

Devolution row:
An assessment of Pakistan's 2001
Local Government Ordinance

Report for the Research project
“The Political Economy of Statebuilding” –
The Pakistan Case Study

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Abbreviations

ADB	Asian Development Bank
CIDA	Canadian International Development Agency
CCB	Citizen Community Board
CMLA	Chief Martial Law Administrator
CSO	Civil society organization
DC	Deputy Commissioner
DCO	District Coordination Officer
DDO	Deputy District Officer
DFID	Department for International Development (UK)
DG	District Government
DTCE	Devolution Trust for Community Empowerment
ECP	Election Commission of Pakistan
EDO	Executive District Officer
FATA	Federally Administered Tribal Areas
ICT	Islamabad Capital Territory
LFO	Legal Framework Order
LGC	Local Government Commission
LGO	Local Government Ordinance
LGPP	Local Government Proposed Plan
MC	Monitoring Committee
NRB	National Reconstruction Bureau

NWFP	North-West Frontier Province
PFC	Provincial Finance Commission
SBNP	Sind/Balochistan/North-West Frontier/Punjab
TMA	Tehsil Municipal Administration
TMO	Tehsil Municipal Officer
UNDP	United Nations Development Programme
WASA	Water and Sanitation Agency

Executive summary

Decentralization (or devolution) has been for decades a familiar mantra in international development circles. Where citizens – and the donor community – were faced with dysfunctional state institutions, the reasoning went, the best remedy was to devolve responsibilities and resources to the local levels of government. By decentralizing power and embedding it in accountability structures that were closer to the final beneficiaries, the assumption continued, it was eventually possible to improve service delivery and overall governance. What was often lacking in this analysis (and the case of Pakistan serves as a strong reminder of the significance of this missing element) was the consideration that devolving functions and power within a dysfunctional system could easily lead to those same power structures and relations being devolved and reproduced at the local level. The system would then simply replicate itself, albeit within a limited area and in a more fragmented way.

By looking closely at what happened in Pakistan since the launching of a campaign for political devolution in 2000, it seems that that is precisely what followed, on a large scale. Local power-brokers, often with the direct support of state institutions bent on maintaining a strong grip on local contexts, hijacked those new processes of, on paper, participatory democracy. Local elections could be easily rigged or manipulated through intimidatory measures and the cultivation of patron-clientelistic networks.

At the same time, the filter that until then had been represented by provincial authorities and politicians, was gravely weakened, if not completely sidelined. Not that political and institutional actors at the provincial level represented sufficient guarantee of a balanced competitive context, whereby citizens would be protected from extractive practices, but their marginalization (or at any rate, attempts to achieve this) constituted a straightforward sign that a process of ‘deconcentration’ (see Box 1) was in the making, rather than one of devolution. The central state, in other words, was stretching its tentacles out to the local communities, bypassing the tedious negotiations that normally took place at the provincial political market place.

There is obviously nothing intrinsically wrong with devolution processes as such, and this paper does not try to assert the contrary. The document that forms the basis of the latest such process in Pakistan, the 2001 Local Government Ordinance, carries many provisions that if properly implemented could contribute to genuine devolution and empowerment of local communities. And it was because of this prospect that the Ordinance was originally welcomed by the majority of the country's population. The initiative, however, as elaborated in the rest of this report, also contained elements indicating a process that was bound to be derailed and, for the most part, it remains unaccomplished.

A first worrying sign of what was in the making was the fact that, as in all the previous attempts, decentralization was being promoted and introduced by a military government, an inappropriate origin for the devolution of power. This basic fact should have immediately prompted questions within the country's citizenry, and even more so, within the international community. The present report argues, in this respect, that the original and ultimate intention of the military was to weaken civilian institutions and political actors at the meso-level of the governance system; that is, at the provincial level. In other words, the aim was never to achieve genuine devolution. At the same time, the initiative was part of a strategy to legitimize military rule in the eyes of the international community and, to a certain extent, also of its own population.

Implementation of the local government system was further affected by a series of daunting challenges. Two of the major problems were the inadequate quality and quantity of training available for the influx of new staff and elected members across the three layers of local government, and weak intergovernmental coordination.

As a consequence of the above-mentioned inbuilt process of marginalization of provincial authorities, there were immediate indications of institutional resistance to change. Provincial governments perceived the whole devolution initiative as a scheme by the military to bypass the provincial political tiers, through the establishment of direct administrative and political links with local governments and representatives.

The report, however, tries also to draw attention to some aspects of the whole process that deserve attention and encouragement from donors. The United Nations Development Programme (UNDP) in particular has been at the forefront of a large-scale attempt to build true devolution on those positive elements that were envisioned in the original Ordinance. Through the establishment and the continuous support of an ad hoc non-governmental organisation, the Devolution Trust for Community Empowerment, the UN agency has tried to ensure that people-centred devolution and development could eventually still take place in the country, escaping the web of control imposed by powerful politicians and army members. The role of alternative community-based agents of change and development, such as the Citizen Community Boards, is rightly recognized and is being supported. New similar initiatives are currently being explored, such as capacity-building efforts involving the Village and Neighbourhood Councils.

It is recommended that both international and national actors continue supporting these and the several other elements of the original plan that are conducive to a genuine devolution process. And at the same time, intrinsic ambiguities and elements of the plan that are contrary to its true spirit should be carefully assessed and corrected.

1. Introduction: rationale, objective, methodology

1.1. Rationale

The research proposal was directly linked to the central question in the CRU's cluster of political and governance development, i.e. in what way donors can contribute to the building of effective and legitimate governance in fragile states. The challenge is that of finding the right balance between the need for democratization on the one hand, and for effective service delivery on the other.

With particular reference to the issues paper that was produced in the first phase of the overall research project, this case study addressed some of the key issues that emerged in the "Operational implications" section (Anten, 2009). More specifically, the Pakistan context raised some fundamental questions concerning, for instance, issues of geographic power-sharing, horizontal inequalities, and the concept of the hybrid state.

The drive towards decentralization that has gathered so many supporters in the international donor community in recent years had its most emblematic expression in Pakistan's Local Government Ordinance (LGO), promulgated in 2001. Through that regulation, the Pakistani government aimed to reconstruct and regulate the local government system by devolving political, financial and administrative authority. Three levels of local government were created. Eventually, the new division of responsibilities entailed a process of transferring human and financial resources from the province to local governments, as well as a series of amendments for relevant laws, rules, systems, procedures and processes.

The local government system was based on the premise that locally managed basic services would improve responsiveness to local needs and facilitate improved service delivery, as it provided a range of opportunities for enhancing political commitment and greater accountability to the public. Some (expected) problems, however, did emerge, such as the transfer of staff being carried out on political grounds, and staff being recruited not on the basis of merit. Evidence is also mounting that the decentralization process has been partially captured by local elites. In addition, district governments often found that their budgets barely covered the cost of

operating the services that had been transferred to them from the provincial level. Moreover, few allocations were made to the new local governments from the federal development budget.

Local government elections have often been perceived as rigged, with local power-brokers being elected thanks to the financial resources they are able to mobilize and to the informal support of the local military authorities. As a consequence of those skewed electoral processes it is not unusual to find elected representatives in the various layers of the local government system who are known for their illegal, if not criminal, activities. Another complaint regarding the implementation of the local government system relates to the weakening of the civil administration vis-à-vis the elected representatives, and to the parallel undermining of the provincial government's capacity to fulfil a coordinating and oversight role. These perceptions are often particularly strong among mid-level politicians, who feel that the central government's strategy is to work with local-level authorities in an effort to bypass and weaken provincial governments. In this regard, one could conclude that decentralization of institutions, at least in those areas where law and order are under the control of the federal government and where there is a strong military presence, has not led to a devolution of power, but to a consolidation of control by the centre over the local levels of government.

Considering the mixed results emerging from nine years of implementation of the LGO, in spite of the original purpose to achieve "good governance, effective delivery of services and transparent decision making through institutionalized participation of the people at grass root level",¹ it became increasingly important to properly understand how the Ordinance was being implemented and the main reasons for its possible shortcomings.

At the same time, and definitely so in those areas that are positioned at the geographical and political periphery of the country, there was increasing recognition that formal institutional frameworks, such as the Local Government Ordinance, might mean little to the local population and therefore carry limited legitimacy on the ground. Informal governance structures and processes could instead still be expected to play a dominant role in most of the relevant decision making processes taking place at the local level. One does not have to look only at so-called tribal societies to find such informal institutions. The conspicuous absence of solid state institutions on one hand, and the established presence of parallel structures and mechanisms negotiating access to and control of power at the local level on the other hand, make ideal grounds for the emergence of hybrid institutional contexts. Non-state institutions have often carved out an operational space that is considered legitimate and effective, if only because the state has been merely perceived as either a repressive or an absconding entity.

¹ See original text of "The SBNP Local Government Ordinance 2001".

1.2. Objective

The objective of the research project was:

- to assess the implementation process of the 2001 Local Government Ordinance, with a specific focus on its promise to bring good governance, effective service delivery, and participatory democracy to the local level.

1.3. Methodology

The research involved in this project was based mainly on a combination of empirical evidence gathered through field work, and existing literature on the subject. Key resource persons affiliated to both state and non-state institutions were identified and interviewed. The overall research was coordinated by a CRU member, in strong partnership with one local researcher and a local think-tank specializing in peace studies.

In the preparation for and during the field work, relevant contacts and exchanges of information were also organized with Dutch and international officials/experts.

2. Decentralization in Pakistan: from the origins until the 2001 Local Government Ordinance

2.1. Pakistan's institutional set-up

Pakistan has a federal administrative structure, outlined by the 1973 Constitution. The federal Parliament consists of the National Assembly and the Senate. National Assembly members are elected directly and have a term of five years in office. The National Assembly elects the Prime Minister from among its members. In return, the Prime Minister forms the cabinet from among members of the National Assembly and the Senate. The four provinces in the country (Balochistan, North-West Frontier Province, Punjab and Sindh) have their own elected legislative assemblies and Chief Ministers. The Provincial Assemblies, in their turn, elect the majority of the members of the Senate on the basis of proportional representation.

