

## BREAKING THE COUNTERCYCLICAL PATTERN OF LOCAL DEMOCRACY IN PAKISTAN

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The history of Pakistan shows a paradoxically countercyclical pattern for local democracy. Three times in the history of Pakistan, elected institutions of local democracy have been created by military regimes, and each time the subsequent civilian governments have either failed to revive elected local governments or replaced them with unelected administrators. In the most recent transition from military to civilian democratic rule, elected local governments were created by General Pervez Musharraf's military regime, but the revived civilian provincial governments completed their five-year term in office without holding local government elections and again have placed these governments under the authority of unelected administrators<sup>4</sup>. Thus, although incumbent political parties have promised local democracy in their election manifestos and have finally reenacted local government legislation after six years in office<sup>5</sup>, the institutionalization of empowered democratic local governments in Pakistan remains in doubt.

Supporters of democracy in Pakistan must understand this countercyclical pattern of local democracy to seek ways of escaping from it. Successful democracy depends on a vital relationship between democratic politics at the local and national levels<sup>6</sup>. A commitment by civilian democratic regimes to functional elected local governments would strengthen the foundations of federal democracy in Pakistan. The democratic parties' disconnection from local government has created local political vacuums that have been repeatedly exploited by nondemocratic forces to undermine the national system of civilian governance.

This detachment from local politics has had particularly disastrous consequences in the Tribal Areas, where local democracy has never been introduced and where colonial modes of governance have continued till now. The long neglect of democratic and legal rights in the Tribal Areas has set the stage for militant insurgency, which had profound national and regional consequences and prompted some demand for military action. However, such military action could only be successful if combined with the building of responsible local government in these areas, which could hardly take place at a time when local democracy is being suspended in the rest of the country.

In this paper, we consider how this disconnection between political parties and local democracy evolved, and how the foundations of democracy in Pakistan could be strengthened by healing this rift.

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<sup>4</sup> This is true as of August 2014 when this paper had been last updated.

<sup>5</sup> The legislation was finally passed after considerable pressure from the courts.

<sup>6</sup> Giuliano and Nunn (2013) provide preliminary evidence on the association between a tradition of democracy at the local level and contemporary democracy and democratic attitudes.

## **Non-representative regimes have championed local government reforms**

In 1959, General Ayub Khan's Basic Democracies Ordinance established local councils that included both elected members and members appointed by the government, with administrative supervision by an appointed civil servant. Zulfikar Ali Bhutto's civilian government did not establish elected local governments during its tenure from 1971 to 1977. Elected local governments were revived in 1979, under General Zia ul-Haq's military regime, and this time all council members were locally elected. After the restoration of civilian constitutional government in 1988, however, tensions between elected provincial and local tiers over who controls and dominates local patronage resulted in the suspension of elected local bodies and their replacement for the most part with unelected administrators.

Elected local governments were again established in 2001 by the Local Government Ordinances of General Pervez Musharraf's military regime. Under General Musharraf's reforms, local administrators reported to the locally elected government, instead of supervising it. However, since the revival of democratic governments at the federal and provincial levels, true to the countercyclical pattern, the incumbent political parties have continuously delayed holding local government elections, and each of the four civilian provincial governments have run local governments through unelected administrators. Although new local government legislation has been passed by provincial legislators in all four provinces six years after the latest transition to democracy after considerable pressure from the courts, there seems to be no urgency to hold local government elections and institutionalize an empowered democratic local government system in the near future.

## **Why has local democracy been associated only with military regimes?**

Elected local governments have helped military regimes to legitimize and strengthen their control over the state. To counter the popular support of democratic political parties, military regimes built an alternative base of political support by patronizing a class of new locally elected politicians. Elected local officials could offer the non-representative central government a vital political connection to local constituencies throughout the nation (Cheema et. al. 2006). Local officials could communicate local concerns to the center as they helped the non-representative center to extend its influence in local politics. As later military rulers confronted a more developed system of party politics at higher levels of government, elected local officials were given progressively greater authority over local administration under the later rounds of military-sponsored local-government reforms.

In all these local-government reforms, however, political parties have been consistently excluded from any role in sponsoring candidates for local elections. Rules against partisan politics could be selectively applied by the military regime to restrict its opponents without limiting its own favored candidates. As a result of this rule, mainstream political parties have historically seen non-partisan local governments as an instrument of military regimes for creating a class of collaborative politicians to displace the parties' organization at the local level.

