

**DEVOLUTION PLAN IN PAKISTAN:
AN ASSESSMENT OF POWER TRANSFER**

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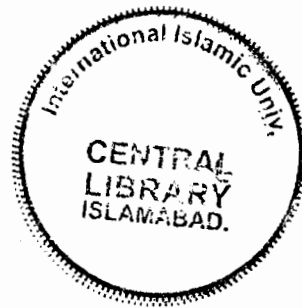
DR MUHAMMAD ISLAM

By

KAMRAN NASEEM

MS Politics and IR

05-SS/PhD IR-03



**DEPARTMENT OF POLITICS & IR
FACULTY OF SOCIAL SCIENCES
INTERNATIONAL ISLAMIC UNIVERSITY ISLAMABAD**

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Accession No TH-4988

KAD

V.M.D

- I Decentralization in government - Pakistan
- II East Asia - Foreign relation

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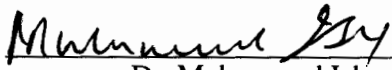
**A thesis submitted in partial fulfillment of the requirements of the
Degree of Masters of Science in Politics & International Relations**


**DEPARTMENT OF POLITICS & IR
FACULTY OF SOCIAL SCIENCES
INTERNATIONAL ISLAMIC UNIVERSITY ISLAMABAD**

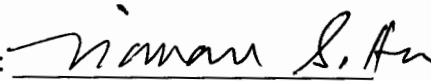
2008


CERTIFICATION


Certified that contents and form of thesis entitled "Devolution Plan in PAKISTAN: an assessment of power transfer" submitted by Mr. Kamran Naseem have been found satisfactory for the requirements of the Degree of MS Politics and International Relations.

Supervisor: 
Dr. Muhammad Islam
Associate Professor,
QAU, Islamabad

Internal Examiner: 
Dr. Sohail Mahmood
Professor & Head,
Department of Politics & I.R
IIUI.

External Examiner: 
Dr. Noman Sattar
Professor
Area Study Centre
QAU, Islamabad


Head:
Dr. Sohail Mahmood

Dean: 
Dr. Syed Tahir Hijazi

Department of Politics & International Relations
Faculty of Social Sciences
International Islamic University Islamabad

ACKNOWLEDGEMENT

Writing a thesis is a serious activity and needs support, guidance and supervision of many persons. First and foremost comes the research supervisor. I am extensively thankful to Dr. Muhammad Islam, Director Area Study Centre, Quaid -e- Azam University Islamabad for his patience in guiding researcher like me. Thanks are also due to Dr. Nazarul Islam, The Head Department of Politics and International Relations, International Islamic University Islamabad. I owe many thanks to the librarians and staff members of National Reconstruction Bureau Institute of Strategic Studies, Institute of Regional Studies, Islamabad Policy Research Institute, International Islamic University, and National Library Islamabad.

Kamran Naseem

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ABBREVIATIONS

BD	Basic Democracies
BNR	Bureau of National Reconstruction
CCBs	Citizens Community Boards
DC	Deputy Commissioner
NRB	National Reconstruction Bureau
NFC	National Finance Commission
PFC	Provincial Finance Commissions
LGO	Local Government Ordinance
ECP	Election Commission of Pakistan
DCO	District Coordination Officer
EDO	Executive District Officer
DPO	District Police Officer

CHAPTER 1

INTRODUCTION

1.1 Objectives of the Study

There have been three interferences in the devolution process in Pakistan since 1947, through diverse administrative arrangements of local government. The three efforts at local government modification in the form of devolution have been undertaken by the three military governments which have taken power through force. The military governments which have ruled the country for thirty years have supported the process of devolution. The democratic governments have intentionally undermined the local government.

General Pervez Musharraf claimed to devolve power to the grassroots since the first day he came into power. In declaring the good governance as necessary for the successful implementation of his agenda, Musharraf maintained that in the past, our governments have ruled the people. It is time now for the governments to serve the people. The framework for the devolution plan was placed before sections of the intelligentsia at the initiative of the National Reconstruction Bureau (NRB). Pakistan's military government launched a campaign for devolution in 2000, which was aimed at transferring administrative and financial power to local governments. The scheme was intended to strengthen local control and accountability and according to President Musharraf, empower the impoverished. The country's mainstream political parties feel that they have been pushed to peripheral status. The

objective of present study is to explore whether powers have been devolved to the grassroots. There are certain questions to be answered through this research effort. Some of them are described. Have powers been devolved to local level? Has the devolution plan bypassed the provinces? What are the key changes that have been introduced in the local government system? What is the relationship of local government with the central government? What is the relationship of local government with the provincial governments? What are the reservations of the provinces? What is the future of local government in Pakistan?

The success or failure of the local bodies system under the devolution plan is a debated issue in Pakistan. There are those who find the system truly relevant for a country like Pakistan. There are those who have their reservations about the system on the grounds that the old politicians have come to the scene. Some are of the opinion that it is just another way of the military to prolong its rule. They argue that the newly elected nazims and naib nazims are not well trained to solve people's problems. The strongest case being made against district government is that it is a conspiracy to take away provincial autonomy. Politicians seem unanimous in demanding the devolution of power to the provinces rather than the districts. Their argument is that Pakistan is a federation and local government being a provincial subject, should be left to the provincial government. It is significant to see local government's relationship with central and provincial governments. Among critics of Musharraf's devolution plan are hard-line nationalist leaders from the provinces of Sindh and Balochistan. They fear that it interferes with provincial

autonomy guaranteed in the 1973 constitution. The nationalist parties have demanded more autonomy for the provinces along with greater financial and administrative control. It is necessary for students of political science to know the ground realities. The present study is aimed to explore Devolution Plan with full essence. The institution of local government needs to be investigated if we are to comprehend the current socio-political conditions and its reasons as well as solution.

1.2 Literature Review

Devolution of power leads to a system of co-responsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiary. This consists of elected local authorities having the responsibility and power to tackle all problems that are within their authorized mandate. This increases the overall efficiency and worth of governance and increases capacities and control at sub-national levels. Elected local governments accompanied by citizen's participation method can contribute to community empowerment.¹

Devolution is particularly favorable for rural development. It entails a net transfer of financial resources from richer to deprived areas. It leads to rise in quality and volume of expenditures in these areas. Administrative devolution consists of the transfer of resources and authority to local level.² Devolution is a global phenomenon for three reasons. First, devolution can better protect rights, services and more competent and capable service delivery.³ Second, there is need for political stability through the transfer of formal state power, resources and authority, to elected local representatives. Devolution is an approach to

sustain political stability in a world of swift and unpredictable change for most developing countries. It is only at the local level where citizens, civil society and communities can still influence policies that have effect on the quality of citizens' lives. Third, there is better room for society's involvement that can lead to community empowerment. Devolution is predominantly useful for countryside development.⁴

Shahrukh Rafi Khan is of the view that the major flaw in the devolution plan 2000 is that it has completely bypassed the issue of devolution of power from the center to the provinces. The increased participation and collective action at the local level are plus points for such decentralization; the plan envisaged a four-tier structure below the provinces including district, tehsil, union council and village. No formal institutional structure was conceived for the grassroots.⁵ The performance of local government needs to be examined in the context of existing structures and relations. Over time, democratically elected local governments have been made impotent by democratically elected members of the provincial and national assemblies.⁶

The head of military government is once again been given the power to amend the constitution. Electoral reforms are areas in which military government could have achieved results, but it has failed. The devolution plan, with the aim to transfer power from the central to the district and sub-district level of government, and the subordination of district officers to elected officials in the newly established districts

governments, was a covert plan to weaken the provincial governments and extend the central control to the local level.⁷

Devolution of powers was the sixth point of General Pervez Musharraf's seven-point agenda. Local level governance is the subject that should be dealt by the provincial governments. But the federal government never allowed the provinces the autonomy promised to them in the constitution.⁸ In any country, whatever its grade of development, good governance depends most often on the grassroots.⁹ Asghar Khan, a prominent politician is of the view that the number of ministers in the centre and in the provinces is a financial burden and something that makes nonsense of the devolution of power. The centralization of power and the allocation of development funds to members of the national and provincial assemblies rather than to the districts, does not really wish to empower the people. This is understandable in a highly centralized system.¹⁰

The aims of devolution of power plan were the devolution of political power, decentralization of administrative and financial authorities, and empowering citizens to take control of local policy over delivery of essential services. Local government system lacks constitutional support. The devolution plan has bypassed the provinces. Decentralization must trickle down from the federal government to the provinces and from provinces down to local government, at fiscal, administrative and political levels. Provincial governments view the plan as undermining their authority.¹¹

The devolution of power plan enjoyed top priority on the agenda of military government for political restructuring. Local government plan provided for the establishment of a three-tier system of government, district, tehsil and union.¹² There are several apprehensions about the local government plan. There are still a lot of difficult issues to be worked out. The plan does not envisage the involvement of political parties in local government election.¹³

The above discussion indicates that powers have not been transferred from the central to provincial and then to local level. The devolution plan has bypassed the provinces. There are several apprehensions about the local government plan. So it is essential for the students of political science to know the factual situation.

1.3 Hypothesis

Local government reforms have been brought about by non-democratic regime in the country. These reforms have been used as a means for a non-representative government to achieve legitimacy by bypassing the political agents at the national and provincial levels. The centre has not decreased its hold over power but weakened the influence of provinces over the matters given to local government.

1.4 Research Methodology

In accumulating the research matter for this study, the researcher had to consult a large number of journals, books, encyclopedias and newspapers. Apart from consulting published material by intellectuals, the researcher made broad use of primary sources. It should be mentioned that there is a rich body of literature available on the subject of

decentralization. Research material on the subject relating to Pakistan was restricted. The research paper is supported by primary and secondary sources.