The separation of responsibilities and functions between the federal and the provincial governments is specified in the Constitution. Significant in the context of this research is the fact that until the issuance of the Legal Framework Order (LFO) 2004, “the Constitution of Pakistan did not fully recognize local governments as a separate tier of government with their own powers and functions. [...] Prior to the LFO, local government was essentially viewed as an extension of the provincial governments, through which some functions were delegated to them” (Hopkins et al., 2006: 19).

2.2. A history of local government systems in Pakistan

Systems of local government have a long history in Pakistan, with roots in the colonial policies relating to the government of villages in British India. The Devolution Plan of 2000, enforced through the Local Government Ordinance 2001, was the latest of a number of plans to strengthen local government systems in the country. Although there are a number of qualitative differences between this plan and previous local government schemes, the plan as a whole builds on the pattern of representation and administration set by earlier systems of local government.

In Pakistan, each reform experiment aimed at devolving political, administrative and fiscal powers to local government, has been a “complementary change to a wider constitutional reengineering strategy devised to further centralization of political power in the hands of the non-representative centre” (Cheema et al., 2005: 1). Tracking this tendency historically, the first experiment with local government in the post-independence era was the then President General Ayub Khan’s conception of ‘Basic Democracy’. Ayub removed over 6,000 politicians from office when he imposed martial law in 1958, using the Elective Bodies Disqualification Order. This order was soon followed by one that revived local governments as the only representative tier of government. This new system was established under the Basic Democracies Order of 1959, for rural areas, and the parallel Municipal Administration Ordinance of 1960, for urban areas. In the rural areas, the order represented an attempt to bring villages together under a formal institutional framework. “The initiative, however, never worked out properly, because of the pre-existing traditional structures. Villages, in most cases, continued to operate independently around their traditional leaders.”²

Ayub’s system consisted of four tiers: the Union Councils in the rural areas, and the Town Committees and Union Committees in the urban areas, formed the lowest tier. The following tier was represented, in rural areas, by the Thana³ or Tehsil⁴ Councils, while in urban areas the same tier was represented by the Municipal Committees and the Cantonment Boards. The subsequent two tiers were identical for both rural and urban areas, and they were represented by the District Councils and finally by the Divisional Councils. With the exception of the lowest tier, where all the members were the result of an electoral process, the tiers presented a combination of indirectly elected officials, officials nominated by the government, and pre-appointed government officials as chairmen. The controlling authority in this institutional set-up thus remained the bureaucracy, which had the power to put an end to proceedings and suspend resolutions passed by local bodies – effectively, enjoying the ability to overrule any power that the local bodies had. Certain development and regulatory functions were assigned to the local governments, but “few functions could be performed due to a severely curtailed fiscal capacity” (Cheema et al., 2005: 6).

Owing to the local government system’s close association with the military, the idea of Basic Democracy had died a natural death by the end of the 1960s when the military rule drew to a close. Pakistan’s first general elections were held in 1970. The elections were conducted on the basis of adult franchise and resulted in the institution of a National Assembly and four Provincial Assemblies. The transfer of power to an elected government was interrupted because of political unrest in what was then East Pakistan, a series of events that ultimately led to the outbreak of war between India and Pakistan in December 1971, and the emergence of East Pakistan as an independent nation, Bangladesh. The trauma of the secession of East Pakistan was still fresh when the elected assemblies were convened in what was previously known as West Pakistan, and

² Interview, Reza Ali, Development Consultant, Lahore, 1 December 2009.

³ Urdu word used to indicate a police station, or the district controlled by a police station.

⁴ An administrative division generally consisting of a town or village.

a new era of democratic government was ushered in. The crowning achievement of the newly elected Assembly was the unanimous approval of the Constitution of 1973. Interestingly, although the Constitution established the promotion of local government institutions as one of its “principles of policy”, it said nothing at all about the actual establishment of any such institutions, and therefore the first democratically elected government in Pakistan was, in the main, essentially centralized in its orientation.

The elected government, however, turned out to be a brief interlude, and five years after power had been transferred to a civilian authority, another military coup took place in July 1977. Two years after taking power, General Zia-ul-Haq, the Chief Martial Law Administrator (CMLA), revived the local government system by combining “political centralization at the federal and provincial levels with a legitimization strategy that instituted electoral representation only at the local level” (Cheema et al., 2005: 8). In 1979 he promulgated the Local Government Ordinances (LGOs). Demonstrating a strategic approach to governance which, according to many analysts, about two decades later was also adopted by President Musharraf, Zia ul Haq tried, through these Ordinances, to bring the urban and rural local governance structures together, and to establish a national government structure that would lead to political centralization, while opening up to electoral representation at the local level. The rationale for such an approach was twofold. On the one hand, it could be interpreted as an attempt by the military regime to create a widespread sense of legitimacy, in spite of the undemocratic way it had removed an elected government from power. The regime had in fact understood that the most likely political challenges would come from the political class and power-brokers operating at both the national and the provincial levels, where they could easily summon huge numbers of supporters. At the local level the situation would be necessarily more fragmented and therefore difficult to influence by any provincial or national power-broker. The military reasoned, therefore, that political legitimacy at the local level, through electoral processes, would not automatically translate itself in coordinated political opposition to the generals’ rule. The same calculations were applied by General Musharraf about 20 years later. This approach towards local governance fitted in with the army’s old strategy of ‘divide and rule’, which in this case was to be implemented through the creation of a new and competing class of ‘collaborative’ local-level politicians (Jalal, 1995).

Eventually, there was little substantive difference in functions and fiscal capacity between the systems put forward by Zia and Ayub, and the local bodies continued to lack constitutional protection. Union Councils maintained an urban–rural divide that had been characteristic of the Ayub era, preventing the movement of resources from urban areas to rural areas. However, Zia did remove the bureaucracy’s role in local bodies, making all members elected, either directly or indirectly, as long as elections were contested on a non-party basis. Elections on a non-party basis have led to the criticism that local governments are the means through which legitimacy for unrepresentative regimes is sought, “creating local patronage structures that act as a conduit between local constituencies and the non-representative centre” (Malik, 2009: 999).

After Zia's demise in 1988, and the return of elected national and provincial governments in Pakistan, the local government system became almost defunct, though the bodies themselves were not dissolved. Constant tension between the local and provincial tiers – due to a lack of political ownership of the local government system by the more powerful provincial governments – “led to the suspension of local bodies between 1993 and 1998” (Cheema et al., 2005: 14). This second period of democratic government and defunct or non-functional local governments lasted for 11 years, before military rule was re-established in Pakistan in October 1999, with a coup led by General Pervez Musharraf. General Musharraf's period in power was characterized by the introduction of the most wide-ranging and ambitious devolution initiative ever to be introduced in Pakistan. It is this initiative which is the subject of the rest of this paper.

2.3. Key features of the 2000 Devolution Plan and of the 2001 Local Government Ordinance

The latest chapter in Pakistan's military-led decentralization efforts started therefore just a month after the October 1999 coup that swept to power General Pervez Musharraf. On 18 November 1999, the National Reconstruction Bureau (NRB) was established, with the clear aim of “reconstructing” a system of governance that would greatly empower Pakistan's citizens. “Devolution of government to locally elected authorities was to be at the core of a reconstruction agenda” (Webster and Fredborg Larsen, 2006: 3). About a year later, in May 2000, the NRB released a Local Government Proposed Plan (LGPP) with the title ‘Devolution of power and responsibility: establishing the foundation of genuine democracy’. The plan was presented as a powerful initiative to reform the elitist governance system in the country. It was declared to be inspired by a people-centred and service-oriented approach to governance. Its drafting served as a basis for the Sind/Balochistan/North-West Frontier/Punjab (SBNP) Local Government Ordinance (LGO) that was promulgated by the four provincial governments in August 2001. Meanwhile, however, elections for new local government councils had already begun in December 2000, and they were eventually completed in September 2001.

The Devolution Plan of 2000 was thus put into effect through the Local Government Ordinances of 2001 – passed individually by each province – and given short-term constitutional protection through the Legal Framework Order (LFO) of 2002, a part of the 17th Constitutional Amendment. At present, Pakistan is still a two-tiered federal state, not incorporating the local governments as a constitutionally recognized third level of government. The 17th Constitutional Amendment offered the local government system six years of protection (roughly from 2002 to 2009), during which changes to the local government legislation could not be made by the provinces without the approval of the President (ADB et al., 2004). This ensured the survival of the local bodies even after elected provincial and national assemblies were reconstituted some time after their dissolution at the time of Musharraf's coup, but did not grant the local government system legitimacy beyond 2009.

In 2005, however, a series of amendments to the LGO were introduced, representing a clear attempt by those political forces opposed to the fundamental spirit of devolution to regain some of the lost ground. Provincial authorities, which had particularly suffered from the direct link being built between the federal and the local levels of government, were granted greater powers vis-à-vis the local government institutions and representatives.

The provincial Chief Executive, for instance, was given the power to suspend a *nazim*⁵ and/or a council resolution in the case of alleged irregularities.

2.4. Analysis of the 2001 LGO

There are a number of ways to look at the rationale for this new attempt at devolution. In international development models, devolution is meant to improve service delivery by increasing effectiveness or efficiency in the allocation of resources, allowing citizens to exert a direct influence on local political and administrative structures, thereby enhancing accountability (ADB, 2005). The rationale for devolution presented by General Musharraf echoed these terms; he claimed that devolution was “the beginning of a constructive, democratic, dynamic revolution whose sole objective [was] to place in [the] hands of the people the power to shape their own destiny. [...] an unprecedented transfer of power will take place from the elites to the vast majority”.⁶ The stated aim was to dismiss corrupt and authoritarian civilian governments and empower people at the grassroots, providing them with improved services and better opportunities for local and hence national development (Malik, 2009). The National Reconstruction Bureau’s Local Government Proposed Plan (LGPP), issued in May 2000, based successful decentralization on the restructuring of responsibilities and resources between three tiers of government: federal, provincial and local, promising to imbue district and sub-district governments with unprecedented levels of political and administrative authority to carry out the tasks assigned to them (Webster and Fredborg Larsen, 2006).

