have lost their sanctity because of prolonged disputes and complex processes prescribed by courts. Detection, investigation, and prosecution of cases are sloppy, making conviction rates too low. The whole value chain of the administration of justice needs to be overhauled.

Sixth, the federal government's Freedom of Information Act does nothing to facilitate the flow of information into public hands. The Right to Information Act in India has played a major role in keeping public servants and political leaders on their toes, because their actions and deeds could become the object of public knowledge and thereby lead to embarrassment. Civil society organizations and the media in India have played a critical role in accessing information and data under the Act. Similarly effective legislation in Pakistan, coupled with the curtailment of the Official Secrets Act—which vitiates open government—could go a long way toward ensuring transparency in government affairs. Provincial legislation, particularly in Khyber Pakhtunkhwa and Punjab, has sought

to bring improvements. However, the requisite institutional arrangements have not yet been put in place.

Seventh, Parliament is supposed to provide checks and balances to counteract the excesses of the executive branch. But this is hardly the case in Pakistan. There is little legislative accountability to citizens, weak market oversight, and indifference in responsiveness to citizen demands. Parliamentary committees such as the Public Accounts Committee can, through public hearings, exert a sobering preemptive influence on government departments, ministries, and agencies by ensuring that waste, inefficiencies, and irregularities are minimized. However, the partisanship exhibited in the committees' deliberations and the lack of technical expertise among the staff assigned to these committees have weakened their watchdog and oversight functions. Strengthening these committees would help place effective controls over the misuse of power and resources by the executive branch.

Finally, management practices in the government need to be modernized and overhauled. Overcentralization and the concentration of power in the hands of the prime minister and provincial chief ministers have resulted in diffused responsibility, an absence of clear accountability, inertia, and a lack of commitment. Overly long hierarchical chains, consultation for the sake of form and procedure rather than substance, turf building and turf protection, and the tendency to pass the buck have created a big gap between promises and performance. The rules of business have to be rewritten to assign clear responsibilities to ministries, giving them the requisite authority and resources to fulfill their obligations and holding them accountable for results. Interministerial coordination and conflict resolution should take place at the level of the cabinet secretary, secretaries' committees, cabinet subcommittees, and the cabinet itself. E-government tools would help ensure transparency and the expeditious pursuit of business and coordination efforts.

Lessons from Other Countries³⁶

A key question may be raised in the context of the above discussion: Is Pakistan unique in respect to poor governance? Are there countries with

weak or frail institutions and poor governance that have managed to perform quite well?

In recent years, Bangladesh has been rated by Transparency International as the most corrupt country in the world. Political leaders there have been embroiled in nasty political fights for over two decades. In 2007, the situation grew so dire that the military intervened and set up a caretaker government for two years to cleanse the political system, albeit without much success. The result? The two major political parties, the Awami League (AL) and Bangladesh National Party (BNP), continued to remain the top two political powerbrokers. In 2015, the AL won an election labeled by the opposition as flawed. Since then, the ruling AL party has crushed the opposition party with a heavy hand, and gradually tamed all institutions of the state—including the judiciary. It is now on the path toward a one-party government. And yet, Bangladesh has done remarkably well over the last 25 years, as it has grown economically at a respectable rate and demonstrated improvements on a variety of social indicators.

India's institutional framework is also relatively weak, and the performance of its public institutions has become a matter of concern. Several recent studies have focused on the nexus between crime and politics in India.³⁷ Several ministers of the central government and several chief ministers have been accused of, indicted for, or convicted of corruption and other malpractices in recent years. And yet, despite the frailty of institutions and weak governance, India remains one of the top performers among emerging economies.

Indonesia under Suharto was cited as a living example of crony capitalism. The Suharto family, along with its business partners, was deeply involved in many large projects and business transactions. No major deal could be consummated without the blessing of the Suharto family. However, the record of Suharto in turning around the economy of Indonesia and lifting nearly one hundred million people out of poverty by 1998 was quite impressive.

A careful comparative analysis of binary pairs—Pakistan versus these other three countries—is beyond the scope of this paper, but some tentative and preliminary explanatory hypotheses can be offered. All three countries enjoyed macroeconomic stability and orderly political transitions (except Indonesia) over a prolonged period of time. A continuity of economic policies, along with the state's encouragement for and promotion of

the private sector, signaled to investors that political regime change would have no surprises or unanticipated effects on economic policies. This generated a sense of confidence and predictability. Rent sharing among private businesses, government officials, and politicians was commonplace, and it got entrenched as a norm of doing business. There were no abrupt disruptions in the rent-sharing process when governments changed hands. Rent seeking was therefore growth-enhancing³⁸ in the sense that owners used surpluses to invest and expand their domains while the government facilitated and paved the way by removing bottlenecks and hurdles, thereby making businesses internationally competitive. This relationship unshackled the entrepreneurial energies of the private sector, enabling it to contribute to higher national growth. Bangladesh was able to raise its gross investment ratio from 12 percent in 1990 to 30 percent in 2015.

In the case of Bangladesh, an additional feature was the empowerment of nongovernmental organizations by political parties to participate in social development. NGOs facilitated the opening of schools, health clinics, and family planning services and helped provide microcredit. The country made great strides that would not have been possible if the government was the only provider of these services.

Pakistan, on the other hand, stifled private businesses. There were crude attempts by each ruling party to use the patronage apparatus on a highly selective, partisan, and parochial manner to favor their cronies. Bank loans, permits, and approvals given to them were used, by and large, for the ostentatious consumption or transfer of assets abroad and not for the expansion of productive capacity or new investment. Consequently, investment ratios in Pakistan remained in the teens, and growth rates since the 1990s have registered far below their potential.

Key Institutions Proposed for Restructuring and Strengthening

Any selection from a large universe is bound to be met with skepticism. Therefore it is important to highlight the criteria used to select the institutions listed further below. The criteria are as follows:

1. For institutions of market governance: The potential to enable private businesses to operate without hassle or high costs of transactions in a competitive environment, all while upholding strong standards of corporate governance and protecting the interests of consumers and minority shareholders.
2. For institutions associated with the delivery of services: The ability to hasten efficient and nondiscriminatory access to basic public goods and services such as education, healthcare, water, and sanitation.
3. Institutions tied to the administration of justice: An ability to provide security of life and property to common citizens and to ensure expeditious and financially affordable justice and dispute resolution.
4. Institutions of accountability, transparency, and oversight: A capacity to take timely action without fear or favor against those indulging in malfeasance, corruption, or the misuse of public office for personal gains.
5. Institutions for promoting equity: An ability to strengthen the capacity of those who do not have the assets or skills to fully participate in market-based economic activities.

Another key criterion taken into account in the selection of institutions proposed for reform is the strength of their knock-on spillover and cross-over effects to other sectors and institutions. For example, reforming the Public Service Commissions would attract and retain talented young men and women into the civil services based on open, merit-based, and fair competitive processes. The higher quality of civil servants would, in turn, uplift the performance of institutions that deal with service delivery, market governance, and the administration of justice.

Accordingly, this essay identifies about two dozen key state institutions that if reformed would help meet the development objectives of security, growth, and equity for Pakistan. They have been chosen because of their inherent constitutional or legal standing, their potential to serve their intended purpose, and their possible positive impact on other sectors

and spillovers to other institutions. All institutions cited below are existing ones, with the exception of a proposal for a new National Science and Technology Commission to be set up along the lines of the Higher Education Commission. Some of these institutions are deemed to require only modest reforms, such as incentive alignments and business process re-engineering, while for others major surgical operations are in order. The institutions proposed for reform are grouped together according to their possible contributions toward achieving the development goals of security, growth, and equity. In addition, there are cross-cutting institutions that directly or indirectly impact all three objectives and are mainly concerned with accountability, transparency, and oversight.

Accountability/Transparency/Oversight

- Parliamentary committees
- Local governments
- Auditor General of Pakistan and public accounts committees
- National Accountability Bureau and provincial anti-corruption departments
- Election Commission of Pakistan
- Public Service Commissions, federal and provincial
- Information commissioners under the Freedom of Information Act
- E-Government Directorate General and provincial IT boards

Security

- Lower judiciary
- Police, including investigations and intelligence agencies
- Federal Investigation Agency
- National Counterterrorism Agency
- Prosecution departments

Growth

- State Bank of Pakistan
- Securities and Exchange Commission of Pakistan
- Higher Education Commission
- National Science and Technology Commission
- Federal Board of Revenue
- Trade Development Authority of Pakistan
- Board of Investment
- Competition Commission of Pakistan

Equity

- Pakistan Agriculture Research Council and provincial research institutes
- Local governments
- State Bank of Pakistan
- HEC needs-based scholarship program
- Benazir Income Support Program, Zakat committees, and Baitul Maal (an organization that assists the poor)
- Irrigation authorities
- Urban development authorities
- National Vocational and Technical Education Commission

Conclusion

This paper attempts to explain Pakistan's declining economic growth rate and weak social indicators for the last 25 years. The most satisfactory explanation lies in the decay of institutions of governance, which have failed to achieve the interrelated development outcomes of security, growth, and equity.

The reforms outlined above are easy to describe but extremely difficult to implement. These reforms are unlikely to be introduced in one go, as it is neither practicable nor feasible to do so—due to both an absence of political will and capacity constraints. The ideal solution—sweeping reform throughout institutions of governance—is therefore ruled out. Accordingly, this paper proposes several next-best solutions that target a subset of key institutions for reform which, if done right, can generate substantial improvements in Pakistan’s governance landscape over time. The spillover and knock-on effects of these reformed institutions would enlarge the space for beneficial outcomes over time.

To be sure, the challenge of reforming even this subset of institutions is formidable. Vested interests wishing to perpetuate the status quo are politically powerful, and the coalitions and alliances between the political leadership and the beneficiaries of the existing system are so strong that they cannot be easily ruptured. Elected governments, with an eye on short-term electoral cycles, are not in a position to incur the pains of these reforms upfront while the gains only accrue later on, and potentially to a different political party. Meanwhile, authoritarian governments are not effective because they do not enjoy the legitimacy needed to sustain reforms. Changing institutions is a slow and difficult process requiring, in addition to significant political will, fundamental measures to reduce the opportunity and incentives for particular groups to capture economic rents.

The exact steps required for restructuring these institutions have already been developed, some in conjunction with the World Bank, and are fully documented. A synopsis of these plans can be found in several publications.³⁹ Lessons learned from neighboring countries outlined in this paper, if adapted and applied, can further refine and reinforce this restructuring effort.

It will not be possible to execute these reforms unless all major political parties reach a consensus, thereby ensuring that partisanship and point-scoring do not come in the way of implementation. Civil servants would be more active in this reform process if they knew that the risks of retribution and penalties were minimal. Politicians of all persuasions in Pakistan must realize that the growing disaffection for political parties and leaders, the quickening spread of violence and intolerance, the rising popularity and respect for the armed forces, and the widening gap between

the expectations of the general population and the actual deliverables of government should be a wake-up call for altering past conduct, practices, and behavior. A growing and educated urban middle class and an ongoing information and communications revolution—which extends even to Pakistan’s rural areas—through electronic and social media should act as catalysts for this change.

The good news is that some key stakeholders are already on board with the idea of a reform process. Conversations with senior military officers reveal a strong desire from the Army that civilian institutions return to the level of strength that they enjoyed in previous decades.

The ultimate beneficiaries of such altered behavior would not only be the citizens of Pakistan, but also political parties. The cynicism about and wide distrust of politicians within society at large would be replaced by improved access to and delivery of essential basic services—a dramatic transformation that would bolster the public’s confidence in a political class that today is highly unpopular.

Notes

1. This essay is based on a keynote address delivered at a conference on Pakistan’s institutions at the Woodrow Wilson Center in 2017. The author wishes to thank Bob Hathaway, Michael Kugelman, Shahid Yusuf, and Shuja Nawaz for their helpful comments on an earlier draft.
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Institutional Capacity and Governance in Pakistan: A Case Study of Parliament

Ahmed Bilal Mehboob

Pakistan's constitution provides for a federal parliamentary system of government, with a president as head of state and a prime minister as head of government. The federal legislature is a bicameral Parliament composed of the president, the National Assembly, and the Senate.

The National Assembly has a total membership of 342, of which 272 members are directly elected on general seats, 60 seats are reserved for women, and 10 for non-Muslim minorities. The National Assembly has a constitutional term of five years. The president is elected by members of the National Assembly, the Senate, and provincial assemblies.

The Senate is a permanent legislative body. The term of its members is six years. However, one-half of its members retire after every three years. The Senate consists of 104 members. Members of each of the four provincial assemblies elect senators from their respective provinces. Twelve members of the national assembly representing the federally administered tribal areas (FATA) elect eight senators, while all members of the National Assembly vote to elect four senators from the federal capital territory.

There is a unicameral system in the provinces (that is, there is one legislative chamber in each province), with each province housing a legislative assembly. There are two additional legislative assemblies outside the federal

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political structure. One is for Azad Jammu and Kashmir, and the other for Gilgit-Baltistan.

Pakistan came into existence as the result of a democratic process. The results of the 1946 election in British India determined that the Pakistan Muslim League—the political party that had articulated and stood for the demand for a separate country for Muslims in South Asia—enjoyed popularity amongst the majority of the Muslim population in a number of areas, some of which constitute today’s Pakistan. Since the first legislature, Pakistan has elected 14 national legislatures.

The National Assembly is elected partly through direct vote and partly through the list system under proportional representation. General election seats are filled by direct party-based elections on the basis of the first-past-the-post system (that is, the legislative electoral candidate who wins the most votes receives the seat). Seats for women and religious minorities are allocated to political parties from the party lists submitted to the Election Commission in proportion to the general seats won by them.

The 104 members of the Senate of Pakistan are indirectly elected—23 from each of the four provinces, eight from FATA, and four from the Islamabad Capital Territory. The 342 members of the National Assembly include 272 directly elected from across the country based on the population size of each province. Sixteen seats are reserved for women, while 10 seats are reserved for non-Muslims. In the current National Assembly of Pakistan, 17 political parties are represented. The Assembly has 70 women members (about 20 percent of the total Assembly membership), nine of which are directly elected on general seats. Thirteen political parties are represented in the current Senate. Female representation in the current Senate is 19, or 18 percent of total membership.

In Pakistan’s parliamentary system, the executive is not separate from Parliament but rather drawn from and a part of Parliament. At the same time, the elected executive is also accountable to the parliament from which it originates. Unlike in a presidential system of government, where the elected president is both head of state and government, under a parliamentary system the head of government is the elected prime minister who must be an elected member of the National Assembly. The elected president, meanwhile, serves as head of state.

Pakistan follows a system inherited from the British at the time of independence in 1947, and which has evolved since then. Despite being a parliamentary and not a presidential form of government, the system from the beginning has displayed a tendency toward electing strong individuals to run governments (think for example of Muhammad Ali Jinnah, Zulfikar Ali Bhutto, Benazir Bhutto, and most recently Nawaz Sharif). This suggests a preference of Pakistani political leaders for a presidential system. Additionally, the constitution delegates many executive powers to the prime minister. For example, the document stipulates that the premier “may act either directly or thru the Federal Ministers.”

In essence, therefore, the country follows a prime ministerial rather than a parliamentary form of government. Consider as well that in Parliament, party heads and not elected representatives control not just the legislature and the legislative agenda, but individual members of Parliament (MPs) as well.

While the Senate and the National Assembly carry out their activities in the plenary through introduction and debate on legislation and policy issues, the robustness of their work can be measured through the oversight role of the committees of the Senate and the National Assembly. In a presidential form of government, the legislature, separate from the executive, maintains checks on the executive through a strong oversight role built into the institution of committees. By contrast, in a parliamentary form of government, committees have a relatively limited oversight role. Regardless, each house has a separate committee dealing with each of the federal government ministries and divisions.