1.5 ORGANIZATION

The present research study is divided into six chapters. Chapter one provides the introduction of the research topic. Chapter two describes the concept of decentralization and a brief historical background of devolution in Pakistan. Chapter three examines the devolution plan implemented by President General Pervez Musharraf. It explains the key changes and structures of the devolution plan. Chapter four deals with local governments' relations with the provinces. In chapter five efforts has been made to throw light on relations between the central government and local bodies. Chapter six provides the conclusion of the research.

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CHAPTER 2

HISTORY OF DEVOLUTION IN PAKISTAN

2.1 LOCAL GOVERNMENT

Local government is a public organization authorized to administer and decide a limited range of public policies pertaining to a demarcated territory within a larger and sovereign jurisdiction. It is not possible to govern a modern state without extensive local government, but it is also impossible to govern it if local government is not responsive to the demands of a central power, nor answerable directly to the citizens.¹

In spite of the fact that almost every one is affected by the activities of the local government, there is widespread lack of understanding and appreciation of the important role played by it. The elections in a local government unit reflect the mood of the voters. In developing countries, people display very little interest in the local affairs. On the other hand, in the USA, France and England where people have enjoyed the fruits of liberty for long, the people take considerable pride in their local governments. If the democracy at national level is to survive, it is extremely essential that its foundations at local level are to be strengthened. The local government units should be given more powers. They should have more financial resources so that they may do more things for the amenity of the people.²

Local government reflects the general characteristics of the national regime. When political democracy exists at the national level, cities enjoy a considerable degree of local autonomy. When the regime is authoritarian, central control is likely to diminish or extinguish local government.³

2.1.1 DECENTRALIZATION

Decentralization means devolution of power in a state to elected local authorities. Decentralization indicates a procedure by which people or political leaders try to reverse the concentration of power to the benefit of a single central ruler. For this reason, decentralization can take place in any form of government: monarchy or republic, federal or nonfederal system.

The classical view identified decentralization with the local community, but it is actually an organizational form that can be used at any level of government (such as county, region or province). Its association with democracy stems from several factors: the application of the principle of separation of power at the territorial level, popular election of local authorities and the devolution of power of fiscal and financial prerogatives.⁴

2.1.2 DEVOLUTION OF POWER

Devolution of power means the transfer of political and legal powers to some subordinate institutions, while maintaining, in theory, complete political control over their exercise.⁵ The devolution of power and the capacity to tax citizens are important elements of decentralization. The extent and scope of these capacities, however,

differ greatly from one country to another and over time. The autonomy of decentralized units depends heavily on their fiscal resources, the grants they receive, their size and the efficiency of the bureaucratic and political apparatus.⁶ J.S. Mill asserts: "It is apparent, to begin with, that all business purely local, all which concerns a single locality, should depend upon the local authorities."⁷

Most of the developing countries, before their independence, were being ruled by foreign powers through their agents who were the symbols of powers in the colonies. Even after getting independence, all the powers remained centralized due to various reasons.

Devolution of power brings many benefits: It encourages community involvement in government. It ensures that planning and development are done in accordance with local needs. It promotes democracy. It takes power and decision-making to the grassroots. It improves service delivery. It decreases poverty and promotes accountability by civil servants and elected officials. It makes government transparent. In short, devolution of power can prove a huge boost to growth and development in Pakistan. But this will only happen if it is implemented properly.⁸

2.2 POST-INDEPENDENCE PERIOD

After independence there was a steady tendency to transfer power in favor of the central government.⁹ There was little importance of local governments which had played little role in the independence movement. Thus by 1947 functional local governments existed only in Punjab in the form of municipal councils and village panchayats with

mostly non-elected members. Even in this province, 75% of the villages did not have panchayats. The system of local government existed in NWFP and Sind, but was totally absent in the province of Baluchistan, Tribal Areas and Princely States.¹⁰

The Muslim League after partition of India failed to organize as a political party. The local bodies were denied legitimacy. As earlier, the bureaucracy totally controlled local bodies. The decade of the 1950 was distinct by centralization and political instability.¹¹ The system of local government inherited by Pakistan in 1947 was a product of British efforts made from time to time through reforms. The aim was to promote local institutions, autonomous in certain aspects under the control of the provincial government through district officers. After independence the local bodies were denied. The decade of 1950 was marked by political instability with increasing centralization. The Muslim League failed to organize as a political party and to develop political bases.¹² In the decade following independence, government took positive decisions for democratization of local government and it decided: to make district local bodies fully elective; to expand panchayat system to NWFP and Bahawalpur and left-out villages of Punjab; to initiate universal adults franchise.¹³

The preferred outcomes could not be attained due to failure of government. The bureaucratic control continued in advancing public administration rather than initiating public involvement. Another exercise was assumed after amalgamation of West Pakistan into One Unit. The following decisions were significant: The record of local

government in the post-independence decade is a history of deterioration rather than advancement.¹⁴ Plans were organized to formulate local government laws uniform throughout the country; an Election Commission was appointed to arrange for elections; establishment of panchayat system was expanded to the whole country.

The above decisions could not be translated into action. The factual practice went in reverse path. In 1957, 24 District Boards out of 34 stood superseded. The condition in NWFP was more depressing. All the local government institutions of this province were suspended. There was absolute bureaucratic control on finance and administration of local bodies. No elections were held. Institutions were not treated with esteem and they lacked representative capability. The impact of progress was not felt at grassroots.¹⁵

2.3 BASIC DEMOCRACIES SYSTEM

Authoritarian rule, whether civilian or military, is not strange condition in Pakistan.¹⁶ Once the military interferes in the politics of a Third World country, it leans to take up a continuing political role.¹⁷ The first Republic instituted in 1956 finished just two years after it had come into being.¹⁸ Soon after 1958 take-over, Pakistan's military leadership instigated searching for "forms of democracy" that would let the generals hold control of policy while allowing civilians an illustration of political power. The search for a solution to the nearly undying political crisis in Pakistan is as old as the country itself.¹⁹

President Ayub Khan reintroduced the nineteenth century ideas of political tutelage through indirect elections and official nominations of

representatives.²⁰ The Bureau of National Reconstruction (BNR) was established with a mandate to propose reforms. The BNR spawned the Basic Democracies BDs model to be ushered in through the local bodies.²¹ An inclusive programme of action to construct BDs was approved by the Governors' conference in Nathiagali on 12-13 June, 1959.²² On October 27, 1959 the BD Orders were issued.²³ In launching the scheme Ayub affirmed:²⁴

We have given the name BDs for evident motive that we desire to evolve and grow from the very first step of the political ranking so that it finds roots deep among the people starting at the village level in rural areas and the mohalla level in towns.

Ayub felt that Pakistan's peculiar problems and political inexperience required less than full-fledged democracy.²⁵ The BDs system developed a direct relationship between the rural elite and the bureaucracy.²⁶ The people were placed under the tutelage of bureaucracy.²⁷ The BDs system was one of the most significant scheme of the Ayub regime. Ayub Khan's BDs system was a building block for a steady change to democracy, guided by a military ruler.²⁸ The structural framework of BDs system had 4 levels: Divisional council; District council; tehsil council/town committee; Union council or committee.

Political restructuring is not a new phenomenon in the history of Pakistan. Following the imposition of the first Martial Law, national and provincial assemblies were disbanded. Ayub Khan announced that his ultimate aim was to restore democracy of a type that people can understand and work. Diecy claims that no constitution can be entirely

secure from coup d'état or from revolution.²⁹ The first military ruler of Pakistan, Field Marshal Muhammad Ayub Khan attempted to reform the political system of Pakistan through a new Constitution in 1962. The 1962 Constitution granted a federal structure but in truth it had given a unitary form of government.³⁰ The 1962 Constitution varied in a number of respects from the previous constitution.³¹ The people greeted the second Constitution.³²

It was based on a presidential form of government. He introduced a system of indirect elections to the national assembly, provincial assemblies and office of the President. Ayub Khan introduced Basic Democracies Order 1959. He claimed that all the changes and reforms that had been introduced were designed to prepare the base on which a sound system could be developed. The members of BDs were 80,000 from both parts of the country.³³ The aims of the BDs System were: To build up common respect between government authorities and people's representatives; To provide utmost probable responsibility and authority to lower levels; To make the technical and administrative ability of government servants available to the councils for implementation and planning of programmes of council; To make government officials aware of the problems and needs of the people and to permit open condemnation of government machinery; To bring close coordination and collaboration between people's representatives and government functionaries.³⁴

The system was under the bureaucracy through “controlling authority” vested in the Deputy Commissioner (DC) and Commissioner for different tiers. The controlling authority had the power to cancel resolutions passed or orders made by any local body to take some action. Although the system assigned several regulatory and development functions to the local governments, especially at the lowest tiers and at the district level, few functions could be performed due to a strictly curtailed monetary power. The BDs was not, in reality, democracy. It did not represent control by the people over government authority except in an extremely narrow mode.