The analysis of devolution in Pakistan, however, must be located in a historical context. Decentralization has repeatedly been used as a means to break the power of cohesive provincial units in order to legitimize non-representative governments at the centre, and in 2000 the rationale for devolution was similar, as articulated in a recent report: “Unlike attempts at decentralization in some other countries, which appear to have been motivated more by changes in state ideology or multilateral pressure, in Pakistan, the military’s need for legitimization of state control appears to be a prime reason behind the recurring attempts at local government reform” (ICG, 2004: 5). Multilateral pressure for decentralization had existed in the 1990s as well, but no major attempts were undertaken until General Musharraf came to power in 1999. Musharraf had taken power by dismissing an elected government, and the decision to implement a devolution plan of this nature was aimed at “co-opting domestic and external constituencies that favor decentralization and local empowerment. Since donors as well as influential sections

⁵ Similar to the figure of the mayor, the *nazim* is the chief elected official of a local government, at the level of the union, tehsil, or district.

⁶ “CE Announces Holding of Local Government Elections.” Associated Press of Pakistan. 24 March 2000.

of civil society such as the media and NGOs have long blamed bureaucratic corruption and centralization for Pakistan's political and administrative malaise, Musharraf distanced his government from the discredited machinery" (ICG, 2004: 6). He was rewarded by a high level of support from international donors to shore up decentralization in Pakistan.

Musharraf gained a number of political advantages from devolution domestically, with the military using the newly installed *nazims* to help ensure a favourable outcome in the 2002 referendum, in return for economic and political rewards (ICG, 2004: 13). There was also a lack of decentralization at the federal level in Pakistan – the focus was only on provincial to local devolution and not on the devolution of federal powers to provinces (Cheema et al., 2005); this gave considerable weight to the view that devolution was an exercise in legitimation. This does not mean, however, that the Devolution Plan was not dutifully implemented, or that it did not make a major impact on government structures in Pakistan.

Some observers have concluded that the rapidity with which the devolution process set off in 2001 eventually led to the problems that surfaced along the way. They have referred, for instance, to the "uneven progress between different levels of the provincial and local government bodies, failures in coordination between line departments and local government, and significant local variations in the degree of community involvement in local development activities" (Webster and Fredborg Larsen, 2006: 6). And while the institutional apparatus, at the provincial and federal levels, had enormous problems in adapting to the changing political landscape at the local level, the citizens were left wondering about the grand promises of reform and political empowerment, which remained significantly unfulfilled.

The devolution plan had been conceived as a comprehensive process of substantive decentralization⁷ where, according to the declared intentions, resources and responsibilities had to be devolved to the greatest possible extent to the local levels of government, through a truly participatory democratic process.

⁷ For some conceptual clarification, see Box 1.

Box 1: Decentralization or devolution? – some clarifying notes

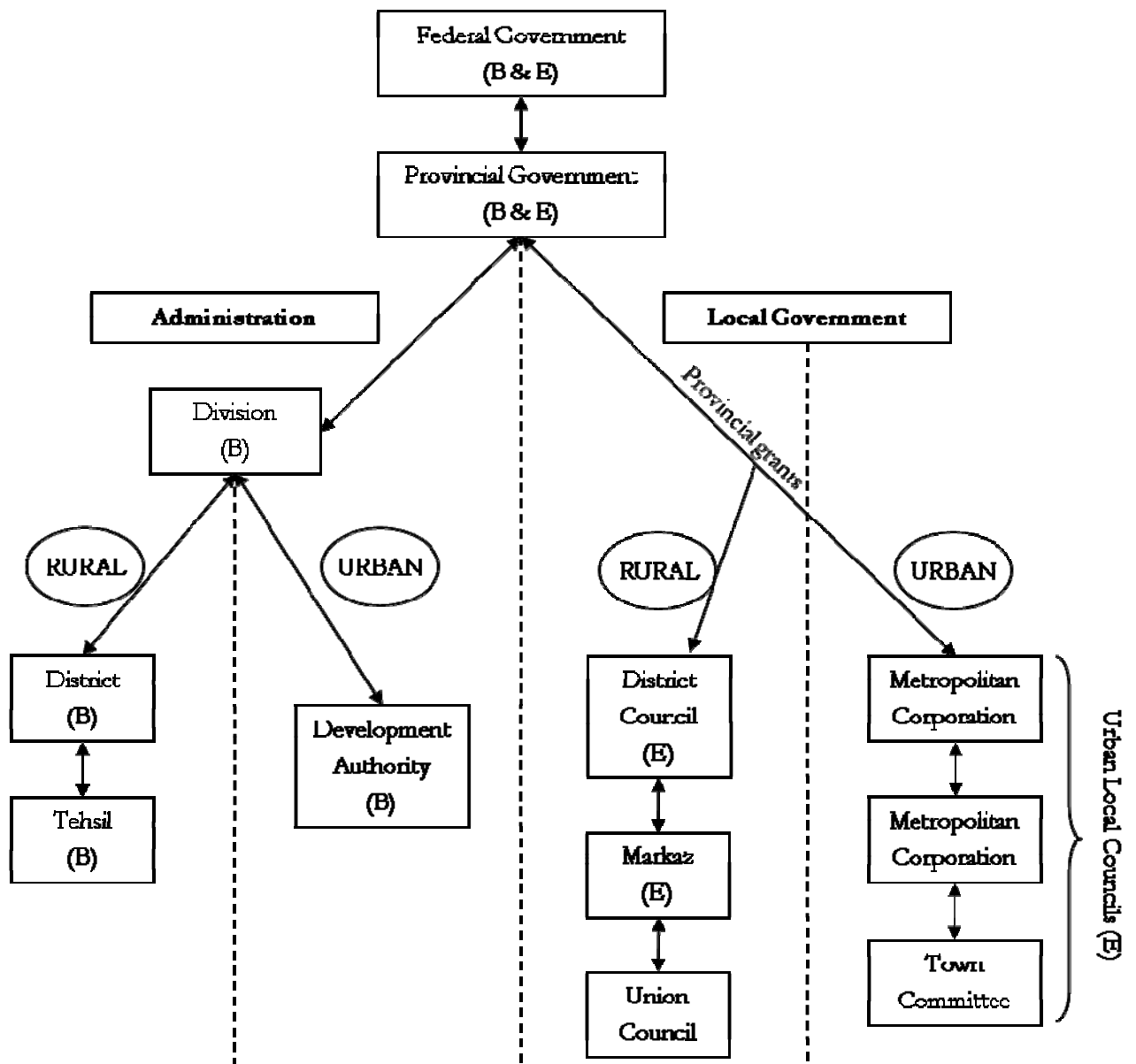
Decentralization can be regarded as the broad concept that encompasses specific forms of change and redistribution of decision-making power and responsibilities among the different layers of government, within the existing political system. These forms of decentralization are defined according to specific names, one of which is the concept of devolution examined in this paper, concerning the case of Pakistan.

There are three main types of decentralization (Parker, 1995), which can occur simultaneously, or in isolation. They are:

1. **Deconcentration** – it refers to the “dispersal of agents of higher levels of government into lower levels arenas” (Manor, 1999: 5). This form of decentralization is no guarantee at all of a substantive redistribution of power to the local levels of government and of an increased participation of local communities in political decision-making processes. It all depends, obviously, on whether the accountability lines run directly from those localized agents to the central/federal authorities, or whether they also run through the local communities involved. In the first case, deconcentration is equal to a further centralization of the governance system by ensuring better penetration at the local level of its own administrative agents.
2. **Fiscal decentralization** – it refers “downward fiscal transfers, by which higher levels in a system cede influence over budgets and financial decisions to lower levels” (Manor, 1999: 6). As in the case of deconcentration, whether this type of decentralization will really bring about substantive redistribution of decision-making power at the local level will depend on how it has been conceived and implemented. That is, whether the authority to take fiscal decisions has been simply delegated to centrally appointed bureaucrats, or whether it has been shared with locally elected representatives. The 2001 LGO includes fiscal decentralization as well.
3. **Devolution** – it refers to “the transfer of resources and power (...) to lower level authorities which are largely or wholly independent of higher levels of government” (Manor, 1999: 6), and which are the result of substantive democratic processes at the local level. This is also the definition that seems to have mostly inspired the Musharraf government when it proceeded with the conceptualization of the 2001 LGO. Whether the spirit of this concept was eventually realized in the implementation of the ordinance, is something that this report aims to clarify.

This process was due to be based on open electoral mechanisms and on shared and transparent decision-making systems, and its actual impact on the design of local authorities can be seen in Figures 1 and 2, where the government structures pre- and post-2001 LGO can be compared.

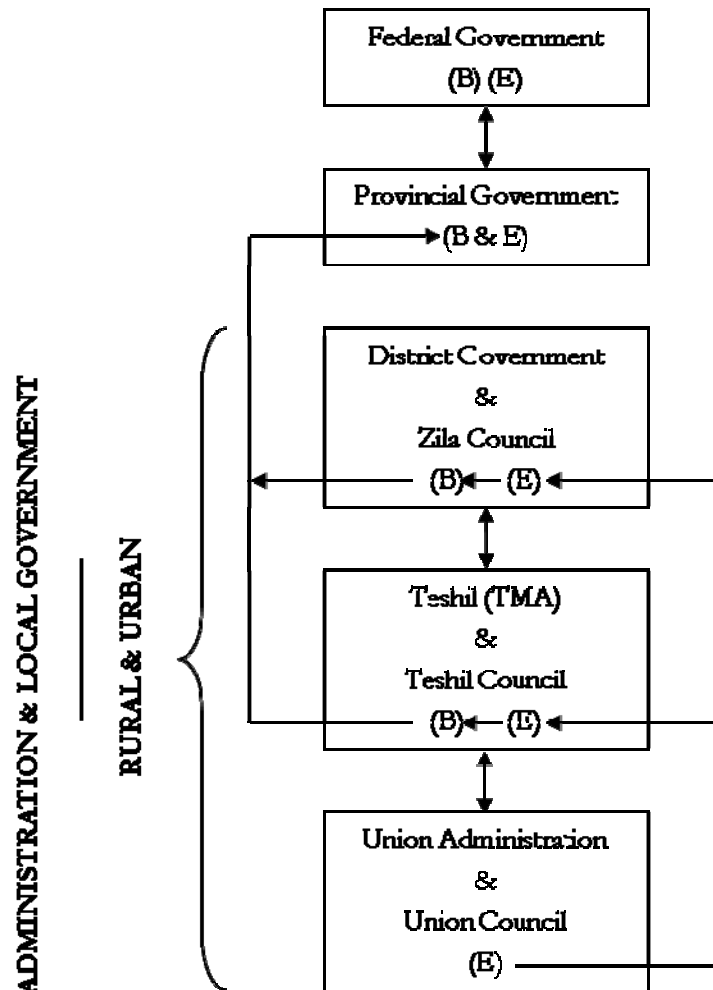
Figure 1: Pre-2001 LGO government structure



Note: (B) stands for Bureaucracy, while (E) stands for Elected.