While the oversight role could certainly stand to become more effective, committees have to their credit begun to scrutinize legislation and to make pre-budget recommendations. The Senate has reinvigorated the system of receiving public petitions provided for in the rules of both houses of Parliament. Committee hearings are generally open to the public and the media, while committees are entitled to receive petitions and complaints from the general public.

Critical Analysis

The weakest aspect of the representative nature of Parliament is that it is extremely difficult for a person of average financial means to get elected to the Assembly. This essentially means that while Parliament theoretically represents the whole of Pakistan, persons of average means stand little chance of representing the people in the assemblies. After all, the majority of voters belong to lower income groups. Without major and effective reforms to change the nature of public funding for political parties, this unfortunate dynamic is unlikely to change.

Another weak aspect of Parliamentary oversight over the executive is its inability to scrutinize key executive appointments and to hold public bodies to account.

Similarly, even though control over purse strings is one of the most crucial powers of elected representatives, major reforms are needed across Pakistan's Parliament and provincial legislatures to allow for meaningful input from members and from standing committees in the budget process.

The political culture of strong individuals discussed earlier also hampers MPs' effectiveness as public representatives. Elected MPs struggle to shape and define legislative and policy agendas in great part because such powers are largely concentrated in the hands of party leaders. This results in a lack of freedom of action for MPs, who are simply obliged to follow dictates. Legislation details are decided by leaders, with legislation then hurried through Parliament. This effectively makes the role of individual MPs and their attendance in the House almost meaningless.

Indeed, perhaps the biggest disconnect in Pakistan's parliamentary system is that the public's expectations of the role of its elected representatives is almost completely at variance with the constitutional and institutional responsibilities of MPs.

In a developing country struggling to provide basic services such as health, education, employment opportunities, and even clean water and sanitation facilities, the public's expectation of its elected MPs is that these legislators act as a conduit for the provision of such basic services from the state. The general public expectation of an elected MP is that he or she will create employment opportunities for voters; deliver services such as electricity, sewerage, and schools to remote areas in each constituency; and be

accessible and represent voters in matters relating to police, local officials, and the like. As a result, voters put little or no premium on the role of MPs in the legislatures. This means no MP faces any public pressure or expectation regarding his or her role in the legislature, how much legislation is introduced, how many questions are asked, his or her role inside committees, or even attendance in the assemblies. The essential requirement of representation, legislation, and oversight, therefore, carries no weight in the eyes of the voters and hence places no performance pressure on the MP. Not surprisingly, PILDAT estimates that, based on interviews conducted with national and provincial legislators in recent years, parliamentarians spend about 75 percent of their time servicing personal issues of constituents and 15 percent of their time working on local development. This leaves only 10 percent of their time for discharging parliamentary duties.

This basic disconnect helps explain the great underperformance in Pakistan's Parliament—an essential democratic institution. While democracy as a system is slowly maturing in terms of its continuity in Pakistan—a huge positive, given that the country's history has featured long periods of military rule—the absence of dividends to improve governance renders Pakistan a democracy that functions merely in form, not in substance.

One can also argue that even in terms of public expectations of elected representatives to provide effective and efficient basic governance, the system has done little to effectively reform service delivery. While Pakistan can boast of improvements in infrastructure development, there is precious little to report on reforms in economic management and growth, the provision of justice, rising intolerance, and basic governance issues. While Parliament sits atop Pakistan's governance structure, the biggest disappointment in its performance has been its inability to discuss, much less lead, a comprehensive reform process on major policy issues facing the country. Apart from some key legal and constitutional reforms, Parliament has remained unsuccessful in providing workable recommendations on resolving Pakistan's key policy challenges.

What is perhaps most ironic is that despite being a key political institution—one that boasts political representation from across the country—Parliament remains completely irrelevant in resolving any political crisis. Since 2002, Parliament has largely functioned consistently and without interruption, and yet each and every political crisis facing Pakistan over

that long period has been addressed and resolved not inside but outside Parliament, even though it represents all major political parties and actors.

As has been observed over the years, on major issues facing the country, instead of being the main repository of policy review and advice, Parliament has largely remained out of the picture. The increasing trend of holding All Parties Conferences (APC) sharply illustrates the irrelevance of Parliament when it comes to discussing and resolving national issues. Each government has continued to rely on APCs to achieve political consensus on key policy issues. Consider, for instance, how Pakistan's recent consensus against militancy took the form of a National Action Plan arrived at through an APC, and not inside the Parliament. Quite simply, Parliament has been unable to assert itself as a key forum. Given that parliamentary mechanisms are in place for deliberations on issues of public concern and for forging political consensus, PILDAT believes it is incumbent upon the leadership of Parliament to assert its constitutional role and to curb the growing trend of the APCs—which are promoted at the expense of, and to the detriment of, Parliament's authority and its role as the legitimate representative of the public.

Necessary Reforms

In terms of the performance of Parliament and the provincial legislatures, apart from the Senate of Pakistan—which continues to set a high bar of performance among all of Pakistan's legislatures—the efforts of the National Assembly and the four provincial legislatures leave a lot of room open for reforms. Weak performance is particularly due to weak architecture and a lack of optimal utilisation of the powers of oversight of the executive, a lack of transparency and accessibility of the legislatures, and an ineffective parliamentary budget process.

Although the government and Parliament are not distinct entities in the Westminster system (a type of parliamentary democracy modelled after that of the United Kingdom), Westminster parliaments retain the duties of overseeing the government's implementation of policies and of ensuring that the opposition bench has an opportunity to make its voice heard.

The single-most required reform for Pakistan's Parliament is to lead and steer the policy reform agenda. This is critical for Pakistan's development

as a peaceful and prosperous democracy. Parliaments are typically given three primary roles that are vital to the functioning of a democratic polity: drafting and passing legislation; conducting oversight of the government and its performance; and representing citizens and their interests. For Pakistan's Parliament to uphold the tenets of democracy, it must carry out these roles effectively—and yet today, its performance in all three leaves much to be desired.

According to the Performance Report of the 14th National Assembly issued by the National Assembly Secretariat, a framework known as Strategic Plan 2013-2018 was outlined to improve the workings of the National Assembly. This included:

1. The formation of the Legislative Council.
2. The development of the Employee Management Information System to improve staff management capability.
3. Introduction of Parliamentary Services Courses in both private and public universities as a public outreach initiative by the National Assembly.
4. The formation of a multi-party Strategic Plan Oversight Committee to monitor the Strategic Plan's implementation.

Both the formation of this strategic plan and the larger performance report are welcome initiatives. And yet, the National Assembly's own reform initiative leaves some room for suggesting other much-needed reforms that the Assembly's current leadership and membership across the political divide should consider.

In order to effectively carry out the constitutional responsibilities of representation, legislation, and oversight, certain institutional reforms are needed in Parliament. The following should be considered.

Increase Actual Working Hours

The original 1973 constitution provided that the National Assembly (and provincial assemblies) should meet for a minimum of 160 days in a year.

This number was later revised downward and according to Article 54 (2) of the constitution of Pakistan, the National Assembly is required to meet for a minimum of 130 days a year. However, a break of two days during an ongoing session is also counted while computing the number of days in the context of this constitutional requirement.

If the two-day break is disregarded, the combined average of actual working days of the National Assembly is 103 days for the 13th National Assembly (2008-2013) and 77 working days for the 12th National Assembly (2002-2007). The 14th National Assembly of Pakistan, during its first parliamentary year, also met for a total of 103 actual working days. The average number of working hours per day for the five years of the 13th National Assembly comes out to around two hours and six minutes per day, compared to the average of a little over three hours for the 12th National Assembly. The 14th National Assembly during its first parliamentary year met for an average of three hours and eight minutes per day. Although the Assembly improved its working hours per day by 49 percent in comparison to the combined average of the 13th Assembly, further substantial improvement is needed.

Recommendation: The actual working days and working hours of the assemblies should be increased. In all established democracies, legislatures remain in session all year round except for well-defined breaks. That is how Parliament ensures its supremacy. A Parliament cannot be taken seriously in absentia. Even if the working days cannot be increased at this stage, the number of working hours per day should be increased to six hours per day on the average. A suitable amendment to relevant rules of procedure and conduct of business may be introduced to set a standard for average working hours per day. Alternatively, the rules can be amended to provide for the complete disposal of the items on the order of the day before the sitting is adjourned.

PM Question Time

In keeping with global parliamentary norms and traditions, the leader of the House, be it the prime or chief minister, should answer questions at least once a week. At least 30 minutes should be allocated for this purpose in each week for each legislature, in line with the practice in most parliamentary democracies.

Recommendation: Relevant rules of procedure and conduct of business need to be amended to provide for a weekly question period (say 30 minutes) for the prime/chief minister. Their greater involvement in the proceedings of the Assembly will go a long way toward strengthening the institution and establishing its supremacy. Since question time is widely telecasted, this direct engagement would provide an additional and valuable channel of communication with the people at large.

Reforms to Strengthen the Role of Committees

The national and provincial assembly standing committees related to ministries and divisions are vital to the work of assemblies. They serve as powerful channels to promote transparency and accountability in a parliamentary system of government. Committees are one of the most important mechanisms by which legislatures hold state institutions accountable, question executive policies, and investigate issues of public concern.

Committees, as a unit of organization within a legislature, provide the opportunity to a group of MPs for more detailed investigation and discussions on an issue. They have the ability to examine policy matters and review bills more closely than would be possible by the entire chamber.

For a variety of reasons, chief among them a lack of institutional stability and growth due to the derailing of democracy in the past, committees in the assemblies have not been able to fully leverage their potential and optimize their performance. As a result, committees have not been very effective in performing their constitutional responsibility of overseeing the elected government and holding the executive to account on behalf of the people. The following proposals are meant to strengthen committees in the legislatures.

Composition of Standing Committees

Political expediency should not be allowed to dictate decisions about who serves on these committees. When it does, the result, in many cases, is the paralysis of committees chaired by disinterested individuals.

Recommendation: Rules should be amended to ensure that members of standing committees are selected on the basis of their interest, aptitude, and past experience, and not political expediency.

Staffing and Better Research Support for Committees

For the effective performance of standing committees, it is essential that a system of research support is provided by the Assembly to the committee.

It is recommended that existing staffing structures of committees be revised. Instead of providing the chairperson with a personal assistant, personal secretary, driver, and so on, a dedicated committee secretary and at least two research assistants well versed in the subject of the committee should be provided.

The key job of executive oversight cannot be carried out by committees in the absence of independent research support and staff. Researchers specializing in key areas and general researchers assisted by interns consisting of post-graduate students or fresh graduates in relevant subjects should be arranged to assist the committees in particular and national assembly members in general.

Recommendation: The staffing structure of the committee should be revised. Instead of providing the chairperson with a personal assistant, personal secretary, driver, and so on, a dedicated secretary and at least two research assistants well versed in the subject of the committee should be provided. This may be provided for in the relevant rules.

Processing Legislation Through Concerned Standing Committees

At times, some important bills are passed in a short time after suspending the rules and bypassing the requirement of scrutiny by the concerned standing committees.

Recommendation: The concerned standing committees should always examine all legislation in depth before it is considered by the full House for passage. It is also recommended that more time should be allocated for debates on legislation.

Time Limit of Presentation of Reports by Committees

According to Rule 201 (3) in the Rules of Business of the National Assembly of Pakistan, when the House makes a reference (bill or any other matter) to a particular standing committee and if the committee does not give its

report within the prescribed time, then the House can consider the report upon a motion. However, if no time is prescribed for the presentation of the report, then there is no limit for the committee to present the report.

In contrast, the rules of procedure in the Lok Sabha (lower house) in India's Parliament state that when the time period has not been fixed for the committee to present a report, then it should be presented within one month of the reference made to it.

This issue is of particular importance because there are a number of important bills that are stuck at the committee level—sometimes for years—but are not brought in the House.

Recommendation: An amendment in rules is needed which sets a time period for a committee to return to the House with its report.

Transparency and Accessibility of Proceedings of Committees

Unless the circumstances of a particular meeting warrant otherwise, committees' proceedings—especially when they are not deliberating internally—should be open to the public and the media to observe and report.

Recommendation: All committee proceedings except deliberations among members should be made public so that the media and other concerned parties have access to them.

Creation of Committee for Public Petitions

Strong and active parliaments draw their strength from a close and direct link with the people. A notable aspect of this linkage, generally speaking, is the Petitions Committee of the Parliament, which invites, receives, and processes complaints sent by the people about anything under the sun. Germany and India can be cited as two countries that have such arrangements in their parliaments.

Although all standing committees in Pakistan's two houses of Parliament may act as petition committees in their respective areas of work, this aspect of the committees has remained dormant to date and needs to be strengthened.

One former chief justice of Pakistan endeared himself to the people of Pakistan by inviting public complaints and then taking *suo moto* action (that is, action taken on his own initiative) on them. However, Parliament is a more appropriate forum to receive such petitions.

Recommendation: A petition committee should be developed that would invite, receive, and process the complaints of the people.

Reforms in the Budget Process

“Power over purse strings” and “power of the purse” are incontestable democratic fundamentals. This essentially means that there is an obligation on elected representatives of the people in an assembly to ensure that all revenue and spending measures they authorize—legally and constitutionally—are fiscally sound, match the needs and aspirations of the population with equity, and are implemented appropriately and efficiently. These fundamentals further underscore that it is “we the people” who make and implement the budget for themselves.

This crucial power of elected representatives in the national and provincial assemblies of Pakistan, however, is compromised due to the lack of availability of effective powers with committees after the budget is presented. A number of reforms are required in this regard.

Effective Operationalization of Recent Amendment in Rules

A critical reform was passed in the 13th National Assembly of Pakistan to allow committees the specific power of review of budgetary proposals by each ministry before they are submitted to the Ministry of Finance in Pakistan’s specific budgetary cycle.

As per the revised rules, all standing committees have to receive proposals related to their relevant ministry’s Public Sector Development Program (PSDP) for the next financial year “not later than 31st January.” The Standing Committee has to review the budgets and make recommendations “not later than 1st March” of each year.

Recommendation: Similar powers be extended to all legislatures. Standing committees should be geared to optimally use this new power while the Secretariat and support staff of committees should be directed to seek all possible expertise and resources on the subject to assist the committees.

Powers to Committees to Review Budget after Presentation of the Budget

The existing budget process makes it impossible for the Assembly as the

plenary to review the budget in its entirety. As a result, the Assembly's power to pass the budget is only exercised in name. In reality, the budget is passed without meaningful understanding and scrutiny.

Budget proposals of ministries and divisions can only be understood and scrutinized by their respective committees. In other parliamentary systems, including India's, after the presentation of the budget, demands for grants are referred to respective departmental committees which scrutinize individual ministerial demands for grants and report to the House by a fixed period, after which the grants are voted on.

This is a critically important reform for Pakistan. Without it, the Assembly will simply continue to go through the motions of passing the budget every year without justly fulfilling its constitutional responsibility of understanding the budget before its passage.

Recommendation: The rules of procedure and the conduct of business in the national and provincial assemblies of Pakistan should be amended to provide a role for the standing committees to review ministerial demands for grants once the budget is presented, and to prepare reports by a specified period and table those reports in the House. Debate on the budget should resume following the submission of reports by the committees.

Increase in Time to Debate/Scrutinize Budget

Despite its critical importance in the business of the Assembly, the time allocated for budget sessions remains as insufficient as the role in review of the budget. In the past decade, assemblies have maintained a grossly insufficient 14-day average on discussion and passage of the federal and provincial budgets. This falls way short of the required time for adequate budget scrutiny and analysis by the legislature. Also, this paper's proposal that committees be allowed a role to scrutinize departmental budgets cannot be put in place unless the budget period is increased accordingly.