In a democratic regime, it is very difficult to institutionalize an empowered democratic local government system when the political parties' representatives in the national and provincial assemblies see elected officials at the local level as competitors for power and patronage. Parties and their legislators might promise to reform local democracy and even pass legislation, but the

governments in power would find it more convenient to keep delaying the transfer of power to elected local governments on different pretexts. Thus, it is not surprising that institutions of elected local democracy have been kept weak and withered when civilian democratic governments were restored at the provincial and federal levels.

### **The disconnection from local democracy has weakened national democracy**

A simple count of the number of elected officials can illustrate the potential importance of local government in strengthening the national democratic system. General Musharraf's 2001 reform increased the number of popularly elected representatives by almost 80,000 members at the lowest tier of elected governments, the union councils. It also resulted in a significant increase in the number of elected positions reserved for peasants and women, with a total one-third reserved seats, as compared to 5 and 10 percent in district councils previously. These elected local councilors represent a large pool of potential political talent, compared with about 1100 elected members of national and provincial assemblies who form the basis of constitutional government today.

These local political leaders should be contributing to the strength of the whole democratic system, but their contribution is lost when political parties are disconnected from local government<sup>7</sup>. In a strong democratic system, outstanding achievements in local government should open a path for local leaders to advance to higher political offices, but such paths are closed when mainstream parties are separated from local government<sup>8</sup>. When local government is nonpartisan, political parties cannot enhance their reputations by sponsoring better local governance. Thus, democratic competition to improve local government is weakened, and barriers to entry are raised in provincial and federal politics.

The structure of political parties has been affected by their disjunction from democratic local government. Political parties in Pakistan are highly centralized, and their national and provincial leadership retains considerable control with regard to the nominations of legislative candidates and strategic decision making. Their organizational structure does not reach broadly down to the local grass-roots level. According to Duke University's recent cross-country Democratic Accountability Survey, in comparative terms, Pakistani parties exhibit fairly high levels of organizational centralization combined with average levels of organizational extensiveness (Kitschelt and Palmer 2009). Interestingly, the survey data found that experts' assessments of these measures had little variation across the different Pakistani parties.

A consequence of the barriers to entry in provincial and federal politics resulting from the disconnect between local governments and political parties is the much higher incidence of

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<sup>7</sup> National political parties have played an important role in the sustainable introduction of local democracy in a number of successful transitions to decentralization in Latin America and South Asia, such as Bolivia (Faguet 2012), Brazil (Heller 2001), Kerala (Heller 2001) and West Bengal (Bardhan et. al. 2009). In fact, the earliest and most sustainable transitions to local democracy in post-independence India have happened in states where national political parties have taken ownership of the decentralization agenda. Crook and Manor (1998), Enikolopov and Zhuravskaya (2007), and Ponce-Rodriguez et al. (2012) find cross-national evidence that the benefits of political decentralization can depend on strong competitive political parties at the national level. In fact Ponce-Rodriguez et. al. (2012)'s evidence provides support for the hypothesis that the combination of democratic decentralization (popularly elected sub-national governments) and party centralization (national political parties playing a role in local candidate selection) produces the best outcomes for public service delivery in their dataset.

<sup>8</sup> Myerson (2014) elaborates the theoretical reasoning underlying this argument.

dynastic dominance in Pakistani politics compared with other polities. A recent study finds that the incidence of dynastic politics among Pakistan's elected representatives is nearly double the incidence found in India and five times the incidence found in the US during the Civil War period (Cheema, Javid and Naseer 2013). It finds that approximately two-thirds of the elected legislators and around half of the top three contestants in the national assembly elections in Punjab, between 1985 and 2008, were dynastic and the incidence of dynasticism has remained remarkably stable over this period. The lack of a strong competitive presence of mainstream parties in local politics has also been exploited three times already by military rulers to consolidate their regime after a coup. It would be much more difficult for a future military ruler to displace the democratic political parties if their base of support extended into local politics.