Source: Cheema, Khwaja and Qadir (2005), with adaptations by the authors.

Figure 2: Post-2001 LGO government structure



Note: TMA = Tehsil Municipal Administration

Source: Cheema, Khwaja and Qadir (2005), with adaptations by the authors.

Decentralization involved three major types of changes in government structures at the provincial level. By devolving various administrative and expenditure responsibilities to local governments, decentralization changed the administrative level of decision-making (provincial to local for certain state functions), the nature of the accountability of such decision-making (elected officials rather than the bureaucracy), and the nature and level of fiscal resources raised and made available (Cheema et al., 2005). These changes, as set out by the Local Government Ordinances, are delineated below.

2.4.1 Representation at the local level

Devolution's greatest attraction has resided in its ability to bridge the gaps between the state and its citizens. The elected government structure put forward in the 2000 Devolution Plan is therefore crucial to understanding the mechanisms by which the proposed reform was to affect service delivery and accountability in Pakistan.

The lowest level of the elected local government was the union council. A union council encompasses an average population of 25,000 people and covers a number of small villages or towns. Union councils consisted of 21 members. These seats were assigned according to the following quotas: 12 general seats for Muslim members, 4 of which were reserved for women; 6 for peasants/workers out of which 2 were for women; 1 seat reserved for minority communities; and 2 seats for the union council *nazim* and *naib-nazim*⁸ respectively, both of whom were elected on a joint ticket. Members of the union councils were directly elected, which means that the electorate for the union council consisted of all registered voters who were Pakistani citizens and above the age of 18 (NRB, 2001).

The next tier of local government was the tehsil council. Two-thirds of this council was made up of the directly elected *naib-nazims* of each union council in the tehsil, and the remaining one-third of the seats was assigned to indirectly elected members. These seats were reserved for women (33 per cent of the total number of unions in the tehsil), peasants/workers (5 per cent of the total number of unions), and minorities (again, 5 per cent of the total number of unions). The head of the tehsil council, the tehsil *nazim* and the tehsil *naib-nazim* were also indirectly elected (NRB, 2001).

The final tier of elected representatives was the district (or *zila*) council. The district council consisted of all the union council *nazims* in the district – all of whom were directly elected – and had one-third of its seats reserved for women, minorities, and peasants/workers, in the same proportions as in the tehsil council. Candidates for these seats were indirectly elected. The head of the district council, the district *nazim* and the district *naib-nazim* were also indirectly elected (NRB, 2001). The electorate for the tehsil councils and the district councils consisted of all the union council members who had been directly elected in the union council elections (approximately 420 for the tehsils, and 1,260 for a district) – which meant that district and tehsil *nazims* did not need to hold the majority of the public vote in order to hold office (Cheema et al., 2005). “Decision-making authority and control over the bulk of local government resources largely resides with the district government”, but the new legislation on elected bodies created significant linkages between the tiers of elected representatives in local government (Keefer et al., 2003: 11).

⁸ The deputy *nazim*.

Another aspect of representation in the Devolution Plan was the creation of Citizen Community Boards (CCBs) in both rural and urban areas. Village and neighbourhood councils were also part of the plan, along with a district ombudsman who “was to give the public an independent mechanism for addressing complaints against local government officials” (ICG, 2004: 8). The CCBs were expected to initiate and manage their own development projects, with 25 per cent of the district development funds set aside for their use. They were also supposed to generate funds for small local projects. All CCBs were “voluntary organizations, formed by citizens of their own volition” (Peterson, 2002: 5). Election to Monitoring Committees (MCs) was also part of the representation provided to citizens at the local level. These committees, elected by each level of local government, were “to prepare and submit Quarterly Monitoring Reports to the respective councils. The quarterly reports should describe the activities and accomplishments of the MC during the quarter, as well as issues that require intervention of the council” (Nayyar-Stone et al., 2006: 42).

2.4.2 Administrative structure

After devolution, three major administrative changes took place: the elected government and the local-level provincial administration were integrated at both the district and tehsil levels by making the local tier of the provincial bureaucracy accountable to elected officials – specifically, the district *nazim*. The division – a colonial-era territorially defined administrative unit – was removed entirely. Finally, the majority of the public services that were within the purview of the provincial government (schooling, basic health, etc.) were shifted to the local governments. In another major change from past arrangements, the administration of rural and urban areas was merged. Apart from four City Districts,⁹ all union, tehsil and district councils represented both their territory’s rural and its urban areas. This meant that “the relatively economically prosperous urban areas will now have to share the benefits of their incomes with their rural and peri-urban hinterlands” (Cheema et al., 2005: 31–32).

At the level of the government’s departments, almost all provincial line departments were devolved to the district level, with the exceptions of the Departments of Police, Higher Education, and Irrigation and Power. Each district department was placed under an Executive District Officer (EDO), assisted by a deputy (DDO) at the sub-district levels. The head of the district administration before devolution, the Deputy Commissioner (DC), reported to the higher provincial bureaucracy. This post was replaced with that of the District Coordination Officer (DCO), who reported to the district *nazim*. This was a significant departure from the earlier systems of government in place in Pakistan, not only privileging an elected official over a member of the bureaucracy as the head of the district government, but also removing the Deputy Commissioner’s roles as district magistrate and district collector¹⁰ from the new post of the DCO. The fundamental change in the lines of accountability provoked strong resistance

⁹ The four provincial capitals.

¹⁰ Mainly concerning land-related revenues.

from within the bureaucracy, while the abolition of two of the three functions of the DC¹¹ created a considerable “vacuum at the local level”.¹²

In all provinces except Balochistan, the authority to appoint, promote, transfer or discipline non-officer staff in the newly devolved departments was officially transferred to the DCOs and EDOs in the districts. Under the Devolution Plan, however, staff in the district remained provincial government employees and therefore, “despite these formal changes the *nazim* has limited administrative control over the local bureaucracy. The officers in the local government – the DCOs, EDOs, and junior officers – continue to be formally posted and managed by the province, and this administrative control permeates downwards to the frontline service providers” (Hasnain, 2008: 6). Initially, the NRB’s draft Local Government Plan envisaged some more substantial powers for *nazims*, such as the ability to appoint and remove the DCO, the district’s most senior civil service officer. In the final plan, however, these were not upheld.

Under the district civil administration¹³ was the Tehsil Municipal Administration (TMA),¹⁴ which reported – through a Tehsil Municipal Officer – to the tehsil *nazim*. The TMAs had three major functions: delivering infrastructure and services, conducting physical planning operations, and dealing with municipal regulations. The district administrations remained responsible for all other devolved functions. It must be noted that the extent of devolution varied from one department to another, and the Local Government Ordinance permitted this. While some departments, as pointed out above, were kept entirely within the realm of the provincial government, certain services from other departments – usually “judged to be those with greater economies of scale” – were still retained by the provinces (Cheema et al., 2005: 18).

There were some notable exceptions to the territories governed by the Devolution Plan of 2000. Forty-one cantonments in large towns and cities – populated largely by civilians – were excluded from the plan. These remained under the control of military station commanders. The Federally Administered Tribal Areas (FATA) and the Islamabad Capital Territory (ICT) were also excluded.

2.4.3 Fiscal decentralization

Pakistan’s fiscal system is highly centralized. The federal government raises approximately 90 per cent of all tax revenues in the country. Provincial governments are financially dependent on federal transfers through the National Finance Commission Awards, which form about 80 per cent of provincial revenue on average. The new tier of local governments fits neatly into this system. The Devolution Plan provided that the bulk of their revenue was to come from provincial transfers, allocated on the basis of a particular formula, and they were also authorized to generate revenue by the decentralization of specific taxation powers. The same Plan remained

¹¹ The DCO retained the “general administration-cum-coordination” function, thereby becoming the chief bureaucrat at the district level, with budgetary powers.

¹² Interview, Reza Ali, Development Consultant, Lahore, 1 December 2009.

¹³ Formally referred to as the District Government.

¹⁴ For a visual representation of these structures, see Figure 2, above.

vague on the exact mechanisms of fiscal decentralization, but did grant the district and tehsil councils the legislative authority to levy particular taxes. The establishment of a rule-based Provincial Finance Commission (PFC) for transfers to local governments was specified.

The PFC awards divided provincial resources – federal transfers, provincial taxes, and certain non-tax revenues – into amounts retained by the province and accounts that could be allocated. The allocable amounts were transferred to the local governments. Each province had a different formula determining the manner in which these funds were to be allocated for districts. In Punjab, “while the horizontal distribution of these funds across local governments is formula-based (based on population and an index for backwardness), the vertical distribution that determines the retained and allocable amounts is largely at the discretion of the province” (Hasnain, 2008: 5). The allocable amount is in theory at the discretion of the local governments and is non-lapsing. However, most of these resources are spent on ‘establishment costs’. This refers to the personnel costs of the district bureaucracy, whose wages are fixed by the federal government. The allocable amount is transferred to the local government under two separate grants: one for these recurrent expenditures (88 per cent of the allocable amount), and the remainder for development expenditures (assigned on the basis of population and underdevelopment). However, in all provinces, additional transfers are made to local governments from the amount the provinces have retained for themselves, as well as certain grants outside the framework of the PFC. These refer to the grants that are conditional on the implementation of provincial – and sometimes federal – vertical programmes for education and health.