Recommendation: The budget session period needs to be increased from the existing average of 14 days to about 45 days. This would require the budget to be presented to the House in early May every year so as to conclude the budget session before June 30.

Greater Public Access and Transparency

From 2008 to 2013, for the first time in the National Assembly's history, the Assembly began its journey of greater transparency and public access by providing key information about Assembly sittings and proceedings to the media and public through its website. The National Assembly's new website now carries the Orders of the Day (Daily Agenda of the Sittings), details of legislative business, verbatim proceedings, and the questions and answers of the Question Hour. Parliamentary leaders who facilitated this greater transparency should be commended for making an important contribution to democracy.

However, for all the improvements in the National Assembly on providing greater public access to its work, it remains regressive on some of the key issues of public information. These include the complete record of attendance of each member of the National Assembly, voting records of members, detailed profiles of members, and other relevant details. In an unprecedented triumph for democracy and parliamentary openness in Pakistan, the president of Pakistan upheld PILDAT's request for the attendance records of MNAs back in July 2015. To its credit, since this presidential verdict, the National Assembly has started uploading MP attendance on its website and the Senate has followed suit. In fact, the Senate has gone a step further by making the committees' attendance public as well.

Recommendation: The details provided on each Assembly website need to be further improved keeping in view the parliamentary openness and transparency standards in South Asia and worldwide.

Moreover, the legislative leadership of each assembly should take the lead in providing public access and transparency on all aspects of the Assembly. For that purpose, it should make all relevant data open by default. This essentially means that there should be a proactive release of Assembly data, it should be available in open and structured formats, and it should be free of charge. Proactive data sharing gives both parliaments and citizens access to low-cost tools for enhancing outreach, communication, monitoring, and advocacy. It also strengthens nongovernmental organizations, empowering them to interact with elected officials, and gives them a greater understanding of the laws and legislative actions that affect their lives.

Additionally, while formats such as HTML and PDF are easily accessible for humans, they are difficult for computers to process. Providing data in structured formats, such as JSON and XML, adds significant ease to access and allows more advanced analysis, especially with large amounts of information. Unnecessary limitations arise in citizen access to crucial data by providing certain information (such as attendance records of the legislators) only upon request, or in closed formats that restrict constituents in their ability to access, search, analyze, and reuse data.

Daily attendance of all members of India's Lok Sabha and Rajya Sabha (the lower and upper houses, respectively, of India's Parliament) is posted on their official websites. Models such as that of the Lok Sabha in India and House of Commons in the UK can be adopted, while providing greater access and transparency through websites. Another model for Pakistan's National Assembly is offered by "They Work for You" (<http://www.theyworkforyou.com/>), a British initiative that provides open data from Parliament to the public in an accessible format.

Televising Proceedings of Parliament

Question Hour is the most crucial part of an assembly's proceedings through which the elected members hold the government to account. Very useful details are shared with members in response to their questions. The Question Hour is currently telecasted on Pakistan Television (PTV) only. PTV is Pakistan's public television channel.

Recommendation: The Assemblies should extend the facility of televising the Question Hour to private television channels. Necessary amendments in rules, if required, may be made.

Amending Voting Procedures

Currently, most of the voting in each assembly is conducted through voice votes. This procedure needs to be amended because voice votes do not get incorporated into individual voting records.

Recommendation: Assembly rules should be amended so that all voting records individual votes, with voting choices made public through the Assembly website. The public has a right to know how its representatives are voting. It is further proposed that an electronic voting system be introduced

whereby members can exercise their vote after biometric identification and voting results are electronically displayed.

Parliamentary independence and parliamentary engagement of citizens are crucial to strengthening the independence of legislatures and their linkages with citizens, which are in turn seen as keys to enhancing legislatures' representation of citizens, their oversight of government, and their functioning on the whole.

Government responsiveness to Parliament should be monitored and reported publicly on a routine basis. Legislatures are elected to represent citizens, and no individual is above their authority.

Pakistan's assemblies should follow international good practices in bolstering measures to enhance the technical capacity, professionalism, and merit-based selection of staff. In addition, the budgets of the assemblies must gradually be enhanced to enable legislators to play their roles more effectively. Committees should have sufficient space to meet as needed, while members should have access to legislative counsel and independent research.

Conclusion

Pakistan's parliament is a key democratic institution in a nation where democratization continues to make slow but steady progress. Despite some encouraging reforms, such as efforts to increase transparency, parliamentary performance still leaves much to be desired. This paper has proposed a series of governance reforms that, if implemented, could strengthen the capacities of Pakistan's parliament in a big way.

Institutional Reforms in Pakistan's Judiciary

Waris Husain

The year 2017 was a turbulent one for politics in Pakistan, and it included the Supreme Court's disqualification of Prime Minister Nawaz Sharif. The premier's ouster marks just the latest example of Pakistan's courts playing a major role in politics. The time has never been riper for an examination of the opportunities and challenges for judicial reform in the country.

Since the Lawyers' Movement in 2007, Pakistani lawyers and judges have enjoyed public support for taking a more influential role in the social and political development of the country. At the same time, there have been accusations that the judiciary has become too powerful, and without proper transparency or accountability.

One way to pursue increased accountability is through internal judicial reforms, a tactic currently being tested by some senior judges of the Supreme Court and various high courts. Despite the failure of the judiciary to recognize its own faults and adopt reform policies under the leadership of Chief Justice Iftikhar Chaudhry from 2009 to 2013, the need for reform is now becoming more openly acknowledged by some judges and lawyers.

In order to maintain the newfound independence and power that the judiciary enjoys, it must take self-correcting measure to ensure that the Supreme Court ends its historical subservience to the military, makes the judicial appointment process more transparent and democratic, and guarantees that misconduct by any member of the judiciary is properly punished. Accordingly, this study evaluates institutional reforms and recommends solutions in civil-military relations, appointments to the judiciary,

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and the role of bar councils. It also focuses on the need for better security in the legal profession.

Civil-Military Relations

Pakistan has been described as a praetorian state, where “constitutional changes are effected and sustained by the military and the army frequently intervenes in the government.”¹ Various military dictators have challenged the nation’s constitutional framework, leading to limitations on citizens’ “fundamental rights and the diminution of federalism.”² Rather than legally refuting the tyranny of military rule, “the Pakistani courts perversely validated military governance...abandon[ing] their role as guardians of the constitution.”³

However, the history of the judiciary’s tacit acceptance of military domination was drastically altered by the 2007 Lawyers’ Movement, which centered on the reinstatement of Chief Justice Iftikhar Chaudhry. Chaudhry had been removed from the Supreme Court in 2007 by General Pervez Musharraf as punishment for judgments that threatened the military’s interests. Chaudhry was eventually reinstated to his post while Musharraf was deposed and fled from the country, mostly due to the efforts of the legal community.

The Prosecution of Pervez Musharraf

In 2013, Musharraf reentered Pakistan and was charged with treason for the imposition of emergency rule and the suspension of constitutional provisions in 2007.⁴ Commentators discussed the significance of the legal process for Musharraf as being the first of its kind to legally investigate and punish a Pakistani military dictator.⁵ The creation of a special tribunal to investigate Musharraf was itself a reformative action to change the judiciary’s historical acceptance of extralegal regimes imposed by the military. Not only was this trial expected to serve a symbolic purpose, but a successful prosecution of Musharraf would serve as a deterrent to future military dictators when they contemplated suspending or abrogating the constitution.

The Supreme Court initially prohibited Musharraf from leaving the country. However, in 2016, many were surprised to see the Court remove

Musharraf from the exit control list,⁶ and he left the country just hours after that move.⁷ Despite expectations that the Supreme Court would pursue a case against Musharraf, there seemed to be a sudden change in the Court's approach by allowing him to leave the country for medical treatment.

One explanation for this turnaround has been disclosed by Musharraf himself, who claimed that the then-army chief Raheel Sharif had influenced the Court to release him. Musharraf stated in an interview that "[t]hese courts work under pressure behind the scenes and then give decisions... [t]he army chief had a role to play in releasing the pressure behind the scenes."⁸ While Musharraf did not imply that Raheel Sharif met directly with the Supreme Court's justices, he suggested that the chief of the Army applied pressure on Nawaz Sharif's government by commanding it to stand down in its pursuit of criminal charges against Musharraf.

This episode demonstrates that despite the empowerment of the judiciary over the last decade, the courts still face challenges in correcting the civil-military (im)balance of power. The prosecution of Musharraf still remains a possibility, and if it is pursued successfully without influence from the military, the courts could solidify their own powers and also the powers of Parliament and the prime minister in relation to the military.

However, the military's impact on the Court has been cited by some critics of the 2017 decision by Pakistan's Supreme Court to disqualify Prime Minister Nawaz Sharif, based on allegations of corruption. This disqualification has significantly impacted the future of civil-military relations and potentially also judicial independence in the country.

Military Courts

The failure to prosecute Musharraf would be a blow to the judiciary's power, but an even greater setback came in the form of the 21st amendment passed in 2014. This amendment allows military tribunals instead of civilian courts to prosecute terrorism suspects. It was justified on the conclusion that civilian anti-terrorism courts (ATCs) were unable or unwilling to effectively prosecute terrorism suspects, evidenced by the ATCs' consistently low rate of conviction and by cases that had been pending for long periods of time.

Since the creation of the military courts, nearly 161 suspects have been sentenced to death.⁹ The International Commission of Jurists Asia Director

Sam Zirifi has criticized the military courts for being opaque and operating “in violation of national and international fair trial standards.”¹⁰ There have also been claims that a judge on one of the tribunals “raised concerns about the accuracy of the testimonies against the accused; discrepancies between the charges and the evidence provided; and lack of legal training of military courts’ officers.”¹¹

These accusations suggest that military tribunals have been willing to set aside suspects’ constitutional rights in favor of higher conviction rates, in ways unimaginable by civilian courts. This not only endangers the rights of the accused but further calls into question the rule of law in the country overall. While the 21st Amendment was written with a sunset provision that would disband the military courts in January 2017, military courts were reinstated in March 2017 by Parliament.¹²

By passing the 21st Amendment and debating the permanence of military courts, Parliament has abdicated its role in supporting the judiciary and formulating anti-terrorism laws that can be efficiently and effectively prosecuted. However, Parliament was not alone in facilitating the military’s exertion of control over a large part of Pakistan’s criminal justice system, as the Supreme Court upheld the 21st Amendment in 2015.¹³ The legitimization of military courts has shown that both Parliament and the Supreme Court lack trust in the capabilities of ATCs.

However, this deflective approach disregards the value of ATCs and civilian courts in general, which have experience and established jurisprudence that balance the constitutional rights of the accused with the security of the nation. Undoubtedly, there are deficiencies in the ATCs that need to be addressed with major reforms—including the provision of additional security and training for judges and prosecutors, “removing tangential litigation from ATCs,” and “strengthening capacity gaps in investigation,” as suggested by Syed Manzar Abbas Zaidi.¹⁴

Yet, these reforms cannot be made if military courts completely usurp the power and jurisdiction of ATCs, depriving civilian judges and prosecutors of the chance to improve their conviction rates. Rather, Parliament must craft more legislation like the Protection of Pakistan Act, which attempts to address some of the institutional failings of the ATCs. At the same time, the Supreme Court should create an investigatory commission that

not only examines the deficiencies in the ATCs, but also addresses problems in the overall criminal justice system—recommendations espoused by the Pakistani barrister Salahuddin Ahmed.¹⁵

Judicial Appointments

Another major area for judicial reform relates to the method of judicial appointments, or the appointment of judges to the bench. The tradition of appointment in Pakistan allowed for judges to be the sole arbiters of appointments or promotions on the bench. This tradition of judges appointing fellow judges allows for the unelected Court to ignore the opinions of elected entities like Parliament or the prime minister. In several seminal cases,¹⁶ the Supreme Court has held that the Chief Justice of Pakistan should be the preeminent authority on the appointment or promotion of judges to high courts or the Supreme Court. While the chief justice could be assisted in the appointments process by the Judicial Commission of Pakistan (JCP), which was composed of junior judges, the Chief Justice's opinion was recognized as preeminent. This delegation of power to the unelected Chief Justice of Pakistan was based on the fear that allowing elected branches to control appointments would threaten the independence of the judiciary as judges would feel beholden to politicians who appointed them. However, the judge-dominated system of appointments has been criticized as being faulty and “mainly based [off] of political affiliations.”¹⁷

In 2010, Parliament challenged this tradition by passing the 18th Amendment, which empowered a parliamentary oversight committee to evaluate the appointments of the JCP. In response, the Supreme Court held that the 18th Amendment was invalid because it violated constitutional principles of judicial independence and suggested that Parliament reform its suggested appointment process through a new amendment. Subsequently, Parliament passed the 19th Amendment, which diminished the powers of the new parliamentary oversight committee. However, the Supreme Court has remained fixated on this committee. According to one Pakistani attorney, “the role of the parliamentary committee has been significantly scrutinized and exhaustively outlined by the Supreme Court.”¹⁸ In subsequent cases including *Munir Bhatti Hussain* (2011)¹⁹ and the *Presidential Reference*

Case (2012),²⁰ the Court has weakened the parliamentary committee even more and affirmed “the steering role of the Chief Justice of Pakistan” in judicial appointments.”²¹

The Court has not only criticized and limited the powers of the parliamentary committee, but also failed to enact internal reforms to the JCP under the leadership of the Chief Justice of Pakistan.²² The Judicial Commission Rules,²³ established in 2010, are very general and do not describe the process and qualifications required for a successful nomination. Basil Nabi Malik has pointed out that there is a lack of transparency in the judges’ commission, where the candidates themselves have “no idea what criteria he (or she) must fulfill for the purposes of being nominated or recommended for confirmation as a judge.”²⁴ Furthermore, he argues that there is a “dearth of standardized criterion on which his [or her] performance could be adjudged for confirmation.”²⁵

While there has been little progress in improving the appointment process by various chief justices in the Supreme Court’s history, there is some positive reform taking place in the Lahore High Court (LHC). The chief justice of the LHC, Syed Mansoor Ali Shah, has made waves with his attempts to reform LHC appointments. Shah began his tenure by demoting 30 judges from the bench who were accused of incompetence, bias, or inefficiency.²⁶ In order to fill some of these positions on the bench, Shah called for “pro-formas to as many as 250 intending lawyers, who were required to submit their cases’ details, were scrutinized in a somewhat objective way and the result was that some of the best qualified were appointed.”²⁷ Chief Justice Shah has also called on the appointment process to be made more transparent over time.

While the reaction to Shah’s actions has been mixed, his focus on internally reforming the judiciary by making the appointment process more efficient, effective, and less prone to nepotism should be a catalyst for other high courts and the Supreme Court. If Justice Louis Brandeis of the U.S. Supreme Court was correct that sunlight is the best disinfectant,²⁸ the only way to address the deficiencies of the JCP’s appointment process is to make the process more transparent and open to the public.

Along with reforming the JCP’s internal operations, the Supreme Court should review its jurisprudence to recognize the substantial role

the Parliamentary Oversight Committee must play in judicial appointments. Not only could this make the appointment process more transparent and cooperative, but it would also give the public the right to impact the appointment or promotion of judges through their elected officials in Parliament. Without such reforms, the judiciary will continue to be on the receiving end of an increasing amount of critiques concerning the self-perpetuating judicial appointment process, which shows that public support for the courts in general may be eroding.

The Role of Bar Councils

There are many different kinds of bar councils in Pakistan, and they often have overlapping functions. In general, a bar council is tasked with certifying lawyers to practice law in a certain jurisdiction along with disciplining practicing attorneys for engaging in immoral or illegal actions. The discipline can range from a warning to the ultimate punishment: disbarment, a permanent prohibition on the practice of law. As a gatekeeper, bar councils aim to ensure that the legal profession is respected by the public. Accordingly, councils monitor and reserve the right to punish members of the bar who are acting in a way that would discredit the legal profession in general.