The weakness of local democracy has been particularly problematic in the Federally Administered Tribal Areas (FATA). Under Article 247 of the constitution, the regular court system does not function in FATA, arbitrary colonial era laws remain in force and until recently political parties were not allowed to operate there. Local government laws have never been applied in these areas. Denying legal and democratic rights in Tribal Areas fostered a narrow tribal leadership that was vulnerable to Taliban insurgency. This local political vacuum has thus served the interests of militants and has worked against moderate political parties, which have been barred from organizing political activities in these areas.

To restore government authority in these areas, military operations against insurgents can only be a first step, and they must be followed by a political process of building effective local government. The legitimacy and durability of governance in Tribal Areas would be strengthened by the involvement of a broadly representative group of elected local leaders, who would become stakeholders in the political system. The introduction of local democracy in the Tribal Areas could be a vital step toward restoring government authority there in a form that can win greater support from the local population. But the extension of local democracy to Tribal Areas seems unlikely when local democracy is being suspended in other parts of the nation.

When we recognize the vital importance of local democracy, we can begin to ask what forms of local democracy can contribute most to the strength of the national democratic system. This question requires us to consider the structures of local government in some detail, as seemingly minor details in the rules of the political game can sometimes have major consequences for the nature of political competition.

### **Local government reforms have been designed to fit the purposes of military regimes**

The 2001 reforms reduced the significance of union councils by giving executive authority to mayors (nazims) who were elected separately, instead of allowing the local councils to elect their leaders and hold them responsible as in a parliamentary system. The union council is the lowest tier and it is the only tier where the councilors and mayors were directly elected by the people. By elevating the mayor above the union council, the reforms narrowed the effective base of local democratic leadership in the tier of government closest to the citizenry (Cheema and Mohmand 2004).

General Musharraf's local government system required the deputy mayors and mayors of all union administrations located within the jurisdiction of the relevant tehsil and district to serve as the councilors of the two higher tiers of local government, the tehsil and district respectively.

This system of constituting district governments from union governments may have advantages for encouraging cooperation between the different levels of local governments. However, the cooperative connection between different tiers was weakened by the fact that union mayors and deputy mayors were made higher tier councilors in their personal capacity and not as representatives elected by their union councils.

Under the 2001 system, the district and tehsil mayors were not subject to direct popular election but were indirectly elected by a large electoral college that included all members of the union councils in the district and tehsil, respectively. Once elected, however, the district mayors were responsible only to a smaller council of local union mayors. Having members of the union councils elect district mayors and tehsil mayors over whom they had no subsequent power encouraged corrupt manipulation and vote-selling excesses, beyond the forms of coalition-building that are normal in parliamentary systems where the executive is responsible to the same group that elects it.

An important feature of this system is that local union councils were popularly elected by a voting rule called single non-transferable vote or SNTV (Keefer et. al. 2006; and Cheema et. al. 2006). SNTV is a kind of multi-seat proportional representation system but without any party lists. In SNTV, each voter must cast a ballot that endorses just one individual candidate among the many candidates who are competing to fill many available seats. In the local elections of 2001, a voter could cast one vote for a candidate to fill the 8 general unreserved seats on the council, plus separate votes for several other categories of reserved seats for women, minorities, and disadvantaged groups.

Historically, SNTV was introduced in Japan in 1900 by oligarchic rulers who had an interest in keeping democracy weak (Ramseyer and Rosenbluth, 1998). When SNTV was used in Afghanistan's 2005 parliamentary election without political parties to coordinate voting blocs, the result was that losing candidates split large majorities of the votes in each province. In the long run, because of such coordination problems, SNTV tends to favor factions that have supporters who will obey their leaders' coordinating directives about how to vote<sup>9</sup>. Thus, SNTV tends to reinforce the power of corporate or tribal leaders who exercise authority in patron-client relationships.<sup>10</sup>

The exclusion of parties from local elections, the concentration of power in separately or indirectly elected mayors, and the use of SNTV in council elections may have made sense if the goal was to reduce the non-representative central government's costs of managing the local political system. However, these provisions seem less well designed for the goals of strengthening broad democratic representation and accountability in government.

### **Well-designed local government reforms can strengthen Pakistan's federal democracy**

A reformed local-government system that strengthens Pakistan's federal democracy must engage

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<sup>9</sup> Cheema and Mohmand (2008) provide evidence that under Pakistan's 2001 local government system traditional rural elites were much more successful at coordinating electoral voting factions than the leadership of low income, poor and marginalized households.