While the PFC awards ensured financing for operations at the local level, they did not contribute to meaningful fiscal decentralization. The decentralization aspect of the Devolution Plan was fulfilled by giving local governments the authority to determine and implement development budgets and projects. The *nazim* was given the power to propose the size of the budget and the budget allocations, as a result of which “the district council must consider the budget proposed by the district nazim” (Keefer et al., 2003: 12). Through this localized planning and budgeting, local governments were responsible for ensuring that development expenditures were sustainable and well-targeted. This was especially important at the level of the TMAs, which levied and collected their own taxes and fees. These were not passed on to the provincial government, allowing the TMAs to retain these funds for their recurrent and development expenditures, budgeted and planned by the TMAs and the tehsil councils.

3. Implementation of the Devolution Plan

This section will discuss the realities of the Devolution Plan as it actually unfolded, chalking out the issues that existed in electoral representation, administrative restructuring, and fiscal decentralization.

3.1. Representation at the local level

Elections for the various tiers of the local governments under the Devolution Plan have been held twice since 2000, spread out once between December 2000 and September 2001, and once again in 2005. With some exceptions, the first elections “were perceived as fair and impartial. The participation rate overall was 52.5 per cent, ranging from a low of 33 per cent in Balochistan to 59 per cent in Punjab” (Keefer et al., 2003: 11). A 48 per cent turnout was seen in the 2005 local government elections, compared with 42 per cent for National Assembly elections. The trend seen here – greater turnout for local government elections than for National Assembly ones – held true for all provinces. Most importantly, levels of contestation have been high in all provinces except Balochistan. Very few candidates have stood unopposed, and where this has happened, such as in Balochistan, it has been under the influence of tribal systems, “with the aim of ensuring adequate representation of most of the sub-tribes and clans that were politically important in the district” (Hasnain, 2008: 7). But even in Balochistan, local hierarchies may have been disturbed by electoral processes leading to the establishment of local bodies. Forty per cent of union council seats in the province were unopposed in the local elections of 2000/01, but this proportion had fallen to 17 per cent in the elections of 2005. All of these indicators augur well for the acceptability and validity of the local government electoral system.

3.1.1 Gender aspects

In spite of the fact that the whole initiative bore just the semblance of a political process, it was generally perceived as a successful experiment in promoting women’s political participation. The highest turnout of female voters in local government elections, since the promulgation of the 2001 Local Government Ordinance, was registered during the first round of local government

councils' elections. Effects of that upheaval concerning women's representation and participation at the local level were subsequently felt at the federal level as well. Many female representatives were in fact elected to the National Assembly above and beyond their constitutionally reserved quota of seats.

However, despite the increased turnout, difficulties were noted in meeting the requirements of the reserved seats at the local government level. "Legislation passed in 2000 reserved 33% of elected seats for women in District, Union, Tehsil and Town Councils" (CESSD, 2006: 7). However, only 17 per cent of the new union councillors' seats went to women. In practice, many women who were elected to these seats in rural areas did not participate in local council meetings. Husbands, fathers or brothers were involved in negotiations instead. Local political leaders, though initially encouraging of women's increased presence in politics, resorted to "justifying men's representation of women's seats in the name of cultural and family values" (Malik, 2009: 999). This practice was completely illegal, but was not quashed by the state or by local representatives.

A Legal Framework Order (LFO) promulgated in October 2002 amended various articles of the Constitution in order to raise the percentage of seats reserved for women within the Senate, the National Assembly and the provincial assemblies. In the case of the Senate, until 2002 no seats were reserved for women. After the LFO, the percentage of reserved seats in the three legislative bodies was increased to approximately 17 per cent.¹⁵

Table 1: Legislative position regarding women's representation				
Provinces	Seats reserved for women in the senate (upper house) total strength (100)	Seats reserved for women in the national assembly (lower house) total strength (342)	Provincial Assemblies	
			Total strength	Seats reserved for women
Punjab	4	35	371	66
Sindh	4	14	168	29
Balochistan	4	3	65	11
NWFP	4	8	124	22
FATA	0	0	NA	0
Federal	1	0	NA	0
Total	17	60	728	128

Source: Legal Framework Order, 2002.

¹⁵ For more details on the numbers and proportion of women as mandated in the Legal Framework Order, see Table 1.

The traditional political establishment, however, seems to have rapidly perceived as a potential threat this gender-oriented electoral revolution at the local government level, and by the second round of elections, in 2005, some effective measures had already been introduced that immediately limited the representation of women in local government bodies. For instance, the total number of directly elected councillors at the union level was reduced from 21 in 2001 to 13 in 2005. The reduction was justified by the need to contain the costs involved in building the capacity of the large number of union councillors throughout the country, but eventually it also resulted in a reduction in the number of women taking an active political role at the local level.

Furthermore, the reservation of women's seats at the local level did not appear to have the desired impact on women's participation in the electoral process either. The 2005 local bodies elections, which were the second elections held under the Local Government Ordinance (LGO) 2001, were the first for which the Election Commission of Pakistan issued gender-disaggregated data on voters (see Table 2). According to this data, female turnout averaged 35.9 per cent, as against male turnout of 56.8 per cent. The data also shows a significant difference between female voter turnout in Punjab and in the other provinces. While cultural norms which dictate the seclusion of women may have been factors in low female voter turnout in NWFP and Balochistan, the low turnout in Sindh was against expectations, given the relatively high female political awareness in the province.¹⁶

¹⁶ See Farida Shaheed, *Imagined Citizenship: Women, State and Politics in Pakistan*, Shirkatgah Women's Resource Centre, 2002, p. 140, for a discussion on province-specific perceptions of women's participation in politics.

Table 2: Gender-disaggregated voter turnout (2005)

<i>Region</i>	<i>Turnout (percentage)</i>		
	<i>Male</i>	<i>Female</i>	<i>Total</i>
Punjab	61.48	43.96	53.45
Sindh	47.60	24.31	37.58
NWFP	57.42	21.07	41.22
Balochistan	39.27	21.45	31.06
Overall	56.83	35.86	47.38

Source: Election Commission of Pakistan, quoted in Farrah Pervaiz Saleh , “Locating Women’s Engagement in Democratization, Representation and Government Structure of Pakistan”, in Bennett, 2007.

3.1.2 A series of problems

The structure of the system of representation created a number of other problems. Direct election by a particular constituency incentivized union *nazims*’ focus on union-specific development schemes. This meant that “union *nazimeen* and *naib-nazimeen* [did not] pay adequate attention to their other important role as district and tehsil council members” (ADB et al., 2004: 6). As a result, holistic development schemes, applicable to the entire district or even the tehsil, were rare, and fragmentary development projects proliferated. The structure of the electoral system also led to a form of reverse-campaigning – instead of the union councillors, who were directly elected by their constituents, campaigning for election, there were examples of district *nazims* campaigning on behalf of particular union councillors. Given the system of indirect elections at the upper tiers of local government, the *nazim* could “secure his own future re-election from a pliant electoral college” if the union councillor of his choice was elected (Hasnain, 2008: 8).

This was linked to a number of other problems that the non-party local government system raised. In the absence of clear party affiliations, “traditional patron-client or factional politics based on *biraderis* (patrilineal networks) were the main basis for political mobilization” (Hasnain, 2008: 7). Since political parties had been bypassed and caste-based candidates were now pitted against each other, “the elections reinforced traditional hostilities at the local level” (ICG, 2004: 12). To a large extent, such a system of patronage and hostility defeated the opportunities people in rural areas might have had to participate in decision-making and to demand better services from the state. Manifestations of such patronage structures were *nazims*’ unfailing presence on ceremonial occasions and their active participation in the budget-making process. While their responsibility as head of the local administration involved a much larger set of official functions, they often tended to concentrate their attention on those two because of the

more immediate (and informal) benefits that they guaranteed. A *nazim*'s "involvement in ceremonial occasions [in fact] brings free publicity and helps to maintain his honour, and his involvement in putting together the budget proposal and implementation through development projects helps him to allocate resources to the areas where his political clientele is located" (Malik, 2009: 1002).

This system of patronage did not exist only at the local level; the granting of public funds and other state resources to newly elected district *nazims* prior to the April 2002 presidential referendum allowed these *nazims* to stage pro-Musharraf rallies and support the Pakistan Muslim League (Q)'s candidates. This was a classic demonstration of how a class of "collaborative politicians", created through a system of local government, could act as a support base for an unrepresentative regime. The promulgation of laws such as the 2000 Local Government Elections Order was also integral to managing political representation at the local government level in a manner that was acceptable to the military. Local government elections, a responsibility of the provincial government under the 1973 Constitution, were entrusted instead, by the promulgation of this Order, to the Election Commission of Pakistan (ECP), which operated under federal control. On the eve of local elections, the ECP "threatened to disqualify candidates with party affiliations in what was widely seen as a politically motivated move to strengthen military-backed candidates" (ICG, 2004: 11).

Another major problem with the system of representation that was promulgated through the Devolution Plan was the lack of checks and balances between and across elected bodies. The accountability of district *nazims*, for one thing, was almost non-existent. The district council and elected monitoring committees were supposed to be a check on the *nazim* and the district government's activities as a whole, but had very little functional power. Most monitoring committees existed only on paper, and since district *nazims* and *naib-nazims* were elected on a joint ticket, the council – headed by the *naib-nazim* – was usually ill placed to countermand the decisions of the *nazim*.

Perhaps the most important issue facing elected local bodies was the clash of interests with representative provincial governments. The Devolution Plan of 2000 had been formulated without the consultation of a number of stakeholders, most importantly the provinces, and had been pushed through at a time when elected governments at the provincial and national levels had been dissolved. When these assemblies were reconstituted, there was no 'political ownership' of the newly created local tier of elected government. This lack of ownership, combined with blurred lines of responsibility with regard to service delivery under the new government structure, led provincial governments to interfere in both policy-making and implementation at the district level. This problem was especially acute when opposing factions commanded the district and provincial governments.