Bar councils in Pakistan are not, however, ideologically homogenous institutions. There are divisions among the members of the council based on personality politics, political ideology, and religious sentiment. These divisions are especially apparent during elections for the leadership of each bar council, which are hotly contested due to the immense power vested in these positions. While the councils lack homogeneity, the leadership speaks on behalf of each bar council, and especially in times of crisis.

Lawyers are represented by the bar while judges are represented by the bench. Judgments in various Supreme Court and high court cases have emphasized the need for the bar and bench to work cooperatively in order to ensure respect for the legal profession. The zenith of cooperation between the bar and bench came in the form of the Lawyers' Movement, when judges and lawyers worked cooperatively with the unified purpose of bringing judicial independence to Pakistan.

However, since the success of that movement, deep divisions have formed between the bar and bench over various issues. Some of these issues relate to legal debates like the scope of power that should be exercised by the Supreme Court.²⁹ However, some disputes go far beyond legal debates; for example, there have been recorded instances of senior attorneys threatening or intimidating judges to pass orders that are favorable to their client. In other instances, judges have been physically assaulted by lawyers or had their court records snatched from them. Due to the protectionist attitude of the bar council, sometimes these offending lawyers are not punished and the accusations of judges are dismissed.

This complacency in punishing attorneys that violate the law or rules of professional conduct was recently addressed by Chief Justice Shah of the LHC. In December 2016, he was informed that the vice president of the Lahore Bar Association was accused of threatening a female judge.³⁰ Chief Justice Shah convened a meeting of the high court supervisory committee. Utilizing powers from Article 54 of the Practitioners & Bar Council Act of 1973, Chief Justice Shah suspended the attorney's license and imposed a fine of nearly \$5000.³¹

Remarkably, the Lahore Bar Council defended the accused and demanded Chief Justice Shah's resignation.³² Its reasoning was that Shah "committed misconduct" himself by acting in a prejudicial manner against the vice president of the Bar Council.³³ The Council also called for an amendment to Article 54 of the Practitioners & Bar Council Act of 1973 to take away the power of judges to suspend attorneys' licenses. Some members of bar councils alleged that the independence between the bar and bench could not be possible in the face of interventionist judges like Chief Justice Shah of the LHC. Not all lawyers agreed with the position of the Lahore Bar Council. Ali Zafar, president of the Supreme Court Bar Association, stated that demanding Chief Justice Shah's resignation was irrational.³⁴

Regardless of the fate of the vice president of the Lahore Bar Council or even Chief Justice Shah, this episode demonstrates a growing enmity between the bar and bench that can manifest itself in physical threats and intimidation. Despite their differences, however, the bar and bench are perceived by the public as equal members of the judiciary, and they are expected to work cooperatively to preserve the reputation of the judiciary.

Therefore, bar councils should cooperate with judges who attempt to punish attorneys for misconduct, rather than reflexively protect the alleged wrongdoers. Bar councils are vested with the right to permanently disbar any member for misconduct after a proper investigation is conducted and a proper tribunal convened. In order for there to be real reform within the ranks of practicing attorneys, councils will need to conduct their own investigations after a judge moves to suspend an attorney's license for misconduct.

In future cases, the bar councils could take the lead by investigating and punishing attorney misconduct without action needed from the bench at all. In order for this kind of internal reform to be successful, council members will need to set aside their internal divisions to act as a singular unit. Despite the existence of allegiances and alliances among parties within each council, all attorneys will suffer if the public begins to believe that lawyers are engaged in wholesale misconduct, either through intimidating judges or mistreating clients. Therefore, there should be a vested interest in maintaining a positive public image, which will require the investigation and punishment of any misconduct by members of the bar regardless of their personal or political affiliations.

Along the same lines, the bench should ensure that all judges act in a professional manner and any wrongdoing is punished publically. By demoting thirty judges of the LHC in 2016, Chief Justice Shah began to move the judiciary toward a self-reliant model of reform. This reform model requires senior judges to be vigilant and to commit to routing out misconduct by members of the bench, even when the misconduct is committed by a colleague or acquaintance. Much like Chief Justice Shah's reforms in the judicial appointment process, the policy of punishing misconduct by judges and lawyers alike should be a catalyst for change at the remaining High Courts as well as the Supreme Court of Pakistan.

Security

Lawyers are specifically targeted by Pakistan's various extremist groups. An obvious reason why some lawyers are targeted is their involvement in civil or criminal litigation involving terrorist groups.³⁵ In other cases, extremist groups target lawyers who are defending religious minorities or alleged blasphemers, in order to deprive those clients of legal protection.³⁶ However, in

2016, there was an attack in Quetta that targeted all lawyers, regardless of what kind of cases they handled.

In August 2016, the president of the Baluchistan Bar Association, Bilal Kasi, was murdered by Jamaat-ul-Ahrar, a terrorist group affiliated with the Pakistani Taliban. When his body was sent to a local hospital, the terrorist group sent a suicide bomber to target grieving members of the Bar Association who had come to the hospital, leaving 75 dead and over 100 injured. Some observers described the attacks as a mass murder of an “entire generation of a city’s lawyers.”³⁷ In the aftermath, bar councils and associations from around the country began demanding that better security be provided to the legal community.

In response, the Supreme Court created an investigatory commission led by Justice Qazi Faez Isa. Justice Isa’s conclusions, known as the Quetta Commission Report, were that the state has failed to provide proper protection to attorneys and has more generally failed to address the multifarious threats that emanate from extremists groups. The report was scathingly critical of state institutions including the police, the ministry of interior, and members of the ruling administration for failing to silence hate speech in public spaces or pursue effective investigatory tactics against terrorist groups.³⁸

While the Quetta Commission Report is an indictment of the state for failing to protect the entire population, one cannot discount the fact that the Quetta attack was aimed specifically at lawyers for their profession. Lawyers and judges represent the rule of law, which by its letter in Pakistan criminalizes all terroristic activity. Thus, members of the legal community represent an inherent threat to extremist groups, which thrive on lawlessness. There is little the legal community can do in order to protect itself other than requisitioning private security. Serious actions and reforms must be initiated by executive agencies like the Ministry of Interior and federal police to provide proper protection to judges, lawyers, and court buildings, and to improve security conditions for the population at large.

Conclusion

In the aftermath of the Lawyers’ Movement and whirlwind judgments of the Supreme Court under the leadership of Chief Justice Iftikhar

Chaudhry, some jurists have taken an introspective approach attempting to understand and address deficiencies in the judiciary. The year 2017 began with the swearing-in of the 25th chief justice of Pakistan, Mian Saqib Nisar. It will be up to Chief Justice Nisar, as well as to the chief justices of Pakistan's four high courts, to bring more transparency and democratic involvement to the judicial appointment process. Along with shifting some judicial appointment powers to the parliamentary committee created by the 19th Amendment, the chief justices will need to address critiques that the appointment process is biased and opaque and does not result in the best talent being appointed to open positions on the bench.

Furthermore, bar councils will need to work diligently to ensure that all members of the legal profession follow the law and professional codes of conduct. Personal or political relationships will need to be set aside in the face of accusations of misconduct by a member of the bar, and accusations will need to be investigated seriously. The duty of the bar councils and associations to investigate and punish attorney misconduct should be heightened when judges accuse members of the bar of wrongdoing. Judges and lawyers will need to work together to ensure that the legal profession is respected. One way to do so is for lawyers to address, not defy, accusations from the bench. Similarly, judges should take seriously and act on accusations that may be leveled on the bench by the bar.

Lastly, Parliament and the Supreme Court will need to work cooperatively to restore the civil-military power balance that has shifted since the passage of the 21st Amendment and the replacement of civilian anti-terrorism courts (ATCs) with military courts. Rather than allowing military courts to permanently impede on the constitutional rights of the criminally accused, the ruling administration and judiciary itself must address the real deficiencies in the ATCs, which contribute to abysmal conviction rates and long delays in civilian anti-terrorism trials.

Abandoning civilian courts for the prosecution of terrorism is a threat to the overall role of the judiciary and disregards 60 years of jurisprudential experience that civilian courts possess to protect constitutional rights and punish illegal actions. However, judges and lawyers cannot be expected to meet all these reform demands without being provided proper security by

the state, which has failed to happen—as the 2016 attack on members of the Baluchistan Bar Association made tragically clear.

Notes

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Governance and Pakistan's State-Owned Enterprises

Mehmood Mandviwalla

Good governance is commonly understood to embody the characteristics of accountable, transparent, participatory, responsive, effective, and efficient; to minimize corruption; to take into account the views of minorities; and finally, and perhaps most importantly, to follow the rule of law. This paper presents and examines governance issues related to state-owned enterprises (SOEs), with particular emphasis on privatization.

Judicial Restraint, Activism, or Adventurism?

In Pakistan, the judiciary enjoys a very significant position. It is fiercely independent and has been the guardian and custodian of the Constitution. Recent judicial activism in Pakistan has made the judiciary a watchdog against the violation of fundamental rights guaranteed under the Constitution. The challenge, in the case of the Supreme Court, is to strike the right balance when it comes to the tightrope of equity, justice, and good conscience.

The question will always be when, how, and to what extent the Supreme Court should exercise its activism. Generally, the approach of the judiciary in Pakistan has been that while it may be appropriate that the courts show due deference to the opinion formed by the executive, any state action that violates fundamental rights must invariably be subject to judicial scrutiny that passes the test of fairness and impartiality.

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Indian judgments are followed and relied upon in Pakistan, and they have persuasive value. An important milestone in India's privatization was the landmark 2001 judgment of its Supreme Court in a case titled *Balco Employees Union vs. Union of India and others*. The Court laid down the principle of judicial restraint in relation to the matter of privatization. It was held that in a democracy, it is the prerogative of each elected government to follow its own policy. A change in government may often result in a shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot *per se* be interfered with by the Court. It is neither within the domain of the courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical.¹

In other words, according to this Indian Supreme Court judgment, it is not for the courts to consider the relative merits of different policies. For testing the correctness of a policy, the appropriate forum is parliament and not the courts.

Pakistan has judicial precedents in public interest litigation where on the one hand the Supreme Court has exercised judicial restraint, and on the other hand where the courts have felt justified to intervene. Such intervention can be regarded as judicial activism. In some cases, judicial activism has bordered on being classified as judicial adventurism. However, the courts do not and should not operate in the framework of these concepts. For the Supreme Court, as a guardian and interpreter of the Constitution, the only concept that matters is the rule of law.

Public interest litigation is a weapon that has to be used with great care and circumspection. Indeed, the judiciary has to be extremely careful. It must ensure that ugly private malice, vested interests, and publicity-seeking do not lurk behind the beautiful veil of public interest. Indeed, the attractive brand name of public interest litigation should not be used for suspicious products of mischief.

The Challenges of Privatization

For decades, Pakistani politicians have invoked hollow slogans focused around economic upliftment, poverty alleviation, and the overall improvement of the lives of the toiling masses. If politicians understood real economics and linked their politics to the same, we Pakistanis may not find ourselves where we are today and be envious of the gloss and shine of the Indian economy and businesses. For years, Pakistan has declared an economic war on itself through the manner in which its budget is allocated.

In Pakistan, privatization suffers from, or has to face, the following challenges:

- It is not and has not been an economic ideology for successive governments.
- Government ownership of privatization is for the wrong reasons. It is rooted in either the desire to use the proceeds of sales for financing the budget deficit, or simply to meet the deadline for publishing the Expression of Interest imposed as a consequence of International Monetary Fund (IMF) or other conditions.
- Country ownership is limited. To the public at large, it is a change from one shareholder (the government) to another (the private sector). Privatization will be effective and popular only if private managers act in the public interest.
- The political opposition (in complete disregard for its own election manifestos) criticizes the incumbent government's privatization plans. It brings in slogans such as "selling the country's silver." The loss-making SOE becomes the vanity of the nation. For example, in the case of Pakistan International Airlines (PIA), the opposition has argued that the airline is an embassy with wings transporting culture, commerce, and goodwill around the world. The sovereignty of the country, so goes the opposition narrative, is being compromised by selling such national symbols—as loss-making as these supposed national icons may be.

- The impression among employees in SOEs that the public sector has an advantage over the private sector in terms of job security, working conditions, and fringe benefits.

The post-privatization success of the Balco case and others like it is important in that it demonstrates that labor is not necessarily a casualty of privatization. While it is expected of a reasonable employer to take many matters into consideration, including the welfare of labor, before making a policy decision, that by itself will not entitle the employees to demand a right of hearing or consultation prior to the making of the decision. The workers may have some protections; however, the sole shareholder—the government—does not have to give the workers prior notice of a hearing before deciding to disinvest.

Privatization and Judicial Activism

A major advantage—or disadvantage—for privatization is judicial activism. Major privatization transactions in Pakistan have been brought before the Supreme Court on the grounds that they relate to public importance or are an enforcement of a fundamental right or public duty. Below are two contrasting cases.

In the 2006 Pakistan Steel Case, the Supreme Court struck down the contract entered into by the Privatization Commission of Pakistan with the successful bidder. This decision ultimately has cost the Pakistani taxpayer billions of rupees.

In this case, the Supreme Court did not pay much attention to the well-established principle of law—namely, that it is not the function of the judiciary to interfere in the policymaking domain of the executive.

The most surprising feature of the judgment was that the Supreme Court appeared to suggest a unilateral demand: Bidders should have furnished a guarantee for the purpose of making future investments with a view to raising production capacity. This was not a condition specified in the bid documents, and no such requirement has been made in any other case of privatization. If such guarantees are made a condition of privatization, no company will ever be privatized.²

In the 2011 Habib Bank Case, surprisingly, the first question framed for adjudication was whether privatization was carried out in haste and was

undertaken on the desire of the IMF. The assumption here was that the decision was not that of the government of Pakistan, but rather was made due to external pressure. While the Supreme Court held that this logic was twisted and rejected the position, the fact that such a question even made it to the process of adjudication highlights the extent to which any government has to go not only to implement a transparent process but also to manage all kinds of perceptions that make it to the Court.

The Supreme Court further held that while dealing with a case relatable to financial management by the government, it must appreciate that these are either policy issues or commercial transactions requiring knowledge in specialized fields. The Court noted that it lacks the expertise to express any opinion on the soundness or otherwise of such acts and transactions. The Court even went so far as to state that so long as there was “substantial compliance with the relevant provision,” then a minor deviation from the rules or regulations, if any, in the absence of any credible allegation of mala fides or corruption would not furnish a valid grounds for interference in judicial review. Indeed, this portion appears to follow the concept of judicial restraint as enunciated in the Balco case.³

For the purposes of privatization, what is the rule of law in terms of a public functionary exercising public authority? The decision of the government should be fair, just, transparent, reasonable, not arbitrary, untainted by mala fide, without discrimination, in accordance with the law, without any deviation of due process, and made while always keeping in view the constitutional rights of citizens. Given the presence of so many criteria, something is bound to go amiss.

The Court can nullify any action of the government where it is established that a decision-making authority acted in violation of the above; exceeded its powers; or committed an error of law or an all-encompassing breach of the rules of natural justice.

Given the judicial activism already seen in public interest litigation, it can be expected that future privatization will be subject to judicial scrutiny. It is unlikely that superior courts will demonstrate restraint or reluctance in this regard, and in fact they are likely to broaden their constitutional authority particularly when state institutions cross their constitutional limits.

Code of Corporate Governance: First Phase

Lord Acton perhaps made the founding statement on corporate governance with his famous quote that “power tends to corrupt and absolute power corrupts absolutely.”

Democracy through the doctrine of separation of powers divides power and control between the judiciary, the executive, and the legislative, and each must have a separate and distinct autonomy. In a similar vein, the government places an expectation upon business houses that divisions should be created, and the requisite autonomy maintained, within its own business organizations.