The most controversial feature of the local government system was that it came to be used by Ayub Khan to legitimize his Presidential Constitution. It gave valuable state authority to the armed forces through the office of the President. The 1962 Constitution clearly connected the office of the President to the newly formed local bodies by declaring the 80,000 Basic Democrats as the electoral college for the election of the President. The military and civil bureaucracy assumed that Western democracy was not appropriate for Pakistan. They thought that in the existence of an under developed, uneducated and rural masses, it produced unsound and weak governments. Pakistan virtually ceased to be a federal state.³⁵ Ayub desired to obtain a mandate from the BDs members.³⁶ Ayub was indirectly elected President by 80,000, BDs members who had themselves been elected earlier on the basis of one-man one-vote. The indirect election was recognized to be held unjustly because it was easy for a sitting incumbent to win over the support of the

Basic democrats.³⁷ 75,084 reposed their confidence in the leadership of Ayub Khan while 2,829 voted against him in the ballot. The result was expected.³⁸

The system of BDs had not produced leadership capable of mobilizing the masses.³⁹ The constitutional role of the BDs as an electoral college overshadowed other doings and eroded their value as an institution of local self-government.⁴⁰ This partially political and partially bureaucratic structure was used for distributing funds and to make safe a term of office for Ayub. The system provided many opportunities for corruption. Under the system of BDs, the President got protection and stability. The main reason of the public protest against the Ayub regime was the lack of a sense of participation in government affairs. The fault of Ayub Khan's system was uncovered when he was enforced to resign after months of protest.⁴¹ The system failed to serve as a training ground for the people in self-government. Briefly the BDs failed because: The convergence of the elected members of BDs in to an electoral college for the elections of the presidential contestant and the candidates for national and the provincial legislatures antagonized the people against the system; although the bureaucrats had an upper hand, yet they discerned in the system a risk to their power. They did not let the institutions under BDs to develop; the public funds, given to different tiers of BDs were used for private ends. It failed to attract the progressive sections of the society with the political parties because of non-democratic and bureaucratic character. During Ayub's regime the democratic values could not flourish.⁴² The local government system

under the BDs continued to remain as it had been a front wall to a despotic structure.⁴³ The BDs system increased the isolation of the people.⁴⁴ In his ten years of rule Ayub Khan deeply rooted the bureaucracy and army culture in the country.

2.4 Z. A. BHUTTO AND LOCAL GOVERNMENT

With the fall of Ayub Khan in 1969, the system of BDs disappeared. Zulfiqar Ali Bhutto, a few days after assuming power in 1971, disposed of the system of BDs. Bhutto assured to set up a better system of local government. Even after the emergence of Bangladesh, the 1973 Constitution went for a federal system.⁴⁵ The first democratically elected government in Pakistan, did not concern to initiate a system of representative local government. A complete vacuum existed at the grassroots. Bhutto did not desire to undertake local government reform due to the fear of losing local support in key areas. Although two Local Government Ordinances were introduced in 1972 and in 1975, there was no execution of any sort of local government. In March 1972, the provincial governments on the directions of federal government executed the People Local Government Ordinance 1972 in their respective jurisdictions. The union councils in the rural areas were abolished. The opposition leaders countered the decision on the appeal that framing of the Constitution should come first. The 1973 Constitution says that the state shall encourage local government institutions composed of elected representatives of the area concerned

and in such institutions a particular representation will be given to women, peasants and workers.⁴⁶

New Local Government Ordinance 1975, issued by the federal government set up the following institutions:⁴⁷ People's District Council, People's Town Committee, Peoples Local Council, People's Municipal/Municipality Committee, Lahore Metropolitan Corporation and Karachi Metropolitan Corporation. Elections were never held and local councils were not constituted. The country did not have any local government system during the period 1971 to 1979. After the fall of Zulfikar Ali Bhutto's government in 1977, the system of "People's Local Government" also vanished.

2.5 LOCAL GOVERNMENT SYSTEM DURING ZIA'S REGIME

On July 5, 1977 General Ziaul Haq overthrew the democratically elected Prime Minister Zulfikar Ali Bhutto to take over the administration of the country.⁴⁸ General Ziaul Haq announced his scheme of local government. The new local government laws were drafted for each province. These laws were promulgated and enforced in 1979 and 1980.⁴⁹

The Punjab Local Government Ordinance, 1979.

The Sindh Local Government Ordinance, 1979.

The Baluchistan Local Government Ordinance, 1979.

The NWFP Local Government Ordinance, 1979.

The Northern Areas Local Government Ordinance, 1979.

The Capital Territory Local Government Ordinance, 1979.

Federally Administered Tribal Areas Local Government Regulation, 1979.

The Azad Jammu and Kashmir Local Government Regulation, 1979.

The local government possessed the following features: The strength of membership of a local body was decided on the basis of population of respective areas; All the councils were elected through adult franchise for a period of four years. The elected councillors elected heads of local bodies; peasants, women, minorities and workers had been given special representation on different tiers of local government.

Local government system was set up in 1979 through elections on the basis of adult franchise. On end of the four-year tenure, elections were held for the next period in 1983.⁵⁰ Three tiers of local government were established: zila council, tehsil council and union council. Elections were held on non-party basis. The local bodies were not given administrative powers. These functions were performed by deputy commissioners and commissioners. The councilors served as electoral college for elections of chairman and vice chairman of tehsil and zila councils. They did not play the role of electoral college for the President, national and provincial assemblies. The intention for creating the local bodies was to serve as the civilian based for his military government. The system did not empower masses at grassroots.⁵¹

General Zia ul Haq combined political centralization at the central level with decentralization from the provincial to the local level in order to legitimize his military regime. The opposition leaders criticized Presidential referendum held on December 19, 1984.⁵²

Political centralization was attained during the early years (1977-85) of the regime through the imposition of Martial Law. It was followed by the 8th Constitutional amendment (1985) that created indirect military rule through a quasi-Presidential form of government. Zia wanted to lessen bureaucratic control by promoting 'elected' members as the heads of local councils. This contrasted from BDO 1959 where the DC was both the executive head and 'controlling authority' of the district council.⁵³

In 1985, General Zia decided to hold general elections for the national and provincial assemblies on a non-party basis. Zia affirmed that Islam had no space for political parties.⁵⁴ Political parties did exist and new ones had emerged, such as the Muhajir Qaumi Movement as a result of the LB elections held earlier. It is exciting that a large number of persons who had been elected for the first time in the LB emerged later as members of the national and provincial assemblies. The LB elections were held in 1979, 1983, and 1987.⁵⁵

Before the 1985 general elections, in the absence of elected assemblies, local governments were the only elected bodies and played significant role. After the elections, the role of local governments was marginalized. Members of national and provincial assemblies were given funds, which they could use for development projects on their own discretions in their constituencies.

Local governments were not a central part of the Constitution. They had been assigned powers by the provincial governments.

Provincial governments could dismiss local governments on the advice of the Federal government or by themselves. The budgets of local councils had to be approved by the provincial governments. Provincial governments could make changes. The authorization for increasing taxes and appeal for more resources were totally dependent upon provinces. Local governments had no autonomy. This was a dominating relationship on the part of provincial governments. The provincial governments used their authority on local governments. It would not be unjust to state that local governments were controlled by the provinces.⁵⁶

2.6 THE PERIOD 1988 TO 1999

With the return of democracy in Pakistan in 1988, all local governments were dissolved. Different explanations were given as to why the provincial governments dissolved the local governments. In the absence of an elected local government, municipal corporations, municipal committees and town committees were all being run by administrators who were members of either the provincial or federal public service. They were appointed by the provincial governments.

The local government system remained disregarded during the democratic governments of Zulfiqar Ali Bhutto, Nawaz Sharif and Benazir Bhutto. Civilian governments did not promote the local government system for two reasons; first, the lack of confidence of the politicians who believed the local government a danger to the political system and second, the affiliation of the system with the despotic military regimes. People allege that the civilian and military governments are responsible for crises of governance in the country.⁵⁷

The phase since 1985 had seen five general elections facilitating the public to select members of the national and provincial assemblies. In the nonexistence of elected assemblies, local governments were the only popularly elected bodies and therefore played central political role. After the elections of national, provincial assemblies, the function of local governments had been significantly marginalized. These elected representatives took over some tasks which local governments used to do. Provincial and federal level programmes that were directed at elected provincial and federal members of parliament had in many ways interfered in the evolution of proper local government. Elected members of national and provincial assemblies were given substantial funds. They could use funds mostly on their own discretions, for development projects in their political constituencies. This had severely weakened the role local governments had been playing in the development of local areas. There seemed to be natural conflict of interest between different tiers of government.⁵⁸ The tension between provincial and local tiers resulted in the suspension of local bodies between 1993 and 1998.

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CHAPTER 3

MUSHARRAF'S NEW DEVOLUTION PLAN

History has repeated itself. Local government reform under the military is repeated for the third time which created Pakistan's third decentralized local government system. Pakistan's military- civil ruling elite has frequently used the administrative powers at its disposal to expand the center's control over the provinces. It increases apprehensions between the provinces and centre.¹ Local governments were not a central part of the Constitution and were delegated powers by the provincial governments. Provincial governments could dismiss local governments by themselves or on the advice of the Federal government. Local governments actually owed their powers and existence to the provincial governments. Local governments did not operate independently from the provincial governments. Provinces controlled local governments. Besides, the budgets of local councils had to be approved by the provincial governments, who were entitled to make amendments and suggestions.² The present devolution plan is also invention of military government.

3.1 THE OCTOBER 1999 COUP

General Musharraf was promoted as Chief of Army Staff in September 1998.³ The military take-over of the government of Nawaz Sharif by General Pervaz Musharraf is the most significant episode in Pakistan's modern history.⁴ The coup of October 1999 brought the Army back to power. The military was disturbed by the civilian

government's fiscal and political mismanagement. The conflict in civil-military relations in mid-1999 can be attributed to three main factors.⁵ First, the civilian government disregarded the truth of Pakistani politics that political stability depended on trouble-free relations with the army. The military was interested in advancing and caring their corporate and professional interests from the sidelines. Second, Nawaz Sharif appointed trusted persons to key posts. There was no opposition to the decisions made by him. The Prime Minister consulted with a small group of advisors. He appointed trusted persons to posts of Governors and President. It was natural for Nawaz Sharif to think about penetrating the hard shell of the army. Third, encouraged by the resignation of Jehangir Karamat in October 1998, Nawaz Sharif government dishonored the well-known norm of civil-military relations. The Prime Minister began to interfere with promotions and transfer of senior officers, including the posting of Corps Commanders. The military felt that this would weaken its organizational unity and discipline.⁶

Soon after coming into power, Musharraf regime promised to focus on rebuilding the economy, the federation, building democracy, and improving accountability, efficiency and transparency of the government.⁷ On 17 October 1999, General Musharraf announced his seven point agenda, namely:⁸

- (a) rebuilding national morale and confidence;
- (b) strengthening the federation while removing inter-provincial disharmony;
- (c) restoring and reviving investor confidence;

- (d) ensuring law and order and dispensing speedy justice;
- (e) depoliticizing state institutions;
- (f) delegating power to the grassroots;
- (g) ensuring speedy and across the board accountability.