Although election to the local bodies was conducted on a non-party basis, many of the members elected did have prior political affiliations, and if these affiliations conflicted with the party loyalties of the Members of the Provincial Assemblies (MPAs) of that district, major provincial interference in the local bodies' affairs was sure to follow. Many of these provincial intrusions have led to the construction of parallel and wasteful development schemes at the district level. In November 2002, for example, the PML-Q central government allocated special funds to provincial and national legislators to undertake development projects in their respective constituencies, a practice that has been continued by subsequent governments. Measures such as this, reduced accountability for social service delivery in the eyes of the public, creating confusion as to which level of government was eventually responsible for the actual implementation of such projects. The funding and execution of parallel provincial projects also undermined the power of the local governments as the primary decision-makers in their districts, tehsils or union councils.

Representation in the local government system also included provisions for certain other elected bodies such as the CCBs and the monitoring committees. While the monitoring committees existed almost entirely on paper only, the CCBs became functional to a certain degree, though not quite in the way envisioned in the Devolution Plan. Usually, "CCBs have become splinter groups lobbying for small investment projects and often captured by local elites or contractors looking for project funding. As far as local governments' perception of CCBs goes, the boards are often viewed as antagonists of local government – or an opposition in waiting – rather than as productive partners in development" (Nayyar-Stone et al., 2006: 49). An extensive UNDP programme to familiarize the public with the role of community-based organizations is currently under way, as will be described in a later section of this report.

3.2. Uneven administrative devolution

The Devolution Plan's most ambitious reforms were in the realm of administration. With sweeping measures such as the abolition of the divisional tier of provincial administration and with it the post of the Deputy Commissioner, and the transfer of the bulk of social service delivery functions to district governments, it was almost inevitable that problems in the shift of administrative powers would arise.

The most basic problem in administrative devolution was the 'go-slow' approach. While almost all provincial line departments were eventually devolved and new ones created at the district level, in some districts this took over a year. This delay was in large part due to the difficulty of dealing with a large and well-entrenched bureaucracy, unaccustomed to change. Moreover, there was a perceived need on the part of the provinces to maintain their importance by retaining control of certain services. As a result, although the LGO was uniform for all provinces, many departments were devolved in different ways and to different extents. "Pockets of retained provincial control" were constantly in evidence (ADB et al., 2004: 10). The Health Department, for example, was devolved, but major teaching hospitals and attached medical colleges remained

with the provincial government. In Sindh and Punjab, this tendency was less pronounced but still discernible.

The second major feature of the administrative structure under devolution was the fact that – despite the fact that devolution privileged the elected head of the district government over the head of the district administration – substantial authority remained concentrated in the hands of centrally appointed bureaucrats. The DCO, created through devolution, lacked many of the legal powers of his predecessor, the Deputy Commissioner, but retained important responsibilities. These included the authority to prepare the first draft of the district budget and maintain control over all staff in the district. The zila (or district) *nazim*, officially at the top of the district administrative structure, was not in a position to counteract the decisions of the DCO. There is in fact no provision in the LGO that ensures the compliance of members of the district administration with local government directives, while Section 20 of the LGO makes *nazims* responsible for financial losses and unlawful expenditures – a tough task when budget drafting is in the purview of the DCO. The *nazim* could request the transfer of the DCO and initiate a performance evaluation, but the transfer would be valid only if the provincial government concurred and the *nazim*'s performance evaluation would be accepted only if countersigned by the chief secretary and chief minister of the provincial government.

Ten to twelve EDOs, responsible for sectors such as education and health, reported to both the DCO and the *nazim*. Here, too, the *nazim* could only request that the provincial government transfer these officials. Provincial governments retained the authority to appoint them. Outside of these bureaucratic structures, the *nazim* had very little choice. He was prohibited from employing “advisers, special assistants or political secretaries other than support staff allocated to his office from amongst the officials available in the district”.¹⁷ For proper devolution, with the district administration officer subordinate to the elected official, *nazims* needed more than public backing: “[T]hey needed reliable sources of revenue and the ability often absent at the district level not only to hire and fire staff but even to make regular, actionable evaluations of the performance of administrative staff and service providers” (ADB et al., 2004: 3).

What this meant, in effect, was that “the transfer of functions and the physical relocation of staff were not fully matched by the transfer of the employer role” of the provincial government to the district level (ADB et al., 2004: 6). Most district officials did not consider themselves district employees and were likely to capitulate to politically motivated provincial demands for staff transfers and other concessions. This discordant situation was further aggravated in cases where the province and the district were not politically aligned. The competing agendas of provincial governments and local bodies, discussed above, were manifest here as well. Both parties were keen to influence administrators at the service delivery level, and the EDO of a devolved department would frequently be faced with the dilemma of whether to follow provincial dictates or local directives.

¹⁷ *The SBNP Local Government Ordinance 2001*, Article 18 (2).

Another shortcoming of the new administrative system was that many powers previously exercised by the Deputy Commissioner were left either vaguely defined or completely unspecified under the LGO. This led to a number of problems. For example, “while the tehsil administration enjoyed quasi-judicial powers such as imposing fines, its officials found it nearly impossible to enforce their writ without the enforcement powers previously exercised by executive magistrates backed by the police” (ICG, 2004: 15).

Confusion regarding the role of the provinces in service delivery also reigned supreme. The key feature of administrative devolution was the assignment of some of the most important functions of the provinces – such as health, education and infrastructure – to local governments. This was not matched by a removal from the province of policy-making authority regarding the provision of such services. So far, there have been no ordinances that clearly specify the responsibilities of the province, and nor has the NRB produced any delineation of these responsibilities. This has resulted in a “great deal of ambiguity regarding the dividing line between provincial and local authority and potentially overlapping or conflicting service functions” (Peterson, 2002: 2). For example, the Water and Sanitation Agencies (WASAs) of large cities were to be devolved to the TMAs under the LGO. For the purpose of service delivery, this has been done – but the WASAs have remained administratively under the control of the provincial governments, with their own budget, separate from the budget of the district government or the TMA. It is unclear, therefore, who the WASAs are actually accountable to.

This confusion in the role of provinces, coupled with the provincial governments’ antagonism towards the local bodies in many cases, led to the proliferation of provincially funded vertical programmes – usually for health and education – that overlapped with district projects. Local governments were legally responsible for managing vertical programmes, but in practice this did not always happen. The structure of electoral representation in the local government system, when paired with elected bodies at the provincial level, created incentives for wasteful parallel development schemes. The lack of clarity on the role of the provinces in the LGO has had the same effect, perhaps on a larger scale.

3.3. Lack of fiscal decentralization

Perhaps the weakest part of the Devolution Plan, in both conception and implementation, was its weak commitment to fiscal decentralization. Local government finances stemmed predominantly from transfers from the provincial governments, making them wholly dependent on the timely release and adequate allocation of these funds.

A rule-based transfer system was established for PFC awards from the Provincial Allocable Account, as discussed earlier. However, well-defined rules for the division and disbursement of the Provincial Consolidated Fund between the province and the local governments were not outlined, even though this was a requirement of the LGO. The basic problem with this system was not the rules that existed to monitor allocations, but rather the fact that nearly all the resources at the disposal of the local governments originated from the provinces. The conditions

attached to the allocations made to the local governments were decided by the PFC and the provincial governor. The locally elected officials who were the recipients of this allocation had no representation on the PFC. This is worrying, as there were “significant and inexplicable differences in the PFC recommendations among Sindh, NWFP and Balochistan, illustrating the discretionary powers of the PFC” (Keefer et al., 2003: 12).

The fact that resources were not self-generated but provided in the form of transfers meant that there were major limitations on district governments’ use of those transfers. Funds were transferred into different accounts. The bulk went to Account I, which was for expenditure on salaries and could not be used for any other purposes. This was consistent with the inability of district governments to hire or fire staff. Non-salary expenditures came out of Account IV, which amounted to only a small percentage of Account I.

The conditional nature of the transfer was not the only problem. “The local government financing system, specifically the combination of recent Provincial Finance Commission (PFC) awards and vertical programmes, did not induce improvements in the efficiency of budget allocations.” Under the rules of the PFC allocation, the most resources were transferred to the district with the largest staff establishments. Within these districts, there was no incentive to lobby for the reduction of salaried staff and for the ability to use the funds for development projects, because the wage allocation for members of the district administration was not within the purview of the district government. This left almost no room for local input in resource allocation. The funds that were not fixed because of “inherited establishment structures” were either tied to vertical programmes or fell entirely outside the control of the district government (ADB, 2005: 25).

Local input was also negatively affected by the fact that information about the provincial allocation and the scale and scope of vertical programmes was communicated to district governments very late. In the absence of any certainty regarding revenue and responsibilities, local governments resigned themselves to waiting for provincial authorities to “ earmark transfers to programmes they designate, negotiate the amounts of other transfers, impose arbitrary deductions from the divisible pool of funds and, over the medium-term, perform poorly in delivering funds to the districts on schedule” (ADB et al., 2004: 7). As a result, there was very little incentive for district governments to conduct meaningful revenue projections and plan their budgets on a long-term basis.

The only significant measure that could be taken as a step towards fiscal decentralization – mobilizing the districts’ own revenue sources – was not a focus of the implementation of the Devolution Plan. Districts had a limited tax base, and faced a number of hurdles in collecting the taxes that were assigned to them. Under the LGO, the districts and specifically the TMAs had a number of taxation options open to them, but exercising them proved to be very difficult. In order to levy a tax, district officials needed to go through the provincial Department of Local Government and Rural Development. The rationale was that the department had to determine

whether or not such a tax was permitted under the LGO. However, it appeared that “the process is more often a vetoing than a vetting exercise” (Nayyar-Stone et al., 2006: 32).

3.4. Clashes with the provincial governments

Local government reforms went into effect at a time when the country did not have a sitting Parliament or provincial assemblies. Further, as in the case of previous decentralization efforts, these governments were put into place by a military government perceived to be strongly hostile to at least the mainstream political parties. This, and the fact that the powers of the provincial assemblies were perceived to have been curtailed by the enactment of the LGO, led to a situation where there was poor ownership of the local government system among elected officials as well as administrators at the provincial level.