The reason to draw this comparison is important. Governments view multinational enterprises as having the economic power of any government. In each case, the government and the private sector have a separation between principal and agent. In the case of the government, the principal is society and in the case of the company the principal is the shareholder. The agent is the public servant for the government whereas for the company it is management. The division between the public sector and the private sector has been increasing, particularly with privatization and corporatization. In Pakistan, we have seen the privatization of the banking system and other previously public services. Indeed, if all the large banks in Pakistan came together, they could yield serious economic power and seek any change that they desire from the government.

All of the above underscores the need to establish corporate governance, or some similar type of division of power and control, in boardrooms. A Code of Corporate Governance was in fact introduced in Pakistan in 2002. Today, the Code derives its strength not from a fear of penalties, but rather from the widespread support and heightened level of expectation it has now introduced.

What is the purpose of the Code of Corporate Governance? Where public investment is sought, the obligation of the state is to protect investors against malpractice. In the case of banking and finance, the twin peaks are confidence and integrity. One complements the other, and each is codependent on the other. The slightest doubt about the integrity of a financial system can erode the confidence that supports it. While Pakistan may not have experienced corporate scandals of the magnitude of Enron and Worldcall, we

have still seen financial institutions collapse. Indeed, larger financial institutions could have also collapsed had it not been for the government's timely privatization of the large state-owned banks that brought back and resurged the confidence of having a safe and well-managed bank. Prior to privatization, in 1997, the government as a first step changed the senior management of the three largest banks in Pakistan, thereby avoiding scandals in these institutions. Even without the formal Code of Corporate Governance, these banks were turned around through major restructuring—particularly in relation to ensuring good governance. This further fortifies the view that discipline and integrity cannot be ensured only with regulation.

All banks are used to limits on equity investment and other requirements meant to protect bank deposits and investments which are placed in the banks' trust. This fiduciary responsibility is a pillar of corporate governance, and it rests solely with none other than the senior management of the bank and its board of directors.

The most frequently asked question is to whom do the management and the board owe this fiduciary responsibility. Almost 80 percent of bank assets are financed by the depositor's funds and in some cases less than 5 percent by equity, making banking business a highly leveraged business in an economy. In these circumstances, the message is clear: The primary responsibility of the management of a bank is to depositors, not shareholders.

Another common question is what the responsibilities are. In legal terms, the director's responsibilities are embodied in the articles of association and in the complex, and at times inaccessible, case law. As a result, directors have often not been clear about their general duties. The Code of Corporate Governance is certainly a step in the right direction toward achieving clarity in this regard.

We have seen corporate governance being introduced in various forms in the case of banks. Examples include directors' remunerations, the number of meetings that directors have to attend, limitations on the number of directorships each director can hold, the rotation of auditors, restrictions on directors investing in shares, and governance of employee share-owning plans.

While the Code of Corporate Governance requires substantial disclosure, most listed companies—including banks—do not have sufficiently broad-based shareholding to ensure shareholder independence strong enough to

demand such disclosures. In a typical general meeting in Pakistan, it is usually a case of one representative of the majority shareholder holding proxy for 51 to 75 percent shareholding and casting the vote on behalf of one or more of the major shareholders.

To conclude, the onus of good governance rests with the directors. No amount of regulation, codes, or standards can replace the integrity, honesty, and responsible conduct of a director in a board room. Moreover, corporate governance can only be implemented in the true sense if the shareholding structure becomes broad based.

The Securities and Exchange Commission of Pakistan (SECP) now has 16 years of experience in enforcing the Code of Corporate Governance. Hence, enforcement of the new rules of corporate governance in relation to SOEs should be effected efficiently and swiftly.

Code of Corporate Governance: Second Phase

Since 2013, the SECP has been implementing SOE corporate governance regulations in order to substantially strengthen the independence, capacity, and roles of boards of directors. These regulations include measures such as the establishment of audit committees, distinguishing between the roles of chairman and CEO, and improving the process for the appointment of directors.

The SECP is now seeking to make amendments to these rules in order to enable SECP to better regulate them. It appears that the amendments are in fact relaxing the rules. The rules are not applicable to SOEs that are not registered under the Companies Act of 2017, are established under their own special enactments, or are operating in a non-corporate form.

Recommendations

Corporatize

Corporatize SOEs by converting them into companies under the Companies Act of 2017. This will bring uniformity and standardization in their legal structures. SOEs include government divisions and departments, particularly entities set up under a special statute (statutory corporations).

In this regard, a data bank of independent directors is required for the identification of competent directors. This will require an elaborate mechanism for nominating and inducting independent directors. The Companies Ordinance of 2016, which was struck down by the Pakistan Senate, contained enabling provisions of this sort.

Commercialize

While on the one hand the priority is to convert statutory corporations and divisions into entities under the Companies Act, a task that the Pakistani government has already been successfully implementing, a more difficult task is to give these converted corporate bodies a much-needed commercial mindset and framework. Commercialization of these SOEs requires a cleaning up of balance sheets; a retrenchment of employees; a stop to all non-commercial business and activity; the introduction of modern technology; and a change in mindset and culture.

Privatize

Once SOEs are corporatized and commercialized, the process of privatization is not likely to face resistance, and even if challenged, it should be able to withstand the test of judicial activism or adventurism.

Notes

1. For the full text of this judgment, please see <https://indiankanoon.org/doc/1737583/>.
2. For the full text of this judgment, please see http://www.supremecourt.gov.pk/web/user_files/File/CJD_Pakistan_Steel_Mills_Case.pdf.
3. For the full text of this judgement, please see http://www.supremecourt.gov.pk/web/user_files/File/Const.P.5and15-HRC14144-DetailedReasons.pdf.

Decentralization and Service Delivery: Education in Punjab

Madiha Afzal

If there is one word that analysts have used to describe Pakistan's central political regimes and its democratic system over the decades, it is unstable. Given the country's history of alternating military and democratic rule, that is no surprise—although things have changed in the last decade, with sustained respect, or at least tolerance for, democratic institutions and elected governments. Less well known is the fact that Pakistan's local government system has been even more unstable than its central regimes.

The Irony of Pakistan's Local Government Reform

Governments in each of Pakistan's four provinces have passed local government acts recently: Baluchistan in 2010 and Punjab, Sindh, and Khyber-Pakhtunkhwa (KP) in 2013. This is Pakistan's fourth wave of local government reform, but the first time local government acts have been passed during a democratic regime. Ironically, in Pakistan, local government reform—which typically represents a deepening of democracy—has historically been undertaken by military governments, only to be rolled back or neglected by democratic regimes. In fact, Pakistan's first three local government reforms came to be associated with the military leaders who

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promulgated them: Ayub Khan in the 1960s, Zia- ul-Haq in the 1980s, and Pervez Musharraf in the 2000s.

There is a logic behind this: Military regimes seem to have used local governments strategically, relying on them for legitimacy, and using them as a countervailing center of influence to provincial and federal-level politicians associated with democratic regimes that the military wanted to delegitimize. In an attempt to weaken political parties, these military regimes conducted local government elections on a non-party basis. However, according to Ishrat Husain, the devolution effort undertaken under Musharraf went beyond Ayub's and Zia's reforms in that it, for the first time, substantively empowered local governments—at least so far as the 2001 law was written.¹

Democratic governments, on the other hand, view local government politicians as a threat to the power of their provincial and federal elected officials. This is because the spheres of influence of local, provincial, and federal level representatives overlap in Pakistan. Elected representatives at all three levels compete to provide patronage, jobs, and development schemes to their constituencies. In fact, federal and provincial legislators spend little time in Parliament legislating; most of their time is spent resolving the individual issues of their constituents. Some analysts have argued that patronage-providing legislators in Pakistan in turn are a direct product of local politicians (those traditionally associated with patronage), who had been empowered by Zia, later becoming provincial-level politicians—and carrying those patronage-providing behaviors with them.² In fact, the program that gives money to legislators to spend on development projects in their constituencies began during Zia's regime, when he reinstated the provincial and federal legislatures in 1985.

Patronage-based behavior is also a by-product of a system where responsibilities have never been clearly outlined across different levels of government, at least in part because of repeatedly shifting regimes. Thus voters find it difficult to attribute successful outcomes correctly to the elected representative who worked for them, weakening electoral accountability—and setting up incentives for easily observable and attributable forms of effort, such as patronage, and, for example, investing in building roads instead of funding schools. In fact, Pakistani legislators'

actual development fund allocations reflect exactly that: legislators spend the highest percentage of their funds on roads projects, over education and health.

The Fate of Recent Local Government Reforms

Why, then, did the provincial democratic governments in Pakistan pass new local government acts and hold elections between the end of 2013 and 2016? The answer is that they did not have a choice. In 2010, the 18th amendment to Pakistan's constitution devolved a great deal of federal authority to the provinces—including on education policy, health policy, and so on. It also mandated a further devolution to local governments. Article 140 (A) of the constitution states: "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." Of course, it is notable that this amendment was the product of a democratic regime led by the Pakistan People's Party.

Before holding elections, each of the provincial governments passed local government acts. But—not a surprise given the democrats' view of local governments as a threat—these acts have made local governments much less powerful than they had been under Musharraf's 2001 Local Government Ordinance, and have instead empowered provincial governments. In fact, the provinces are now at their most powerful in Pakistan's history, with ample powers of the ever-strong center having been devolved to them with the 18th amendment, and with local government functions from 2001 having been re-provincialized. Despite the fact that these local government acts were written by four different provincial governments, and by different parties, this re-provincialization of functions is a common feature across provinces. Another commonality across the acts is that they call for most local elections to be held on a party basis—with only KP holding some elections on a non-party basis³—hoping that the provincial governments can leverage their local political bases to secure local governments in their favor. All provincial governments have given themselves the power to dismiss local governments and local council heads and to appoint new ones. They also have the power to outline local and district boundaries.

The Punjab Local Government Act of 2013 is introduced as “an Act to rationalize and reorganize the local government system in the Punjab.” What this rationalization and reorganization has actually done across provinces is to strip away the power of local governments. Notably, the KP law diverges from the other three provinces; it is closer to Musharraf’s 2001 law, while the acts in the other three provinces are closer to the local government laws introduced by Zia. Overall, these new local government acts are ironically not reforms favoring local governments at all, but rather the opposite.

The Devolution Policy of Pervez Musharraf

Before 2001, policy creation rested with Pakistan’s federal government, which accorded finances to the four provinces via the National Finance Commission. The provincial bureaucracies were then tasked with implementing that policy and making sure budgets flowed through to the district level. The provincial government’s representative at the district level was the deputy commissioner (DC)—a powerful man (literally, because female bureaucrats were not posted to the “field” until more recently) whose authority reflected that of the colonial power’s district representative of the same name. The DC wore multiple hats. He was the chief executive of the district, tasked with implementing the province’s policies in the district; the judicial magistrate; the registrar; and the collector of revenues.

At that time, the line departments—health, education, and so on—also had district representatives. These included the district education officer, the district health officer, and others who carried out their department’s instructions at the district level, and reported to the heads of the provincial departments. The district education officer, for example, was a teacher who was the principal accounting officer for education in the district; he or she reported to the secretary of education. The district health officer was a doctor and the principal accounting officer at the district level for health; he or she reported to the health secretary. The deputy commissioner oversaw and coordinated their and other line departments’ work.

The Local Government Ordinance of 2001, the devolution act of then-president Pervez Musharraf, was a radical departure from this system. It devolved a large number of provincial government functions—health,

education, agriculture, etc.—to the districts. It mandated that local government elections take place at three levels – the union (composed of a number of small villages), the *tehsil* (comprised of a few unions), and the district. Union council members were to be directly elected, and the union heads (*nazims*) and the union *naib-nazims* (deputy heads) became members of the district and tehsil councils respectively. The head of the district council, the district nazim, was the executive head of the district government. The district council approved the district budget, though the provincial finance department made allocations of funds to the districts. There was no real fiscal devolution—an ability to generate funds at the district level—in practice.

In this system, a district coordination officer (DCO) replaced the deputy commissioner. The DCO was the administrative head of the district and its principal accounting officer, responsible for implementing the district budget, but he reported to the district nazim. This arrangement—a bureaucrat reporting to an elected local representative—was a first. It drastically reduced the power of the bureaucracy's representative at the district level, and was considered a great affront at the time. The nazim would write the DCO's annual evaluation; it was to be countersigned by the provincial chief secretary.

Money for activities in education and health still flowed from the provincial line departments. The representatives of those line departments were now called executive district officers (EDOs). There were separate EDOs for education, health, and so on (for 14 departments). The EDOs all reported to the DCO, and the line department countersigned their evaluations. In this way, the structure of reporting became more local.

Because they initially did not have the capacity to fulfill their roles, the district councils and nazims relied heavily on the DCOs. Beyond the initial confusion about the division of responsibilities, and other than a few ego-driven cases of the nazim and DCO not getting along, the system eventually began working well. But after Musharraf was ousted from power in 2007-08, a fresh round of local government elections was not held, and the councils and nazims were phased out. The provincial finance commissions stopped allocating money to the district government in 2007; instead, money once again flowed through the line departments. The 18th amendment in 2010 handed over the nazim's power and responsibilities to the DCO.

2017: A Big Year for Local Government Reform

In Punjab, the Local Government Act of 2013 went into effect on January 1, 2017. The author was in Pakistan during the 2017 transition and held meetings with senior officials from the local government department and with the education department about the new system. Some of the discussion that follows draws from insights from those interviews; the rest draws from documents put forward by the government. In January 2017, it should be noted, the system was in complete flux—members of the provincial bureaucracy were drawing up rules of business, opening accounts for the new local governments, and issuing orders about personnel around the clock. There was a great deal of uncertainty and little sense of how things would pan out. The focus of this essay will be on the changes to education in Punjab. It will also attempt to highlight how service delivery will be impacted under this new system.

In Punjab, most departments have been re-provincialized relative to the 2001 baseline, except for education and health. Even municipal functions—waste management, for example—has been centralized to semi-autonomous “authorities” at the province level. For education and health, Punjab called for the creation of district education and district health authorities, which would be responsible for service delivery of education and health, respectively, in each of its 36 districts. According to interviews with officials in Punjab, these authorities are to consist of members from the provincial government, local governments, and the private sector, as well as technocrats. The chief minister of Punjab will appoint the members of the district education authority (DEA) and can dismiss the heads of the authority or dissolve the authorities at any time. The DEA is also answerable to the chief minister. It should be clear from this structure that it signifies devolution only in name.

Concurrently, under the Punjab Civil Administration ordinance of 2016, Punjab has reverted to the deputy commissioner system (there are no more DCOs), but without the old powers the DC used to enjoy—that is, control over the police and local courts.

In Punjab, there is also no fiscal devolution; the finance department runs local government funds. The provincial finance commission, headed by the provincial finance minister, draws up district budget allocations; it will also

apportion funds to the DEA. The provincial governments are now flush with cash, thanks to the 18th amendment. However, allocations to local governments are small, further cementing the balance of power with the provincial government.

The rules of business for the DEA were released in August 2017, although the organogram has not yet been drawn up. The authority is to have a CEO—who will be the principal accounting officer and chief operating officer—and a chairman, vice-chairman, and technocrat members. The rules of business specify that all members of the district education authority are to have district domiciles (residence cards).

The 2013 act says that “the Government shall, through open competition, appoint the Chief Executive Officer of an Authority on such terms and conditions as may be prescribed and, until so appointed, the Government may appoint an officer not below the rank of BS-18 to look after the functions of the Chief Executive Officer.” The rules of business specify the qualifying criteria—in terms of age, education, and experience—for the CEO of the authority, who can come from the public or private sector, and is to be appointed on a contract basis for three years. But the document is thin on details on the technocrat members, on safeguards against politicization, and on what role elected officials (other than the chief minister) will play. It is worth noting that the rules of business give the impression of a technocratic organization—whereas interviews with officials in January of 2017 gave a sense that appointments would be more political.