3.2 NATIONAL RECONSTRUCTION BUREAU (NRB)

After coming into power, the military government established the NRB on the 18th November, 1999 with the task to plan policy for national reconstruction.⁹ The NRB prepared recommendations for reconstruction of police and local governments which were approved in August 2000 by the federal cabinet and national security council. Its first assignment was to plan the devolution. Within six months, a devolution model was projected for open discussion. By August 14, 2000, a proposed devolution plan was released. The central stated purpose of the devolution plan was to give power to citizens at the grassroots.¹⁰ The plan envisaged a three-tier arrangement underneath the provinces including district (zila), sub-district (tehsil), and union council. Before the military government's reform, some progressive scholars had advocated democratic decentralization for a long time. They advocated the devolution of power from the centre to the provinces and on to the divisions, districts and villages.¹¹

3.2.1 Role and Tasks of NRB

In November, 2002 the federal cabinet approved that NRB shall work as part of the Prime Minister's secretariat and complete the

following tasks;¹² cooperate with the government organizations for institutionalizing capacity building of local governments at all levels; arrange workshops, seminars, and conferences in the areas of bureau's activity and spread knowledge through media amongst all stakeholders; coordinate with the national and international think tanks on issues related to governance; offer support to the federal and provincial governments in execution of local government system; engender basic idea on encouraging good governance to support democracy through the reconstruction of institutions of state related to all aspects of governance and social welfare; process the amendments in the local government laws proposed by the federal and provincial governments under article 268 read with the Sixth Schedule of the Constitution of Pakistan 1973 for the sanction of the President of Pakistan; present an annual report to the Prime Minister during the month of March each year on its research, working, studies, recommendations or proposals in respect of any matter dealt with by the bureau during the preceding year; originate suggestions for reconstruction of civil services at the federal, provincial and local levels and assist the concerned governments in implementation of the approved proposals; complete such other tasks as shall be assigned to the bureau by the Prime Minister. The bureau is led by a chairman. He appoints technical staff and consultants. The bureau's secretariat comprises of four wings:¹³ Good Governance Group Wing; Operations Wing; Administration Wing; Media and Governance Cell. Lt. Gen. (R) S. Tanveer H. Naqvi was appointed as the first chairman of NRB.¹⁴

3.3 KEY CHANGES

Following are the key changes brought about under the new local government system:¹⁵ Elimination of the district management structure and establishment of three level of governments; districts (zila councils headed by zila nazim), tehsils (taluqa in Sindh and town in city governments, headed by tehsil nazim), and union councils (headed by union nazim). Reserving one-third of council seats for women. Reserving council seats for workers, peasants and minorities. Citizens organized into Citizen Community Boards CCBs to get direct access to a proportion of the local councils' development budgets by reserving 25% of all local development projects for CCB projects. The institution of CCBs has been created to facilitate the sensible elements of society to take part in the public work and development associated activities, the providing official acknowledgment for community based organizations. Creation of city governments in the provincial capitals with the possibility of allowing others to join later, as had happened beginning in 2005. The division as an administrative rank ceased to exist. Elected local governments were created in 97 districts, 350 tehsils and 6022 unions. Creating a 'municipal functions' unit answerable for development and maintenance of essential services such as streets lighting, sanitation, water, parks and business regulation. Placing locally elected leaders in charge of local bureaucrats, although until 2005 the provinces remained responsible for their postings, promotions and transfers. Providing local councils with the right to get information on

departmental operations and to sanction non- performance. The posts of DC, Assistant Commissioner, and Commissioner were abolished.

3.4 LEGAL BASIS FOR LOCAL GOVERNMENT SYSTEM

Constitutional provisions

Articles 32 and 140-A of Constitution of Islamic Republic of Pakistan, 1973, provide as under:

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

140-A. Local Government.- 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 government.¹⁶

3.5 DEVOLUTION IMPLEMENTATION

3.5.1 Local Government Plan 2000:

The NRB was assigned with the mission of undertaking the exercise with various aims of restructuring of political structure through devolution of power including decentralization of professional functions, empowerment of citizens, distribution of financial resources and decentralization of administrative authority.¹⁷

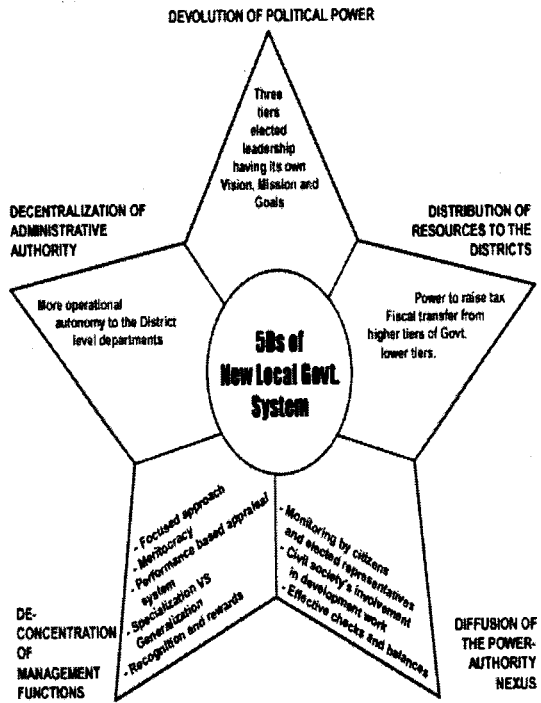
The NRB put forward the local government plan in year 2000. According to this plan, “in the existing system of governance at the local level, the province governs the districts and tehsils directly through the bureaucracy at the division, district and tehsil levels. The provincial bureaucratic set-ups are the designated ‘controlling authorities’ of the local governments and tend to undermine them.”¹⁸ Some precise points of changing the system have been given by NRB as follows:¹⁹

- (a) Develop financial and administrative practices in the district and management controls over operational units.
- (b) Re-orientate administrative systems to allow public involvement in decision- making.
- (c) Ensure functioning of the related offices in an integrated method to progress service delivery.
- (d) Introduce performance motivation systems to reward competent officials.
- (e) Help supervising of government functionaries by the monitoring committees of the local councils.
- (f) Remove hindrances in decision-making and disposal of business through enhanced financial and administrative authority of tehsil and district level officers.
- (g) Reorganize the bureaucratic set up and de-centralize the administrative authority to the district level and below.
- (h) Rectify complaints of people against maladministration through the office of zila mohtasib.

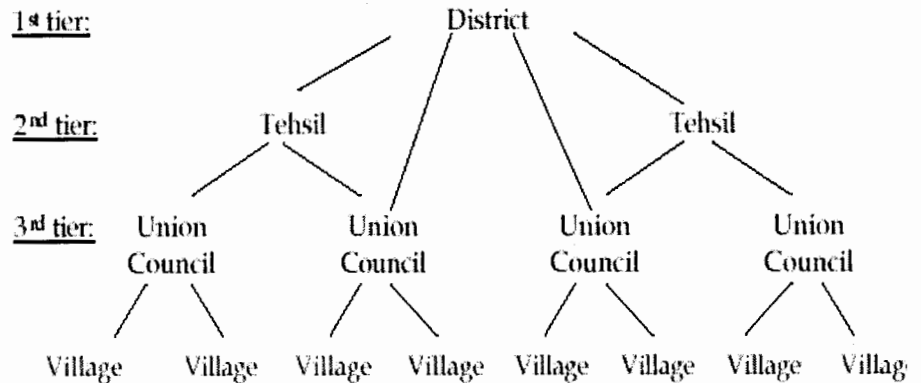
(i) Facilitate the positive elements of society to take part in the community work and development related activities.

The Local Government Ordinance (LGO) 2001 contains a number of important changes. All of them intend division of power between the elected representatives and civil service servants. Several organizations in Pakistan have started social mobilization actions to encourage women's efficient political involvement. Women had been there in government in the past, but in very small numbers and always as members of political parties. Many belonged to renowned political families. The establishment of a reserved number of seats was proposed as a 'positive action' and meant that, in theory at least, women would independently compete seats on the district, tehsil and union councils. They would be capable to address problems of local concern.²⁰

According to the plan, "the system is designed to ensure that the genuine interests of the people are served and their rights safeguarded through an enabling environment, clear administrative responsibilities without political interference, making it answerable to the elected head of the district and people's participation. It also assures checks and balances to safeguard against abuse of authority". The plan proposed a model described as 5Ds which is explained by the following diagram:²¹



An overview of the distribution of functions and basic structure of the set-up.²²



Local governments are shaped at three levels: district, tehsil, and union. Each level comprises of its nazim and naib nazim and elected body (zila tehsil & union councils), and its administrative structures (district, tehsil/town municipal and union. The system has been transformed through the LGO promulgated by the provincial governments in August 2001.²³ Elections were held under devolution plan in 2000 and 2001 and for the second term in 2005.²⁴ All 106 district governments were in place by August 2001. Musharraf has completed non-party local government elections, the type of experiment previously executed by Ayub and later by Zia.²⁵

3.5.2 Union Level Elections

Members of union councils, naib union nazims and union nazims were elected through direct elections on the basis of joint electorate. The LGO assigns some of the most important functions of the provinces including

health, education, and road construction to local governments. The system has three levels of local government: district, tehsil and union.²⁶

3.5.3 Changed Local Electoral Processes:

The head of the district government (district nazim) need not majority of the public vote in a district but rather a majority of the union nazims and union councilors. It is exciting that most of the members of the district and tehsil councils are these elected heads. The remaining one-third members and heads of the district and tehsil councils are elected indirectly by the directly elected union-council members. In the past, members of district and urban local councils were directly elected. They elected the leader of their councils. According to devolution plan both the members and heads of the lowest tier of government (the union council) are elected through direct voting.²⁷

3.6 UNION COUNCIL

The union council consists of union nazim, naib union nazim, union council and the union administration. All union councils are supposed to assume local level development projects and the monitoring of citizen's rights, security and services. Provision of monitoring reports to tehsil and district level administrations as well as zila councils and tehsil councils and their committees will constitute a major function. They will also closely work with village councils in the rural areas and citizens' community boards in both rural and urban areas. The plan visualizes this coordination to entail promoting direct citizen

participation in development activities, including support to their micro-projects.²⁸

The union nazim is the head of the union administration. A union nazim performs the following functions:²⁹ To help the tehsil municipal administration in spatial planning process; arrange the management of inter-villages municipal infrastructure; record annual performance evaluation reports of union secretaries; provide leadership for union-wide development and preparation of budget and the annual development plan; organize the business of union administration; form musalihat anjuman.