<sup>10</sup> The coordination problems under SNTV become more severe when the number of seats being allocated is larger. So the problems of SNTV may have contributed to the decision in 2005 to decrease the size of the local union councils from 21 to 13(See Myerson, 2009).

the mainstream political parties and give them a stake in supporting local democracy. Most importantly, by engaging the provincial and national parties, local democratic institutions should help the parties to develop a broader political base of active local supporters, whose energies should strengthen their party at all levels. The strength of a democratic political party must ultimately depend on the quality of its candidates. Well-designed local governments should serve as a primary source of candidates who can advance democratically to higher offices after first proving their ability to earn popular approval at the local level.

We offer examples of how local institutions could be designed better to meet these criteria.

A vital role for parties in local elections can be assured by electing local councils according to a list system of proportional representation, in which voters choose among competing party lists. Any party that has at least some minimal representation in the provincial or national assembly should be able to nominate a list of candidates for local elections throughout the province. Local council seats would then be allocated to each party list in proportion to the number of local voters who choose this party on their ballots.

But if voters only choose among party lists that were formed by party leaders, then local elections will do nothing to promote the political advancement of individual candidates who achieve greater popular approval. In a well-designed local government, local elections should help each party to measure the popular support that its local candidates have helped it to earn in each community. To achieve this function, voters' ballots in local elections should also include some indications of approval or disapproval for individual candidates. Such votes for individual candidates can be incorporated into a party-list system of proportional representation by using what is called an "open list."

For example, each voter who supports a party could be asked on the ballot to indicate an approval rating for each candidate in the party's list. Then the seats that the party wins on the local council would be awarded to its candidates who get positive approval ratings from the largest numbers of the party's supporters in the election. Such an approval-voting open-list proportional-representation system would give each party a clear indication of who among its candidates has earned the broadest support from local voters.

The recent local government legislation passed by the provinces in 2013 has institutionalized partisan elections, which will give parties a stake in supporting local democracy. This is an important first step towards building effective democracy in Pakistan. However, initial indications<sup>11</sup> suggest that the selection of local electoral candidates is likely to be the preserve of the provincial party leadership. This is likely to strengthen the control of federal and provincial dynastic politicians in parties and their clients, which will sustain barriers to entry into politics. By denying a formal role to the voice of voters in candidate selection this local electoral system may weaken the ability of the local government system to act as an effective nursery for the selection and advancement of talented politicians. This will strengthen political oligarchies as political advancement is likely to depend on loyalty to the party leadership rather than on the basis of independent reputation for public service<sup>12</sup>.

Letting local councils at each level elect their own executive mayor or nazim would give effective

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<sup>11</sup> This was clearly the norm during the election campaign in Punjab's local government elections that were scheduled to be held in January 2014 but were suspended one month before the date of polling.

<sup>12</sup> On this centralizing tendency referred to as the Iron Law of Oligarchy see Michels (1915).

responsibility for local government to a broadly representative group of local leaders, which would be consistent with the systems of parliamentary responsibility that are already constitutionally mandated in government at the provincial and national levels in Pakistan. This reform should be initiated at the level of the lowest tier, the union council, and followed through the higher tiers.

The past system of including local union mayors in the councils of larger districts may be a good way of encouraging higher levels of local government to cooperate effectively with lower levels. Enacting parliamentary democracy at the union council level will ensure that union mayors and deputy mayors become higher tier councilors in their capacity as representatives of their respective union councils, and so will strengthen the links of cooperation between different tiers of government. But to provide a way of identifying popular local leaders in larger districts, a district council should also include some representatives who are elected at large by the voters of the entire district, using the approval-voting open-list system, as suggested above. It would be natural to suggest that the district mayor should be chosen by the council from among these at-large representatives. Then the position of at-large district representative could become an important step in the ladder of democratic advancement (between local union councils and provincial assemblies) for politicians who earn the trust of voters in the district.

Established leaders in the national and provincial governments might naturally have concerns about elected local officials becoming future competitors for power. Any reform that enhances democratic competition is bound to raise such concerns. But these concerns should be substantially assuaged when candidates for local elections are nominated by the parties that have representation in the national and provincial assemblies. Giving district councils the power to replace their mayors should also help to reduce concerns about local political dominance by a too-powerful district mayor. Under open-list proportional representation, at-large district councilors would get votes from only a fraction of their party's supporters, but assembly representatives are elected in single-member districts and so would regularly get votes from all their party's supporters. So an assembly representative could generally expect to get more votes in his electoral district than any councilor of local government.