This situation was exacerbated in some areas after the national and provincial elections of 2002. In NWFP, for instance, all 24 *nazims*, most of whom belonged to centrist parties, resigned in protest at the right-wing provincial government’s excessive interference in local government affairs, and the federal government had to intervene to solve the issue. Something similar happened in Karachi, where the local government office-holders were affiliated with the Jamaat I Islami, while the provincial government included sizeable representation from the Muttahida Qaumi Movement, a party largely based in urban Sindh, which has had a history of confrontation with the Jamaat. In Balochistan, *nazims* ended up petitioning the courts to demand that interference by provincial government officials in local government affairs be curtailed.

4. Grassroots-level institutions

The Devolution Plan of 2001, like other decentralization efforts that went before it, was focused on creating new institutions that would replicate traditional decision-making structures, but would work through a more formal, transparent process, with documented processes, rules and regulations.

4.1. Dispute resolution mechanisms

Among the obvious examples of this effort were the dispute resolution mechanisms that the LGO envisaged. The dominant form of alternative dispute resolution in Pakistan is the *jirga* system, traditionally used by tribal societies throughout the country (and not just in the Frontier regions and Balochistan, as commonly perceived). The *jirga*, or council of elders, may be called upon to mediate any form of dispute, and generally operates by holding one or more open hearings where the accused and aggrieved parties are called upon to state their case and present any evidence they may have to support their respective contentions. The parties to the conflict may represent themselves before the *jirga*, or appoint a mediator to speak on their behalf. The *jirga* has complete freedom to hand out any sentence that it thinks is appropriate, including in some areas, capital punishment and punishments prescribed by the Shariat, as interpreted by the *jirga*. The *jirga* is often perceived to be an efficient conflict resolution mechanism, providing swift justice. However, women, the poor and minorities traditionally have no representation in the *jirga*, and in some parts of the country, where the structure of society is hierarchical, the *jirga* is very likely to be subject to elite capture.

The conflict resolution mechanisms envisaged under the LGO were as follows:

4.1.1 Provincial Local Government Commission (LGC)

Constitution: The Commission was to be constituted by the provincial government and chaired by the provincial Minister for Local Government, and was ultimately responsible to the Chief Executive of the province. In addition to the Chairman, the Commission was supposed to have five members – two members of civil society, one each nominated by the Leader of the House and the Leader of the Opposition in the provincial assembly; two technocrats nominated by the

government; and the Secretary of the Local Government Department, who also acted as the Secretary to the Commission.

Functions: The LGC was supposed to carry out, at the minimum, an annual review of the function of local governments, but was empowered to undertake special reviews if necessary. It was also empowered to conduct an enquiry on any issue related to local governments, and it could order special audits, or act as a mediator in inter-government disputes, both between local governments, and between local and provincial governments. The LGC was empowered to take cognizance of any violation of the law by local governments, and its decisions on any instances of violation were binding on the local governments. The LGO also stipulated in Section 132 that the LGC could organize consultative meetings between national and provincial legislators and elected representatives of local governments, to discuss the Annual Development Plans, the utilization of the national and provincial legislators' development grants, and for a general review of development schemes in the district.

Suspension of the nazim: If the LGC felt that the *nazim*, at any tier of local government, was likely to hinder any inquiry into the affairs of the local government, it could recommend the suspension of the *nazim* for a period of 90 days. If a *nazim* was found guilty of misconduct, it could recommend appropriate action (including possible removal from office) against him.

The LGCs in all provinces received technical support from the United Nations Development Programme (UNDP) in the early years of its formation, particularly with regard to the drafting of their Rules of Business. In spite of this promising start, they had little to show in terms of performance of core functions. In the absence of fully functional local governments, the LGCs' oversight function has been rendered largely ineffective.

4.1.2 Zila Mohtasib

Selection: Section 134 of the LGO described the functions of the Zila Mohtasib, an executive position, appointments to which were made by a selection panel constituted by the provincial government. The panel consisted of a judge of the High Court, the provincial ombudsman and a member of the Public Service Commission.

Functions and powers: The Zila Mohtasib was empowered to investigate any reported instance of maladministration by any local government official, including elected members of local councils and public servants, and had the same powers as are vested in a civil court. The Mohtasib could not, however, take up a case which was sub judice. The Mohtasib's decision on any case was communicated to the office concerned, which was then required to implement the decision, including the possibility of taking disciplinary action against a government official, or an elected representative under the designated law. The Mohtasib was accorded security of tenure under the LGO, in that he/she could only be removed by the Zila Council if physically or mentally incapacitated. The Mohtasib also had the power to mediate between aggrieved parties to effect

an informal resolution of disputes without resorting to the issuance of legal notices or filing of complaints.

Procedure for filing a complaint with the Zila Mohtasib: Complaints had to be filed in writing by the aggrieved party or his/her legal representative within six months of the problem arising. The Zila Mohtasib was empowered to employ any lawful procedure for investigation, or, if he/she decided that the matter was not worthy of investigation, was required to inform the complainant of the reasons for non-investigation in writing. If the complaint was investigated and a conclusion reached, the Mohtasib sent his/her recommendations for redressal of the complaint to the relevant department, which was required to take action within a specified time frame. In case of non-compliance, the Mohtasib referred the issue to the *Zila nazim*. The office of the Zila Mohtasib, however, remained largely non-functioning across the country.

4.1.3 Zila Mushavirat Committee

Constitution: According to Article 140 of the LGO, the Zila Mushavirat (or district consultation) Committee was to consist of the *Zila nazim* and *naib nazim* and all tehsil and town council *nazims* of the district. The *Zila nazim* was the Chairman of the Committee and the District Coordination Officer (DCO) was its Secretary.

Functions: The Mushavirat Committee was supposed to develop an integrated vision for the development of the district, muster resources for crisis management and resolve intra-district disputes. The Committee was required to meet at least once in three months. As with the case of the Zila Mohtasib, the Zila Mushavirat Committees also remained largely non-functioning, particularly with regard to its envisioned role in intra-district conflicts.

4.1.4 Musalihat Anjumans

Functions: Section 102 of the LGO provided for the establishment of Musalihat Anjumans (or conciliation committees). The Anjumans were required to be constituted in each Union Council and were to consist of three members, one of whom would be the Convener. The members were to be nominated by members of the Insaf (or Justice) Committees, which in turn were elected committees constituted at the district council level. Local government *nazims* were not eligible for nomination to the Anjumans. The Anjumans were empowered to facilitate and mediate any dispute, civil or criminal, at the local level, whether or not it had been registered in a court of law. Courts could also refer disputes to the Musalihat Anjumans for settlement, and could specify a time frame for resolution. However, no legal practitioners were allowed to take part in the proceedings of the Anjumans.

Procedure for settlement: The Anjumans were supposed to operate in an entirely informal setting, and were in fact envisioned as alternative dispute mechanisms that would save aggrieved parties from having to approach the courts for minor disputes. As such, the procedures for settlement were simple. The Convener of the Anjuman could convene meetings when and where he/she

deemed appropriate, and conduct the proceedings in an informal manner with the objective of bringing about an amicable settlement. The proceedings were recorded and copies provided to the concerned parties at the end of the meeting, duly attested by the Secretary of the Union. The Anjuman could charge a fee for its services.

Musalihat Anjumans represent an attempt by the state, through the 2001 LGO, to recognize the existence and social relevance of informal institutions. Their institutionalization, however, has lagged behind. They have remained largely non-functional, mainly because of ambiguities in the relevant section of the LGO, which did not clearly specify the jurisdiction of the Anjumans. In the absence of guidelines on the nature of disputes they could consider for resolution, and the extent of their powers of investigation and enforcement, the Anjumans remained ineffective. In 2005, draft Rules of Business (ROBs) were prepared for the Anjumans in Balochistan, under the aegis of a UNDP-funded project, and these were notified by the government in March 2006 (see Box 2). Nevertheless, these Anjumans remained largely non-functional too.

UNDP interest in these community-based conflict resolution mechanisms was due to its long-term objective of “operationalizing state–citizens interaction” in Pakistan. UNDP was looking for viable “agents of change” and it thought to have found them in the members of the Anjumans. A focus on formal judges was less interesting, as these were “not similarly embedded in the community”.¹⁸

¹⁸ Interview, Programme Officer UNDP, Islamabad, 26 November 2009.

Box 2: Rules of Business for Musalihat Anjumans in Balochistan

Facilitation of women: The panel of Musaliheen (Conciliators) preferably should include at least one woman. Furthermore, in cases where a woman is one of the aggrieved parties to a dispute, the Musalihat negotiations need to take place in the union where she is living.

Procedure for bringing disputes before the Anjuman: The LGO did not specify any procedure for bringing disputes before the Musalihat Anjumans, as these were originally envisaged to function in a completely informal atmosphere. The ROBs encourage aggrieved parties to submit a form detailing the nature of the dispute and the particulars of the aggrieved parties to the Union *nazim*, or a member of the Anjuman. In cases where the aggrieved parties approach the *nazim* or the Anjuman in person and narrate the nature of the dispute verbally, the concerned official is required to record the nature of the dispute and other information on the form.

Procedure for settlement: The Convener of the Musalihat Anjuman is to specify the time, dates and venues of each meeting of the Anjuman in advance and inform all parties. Aggrieved parties can give their submissions verbally under oath, or in writing. The Anjuman is required to issue its recommendations within seven days in case of a criminal matter and three weeks in case of a civil suit and its recommendations are to be implemented by the aggrieved parties within a similar time frame, failing which the Anjuman can refer the matter to the police or to a court of competent jurisdiction. The proceedings of the Anjuman are confidential.

Documentation: The Convener of the Anjuman is to maintain a record of disputes, settlements and a register of meetings, all on prescribed forms. The ROBs also specify a code of ethics and an oath of office for Musaliheen.

4.2. Development institutions

In addition to conflict management, the LGO also made provisions for the establishment of grassroots-level institutions that could lead a small-scale development effort.

4.2.1 Citizen Community Boards

Section 98 of the LGO allowed for the formation of Citizen Community Boards (CCBs), which were to be grassroots-level non-profit institutions formed to facilitate community participation in service delivery. Key characteristics of the CCBs, as envisioned in the LGO, were as follows.