The elections at the union council level constitute the backbone of the entire local government political system and structure. It is the one and the only level where all elections are direct. The direct elections in a union council constitute not only the union council but also bring into being directly elected zila and tehsil councils through the union nazims and naib union nazims respectively. nazims, naib nazims and councillors from all the union councils of a district elect the district nazim. Similarly this electoral college elects peasants (5%) labourers, women (33%) and minority candidates. The elections are to be held on non-party basis. The criteria for being a councilor is: minimum age 25 years; citizen residing in the relevant union council; good Muslim character (except for non-Muslims); not convicted; not employee of federal, provincial or local government; minimum qualification is matriculation or secondary school certificate for nazims and naib nazims.³⁰

The union council has an average population of around 25,000. The union council has an elected representation with the union nazim and union naib nazim as the leaders of the council. Each union council consists of 13 members elected on a non-party basis. The union nazim is responsible for the preparation of the annual development plan of the union council. He chooses the suggestions and priorities with the council. He is to send those proposals to the district government and tehsil municipal administration for insertion in their development plans and budgets, which are beyond the scope of the union council resources. He is answerable for the implementation of those projects for which funds have been provided by the union council budget.³¹

3.7 TEHSIL

The tehsil council consists of the directly elected union naib nazims and around one-third indirectly elected members such as peasants/workers, minorities and women. The naib union council nazims of all unions in the tehsil become part of the tehsil council, which is headed by a tehsil nazim who is the head of the tehsil municipal administration. He makes an annual budget development plan for municipal services at the tehsil level. The tehsil municipal administration is accountable for municipal functions. The organization of management is a little more advanced than at the simple union council level.³² The tehsil nazim heads the council. He is answerable for implementing the development plans approved by the tehsil council and competent municipal service delivery.³³ In every tehsil there is a tehsil municipal administration which is a body corporate and which consists

of a tehsil nazim, tehsil municipal officer, tehsil officers, chief officers and other officials of the local council service and officials of the offices entrusted to the tehsil municipal administration. The tehsil nazim is head of the tehsil municipal administration. The tehsil municipal administration includes the offices and sub-offices of local government and rural development, housing & physical planning, public health engineering and departments entrusted to it for administrative and financial management. Tehsil nazim supervises the utilisation of the funds allocated to the tehsil municipal administration.³⁴

3.8 CITY DISTRICT

The four provincial headquarters have been declared as city districts and when a tehsil or city grows in size, it can be declared as a city district. In every town in a city district there is a town municipal administration which is a body corporate and which consists of the town nazim, town municipal officer, town officers, chief officers and other officials of the local council service and officials of the offices entrusted to the town municipal administration.

3.9 DISTRICT

The structure of government at the district level includes the zila nazim who has a large team of district administrators. The district administration consists of district officers to carry out functions. Some of the offices may represent a single department but have their group of offices headed by an Executive District Officer (EDO) at the district, such as health and education. The work of the district administration is

coordinated by a District Co-ordination Officer (DCO) who reports to the elected head of government. The district council is the significant and uppermost body in the new arrangement of district government. The district council consists of the directly elected union council nazims and around one-third indirectly elected members such as peasants/workers, minorities and women. District government may allocate any of its functions to a union administration or tehsil municipal administration, on such terms and conditions as may mutually be agreed.

3.9.1 Functions and Powers of the Zila Nazim

The powers and functions of zila nazim are to:³⁵ issue executive orders to the DCO and EDOs for discharge of the functions of the district government; perform functions relating to law and order in the district; develop with the assistance of the district administration strategies and timeframe for accomplishment of the relevant goals approved by the zila council; present proposal to the zila council for approval of budget for district government; maintain administrative and discipline in the district government; present tax proposals to the zila council; preside over the meetings of the zila mushawarat committee; organize and prepare for activities in disasters or natural calamities;

3.9.2 Functions and Powers of DCO

In every district, the provincial government appoints a DCO. He is the coordinating head of the district administration. He performs following functions: co-ordinate the activities of the groups of offices

for sound planning, efficient functioning and development of the district administration; make sure that the business of the district coordination group of offices is carried out in accordance with the laws for the time being in force; apply general supervision over projects, programmes, services, and activities of the district administration; harmonize flow of information required by the zila council for performance of its functions under the LGO; work as principal accounting officer of the district government and be responsible to the public accounts committee of the provincial assembly; call for reports and information from local governments in the district as required by the district government or provincial government through the tehsil municipal officer; help the zila nazim in completion of fiscal and administrative discipline and efficiency in the discharge of the functions assigned to district administration; initiate the performance evaluation reports of the EDOs and shall be countersigning officer of such reports of the district officers initiated by the EDOs; prepare a report on the implementation of development plans of the district government for presentation to the zila council in its annual budget session.³⁶

Though the DCO has been subordinated to the district nazim, however real authority resides with the DCO who enjoys broad administrative skill. The nazims are generally inexperienced in administrative matters. The nazims often criticize that District Police Officer (DPO) and DCO do not deem themselves to be answerable to the nazims, because their salaries and postings are decided by the provincial government.³⁷

3.10 WOMEN PARTICIPATION

Women have been given 33 % of seats. It gives them a remarkable chance to play vital role in local politics. It also poses a number of challenges. It has already been reported that the recommendations of male councillors are taken more seriously. Women feel uncomfortable participating in meetings. Women councillors criticize about non-cooperation of nazims and naib nazims. It is apparent that reservation of seats for women alone is having little impact. Access to bureaucratic authorities is also a problem. The councilors are not paid any remuneration. This is likely to affect their involvement in the work of the councils. Elected women councillors are facing different problems: Lack of experience and skills; Lack of power; Lack of funds for development work; Family pressure; Discouraging attitude of nazim and naib nazim; Lack of money to attend council sessions and other meetings; Lack of confidence; Lack of information; Discouraging attitude of male councillors; Domestic work and lack of transport facilities.³⁸ Women were also elected as zila nazims and naib nazims in 2005. Faryal Talpur, zila nazim, Nawabshah. Saeeda Soomro, zila nazim, Jacobabad. Raheela Magsi, zila nazim, Tando Allahyar. Kaneez Sughra Junejo, zila nazim, Mirpurkhas. Nasreen Jalil, naib zila nazim, city district Karachi³⁹

3.11 CITIZEN PARTICIPATION

3.11.1 Importance of Community Participation

Inequality and poverty are seen as difficulties to be tackled by creating alliances between civil society and government. Such partnerships are the keys to sustainable development. Public involvement in local government, especially in development planning and implementation, brings many advantages:⁴⁰

Planning is improved, because it is geared to local needs and based on local knowledge; Resources are used more effectively, since there is less corruption and waste; Communities frequently donate, material, labour, etc., thereby also cutting costs; Because local people are engaged in all phases, and often contribute funds, labour, etc, they have concern in ensuring accurate implementation. The end result is healthier accountability; Communities are more likely to use public services, and it is easier for them to give feedback about service delivery.

3.11.2 Prerequisites for Community Involvement

Government, the public and non governmental organizations all have to play dynamic role if community participation is to be realized, and its benefits are to be seen. Community involvement does not happen automatically. Numbers of factors are significant:⁴¹ political support; strong political will; citizen participation; technical support; capacity building; spreading of information to the community.

3.11.3 Citizens Community Boards (CCB)

Significant innovation in the District Government system has been the setting up of CCBs. It is not efficient in every area. CCBs can get fiscal support from local governments and can also raise funds through voluntary contributions. CCBs have been set up by the Local Government Ordinance 2001 to support the people involvement in local government.⁴²

At least 25 percent of district development funds must be reserved for projects sponsored by CCBs. The CCBs have a responsibility through their input to the supervising of services received from all levels of the local government system. The CCB consists of a general body of all its members who elect a secretary, a chairperson, executive committee. It may raise funds to carry its activities. CCBs are registered with the community development office of the district and may be set up for issues like education, infrastructure development, transport, irrigation, and health care. CCBs are a channel for activating local population to contribute in development activities; CCBs have to raise 20% of funds for a project themselves; CCBs are non-profit and voluntary organizations of local people; Any group of persons (minimum 25 people) can form a CCB; They can encourage accountability, transparency and supervise service delivery; There is no limit on the number of CCBs that can be registered in a single district. Public involvement in local government is essential to guarantee that development and planning are being carried out in accordance with local needs. The CCBs are determined to mobilize stakeholders in their

communities to participate in development and non-development activities:

- (a) mobilize resources;
- (b) categorize development needs;
- (c) administer, develop, and maintain public facilities;
- (d) establish associations like parent-teacher associations;
- (e) create consumers' cooperatives;
- (f) facilitate the poor, widows and handicapped.⁴³

The main difficulty has been the non-establishment of CCBs in some areas. This is also affecting the utilization of allocated funds for development projects to be implemented through the CCBs. Non-cooperation of the bureaucracy and elected councillors is also stated. Some CCBs are finding it difficult to arrange for 25% contribution to start projects. In places where CCBs have been registered, capability of these entities has found to be very weak. They have not been able to plan projects to benefit from funding allocated by the local governments.