The political benefits of local democracy depend on voters having the right to entrust their local governments to local leaders who are entrusted with adequate political, administrative and budgetary authority to deliver and who may later become rivals for higher offices on the basis of their reputation for better governance at the local level. Therefore it is important that political, administrative and budgetary authority for local governments should be defined and protected by the law. Historically, local governments in Pakistan have not been granted sufficient authority to demonstrate better governance. Nearly all resources for local governments have flowed from the province with only negligible levels of local revenue generation (Keefer et. al 2006).<sup>13</sup> Local governments had historically been assigned limited municipal and development functions. Although General Musharraf's 2001 reforms devolved major functions to the local governments, however, with finances, staffing and salaries still controlled by the province, the devolved governments under the 2013 legislation would continue to have severely curtailed administrative and budgetary authority (Cheema et. al 2006, Manning et al 2003).

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<sup>13</sup> This is also true for provincial governments which receive more than 80 percent of their revenues from federal transfers despite most expenditures being assigned to the provinces, especially after the passage of the 18<sup>th</sup> Amendment to the Constitution. However, unlike local governments, provincial governments hold the required political, budgetary and administrative authority under the constitution to effectively deliver public goods and services.

Institutionalizing effective local democracy will require giving local governments control over the planning and provision of all local public goods and services, control over its administrative staff and rights to predictable and effective finances. The current legislation in the two majority provinces of the country has recentralized key functions such as education, health and urban planning and assigned them to provincial authorities<sup>14</sup>. The recentralization of these functions will disempower local governments and local politicians and weaken the foundations of democracy.

Credible commitment to effective local democracy will require protection for local governments against selective politically-motivated interference in their domain by higher tiers of government. There is always a risk that provincial and national politicians may be tempted to use the power of the higher tiers of government to undermine local leaders who are seen as potential political rivals. So it may be important to provide some constitutional protection for local governments or independent judicial review of such actions against them. While the current legislation has placed some time limitations on the provincial governments' power to suspend local governments it needs to provide much more clarity about the ambit of independent judicial review.

### **Local government reforms have vital importance for Pakistan and the world**

People value democracy because the welfare of any community depends on how its leaders are chosen. We have focused here on the detailed rules of local government because the way that local leaders are chosen can have fundamental consequences for the successful development of democracy at all levels of government. Successful democracy requires a flexible system of strong political parties and a plentiful supply of candidates who have good reputations for responsible public service. Local democracy greatly increases this supply of political talent and thus provides the broadest foundation for building a strong successful democracy.

Democracy in Pakistan faces formidable challenges. Intervals of military rule, which retarded the development of connections between mainstream political parties and local democracy, have ended at last with a recognition that effective stable government must be based on civilian political organizations that are widely trusted by the voters. Now several areas of Pakistan are threatened by violent guerrilla forces, and such insurgencies can be defeated only by effective cooperation between national political leadership, military forces and local political leaders who are trusted by their communities. To overcome these challenges, Pakistan's mainstream political parties need to develop broader networks of local leaders who have earned the trust of voters throughout the nation.

In particular, Pakistan's political forces and military should be working together now to build popularly supported local government in the Tribal Areas, where the long neglect of local democratic rights has had such disastrous consequences. Involvement of elected local leaders from these areas in political, economic and administrative decision-making would provide greater legitimacy to counter-insurgency efforts and would provide a broad representative base of stakeholders for a stronger system of local government.

At this critical time, the continued hesitation about institutionalizing empowered elected local governments should be seen a serious step in the wrong direction, unless these local institutions

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<sup>14</sup> See the recently enacted 2013 Local Government Acts of Punjab and Sindh.



are institutionalized and allowed to better support Pakistan's democratic system. Current decisions about re-establishing empowered democratic local government in Pakistan, and reforming their political institutions to enable these governments to become effective nurseries that ensure the selection and advancement of talented politicians, should be recognized as having vital importance for the people of Pakistan, and for all those throughout the world who care about the prospects for Pakistan's constitutional democracy.

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