To get the district education authorities off the ground, the executive district officers (EDOs) of education were appointed as the temporary CEOs of the authorities, and deputy commissioners as the temporary chairmen. Box 1 contains the guidelines for the authority’s tasks according to the Local Government Act of 2013.

As can be seen from Box 1, the district education authority has a wide array of functions, including building new schools, maintaining schools, and so on, and the ability to allocate money to these tasks in different areas within the district. Punjab has given the constitutionally mandated right to education function to the district level.

The district education authority is a new and unprecedented concept in Pakistan, but the structure of control over it decidedly benefits the

Box 1: Functions of District Education Authority

A District Education Authority shall:

- (a) establish, manage, and supervise primary, elementary, secondary, and higher secondary schools; adult literacy; non-formal basic education; and special education institutions of the government in the district;
- (b) implement policies and directions of the government, including achievement of key performance indicators set by the government for education;
- (c) ensure free and compulsory education for children five to sixteen years old as required under Article 25-A of the constitution;
- (d) ensure teaching standards, infrastructure standards, student safety and hygiene standards, and minimum education standards for quality education as may be prescribed;
- (e) undertake students' assessments and examinations; rankings of schools on terminal examination results and targets; and the promotion of co-curricular activities, sports...[and] scholarships and conduct of science fairs in government and private schools;
- (f) approve the budget of the Authority and allocate funds to educational institutions;
- (g) plan, execute, and monitor all development schemes of educational institutions working under the Authority, provided that the Authority may outsource its development works to other agencies or school councils;
- (h) constitute school management councils which may monitor academic activities;
- (i) plan and finance the maintenance of schools, support enrollment and retention, arrange donations and finances, plan development, and perform any other role as may be prescribed; and
- (j) perform any other function assigned by the government, a commission, or a body established by law in the prescribed manner.

provincial government. Indeed, the composition of these district education authorities remains at the discretion of the chief minister. According to my interviews, “concerned parties”—provincial and federal elected officials from the district, for example—have been asked to nominate members. Of note is the fact that the rules of business of the district education authority do not specify any direct role for local elected officials. The fact that discretion lies with the chief minister—and possibly with other provincial and federal elected officials—means that politicization of appointments is likely.

Why Pakistan has Missed Out on Decentralization Benefits

In general, the potential benefits of decentralization depend on a number of factors. Two aspects of decentralization are worth keeping in view: the level of officials exercising control—whether federal, provincial, or local—and whether these officials are elected or appointed. Economists make three arguments in this context. First, local governments may have better on-the-ground knowledge than more central governments, making them more responsive to constituents’ needs. Second, constituents are better able to hold elected politicians to account (relative to bureaucrats) through voting. Third, local officials are more easily held to account than provincial or federal officials through closer monitoring of corruption and service provision. However, local politicians may be more susceptible to capture by local special interests—resulting in a potential distortion in service provision. Local politicians may also have less of a capacity to govern than better trained and more experienced higher-level bureaucrats or politicians.

Pakistan’s National Education Policy 2009 specifically notes that various inefficiencies plague the allocation of resources and human capital in education in Pakistan: “Political influence and favoritism are believed to interfere in the allocation of resources to the districts and schools, in recruitment, training, and posting of teachers and school administrators that are not based on merit, in awarding of textbook contracts, and in the conduct of examinations and assessments.”

In thinking about how current reform will affect service delivery, it is worth thinking in terms of these factors. Curricula are a provincial

responsibility, as is budget allocation to the district—so those matters will not be affected by the latest local government act. But postings and transfers of teachers, and allocations of resources to schools within the district, will likely be affected. Postings and transfers were undertaken pre-2001 by the education department, and in 2001 onward by the DCO. Now the DEA will be responsible. Although the DEA's rules of business specify that it must follow the rules set forth by the government on managing staff in schools, given the possible political nature of appointments to the DEA, the politicization of the postings and transfers process that already exists could increase. Teachers are the returning officers at polling stations during elections, so the incentive to have well-placed teachers that can help in re-election is clear. Giving politicians direct control over teacher placements is only likely to accentuate that distortion.

Similarly, it is hard to see how the allocation of funding to schools and localities within districts will not be affected by the composition of the DEA. The fact that so many people will be responsible for these allocations because of the structure of the DEA means that there will necessarily be conflict; members will fight over allocations of resources to their bases. In recent years, the Punjab government has given over the responsibility to build new schools to the Punjab Education Foundation (PEF), a public-private partnership that incentivizes the private sector to build schools. If that pattern continues, as is likely, that task won't be the responsibility of the DEA; the DEA will then mainly be responsible only for the maintenance of existing schools.

In one sense, the centralized form of control that the provincial government now exercises via the DEAs institutionalizes Punjab Chief Minister Shahbaz Sharif's working model of monitoring and enforcing policy in the education sector, inspired directly by Michael Barber's "deliverology" doctrine (Barber has advised the current Punjab government). Under that model, the Punjab Monitoring and Implementation Unit has rigorously monitored and reported deficiencies in infrastructure and attendance, along with other notable outcomes, in schools across districts. If a district underperforms on any indicators, then its EDO or DCO (and sometimes both) are summoned by the CM and subjected to a takedown. According to Barber, this system has incentivized better district performance, though some academics disagree on what the evidence really reveals.⁴

The new DEAs will really be an extension of the provincial government's way of maintaining control over the districts in this manner. We already saw this in 2017 in Punjab, where the heads of the district education authorities were held to account for performance in their districts by the chief minister.

Thus, because they are appointed by the province, answerable to the province, and can be removed by the province, the DEAs are a local government project in name only. If anything, the August 2017 rules of business indicate that these will be technocratic/bureaucratic bodies of the sort preferred by Chief Minister Sharif—with the distinction being that members are all required to hold district domiciles. Because the influence of local elected officials in the DEA is unclear, we should not expect to see the benefits of decentralization that follow from having locally accountable representatives.

Punjab has another particularity beyond its already excessive political centralization: the same party does well locally and provincially. That means that the Pakistan Muslim League-Nawaz (PML-N) party will use local governments as a tool to strengthen its hold on power and to gain votes in the provincial and federal elections scheduled for 2018. At the same time, the PML-N will not give local governments enough power (particularly financial power) in a way that would dilute its own hold on authority. This also means that appointments to bodies such as the DEA will be given out strategically to curry favor with local party members—and as such will not reflect the most efficient allocation of such posts.

In Sindh province, where political power is divided between the Muttahida Qaumi Movement (MQM) party, which dominates the city of Karachi, and the Pakistan People's Party (PPP), which dominates the rest of the province and the provincial government, the dynamic is different—but no more conducive to effective local government. There is a more visible tug of war, with the PPP having passed rules and laws to dilute the local power of the MQM. Once local elections were held in 2016 and the MQM had won in Karachi, the Sindh Assembly passed a bill to monitor local governments. This explicit political conflict is bound to impede the functioning of local governments in Sindh.

Decentralization is wholly incomplete until local governments have the power to raise money—that is, until administrative and political

decentralization is accompanied by fiscal decentralization. That gives ownership, control, and true authority to local governments. In Pakistan's case, despite successive local government reforms, there has never been any fiscal decentralization, because Pakistan's default has been a powerful center intent on maintaining its hold on power. The specific actors at the center may change—the military or civilians may be in power—but local governments have never been able to threaten or dilute the center's hold on power. This is both ensured by, and the outcome of, no fiscal autonomy to local governments. Too many conflicting and more established power centers—including the bureaucracy—are intent on maintaining the status quo. Central authorities have the advantage of experience and capacity, and they often cite the paucities of these skills in local governments to justify their efforts to undermine local governing structures.

Slow transitions and an atmosphere of uncertainty have also disadvantaged successive local government regimes in Pakistan. In the current reform, for instance, the full set of members of the district education authorities in Punjab have not yet been appointed, and the organogram is yet to be finalized. As I've pointed out, also not known is the role that district councils will play in delivery. As another example, in Khyber Pakhtunkhwa, millions of rupees in the budget allocated to local governments were set to lapse in 2017 because of "a failure to train elected representatives and officials on its utilization." District governments in KP have only used 40 percent of total funds allocated to them in the last two years.⁵ These examples underscore the glacial process at which such reforms tend to move, with the danger that they will be scrapped by the time the next government takes office.

For each of the three previous local government regimes, transitions were long—new rules had to be written up beyond the acts themselves to clarify the new division of responsibilities and the order of business—and service delivery suffered during this state of flux. But there was also a sense that a new central political regime would mean the end of the reform. These periods of transition and uncertainty undermined service delivery in and of themselves.

The existence of local governments is now more accepted in Pakistan—at least in letter. In 2001, the reform was met with skepticism and opposition, but in the current iteration, the reintroduction of local governments was accepted more readily—though it is true that the current reform doesn't

really deliver on devolution. That is, local governments are likely here to stay, but their optimal form and their effectiveness remain big questions.

Looking Ahead

At this point, the details of this most recent reform are still not completely known. While it is clear that the district education and health authorities will be mere outposts of the Punjab provincial government, it is still unclear what role local elected officials can play as part of these authorities, which will be the key to these officials exercising any real power. They must be given a significant role if devolution is to be taken seriously—though this role is by definition diminished if it must flow through district authorities appointed by the province. The transition to the new system must also be completed as soon as possible to minimize the disruption to service delivery. The potential for conflict within the DEA must be minimized, and it should be assured that individual DEA members cannot use service delivery to serve their own narrow political interests. Both the precise structure and the composition of the DEA and the division of responsibilities within it will affect these outcomes. Thus, this structure must be outlined carefully and clearly.

Political regimes in Pakistan must do away with the tradition of scraping previous local government setups; these must be iterated and improved upon. The commitment to local governments should continue—just as with democracy at large—and with that, the focus should turn to improving upon existing structures rather than starting anew. In Pakistan, too often, governments go through the motions of reform without truly changing underlying structures. Harvard international development expert Lant Pritchett, in the general context of education reform, has used the term “isomorphic mimicry” to describe this dynamic.⁶ Pakistan’s successive experiments with local government reform have in many cases—such as Punjab currently—followed this pattern, in addition to being choppy. This means that the country will not be able to reap the benefits that properly implemented decentralization can offer—such as those that come from having locally accountable politicians in charge of service delivery.

Of all Pakistan’s provinces, Khyber Pakhtunkhwa offers the greatest hope for substantive local government reform. The United Kingdom’s

Department for International Development (DfID) has funded a subnational governance program in the province. It is assisting with reform as well as evaluating effectiveness on an ongoing basis. This program has documented the unspent local government funds in KP mentioned earlier, as well as the failure of the local governments to begin local tax collection as set out in the KP local government act of 2013.⁷ The fact that KP's reform was envisaged as closer to the 2001 local government system—combined with a third-party monitoring body that is systematically documenting gaps and failures—offers a better model relative to Punjab and Sindh. Unfortunately, at this moment in time, it seems there is little political will for true reform in Pakistan's two largest provinces—and few incentives for the entrenched provincial political class to share power with local politicians.

Notes

1. Based on the author's discussions with Ishrat Husain.
2. See Ali Cheema, Asim Khwaja, and Adnan Qadir, "Local Government Reforms in Pakistan: Context, Content, and Causes," in *Decentralization and Local Governance in Developing Countries: A Comparative Perspective*, eds. D. Mookherjee and P. Bardhan (Cambridge, MA: MIT Press, 2006).
3. Elections have to be held on a party basis at the tehsil and district council levels in KP, but on a non-party basis at the village and neighborhood council levels.
4. Sir Michael Barber, "The Good News from Pakistan," Publication of Reform think tank, March 2013, http://www.reform.uk/wp-content/uploads/2014/10/The_good_news_from_Pakistan_final.pdf and Jishnu Das, "A Data Guide to Sir Michael Barber's 'The Good News from Pakistan,'" World Bank, June 2013, <http://blogs.worldbank.org/developmenttalk/data-guide-sir-michael-barber-s-good-news-pakistan>.
5. Mubarak Zeb Khan, "Billions From KPK Local Govt Budget May Go Unspent," *Dawn*, March 27, 2017, <https://www.dawn.com/news/1322688> and Mubarak Zeb Khan, "KP Local Govts Struggle to Spend Development Funds," *Dawn*, December 25, 2017, <https://www.dawn.com/news/1378740>.
6. See "One Size Doesn't Fit All: Lant Pritchett on Mimicry in Development," Center for Global Development podcast, March 14, 2011, <https://www.cgdev.org/blog/one-size-doesn%E2%80%99t-fit-all-lant-pritchett-mimicry-development>.
7. Manzoor Ali, "Situation Alarming as Local Governments Fail to Generate Revenue," *Dawn*, November 12, 2017, <https://www.dawn.com/news/1369990>.

Designing Incentive Structures in Bureaucracies: A Case Study for Civil Service Reform in Pakistan¹

Adnan Q. Khan, Asim I. Khwaja, and Tiffany M. Simon

According to a September 2016 UNDP report, “Pakistani civil services have perhaps been the most often reformed with least effect than anywhere else in the world.”² From a historical perspective, a majority of previous civil service reforms in Pakistan over the past 40 years targeted organizational restructuring within the civil service, focusing on adjustment of pay scales; the creation, merger, or disbanding of occupational groups; and changes in functions and powers. While previous reforms have mentioned performance management, they made little progress toward measuring performance in various dimensions or toward new ways of rewarding it. This essay attempts to address this gap and question of effective civil service reforms in Pakistan through a discussion of key principles to consider when designing incentives for civil servants, drawing on our research on tax collection in Punjab, Pakistan.

Conceptually, the principal-agent model is the main analytical framework to address incentive problems that arise when a principal (government) delegates tasks to an agent (bureaucrat) that the principal cannot

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observe directly. This information gap makes it hard to evaluate staff performance, identify the sources of inefficiency, and design rewards or punishments that benefit the principal. What further complicates designing performance incentives for bureaucrats in countries like Pakistan are the particular constraints on recruitment, monitoring, pay, and promotion faced by their governments.

The key therefore behind effective performance management is to design systems in such a way that they allow one to address the underlying principal-agent problems. In this regard, it is helpful to note that there are two areas in which civil servants need to be incentivized to improve performance and service outcomes.

The first one—and the one most often recognized—is to incentivize the bureaucrat to exert the desired level of effort. Particularly in the developing country context, civil servants are paid modest wages and offered minimal to no performance bonus, providing little motivation for public employees to exert effort in the satisfactory performance of their duties. For example, in the education sector, absent effort (or the physical presence) on the part of the teacher, students will not learn. In this case, an effective incentive would be designed to motivate the civil servant to exert the effort needed to teach students (or in the case of teacher absenteeism, make the effort to attend class).

However, a second equally important—but often overlooked—aspect of performance management systems is creating the right incentives for the civil servant to (truthfully) disclose information to the state. In cases where the civil servant has differential access to information, they may have counterincentives—such as the collection of rents (bribes)—that motivate them to not reveal this information to the state.

For example, police officers are expected to perform the service of enforcing the laws of the state, and to inform the state and take appropriate action when laws are broken. However, in cases where a police officer observes a citizen breaking the law, they may collude with (or extort) the citizen and accept a bribe in return for not revealing this information to the state.

While the importance of effort and truthful information disclosure likely varies across the types of service one considers, both these factors are important enough that any performance management system should consider how

to address them. As previously mentioned, the dimension of the primary challenge in education, when considering the teacher-student relationship, is one of effort—that is, the teacher may not put in enough effort to enhance student learning. However, when viewed holistically, we can find an aspect of corruption as well—not between the student and teacher, but between the teacher and the school inspector. While the school inspector should be most concerned with the learning outcomes of students, at the end of the day, they may be better off not revealing the school's poor performance to the state and accepting a bribe from the teacher instead.