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CHAPTER 4

LOCAL GOVERNMENTS AND THE PROVINCES

4.1 FUNCTIONS OF FEDERAL AND PROVINCIAL GOVERNMENTS

The Constitution of 1973 identifies the functions of the federal and provincial governments. The federal government has responsibility to undertake functions under the federal legislative list. The federal legislative list includes functions of a regulatory and service nature. Service functions include external affairs, stock exchanges, defense, railways, currency, national highways and strategic roads, etc. The concurrent legislative list includes functions which can be performed either by the federal or provincial governments or by both. These service functions comprise education, tourism, social welfare and population planning etc. Remaining functions not specifically contained in either the concurrent legislative list or the federal legislative list, were primarily the responsibility of the provincial governments. Functions such as agricultural extension, irrigation, justice, police, primary education and basic health were, until the last round of devolution, both provincial concerns.¹

4.2 PROVINCIAL LOCAL LINKS

Since local governments are not a central part of the Constitution and have merely been delegated powers by the provincial governments, it is not surprising that local governments actually owe their existence and powers to the provincial governments. Provincial governments can

dismiss local governments by themselves or on the advice of the federal government. Clearly, this is a highly subjective and dominating relationship; local governments do not operate independently from the provincial governments and can hardly exercise any influence. From senior appointments to requests for more resources or the permission to increase taxes and rates, local governments are dependent upon their provinces. It would not be unfair to say that provinces control local governments.²

There is no autonomous or independent district government under the devolution plan. The district administration system has been really eliminated. It has been substituted with a new scheme. The offices of district magistrates/ deputy commissioners and divisional directorates along with commissioners' offices have been demolished. The justification advanced for doing so was the very striking idea of "power to the people". It is a fact that under the new local government scheme, relations between the provincial governments and some districts have generally, been problematical. The print and electronic media have highlighted the differences between the two units. district nazims belonging to opponent political parties faced difficulties.³

The following evidences from a report jointly prepared on "Devolution in Pakistan" by the World Bank and Asian Development Bank and are significant to the nature of relationship between the provinces and the districts: Political affiliation of the district nazim plays significant role. It has an important impact on the flow of funds between

local government and the provinces, on the handling of transfers and appointments of employees and on the execution of local development schemes. In NWFP, all 24 District Nazims resigned on 2 June 2003, to protest political meddling by the Muttahida Majlis-e-Amal. The main accusation of the Nazims was the appointment of politically sympathetic recruits and transfer of government officials within the districts. Most of the officers working in the nazimates belong to the central or provincial governments. They glance more to the demands of those governments than the requirements of the nazimates. This situation is prominent in the case of the district police officers. The result is that most senior district staffs do not consider themselves as district employees and therefore are likely to accommodate provincial pressure to transfer subordinate staff. This approach has deteriorated accountability of senior staff to local elected representatives.⁴

Politically motivated inter and intra-district staff transfers are central cause of clash between local and provincial government. It is the more severe in districts that are not politically aligned with the province. In May 2003, through an order of the finance department, the NWFP government abolished 21 posts in the Bannu district works and services office, including the post of EDO. In Sindh, some district nazims have complained to the chief secretary that their DCOs have ordered transfers without consulting them. nazims have minute authority over the DCO.⁵

The district governments are facing certain challenges. Completing devolution is not seen to be inevitable. Though the rejection

of the reforms is improbable, particularly now that local governments are sheltered under the Sixth Schedule of the Constitution. Some quarters expect that it might be frozen at its present stage. There is a generally held view that its completion fixed to sustainability of the Musharraf regime. Politicians and senior staff from the local governments believe themselves to be under threat from the provinces. This sentiment is positively acceptable in districts that are politically opposed to the province. The province can use its administrative control over senior district staff, such as the DCO, to manipulate the implementation of local development schemes and flow of funds.⁶

The amendments made in the LGO in June, 2005 mostly focus on the provincial government-district administration relationship. The nazimates have particularly been reduced in “provincial fiefdoms”. Now the chief ministers of the provinces will be in a position to fully control the working of the nazimates. They will have authority to issue orders to the districts as before. They will be capable to suspend the proposals and orders of the district councils and the nazims as also suspend and remove the nazims altogether by instituting a formal reference to the local government commissions which are dominated by government nominees.⁷

Each elected government which has followed the military regimes that introduced local governments, has least disregarded local governments and usually suspended them. This antagonistic relationship between local and provincial governments also happens because local

government reforms are seen as a means to reduce the power and the delivery functions allocated to provincial politicians. There is no devolution of powers and resources from the federal to the provincial level. These local-provincial government tensions have strengthened during the present reform period.⁸

4.3 FISCAL DEVOLUTION

Devolution, along with two other types of decentralization (fiscal and administrative), is the transfer of resources and power to lower-level authorities which are largely or wholly independent of higher levels of government, and which are democratic in some way and to some degree.⁹ The effectiveness of fiscal decentralization depends upon:

- (a) the efficient design of a system of transfers and its proper implementation;
- (b) appropriate revenue or tax assignments; and
- (c) appropriate expenditure assignments with division of functions among different levels of government.¹⁰

The monetary management in the country has been extremely centralized. Success of the devolution plan largely depends on valuable fiscal decentralization. Fiscal control and over centralization of decision-making in the past has been one of the main causes for the national crisis of governance. The 1973 Constitution explains the expenditure responsibilities of the provincial and federal government. The federal

legislative list specifies the functions of the federal government and the concurrent list details the areas that can be shared or can be taken by either. The functions, not mentioned, are most likely to be performed by the provincial or local governments. The higher level of government plays a leading role in the areas of shared responsibilities.¹¹

Revenue collection is very much centralized. Approximately ninety percent revenue is collected at the federal level, 7-8 percent at the provincial level, and rest at the local level. The Constitution grants the majority taxes to the federal government with a few exceptions such as motor vehicle tax, agriculture income tax, urban immovable property tax and stamp duties. Key source of provincial revenues is transfer based on the share of federal tax collection. The National Finance Commission (NFC) fixes the formula (award) every five years for the percentage of the provincial/federal share. Local governments were financially self-sustaining in the past, with export fees and octroi taxes being a main source of the local revenue collection in provinces. The octroi tax was eliminated in 1998 and in return, the provinces get 2.5% of general sales tax..¹²

The shift of responsibility from federal to provincial governments has not happened under the devolution plan. The functions of local government need considerable funds, more than the revenue produced by them. They profoundly depend on the fiscal transfers from the provincial governments. Agricultural income tax at the provincial level has the prospect of raising the tax base but it is controlled at the

provincial level. To bring about considerable financial devolution, all provinces have founded Provincial Finance Commissions (PFC) to make awards for the division of provincial resources to local governments. All provinces apply a diverse set of criteria and formula for the financial transfer to the tehsil, districts and union managements.¹³

Under the LGO districts have been encouraged to raise revenue. There are two problems; first, certain district taxes which are not practical to enforce such as health and education services tax. Second, a weak tax base. It is not sensible to expect better output from the districts. The taxes allocated to them are not effectual in producing considerable revenue of their own source.¹⁴

The taxes that can encourage greater returns should be consigned to districts. local government should also be supported to charge for some services in order to progress their quality. Administrative autonomy of the districts remains unclear and reduced. The current arrangement of the fiscal transfers is administered in such a way that a sizeable part of the budget is not in control of the district government. They are powerless to change composition of the workforce and reallocate resources.¹⁵

There is overlapping and disagreement in the local government and provincial development activities which hinder the development process. Provincial governments have apprehensions about transfer of large development funds to the local governments. They fear that their power

could be compromised by giving the fiscal charge to the local governments.

Provinces fear that giving complete autonomy to the local government will vitiate the provincial influence. Emerging from the over centralized system of the past, the provinces are a bit apprehensive that the allocation of funds to the local governments and the newly given roles to them will leave the provinces with only residual roles. To get rid of these insecurities and reservations, the responsibilities and roles of the provincial and federal governments should be reidentified.¹⁶

Devolution of power can not meet much achievement without the autonomy in budget distribution and development policy-making; and without efficient transfer of funds and monetary devolution, service delivery cannot be developed. Devolution is limited with respect to finances. Funds for local government come almost exclusively from upper level governments, with strings attached. The formula for provincial allocations, and the conditions on those allocations, are decided by the PFC and, ultimately, by the provincial governor. The members of PFC are provincial officers or others' nominated by the provincial government. There is no automatic representation of locally elected officials in PFC. Districts rely overwhelmingly on provincial funds for current expenditures (capital expenditures are unfunded). In addition, there are substantial limitations on district government discretion regarding the use of transfers. Transfers are made into several "accounts." The bulk of transfers go to Account i, which mainly consists

of expenditures on salaries that, in turn, cannot be used for other purposes. District governments have little power to hire and fire. Non-salary expenditures come out of Account IV, which are approximately 10 percent of salary expenditures (Account I).¹⁷

The level of fiscal devolution is inadequate due to following factors: (a) district governments depend on provincial and finally federal funds, through the provincial finance commission awards; (b) They have limited revenue collection authorities.

4.4 POLITICAL DEVOLUTION

Over the years, the political system in Pakistan has become drench with over centralization of authority, widespread dishonesty and miserable service delivery. A number of causes such as repeated military interferences, removal of the elected governments, feudalism, dishonest bureaucracy, and undeveloped party politics are responsible. The purpose of political delegation is to inculcate fresh blood into the corrupt political system, to introduce a system of accountability and to grant positive measures for the marginalized groups i.e.; peasants, women and workers to have entrance to politics.¹⁹

The well-known feature of political decentralization is the insertion of a huge number of women councillors to encourage gender parity. But they are faced with several troubles such as contact to bureaucratic authorities, sharing the workspace with men, and absence of salary. Lack of expertise, authority and experience hinders their participation.

Authorities need to produce a conducive atmosphere for the efficient involvement of women.

The elections of local governments were completed in five stages from December 2000 to July 2001. As a result, sub-district and district governments were established in 97 districts and four city districts. Provincial governments were responsible for local government elections. However, the military government gave the assignment to Federal Election Commission of Pakistan (ECP). The political parties were banned from participation in the elections of local government.²⁰

The purpose of excluding political parties was to crush the old affiliations of a dominant minority and promote wider involvement of public from all walks of life. Through five years of the local governments' existence it has become evident that excluding political parties from the system does not guarantee accountability and transparency. By barring political parties the government is renouncing them as the only cause for the failed political system. A sincere attempt should be made to strengthen the political institutions to make sure transparency and accountability. The political parties in future should be permitted to contest for local government. The large district size combined with indirect election in Pakistan discourages electoral accountability.²¹ Supporters of the party-based elections argue that as the political attachment of the candidates was evident in the local government elections, it was needless to enforce a ban on the political parties. Although the number of new participants rose, yet thirty percent

of district nazims in Punjab were former MNAs or MPAs. More or less ninety percent belonged to established political families.²² Two arguments about the participation of political parties in the elections prevail; the advocates of the partyless local government elections claim that insertion of political parties in the elections, could lead to the culture of self-aggrandizement and dishonesty.²³ They also argue that political parties never campaigned at the grassroots. The voter in a village always voted in support of the political affiliation of the leaders of the village. The absence of political parties is not really depriving the voters of their right to select.

The directly elected representatives of union councils serve as the electoral college for the election of district naib nazim and district nazims. Indirect elections deprive the naib nazims and nazims of meaningful constituencies. It decreases the power and independence of the naib nazim and nazim as compared to those of the unelected officers such as DCO. This reduces the accountability linkage with the voters.²⁴ There are two main disadvantages of indirect elections; one, the process of election for both the posts can be corrupted through political exploitation by the powerful, two, they deprive the voters of electing district nazims and naib nazims.²⁵

An important feature of devolution that might limit its influence on outcomes is that it is limited. Provincial authorities continue to exercise great control over both local finances and local administration. The post of DCO replaces the former DC. Although DCOs lack many of

the legal powers of the DC, they still have important managerial and executive responsibilities. Though the DCO formally reports to the district nazim, the nazim can only request the transfer of the DCO and initiate the DCO's performance evaluation. However, the transfer goes through only if the provincial government agrees.²⁶

4.5 ADMINISTRATIVE DEVOLUTION

Administrative devolution intends to advance the accountability of the significant government sectors. The aim is that the senior officers at tehsil and district levels should consider themselves to be answerable for their actions.²⁷ The issues of the grievances of the bureaucracy and the provincial governments towards the local governments are the issues that trouble the spirit of devolution. The power for implementation of the local government system lay with the provincial governments. There are severe problems in administrative devolution and efficient implementation of the system. Provincial governments demoralize the authority of the local government by controlling the transfer of resources and interference in staff management. The political relationship between the ruling provincial leadership and the nazim plays an important role in effecting the system. The implementation of the local development schemes and flow of funds depend on this relationship.²⁸ There are instances, where there has been no alteration in the administrative level. This can happen either because:

(a) The entire department is not decentralized. For example departments like the Police and Irrigation have not been devolved at all. Obviously irrigation department has not been devolved because of the important

inter jurisdictional spill-overs connected with this service and the police, in order to protect uniformity of this service across the districts in a province.

(b) Specific activities in a department have been kept at the provincial level. For example most of the educational services having been devolved to the district level. However, university education has remained a provincial subject. Likewise, administration of teaching hospitals (health department), regulation of medical standards (health department) agricultural research and development (agriculture department), implementation of foreign funded projects (planning and development department) have remained at the provincial level in spite of the devolution of other activities in these departments.

(c) Certain budgetary heads of expenditures have effectively been kept at the provincial level. The most important example is salary and allowance expenditures of all department employees. Since most employees in the administrative departments remain provincial employees, the district cannot adjust their salary structure or create and reduce posts. Therefore, a big part of the district budget is fixed. Thus for departments where a large part of the current expenditure incurred is on salaries, such as the education department which spends around 90% of its non-development budget on salaries, this is an important reason limiting the degree of decentralization.²

Harmonization between the three pillars of governance system, local government, bureaucracy and provinces in the country is important to the success of the local government. After elimination of post of the

DC, nazims are in administrative control of the district. The DCO and the DPO report to the district nazim. A great number of people holding applications do not generally know whom to contact concerning their difficulties. Substituting the single office of DC with a dozen EDOs produce puzzlement among the citizens.³⁰

Though the DCO has been subordinated to the nazim, however real authority resides with the DCO who has vast administrative experience. A clear inequality of institutional relationship exists between the nazim and the DCO.³¹ There is a need for district bureaucracy independent of influences. Inter district transfers of DCOs are politically motivated. It is an area of conflict between local and provincial government. Local governments do not have the autonomy over personnel decisions such as posting, monitoring, hiring and performance. Transfers are frequently used to express rivalries. The local governments can not work appropriately unless they are in charge of the transfer of their own staff. The concern of the provincial government in transfers is not limited to scale 17 but goes down to the district structure.³²

Although the local government members are elected at the local level, however the supervision is handled at the federal and provincial level. Opposition to local government is stern where the political association of the provincial government and the nazims differs. The incompatibility slows down the service delivery. Within the local government lack of investment in capacity building is an essential issue. Most elected representatives at local level do not know their

responsibilities. Provinces must invest in capacity building of the staff of the local government.³³

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CHAPTER 5

THE CENTRE AND LOCAL GOVERNMENTS

5.1 NON-REPRESENTATIVE CENTRE AND LOCAL GOVERNMENT REFORMS

Many governments in third world countries became more centralized during the 1950 and early 1960s, after receiving independence from colonial regime.¹ Federal government of Pakistan has attained many functions of provincial government and the latter has acquired many functions of local government.² A strong centre has been the constant attribute of federalism in Pakistan.³ Military intervention in politics is the most prominent characteristic of Pakistan's political landscape.⁴ The civilian and military rulers have weakened the spirit of federalism. Military interference upsets the political and constitutional development.⁵

The central government plays vital role, which hampers the growth of confidence among the provinces. The centre-province relations did not have a natural or continuous evolution due to erratic political and constitutional breakdown. The grand challenge is how to bridge the gap between the theory of provincial autonomy and federalism and the ground realities marked by centralization of power. Federalism like other institutions got stifled over time. If the working of federalism breeds encouraging political experience, it advances accommodation, confidence and makes stronger federalism.⁶

A dominant centre does not allow the provinces exercise powers allotted to them by the 1973 Constitution. The centre has allocated powers to the local governments, which partially defuse the role of the provinces. Local government system introduced by the federal government in 2001 destabilizes the provincial body. The centre has not decreased its hold over power but reduced the influence of province over the affairs given to the local government.⁷ The resolution to most of problems in Pakistan lies in a truly federal form of government, with the centre maintaining only crucial powers like foreign trade, defense, foreign policy, finance, etc. The residual of the powers must be decentralized to facilitate the provinces to become self-reliant. We have to develop a psyche of reaching consensus on critical national matters and sharing power.⁸

In spite of non-representative governments, local government was continued to function. It is a reality that local government has obtained large support from non-democratic governments. These governments let the citizens a bit of their share in local affairs, while going their own way at provincial and central level.

There is no autonomous or independent local government under the devolution plan. It is the writ and will of the federal government that really prevails since October 1999. The local government ordinances are prepared in the federal capital. The provincial governments have just issued them. The district administration system has actually been abolished and replaced by new arrangement. The offices of the commissioners, DC, district magistrates and divisional directorates have

been removed. The motive advanced for doing so was the very striking initiative of “power to the people”.⁹

There are two reasons which can support the province’s case for transfer of more funds from the centre and greater fiscal autonomy. First, dominant control of the centre over the national resources has been rationalized in the past in the name of need to spend more on increasing federal responsibility on debt serving and defense. In view of slackening of tension with India, the central government may be in a position to transfer more funds to the provinces. Second, under devolution plan, the provinces are being asked to delegate essential funds to the district governments for resuming development projects. This will generate more claims from the provinces asking for the lessening of center’s share in the divisible pool and transfer of some of the taxes to the provinces so that more funds under PFC are transferred to the district governments.¹⁰

In reality the very decision of decentralization has been made in a very centralized style. There has been little involvement from the public on which this system is imposed. Some selected people have planned it.¹¹ Local governments have been enacted by non-representative regimes to legitimize their control over the state. Legitimacy has been sought by constructing localized patronage organization that generates a class of ‘collaborative politicians’ who act as an agent between the non-representative centre and local level constituencies. This is as accurate of the British period as it is of the post-independence period. The difference between these periods lies in

the nature of the non-representative institution that established its authority over the state. In the pre-independence period it was the British colonial state that implemented local government reforms. After independence, it has been the Pakistani military. Musharraf's local government reforms symbolize a continuity of this central historical tendency. In Pakistan, the military's desire for legitimization of state control appears to be a main cause behind the persistent efforts at local government reform. An outcome to this essential tendency is that local government empowerment has always been combined with centralization of political control in the hands of the non-representative centre. The centralization of political authority has destabilized representative institutions not only at the level of the centre but also at the level of the provinces. Every effort at centralization of political power by the military during the post independence period has originally involved the suspension of elected federal and provincial assemblies.¹²

The International Crisis Group, in a report released in March 2004, strongly criticized government's efforts at political devolution. The report said that the devolution plan had served to strengthen the military rule of President Musharraf government. Policies had drained authority from the provinces and undermined established political parties, while doing little to devolve power, reduce corruption, improve service delivery or establish accountability at the local level. Devolution is not working in its true sense, centralisation is there, it needs to devolve power so that people could get benefit at the

grassroots. The devolution programme, as a whole is good. But, it is not going to deliver unless local bodies have the decision making power to use funds and undertake development schemes. Parliamentarians whether at federal or provincial level, should not be authorized to decide for development schemes, let the local representatives work out these matters.¹³

5.2 NO FEDERAL DEVOLUTION

It is significant that there are no examples of decentralizing a service from the federal to any lower level. Most of the devolution that has occurred has devolved provincial services to the district or lower level. The district governments apparently appear to be under the provincial set-up. If we trace the hierarchy of the police and bureaucratic officials DPO and DCO, we can simply notice that their ending control has been kept under the central government, not under the provinces. The military government's devolution plan has maintained central control intact. It has reduced the provincial influence. There is no decentralization of any federal powers to either the provincial or local levels. The few taxation powers that were devolved to the local governments (e.g. property and entertainment tax etc.) were earlier provincial taxes and there was no transfer of any federal taxes to lower levels. The decentralization practice took place at an occasion when there was no federal and provincial elected government. The local government elections were held on a non-party basis. There was no attempt made to integrate the newly elected local government with the

elected federal/provincial governments.¹⁴ This has resulted in an exciting conflict between the local and provincial/federal elected representatives.