In this essay, we will therefore consider the design of performance-based systems that consider both the effort and information revelation dimensions. We examine specifically the case of the property tax collector in Pakistan, as both dimensions are particularly salient in their situation. Property tax collectors in Pakistan are responsible for assessing the value of property tax to be paid by taxpayers, with little external oversight. Property tax collectors must exert effort to accurately assess tax liabilities and interact with taxpayers. However, they also face an incentive to withhold information to the state—they may receive a side payment from the property owner by colluding with them and incorrectly assessing the true tax liability of the property.

In considering this example, we will derive implications and insights from two related successful multi-year studies that we carried out in collaboration with the Excise and Taxation Department of the government of Punjab. These studies are distinct in that they were a novel collaboration between leading researchers (from Harvard, London School of Economics, and MIT) working through the Center for Economic Research in Pakistan (CERP), and they were also conceptualized, designed, and implemented with the support of a range of government departments—primarily the Punjab Excise and Taxation Department, with support from the Finance, Planning and Development Departments, as well as the Office of the Chief Minister of Punjab.

The first study, already published, focused on using financial incentives to reward performance.³ The second study uses non-financial rewards—specifically merit-based postings—as a way of incentivizing civil servants.⁴ While this study is not yet published, initial results are extremely promising. Both studies are also the first of their kind. The first study is unique in examining

performance pay in taxation using the gold standard of evaluation designs: a randomized controlled trial (RCT). This means that the results represent a rigorous causal impact of the reforms.⁵ The second one, to our knowledge, is the first-ever RCT examining the impact of using merit-based postings as an incentive for public sector workers. While we will primarily draw on insights from the first study, we will also utilize the second when relevant.

Context: Property Tax

Although Pakistan's experience with property taxation is long compared to many other developing states, the yield of property tax in Punjab, Pakistan's most populous province, is approximately one-fifth the level of collection in comparable countries.⁶ A narrow tax base, low tax rates, weak administration, and distrust of public institutions contribute to this problem. Additionally, as in many other developing countries, tax officials play the key role of assessing, auditing, and enforcing taxes. This role, coupled with low salaries and few or no performance incentives, may lead to tax officials accepting payments from property owners for keeping properties off tax records, assessing properties at a lower rate, or permitting erroneous exemptions, reducing tax revenues collected for the state.

Urban property tax rates in Punjab are determined by property size and a formula that takes into account property location, classification—residential, commercial, or industrial—and whether the property is rented out or occupied by its owner. Some exemptions are granted for specific groups, including retired government employees, charitable religious institutions, widows, and the disabled.

Tax collection units are made up of 2,000 to 10,000 properties in geographical areas defined as “circles.” Each circle is assigned a team of three tax officials who are responsible for determining and recording the tax liability of each property and sending an annual tax bill to the property owner. These tax officials are provincial career bureaucrats, who, similar to their counterparts in other developing countries, are paid relatively low wages within a given salary band, with minimal opportunity for performance pay.

Additionally, there are few audit mechanisms and minimal monitoring of the activities of the tax collection staff. The property database is maintained

in a physical register, new properties that are registered are not automatically added (nor are building permits or rental agreements), and tax bills are still handwritten and delivered in person by tax staff in some areas, providing multiple occasions for error and manipulation.

Given that tax staff have discretion in determining property assessments and exemptions, tax evasion often takes place through assessments and exemptions that are difficult to verify but may have a large impact on the tax bill. For example, rented residential properties are taxed 10 times more than owner-occupied properties, and commercial properties are taxed three to six times more than residential properties. Both types of assessments are difficult to confirm—one would not be immediately able to assess by sight whether a building is occupied by a renter or an owner, or what percentage of a mixed-use property is used for commercial purposes rather than residential.

Good Principles of Incentive Design

Below we highlight key lessons in designing performance incentives for civil servants based on our findings from a series of policy interventions we conducted in collaboration with the Punjab Excise and Taxation Department. Both experiments lasted two years. We focus primarily on an experiment that introduced performance pay for tax collectors in Punjab. While the primary objective of the civil service reform was to increase tax collections, this had to be done taking into account both considerations of fairness (both under- and over-taxation/extortion were to be minimized) and customer satisfaction (taxpayers had to feel that they were treated reasonably). This meant that in addition to tax collection, we judged the success of the reforms in terms of their impact on accuracy of tax assessment and taxpayer satisfaction.

While the findings outlined below are drawn from the specific study we carried out, we believe that the principles we outline below have broader applications—not just for other types of taxes, but for other services as well.

Use Performance Incentives

The clearest lesson from our research on tax collection in Punjab, Pakistan, is that performance incentives work. While this may sound unsurprising, there is nevertheless a substantial amount of debate as to whether incentives

can work in a situation where there may be substantial rents. In other words, the concern is that if (corrupt) civil servants are making multiples of their official salary in the form of bribes, then even very attractive performance reward systems may simply not be financially attractive enough to induce a change in behavior. In the Pakistan context, previous wage increase reforms, while not rigorously studied, had been viewed as largely ineffective.

In our experiment, we randomly assigned tax collectors in their property tax circles to one of three performance-pay schemes:

- In the “revenue” scheme, tax collectors were paid a bonus based on the amount of revenue they collected above a three-year average of tax collections in that circle.
- The “revenue plus” scheme mirrored the “revenue” scheme, but adjusted the bonus based on additional information from taxpayer satisfaction surveys and the accuracy of tax assessments.
- The “flexible bonus” scheme awarded bonuses based on criteria set by a Performance Evaluation Committee (PEC) made up of senior tax officials, and allowed for subjective adjustments at the end of the period.

We found that over two years, tax revenues in circles where tax collectors were assigned to performance pay schemes had a 46 percent higher rate of growth compared to control groups.

This growth in revenues can be attributed for the most part to an expansion in the tax base. This came from both an increase in the number of taxed properties and the reassessment of properties already on the tax roll. These were accurately recorded and reported.

We also found that despite successfully increasing revenues, the performance schemes had little adverse effect on taxpayer satisfaction. Neither did the taxpayers’ perceptions of the quality of service of the tax office nor their satisfaction with their interactions and dealings with tax officials decline. However, in spite of this rosy picture, we also find that high-powered incentives increase the bargaining power of tax collectors at the cost of taxpayers,

which can have potentially undesirable consequences that we discuss further at the end of the essay.

Keep Incentives Simple

Based on our findings, easy to understand, transparent, *ex ante*, and objective incentive schemes are the most effective.

In our experiment, we found that the straightforward “revenue” scheme, where tax collectors were paid a bonus directly tied to the revenue they collected above predefined benchmarks, had a 62 percent higher growth rate in total revenue relative to the comparison group by the second year of the experiment. Adding dimensions to performance pay schemes weakened the impact on tax revenue without improving nonrevenue outcomes, such as taxpayer satisfaction.

For example, the “revenue plus” scheme was similar to the revenue scheme, but adjusted the bonus based on additional information from taxpayer satisfaction surveys and the accuracy of tax assessments, with the additional information basically functioning as an audit. While taxpayers expressed slightly greater satisfaction with tax collection under this scheme compared to the other two schemes, “revenue plus” collected substantially less revenue than the “revenue” scheme, with a 41 percent higher growth rate in total revenue relative to the comparison group.

The “flexible bonus” scheme was similar to the “revenue plus” scheme—staff were again divided into three performance groups—however, rankings in these groups were determined by a criteria set by a Performance Evaluation Committee (PEC) made up of senior tax officials. The scheme attempted to mimic bonuses in the private sector, where managers award bonuses from a fixed pool of resources based on factors that may be subjective. This scheme saw no statistically significant increase in current year tax revenue collected, and in fact lost money for the government when comparing the cost of bonus payout to additional tax collected. An explanation for this could be that tax officials in this scheme found the subjective aspects of this incentive scheme not sufficiently motivating, or perhaps they did not find the scheme credible.

Be Creative About Incentives—Both Financial and Non-Financial Rewards Matter

While money is a powerful incentive, our second study shows that non-financial incentives can be just as powerful. Transfers of civil servants to new postings (for example, to a different office or different city) occur often in bureaucracies, but are usually attributed to bureaucratic arbitrariness, personal connections, or even preferences of managers. In our second study, we examined whether the ability to transfer to more desirable locations could be offered as a performance incentive to tax officials in Punjab. We randomly assigned tax circles to groups of approximately 10, and informed inspectors in these groups that they would be reassigned to a new circle within that group at the end of the year, based on the improvement of tax revenue within their circle and their rankings of desired postings. While this study is as yet unpublished, our initial findings show that this performance incentive substantially increased tax revenues in these groups compared to comparison groups. This suggests that when designing incentive schemes, one need not always resort to financial incentives—there are often substantial non-pay job attributes, like where one works, that can be very powerful motivators. To the extent that these non-pecuniary reward systems do not require an explicit financial outlay on the part of the government, such schemes may be even more attractive than standard financial reward schemes.

Consider the Frequency of Incentives

When designing an incentive strategy, the value of information and the type of effort the civil servant must exert may determine the frequency of your incentive offer.

Although our performance pay experiment found that providing incentives each year for two years was cost-effective (the total cost of paying performance bonuses was less than the total additional revenue collected through the scheme, except in the case of the “flexible bonus”) with a large return on investment for the government, it is not clear that offering performance bonuses on an annual basis is cost-effective in the long run.

In the case of taxation, a primary reason for low tax collection is due to collusion, with the taxpayer and the tax collector colluding to conceal the

true value of the property. Increases in tax revenue following the performance pay incentive in our study are based on the disclosure of this information to the government. Once this information has been revealed to the state, and the property's true liability has entered the tax base, this property can be accurately taxed for several years before it needs to be reassessed. Therefore, it may not be necessary to pay a bonus annually—instead, bonuses could be awarded every few years. On the other hand, if the increases in tax revenue can be attributed to the addition of new properties to the tax roll (as opposed to accurate reassessments of real tax liabilities of known properties), then an annual bonus might be cost-effective in the long run. Our study found that the increase in tax revenue collected lasted beyond the period of performance pay, suggesting that the former effect is quite important, and that it is more financially beneficial for the government to introduce this scheme every few years.

Turning to our study on merit-based postings, while offering this incentive is practically free for the government, our initial results show that tax collectors who experienced the scheme twice (that is, they were subject to a potential reposting two years in a row based on their performance) were less effective than those tax collectors who only experienced it once. This may be because tax collectors who are transferred find it hard to perform as well in their new circle—they may be less familiar with the circle and not know which properties can be added to the tax rolls.

Alternatively, it could be discouragement—tax collectors who worked hard in their first year in order to be transferred to their circle of choice might find it frustrating to need to exert the same amount of effort in the second year just to avoid losing their new posting. Similar to the performance pay experiment, governments might find the transfer incentive more effective if offered not annually but every few years.

The key message here is that performance pay schemes may not need to be offered each year; in certain cases, it may be more desirable from the state's perspective to offer such reward schemes every few years. This is determined by whether the benefits generated by providing incentives last only the duration of the incentive period, or whether the benefits tend to last for a while once obtained. Recall that we had mentioned the two salient dimensions for reform were effort and information revelation. When considering

the dimension of effort, the incentivized activity needs to be continuously provided to reap the desired outcome (that is, teachers need to work hard every day and show up to class to ensure their students learn). In this case, annual (or even more frequent) performance pay may provide more effective outcomes. However, in cases where the more salient dimension is information—as in our property tax study—the benefits remain once information has been revealed. In this case, performance pay need not be regular, but rather timed in such a way as to correspond to key moments where information revelation is particularly valuable. So in the case of property tax, if it takes X years for a substantial change in property valuations in an area, then it makes sense to introduce a substantial “performance year” every X years.

A Few Notes of Caution

Rewarding civil servants strengthens their position. While this is clearly desirable—in that it makes it more attractive for them to perform their duties—in a world where rents and collusions may be prevalent, such an effect could have undesirable consequences. Consider the case of property tax again—performance pay increases a tax collector’s motivation to accurately assess and collect taxes and increases their formal salary. However, this also implies that if the status quo is a collusive arrangement, where the tax collector accepts side-payments to lower a taxpayer’s liability, the tax collector now has greater “bargaining power.” Specifically, that tax collector’s position is strengthened vis-à-vis the taxpayer because the higher performance pay from the state means that the tax collector has less to lose if the side-payment negotiations fail. This is precisely the feature that results in a breakdown of collusive arrangements with some taxpayers (and hence an increase in taxes collected), and a continuation of collusive arrangements with others, where the going “bribe rate” has gone up. Thus, taxpayers who remain in a collusive arrangement will actually end up paying higher side payments after the civil service reform.

Strengthening the position of a civil servant in a situation where collusion is rampant therefore has the potential for perverse incentives. In the tax example, offering performance pay to tax collectors may incentivize them to extort even more from taxpayers. Indeed we found in our experiment

that while on the whole tax collection did increase, this was not because everyone paid more taxes. While some people did pay substantially more taxes, a large fraction of taxpayers did not pay any more taxes but instead reported making higher and more frequent side payments.

Keeping in mind the potential for perverse incentives, it is therefore important to include separate checks against bribery and extortion in the design of any performance incentive. Governments can potentially mitigate undesirable effects from instituting performance pay and the ensuing increase in a civil servant's bargaining power by developing audit processes or third party data verification systems, particularly supported by the use of information technology.

However, automation and the removal of human interface should not be seen as a panacea. In the case of property tax, digitization and automation are sensible reforms, which can support the state in ensuring truthful reporting by tax collectors. But these processes will not be able to replace the role of the tax collector in recording new properties or changes in the use of properties, for example, from residential to commercial or owner-occupied to rented. These kinds of reforms should therefore be seen as complementary to performance incentives.

In addition, it is key to offer incentives for outcomes that are ultimately the desired objective of the state and cannot be easily manipulated. Returning to the education example, measuring student test scores as performance incentive runs a risk, as test scores can be manipulated. Additionally, incentivizing teacher performance based on student test scores creates the possibility of test scores becoming the only indicator educators and other actors care about, potentially glossing over actual student learning and wellbeing. In the case of our property tax study, this meant that we ensured that there were adequate and objective measures of not only taxes collected but also, as previously noted, the desired outcomes of assessment accuracy and taxpayer satisfaction.

Finally, a challenge in any performance scheme is that it is difficult to care about multiple outcomes; to the extent that you desire multiple outcomes, you may need to reward or incentivize more than one outcome. However, as we saw in the variants of the schemes in the first study, adding additional dimensions by which the civil servant's performance will be judged can

weaken the effectiveness of the scheme by making it more complicated and less transparent. Any performance management system will therefore face a tradeoff between making schemes align with the multi-dimensional objectives of the state and the simplicity and credibility of the incentive system.

Effective public service delivery ultimately relies on the performance of bureaucracies. Improving bureaucratic performance is all the more important for Pakistan, given the widespread consensus that its bureaucracy is underperforming compared to global standards of modern governance. But in order for civil service reforms to succeed, particularly given the fate of previous attempts, we must design incentive structures that effectively address the underlying principal-agent problem faced by bureaucracies. Our results point to the idea that carefully designed performance incentives can be a politically and financially practical approach to reforming the civil service in Pakistan.