5.3 “LIMITED” LOCAL GOVERNMENTS

All non-representative governments have not given complete autonomy to local governments. This may be another expression of the wish of the non-representative centre to hold political control over local governments. Political power was openly used by the centre through bureaucracy during the British and Ayub periods. Neither the British nor the Zia regime provided constitutional cover to the local governments, which reveals the center’s lack of keenness to establish self-sustaining and an autonomous local government. This was possibly a safeguard exercised by the non-representative centre against the appearance of a politically independent local tier. Even the present regime has not constitutionally recognized local governments as a third tier of government.¹⁵ The revenue generation ability at the local level is almost negligible. The local governments have to depend entirely on the central government for its financial needs. There cannot be factual decentralization unless all of the taxes levied by the central government are transferred completely to provincial governments.¹⁶

5.3.1 Limited Decision Making Powers at Local Level

The decision-making powers of local nazims are limited to local day-to-day affairs only. They have no role in policy-making. They do not have any authority to make policy decisions. Therefore there is no

involvement in policy-making by people from grassroots. Councils do not have autonomous position. The local councils do not have clearly recognized power over the resources within their geographical boundaries. They do not have power to increase their own meaningful revenues, most of which are levied by the central government. They depend mostly on the funding of the central government, directly or through the provincial governments.

Devolution plan makes districts its focus of attention, not the provinces. There is wide gap between the central government and local people. If the powers were devolved to provinces, much of the problems would be solved. Not only geographical distances would become less, the provincial governments being better aware of the local conditions would be in better position to plan district government structure, which suits to their province. It is clear that only a structure of local government is changed. Real power, ownership of natural and financial resources is not devolved.¹⁷

5.4 FUTURE OF DEVOLUTION PLAN AFTER 2008 ELECTIONS

After the general elections 2008, the political situation has been changed in the country. The PML (Q) which is considered very close to President Musharraf has been defeated in the centre and provinces. The PPP has established a coalition government in the centre with its allied political parties. The chief ministers of Balochistan and Sind also belong to PPP. In the NWFP and Punjab the PPP is part of the provincial governments. After the election results, political analysts claim that the

people have rejected Musharraf's policies. Apparently, this appears to be the case. The two big political parties of Pakistan PML (N) and PPP have their vision of local government. The PML (N) claims that the devolution plan has undercut mainstream political parties, left widespread corruption and shifted the power away from the provinces. The PPP believes in a three-tier system of government, federal, provincial and local. The party maintains that the system of local government introduced by the military regime, which has been manipulated for political ends, will be revamped to bring it in line with the party's devolution plan. The PPP government seems serious about the devolution plan. The NRB has started consultations with different political parties and nazimeen. It indicates that the two main political parties seek changes in the local government system introduced by President Musharraf. Changes are often seen in the local government system after decline of military regime in Pakistan.

It is a fact that every democratic government has destabilized local government in the country. Devolution of power is useful for every country. Central governments have to face number of national and international issues. Local problems should be solved at local level. Different countries of the world have already experienced the devolution of power. It is a fact that devolution of power is the need of the day. The government should remove the weaknesses of the devolution plan and continue it. Serious modifications of the plan are in order. This is because of the criticism on General Musharraf rule. The function of local government system is problematic.

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17. <http://www.cornell.edu/econ/75devcon/papers/cheema.pdf>

CHAPTER 6

6.1 CONCLUSION

Development whether economic, social or political becomes momentous only when it stems from the grassroots. It is a grand misfortune of the developing countries that for a number of historical causes their developmental endeavour does not stem from within themselves but is thrust upon them from above or from outside. As a result, in these countries grassroots political institutions are primitive or undeveloped.

Decentralization is a means to an end. Successful decentralization advances the efficiency and responsiveness of the public sector. It is useful way to solve governance problems in the country. Lack of delegated authority and centralization at lower levels has generated disorder. There is a need for successful third level of government supported by adequate funds to solve people needs. Although local governments were elected in the past, they were subject to the will of provincial governments, which eliminated them after time. Pakistan has an extremely centralized system. The local level is ignored. In spite of different efforts of reforms and allocation of money, several governments have failed to provide quality services on a regular basis at the local level.

Local governments are concerned fundamentally with providing services to the local communities like health care, primary education and municipal services. These services are evidently very crucial. Local

governments are given elected councils so that the citizens can have easy access to them. Local government provides the best training ground for politicians. Local problems are best handled locally. The central government can only create unlikely problems. It should not meddle in this quarter. Decisions should not go to a higher level (central or provincial government). We need to apply the subsidiary principle in government. It says that decision-making should take place at the lowest level.

Decentralization is useful way to solve governance problems in the country. Lack of delegated authority and centralization at lower levels has generated disorder. There is a need for successful third level of government supported by adequate funds to solve people needs.³ Unhappily, after independence, local bodies in Pakistan were transferred into political stepping-stones to higher positions and lost their limited functions. The letdown was mainly due to lack of cooperation between officials and public representatives, lack of proper technical guidance, and supervision by government supervision. By 1958 most of the local bodies were under suspension, and those remaining were eliminated by the martial law authorities.

Pakistan has experimented with two systems of local government before the current devolution plan. These were in 1959 and then in 1979, both during military governments. The present devolution plan is also an initiative of military regime. History of local governments in Pakistan is well known by two factors; Firstly, every time a new system of local governments was formed. Secondly, the local governments have never

been autonomously functional in the presence of democratic governments.

The military is the most influential actor in Pakistan. Four spells of military rule illustrate deeper systematic problems. Democratic norms have never been permitted to take roots in our society. Restructuring Pakistan's political structure has been a beloved game with all military rulers of Pakistan. The military's exit from power is a complex affair. Pakistan is one of the several third world nations where the military has intervened and stayed in politics for a considerable long period. The role of the army has been the most fundamental factor in the evolution of Pakistan since its formation. Nearly 60 years of Pakistan's existence, the country has been under direct army rule for more than half that period. One interesting aspect of Pakistan's military rule is that the army implements the democracy in its own terms. Power in Pakistan changes hands but it remains within the same elite.

Soon after coming into power, Musharraf emphasized devolution of power. This time there was a radical departure as the new local government system is comprised of decentralization and electoral reforms. Lack of certainty is important feature of the decentralization process, which has been accompanied in consequence by strained relationships between provincial governments and LGs. Devolution of power must go beyond representation in delegating administrative, judicial and financial power at the local level. Only then the experience of local government would lead towards substantive democracy.

The inherent conflicts within the system and the contention of local and the provincial governments are restraining the growth of the system. The central government must guarantee administrative and fiscal devolution from the centre down to the provinces first, before anticipating the provinces to forego their liabilities in favour of the local government. This will not only restore the confidence of the provinces but it will also ensure the empowerment of the citizens. The government must involve provincial governments in amending the defective provisions of the system and ensure their effectual involvement.

The new local government system has not been established in federal capital of Pakistan and cantonment areas of towns and cities. It is a significant criticism against the current devolution plan. The amendments in the local government law have virtually demolished the autonomy of the districts. The central authority instead of empowering the people has turned local governments into "fiefdoms of the provincial chief minister." He can remove and suspend nazims after getting a report from the provincial local government commission. The commission contains 6 members in which 5 are to be government nominees.

It is a fact that local government is a provincial subject in the 1973 constitution. Local governments were legally empowered in the absence of elected provincial governments. Local government reforms, which characterized a key relocation of provincial resources and

functions to the local level, were enacted before the establishment of elected provincial governments.

The district governments are not permitted, in most of the cases, hire or transfer of the employees. This is single most important issue in the administrative decentralization in Pakistan. It has resulted in uncertainty of management at various levels of local government. Transfers and postings of government functionaries have become a main cause of clash between the provincial governments and the district governments, and within the district governments between various tiers of the district government

With the entrance of elected national & provincial governments, the civilian government has declared development funds for the respective members without any consideration to the district governments. This is being viewed as interference in the local government system and has evidently created anger for the local governments.

There is lack of clarity in division of development funds and demarcation of roles between the three levels of local government, which is creating perplexity among the councillors thus leading to constrained relationships. Although the administration directly reports to the councillors, many of them complain of helplessness in dealing with the bureaucracy. The councillors especially at Union and Tehsil levels are under influence of MPA's, which results in defeating the purpose of grassroots approach.

It is for the first time in the history of Pakistan that there has been substantial effort to make the bureaucracy work under elected representatives. This has produced lot of annoyance in the ranks of civil servants. There is a lack of understanding between the civil servants and nazims, which is hindering the smooth working in the district.

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