Notes

1. This essay cites findings from projects that are the result of collaborations among many individuals. We thank all the secretaries, director generals, directors, and project directors from the Punjab Department of Excise and Taxation; the Punjab Finance, Planning, and Development Departments; and the Offices of the Chief Secretary and Chief Minister for their support over the multiple years of these projects. We thank our RAs in Cambridge and Lahore for providing outstanding research assistance. The views expressed here are those of the authors, and do not necessarily reflect those of the individuals or organizations acknowledged.
2. UNDP Pakistan, "Civil Service Reforms in Pakistan," *Development Advocate Pakistan* 3(3), November 10, 2016, http://www.pk.undp.org/content/pakistan/en/home/library/hiv_aids/development-advocate-pakistan--volume-3--issue-3.html.
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How Technology is Transforming Governance in Pakistan

Umar Saif

In the fall of 2011, Punjab province experienced an unprecedented outbreak of dengue virus. The number of people diagnosed was recorded at 21,685, and 350 people died from the illness.¹

The next year, the provincial government took proactive measures to prevent another outbreak. At the Punjab Information Technology Board (PITB), my team was helping the government with monitoring. They would take photographs of field staff performing various activities.

At a meeting held to review this photo evidence, Chief Minister Shahbaz Sharif seemed visibly irate with the slideshow of photos shown as evidence that different departments were performing their tasks dutifully. “How do I know if you’re not showing pictures from last year?” he asked. “These photos don’t carry a timestamp or tell anything about the location of these activities,” he said to me.

I came back from that meeting thinking that the biggest challenge for the government, ironically, was to effectively monitor its own work. Over the next five years, we at the PITB focused our energies on solving this problem. Our instrument of choice has been smartphones. Enterprise applications to tackle such governance challenges usually require billions in investment on setting up data centers with fiber connectivity. The adoption of these applications remains a perennial challenge.

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Success with Smartphones

Smartphone-based solutions solve many challenges at once. They are relatively cheap (less than \$100) and portable. They are intuitive to use. They don't require uninterrupted power. They include embedded Global Positioning System (GPS) devices and have an always-on network connection. Unlike a PC, a smartphone is typically not handed over to some assistant in a back office. Importantly, it has social value embedded in it as well: People can use it to stay in touch with family and friends, and their children can play games on it.

Our first application was literally developed over a weekend. It was for the City District Government of Lahore to track the activities of its dengue prevention field staff. Each worker was given an Android phone and expected to take a picture of a completed task, tag its GPS coordinates, and upload it to our dashboard. Our system time-stamped the incoming pictures and mapped them to the field worker's phone numbers. Once visualized on a Google map, we instantly started getting a feel of where and when prevention activities were performed, or not.

As our anti-dengue campaign progressed, we bought 1,500 Android phones and kept refining our applications. The system was used by 17 different government departments and hundreds of field workers. To date, we have received over 200,000 pictures from all over Punjab. We developed more applications to enable field entomologists to report *Aedes Larvae* clusters and health workers to GPS-tag the houses of confirmed patients. With this data flowing in, we built a state-of-the-art epidemic early warning system. It statistically analyzed larvae reports and patient locations, and raised red flags wherever it detected a potential outbreak. This information was promptly shared with the city's administration to help it target its activities in the most vulnerable areas. To date, over 17 million geo-tagged pictures of prevention activities have been uploaded using this platform.

This system has evolved into a full-blown real-time disease surveillance system in Punjab, capable of tracking all 26 infectious diseases notified by the World Health Organization (WHO). Cross-verification of data from our dashboard has become a common practice in the government. This system has been featured by international publications including the MIT Technology Review, *The Economist*, NPR, and BBC.

The PITB has also been working on numerous other applications to help the government monitor its own work.

Drug inspectors now carry our smart phones to report their visits to pharmacy outlets. Lahore police use smartphone apps designed by the PITB to analyze crime hotspots. The Lahore Waste Management Company (LWMC) uses similar technologies to report its cleaning activities, as do the provincial agriculture and livestock departments for reporting by their extension workers and executive district officers. In 2016, the monitoring of Hajj facilities for pilgrims was done using our smartphone-based applications. Such is the adoption of our systems that over 25,000 geo-tagged activities were uploaded by the LWMC during its three-day Eid campaign. And the chief minister of Punjab personally reviewed this data, after every hour.

The success of mobile applications has led to their increased demand by the government. In 2013, we started working on a platform, called DataPlug, to enable government officials without an IT background to compose applications on their own. It lets government officials make mobile applications in just a few minutes by simply dragging-and-dropping components. To date, we have designed dozens of applications using this platform. Moreover, the platform has now been added to the instructional material used in civil servant training courses across all grades. Officers are taught to make applications that can collect evidence for an important decision in their line of work. In the last three years, participants in these courses have made hundreds of data collection applications. The broad range of these applications never ceases to amaze. They include pictorial evidence of traffic violations, the details and coordinates of raids by customs officials on smuggled items, and the tracking of mail parcels by post office officials, to name just a few.

We are now experimenting with increasingly advanced features. For example, our application for the provincial irrigation department can use pictures of a depth meter to automatically detect the level of water in a canal—making it difficult to hide the theft of irrigation water.

Our model of mobile governance, or m-governance, is quickly taking root in Punjab. The rapid adoption level of innovation and sophistication of our evolving systems is unprecedented in public sector organizations,

especially in developing countries. In the coming years, seven major government departments will start using our monitoring systems—employing over 30,000 smart phones. If we manage to maintain this momentum, Pakistan may become one of the leading examples of innovations in m-governance.

Case Studies of Technology-Based Governance Reforms

Below are three case studies (originally published as op-eds by the author) of technology-based governance reforms in three different sectors in Punjab.²

Healthcare Reforms: Child Immunization Against Preventable Diseases

The Expanded Program on Immunization (EPI) in Pakistan is responsible for coordinating and overseeing all immunization efforts. According to EPI, 27 percent of deaths in children under the age of five are due to preventable diseases including poliomyelitis (also known as polio), neonatal tetanus, measles, diphtheria, pertussis (whooping cough), hepatitis-B, hib pneumonia, meningitis, and childhood tuberculosis.³

Two challenges encountered by the EPI in accomplishing its mission of vaccinating every child had been the underperformance of field vaccinators and poor geographical coverage.

To solve this, the EPI enlisted the PITB's help to design digital systems to monitor attendance of vaccinators (E-Vaccs) and their geographical coverage (E-Vacc 2).

Under E-Vaccs, an immunization information system was made with an accompanying smartphone application for vaccinators to store real-time immunization records onto a centralized database. The first E-Vaccs application was launched in June 2014 in four districts of Punjab. It was rolled out to all 36 districts by October 2014. Under this system, 3,750 smart phones were provided to field vaccinators who no longer needed to mark their attendance on paper registers at Basic Health Units (BHUs). Instead, they were now required to sign in three times a day using their smart phones: First a check-in at their assigned location, second at their kit stations, and third at the end of the day when they feed information about the number of children vaccinated and antigens used onto a vaccinators' log

on their smartphone application. The sign-in is done by taking a picture of themselves. The pictures are geo-tagged and time stamped, providing fool-proof evidence that vaccinators are physically present at the location and have shown up to work.

By using our smartphone application, the attendance of field vaccinators improved drastically from a mere 18 percent to a staggering 97 percent.

The E-Vacc 2 program tackled low geographical coverage, particularly in rural areas. Initially, PITB used large paper-based maps for each district to monitor areas with little to no vaccination activity. Printing these maps proved to be costly. Transporting and storing them was a challenge. Using these maps, it was difficult to identify population pockets in rural areas because the last census conducted by Pakistan was in 1998, and there were no recent population density maps available.

These problems were tackled with help from Dr. Mohsen Ali, a faculty member at Lahore's Information Technology University (ITU). He proposed an algorithm to analyze satellite imagery, including segmenting out settled areas and identifying different landmarks, houses, roads, and streets. All of this information was then digitized and made available on a dashboard.

These dashboards can be used to see the broader overview of performance in each district, including individual vaccinators' activity and geographic coverage. The E-Vacc-2 was implemented throughout Punjab by October 2015, increasing geographical coverage from 25 percent in 2014 to 88 percent in 2016.

Independent surveys conducted by AC Nielson and PHS to check antigen coverage for vaccine-preventable diseases such as childhood tuberculosis have showed significant improvement.

With E-Vaccs and E-Vacc 2 implemented, the final challenge left to be tackled was ensuring the retention of children vaccinated under various EPI programs. Dropout rates had been high, particularly for diseases like measles, which have significant gaps between the two vaccinations because parents used to forget their children's next vaccination date.

Har Zindagi-Every Life Matters,⁴ a research project from the ITU, put forward a proposal to improve retention and to make a friendlier use interface for the immunization system.

Har Zindagi made the original application more accessible and improved efficiency in records generation by coming up with a redesigned immunization card for parents. Similar in design and color to a Pakistani passport, the new immunization card contains a Near-Field Communication tag inside it that enables real-time information sharing between the card and the mobile application in the vaccinators' smartphones once they are tapped together. This helps generate detailed digital records for each child. Field vaccinators can rely upon the data for all subsequent visits. Infographics in the card are helpful for parents and educate them about the details of their child's vaccination regimen.

To improve retention, robo-calling and SMS reminders for vaccination dates to parents have also been introduced. The pilot program of Har Zindagi is currently being tested in two districts.

With these initiatives, Punjab's coverage rate of fully immunized children increased from 56 to 73 percent, and polio cases have decreased from seven in 2013 to two in 2015. The program is now being replicated in Khyber Pakhtunkhwa and Balochistan provinces.

Citizen Feedback Monitoring Program (CFMP) to Fight Corruption⁵

For many citizens of Pakistan, interacting with the government for even the most basic of services is typically fraught with uncertainty due to corrupt practices. The rigidity of government processes and a lack of monitoring create further barriers between public service providers and citizens.

Information about pockets of corruption and bottlenecks in processes can easily slip through the cracks. Paying a bribe of a few hundred rupees is hardly frowned upon and is, in fact, routinely accepted as "speed money." No one even bothers to report such petty corruption.

To tackle these challenges, the PITB designed a Citizen Feedback Model (CFM) in 2014, which has since become known as the Citizen Feedback Monitoring Program (CFMP). The CFMP features an automatic calling and text messaging service to solicit citizen's feedback about public sector service providers. The call and SMS data are automatically compiled, processed, and analyzed at the chief minister's office. To date, over 13 million citizens have been contacted through the CFMP and

nearly 7,000 corrective actions have been taken on the basis of the feedback received.

Here's how the system works. When a citizen accesses a government facility for a service, his/her cell phone number is logged into a central database along with the details of their transaction. Once this happens, the citizen receives an automated call in the voice of the chief minister followed by an SMS seeking feedback. The feedback SMSs are then read and categorized, random calls are made by call agents, and results are analyzed by a team of data analysts. The results are used to benchmark services across the province and "district scorecards" are sent to district coordination officers every week. The system includes automatic checks to ensure that the phone numbers being recorded are not repetitive or invalid, and historical trends are analyzed to verify that the office is not underreporting data. Bogus or incorrect numbers entered in the system negatively affect a district's scorecard.

The CFMP has several subtle features that have led to its scale-up. First, it is not a complaint cell. We don't wait for a citizen to be dissatisfied enough to lodge a complaint. The system calls out only those citizens who have recently interacted with government officials for some specific service. The system is designed to gather data about specific parameters of service delivery and to avoid generalized opinions. It is not an individual grievance forum; actions against personnel are automatically initiated if there are repeated complaints, but each complaint does not trigger an open-ended inquiry. Each day, the system calls out between 10,000 to 30,000 randomly chosen citizens (who have freshly interacted with the government); the statistically significant and randomized dataset minimizes the chances of administrative bias. It also helps control the volume of feedback to a level against which the government can affirmatively take action. Additionally, we have started informing citizens about the actions taken on the basis of their feedback.

The nuanced features of the system have enabled us to use it as a platform for data-driven analysis for improved service delivery.

Currently, the CFMP is operating with 17 government services in Punjab, including Police 15, Rescue 1122, emergency medical services, services for indoor patients at rural health centers, issuances of domicile,

driving licenses and character certificates, and district revenue branch operations. In the near future, it will be extended to cover even more services.

Other provincial governments in Pakistan have started adopting the CFMP model. While we still have a long way to go, the success of the CFMP demonstrates that technology can play a central role in helping us reform government.

School Education: Monitoring, Assessment, and E-learning

In Punjab, there are over 60,000 schools with 325,000 teachers and 10 million students enrolled in the public sector. Still, the number of out-of-school children in the province stands at seven million. Improving the standard of public schooling remains a daunting task.

The PITB has rolled out a series of IT-based initiatives to help improve school education. These include digitization of textbooks under an eLearn initiative, digital monitoring of school facilities and teachers' attendance, and development of SMS/USSD-based testing services and automatic test generation software to gauge teaching quality and learning outcomes. The results have convinced us that these initiatives are worth replicating.

The eLearn initiative involves digitizing school textbooks and making them freely available online at <http://elearn.punjab.gov.pk>. In digitizing textbooks, we have focused on converting them into interactive learning resources, where each section of a textbook is embedded with video lectures, illustrations, simulations, games, and exercises. Our interactive textbooks enable students to learn on their own and minimize dependence on the availability of a subject expert or evening tuitions.

eLearn is designed as an open platform so that people can add new content and help us continuously improve the quality of e-books. Over 5,000 video lectures, animations, simulations, and interactive assessments have been added to these textbooks. They are also being made available locally at computer labs of public schools in Punjab. We also plan to freely distribute CDs with this content.

To strengthen the monitoring of public sector schools, the PITB has trained 1,600 monitoring officers of the government in the use of Android tablets to file their reports digitally. Each report carries the GPS location of the school and includes pictorial evidence of school facilities and

staff presence. This has eliminated fake reports and has made the analysis instantaneous. Our system automatically analyzes the incoming data in real-time and fires off SMS alerts to relevant officials if performance indicators like teacher attendance, school enrollment, and staff presence fall below a threshold.

We have made the data about public-sector schools in Punjab freely available at <http://open.punjab.gov.pk>. Over a million geo-tagged monitoring reports have been uploaded by the monitoring officers using tablets.

Furthermore, this has enabled us to take a stab at collecting data about two critical indicators: teaching quality and student learning outcomes. Conducting a standardized province-wide test for over three million students is logistically challenging. Currently, standardized tests are conducted every few years. We need a testing system that continuously feeds the results back to the government for timely analysis and corrective measures. To achieve this, an additional application has been prepared for the tablets carried by field monitors, enabling them to pull up a question from a large bank of questions and test the teacher and students on the spot. The aim is to provide continuous feedback to the Education Department. Over 13 million spot quizzes have so far been conducted using computer tablets during visits of the monitoring officers to schools.

We are also building an SMS/USSD-based system to test students on a large scale. It is designed as an interactive messaging platform to send short multiple choice questions to students and analyze their answers in real-time. It can instantaneously test and compare the learning outcomes of thousands of students across Punjab. Since we use cellphone numbers of parents to conduct the tests, the initial response has indicated that parents have welcomed this initiative. We are currently developing a large database of SMS/USSD questions for grades four to eight. Our initial experiments with around 300,000 students in Punjab have been encouraging.

Finally, we are developing an automatic test-generation software for the Punjab Examination Commission, similar to the systems used for SAT, GRE, and TOEFL. These systems are designed to automatically generate many different permutations of question papers for an exam. Hence no single exam can be “leaked.” This also naturally minimizes the chances of cheating within an examination center. Automatic marking of these

computer-generated exam sheets eliminates the problem of variable grading quality and errors in tabulation.

Conclusion

Developing countries like Pakistan face the daunting challenge of limited human and financial resources. At the same time, however, there is a pressing need for the effective use of existing resources by preventing corrupt practices and leveraging technology for their efficient allocation. The evidence shared in the three case studies above shows that the introduction of IT-based initiatives can help achieve these tasks. Importantly, the dividends of these initiatives in terms of institutional capacity building and improved service delivery are significantly large to offset their nominal cost to the public exchequer.

Notes

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4. More information can be found at <http://www.ipal.itu.edu.pk/ipal-projects/har-zindagi-every-life-matters/>.
5. See the CFMP website at https://pitb.gov.pk/cfmp_pakistan.

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