Responsibilities: The CCBs could identify development projects, volunteer for the management of existing projects or maintenance and improving of facilities, or operate as a welfare institution and assist the destitute in a community. The CCBs were eligible for funding from local governments, and 25 per cent of local government funds (at each level of government) were exclusively reserved for these Boards. The CCBs were required, however, to raise 20 per cent of

the needed funds for any project themselves, through contributions, endowments, gifts or other means.

Legal and administrative requirements: Given that the CCBs had the right to make financial claims on the local governments, they had to be legally registered, and were required to meet certain administrative standards. All the CCBs had to be registered with the Executive District Officer (EDO) in charge of Community Development – a process that, according to the provisions of the LGO, only required the submission of a simple form. The CCBs were required to have a general body of members, who were to elect a Chairman, an Executive Committee, and a Secretary. The Executive Committee was required to call a meeting of the general body at least once in three months, and the Secretary had to keep records of the meetings in addition to financial and accounting records.

Project approval mechanisms: The CCBs that wished to apply for funding from the local government were required to prepare a project proposal, including cost estimates. They could, if they wished, solicit assistance from local government officers in the preparation of the proposal. The proposal was then submitted to one of three designated officers at different levels of local government, along with a bank draft for 20 per cent of the project costs. The proposals were ranked by local government officials in accordance with the CCB Guidelines, and if approved, were incorporated in the Annual Development Programme of the concerned local government. On approval, the local government and the CCB signed an agreement for project implementation.

Project implementation and monitoring: As a first step, a bank account was opened specifically for the project and the CCB's contribution was deposited in the account. The CCB then submitted a request for the first agreed instalment of government funding, which, if all documentation was complete, the government was required to release within 30 days. The CCB was required to submit progress reports to the local government based on a predetermined schedule. However, monitoring could be carried out by the CCB, the local government and/or a specially designated monitoring committee. Joint monitoring was encouraged. The CCB was required to submit a final report to the local government upon project completion.

Financial issues: As mentioned earlier, the Secretary of the CCB was required to maintain records of transactions, assets and liabilities of the CCB, and to furnish details of accounts to the local government if required. The accounts of the CCBs were to be audited by the office of the Auditor-General of Pakistan.

4.2.2 UNDP and the Devolution Trust for Community Empowerment

Donors such as UNDP, working through the Devolution Trust for Community Empowerment (DTCE), have worked to support CCBs across Pakistan, helping communities register the Boards, training boards in implementation of projects, and forming CCB networks at the district level to help CCBs articulate their demands and emerge as organized bodies. DTCE estimates that more than 42,000 CCBs have been registered in all four provinces, and almost 70 per cent of them are supported in some way by the Trust. Given that each CCB has on an average 25 members, this would mean that close to one million citizens have been organized into groups using this mechanism. Union Councils were entrusted with the task of setting up at least three CCBs for each Union, with one of them being mixed.¹⁹

DTCE “is a non-governmental organization created in 2003 by the Government of Pakistan through the National Reconstruction Bureau (NRB) to proactively promote the community participation elements of the Local Government Ordinance 2001” (UNDP, 2002: 2). Its declared vision is the empowerment of communities through the active engagement of citizens in self-development activities, and with the support of local governments. The ultimate objective is the creation of a new relationship between the citizens and the state, whereby community development is undertaken on the basis of shared rights and responsibilities. The original plan of action of DTCE was supposed to take place between 2003 and 2008 and it envisioned the activation of citizen participation in all the 6,022 unions that were established in Pakistan after the 2001 Local Government Ordinance, through the creation of CCBs. As already elaborated above, the operations of the CCBs were expected to consist of, among other things, awareness-raising communication campaigns, assessments, capacity-building initiatives for community development projects, and assistance to provincial associations of local *nazims* and councillors.

DTCE has therefore been looking at development mainly through the CCBs. Given their embeddedness within local communities, and the community-oriented nature of their tasks, CCBs were regarded as the natural partners of NGOs and local administrations in the identification, formulation and implementation of development projects based on needs assessments conducted by citizens themselves. By the end of 2009, DTCE declared that “more than 17,000 projects had been undertaken by the established CCBs, with a total investment of about 42 billion rupees”.²⁰ The same source at DTCE also stated that 90 per cent of the CCBs’ projects were perceived as “clean”.

DTCE conducts its capacity-building activities mainly through the support of local civil society organizations (CSOs). At the end of 2009, 110 of them were working with DTCE, adding to the overall objective of creating “social capital at the local level”. At that time, the Trust’s activities

¹⁹ That is, with more than 50 per cent of its members being women.

²⁰ Interview, Azhar Bashir Malik, National Project Manager DTCE, 2 December 2009.

were covering 46 per cent of the national territory, with operations in 38 districts nationwide, 9 of which were in Balochistan.²¹

Although, as already pointed out, CCBs are entitled to a 25 per cent allocation of local governments' development budgets, a fundamental question remains about the capacity of these local governments to incorporate the bottom-up approach typical of the CCBs' project activities into their own development planning at union, tehsil-town and district levels.

In terms of the internal organizational structure, the NRB maintains overall supervision over the Trust by having its chairman occupy the ex officio position of chairman of DTCE's board of directors. Other members of the board include 'distinguished' citizens representing all the country's four provinces. The DTCE operates through interconnected work teams at headquarters and field levels.

4.2.3 Village and Neighbourhood Councils

Constitution: The Tehsil or Town Municipal Administrations (TMAs) could issue notifications to constitute Village (in case of rural areas) or Neighbourhood (in case of urban areas) Councils of five to eleven members, to work with the administration on small-scale development projects. One seat each in the Councils was to be reserved for women and peasants. Once the relevant notification was issued, the TMAs were bound to conduct elections to the Councils within 90 days.

Functions: The Councils could work to develop and improve water supply sources, make arrangements for sanitation and solid waste management, mobilize voluntary resources including labour, property and cash contributions, facilitate the formation of cooperatives for improving economic returns and reduction of poverty, and implement measures for consumer protection. The Councils could also identify the disabled and the destitute or extremely poor people in a community and furnish their particulars to the local government for purposes of charity disbursement or other means of assistance. The Councils were also supposed to mobilize the community for maintenance of public streets, playgrounds, parks, and de-silting of canals and watercourses. In addition, they could work to promote planting, landscaping and beautification of the village and neighbourhood.

In a more formal role, the village and neighbourhood councils could also assist the local government in conducting surveys and collecting socio-economic data, identifying encroachments, selecting landfill sites, managing burial places and collecting land revenue and other taxes.

According to a DTCE official, at the end of 2009 there were about 1,000 active village and neighbourhood councils in 19 out of Pakistan's 117 districts, and it was the Trust's intention to expand this component within its operational mandate.²²

²¹ Interview, Azhar Bashir Malik, National Project Manager DTCE, 2 December 2009.

4.2.4 Other committees

Monitoring: Monitoring Committees were bodies elected by the different tiers of local government to monitor the functioning of the government and to prepare periodic reports on the same. The reports of the Committees were supposed to cover the government's progress towards achievement of targets, its responsiveness to citizens' difficulties, and the efficiency and transparency of its operations. If the Monitoring Committees identified instances of corruption and reported the same to the *nazim*, he/she was supposed to take action on the report and inform the Committee within 30 days.

Ethics: The LGO also provided for the establishment of ethics or code of conduct committees in each Council, to be appointed by the Council as it deemed fit. The Committees were supposed to oversee the functioning of the *nazims* and *naib nazims* and to pinpoint instances of dishonest dealing, inefficiency or corruption. The Councils could initiate disqualification proceedings against any of its members in response to a report of the Ethics Committee.

The Monitoring and Ethics Committees were supposed to act as accountability mechanisms and checks on the local government, and could be approached by members of the public who wished to record their reservations on the working of any specific Council member. However, the functions of the Committees as spelled out in the LGO were fairly vague, and, in case of the Ethics Committee in particular, it could be used as a means of harassment of members. The committees were not generally functional in any province.

In addition to the mechanisms described above, the LGO also stipulated that all local governments were to establish a complaint unit for the redress of grievances of common citizens, and to get feedback from the public on their functioning.

Other than the CCBs and to a certain extent the village and neighbourhood councils, none of the grassroots based institutions envisaged in the LGO actually took root. They did not, therefore, succeed in replacing traditional institutions for arbitration, which are largely patronage-based.

²² Interview, Azhar Bashir Malik, National Project Manager DTCE, 2 December 2009.

Conclusions

Despite all the declarations of intent that accompanied its launching, it is by now quite evident that the 2001 LGO was primarily an exercise in domestic public diplomacy meant to strengthen the legitimacy of a military regime that had seized power through a coup, and at the same time it was a cunning strategy to marginalize party politics, especially at the provincial level. Eventually, as it clearly emerged in the more restive provinces, the initiative turned out to be ideal for tightening military actors' grip on local power, and ultimately for obtaining exactly the opposite of what had been its originally declared aspiration. That is – mainly through the sidelining of provincial authorities, the firm restrictions applied to party politics at the local level, and the maintenance of a considerable level of decision-making and executive power with the civil bureaucracy – the devolution process ended up strengthening the ties between central and local government, instead of creating more decision-making autonomy at the local level.

Moreover, the whole 2001 LGO is characterized by a long series of conceptual and operational blunders. Just to mention a few, the devolution of power, as elaborated in the previous sections of the paper, was not accompanied by clear lines of fiscal decentralization. On the contrary, the question of who had the power to control financial disbursements and accountability lines for the same was often a matter for dispute – with all the obvious consequences. At the same time, this lack of operational clarity and of capacity-building activities among the elected members and the officials of the local governments, often created situations where financial resources were accumulated and lay idle in the saving accounts of those local governments, because those in charge of disbursing them were not familiar with the procedures and with the accountability lines.

The creation of a new layer of elected representatives, besides, seems to have further embittered the struggle for power and visibility among politicians. The *nazims* not only had to defend their turf from the interference of the appointed officials, but they also had to compete with members of the provincial assemblies and even of the National Assembly in their quest for legitimacy and recognition for their delivery of services in their own constituencies. And with the political

parties' operational centres situated at the provincial level,²³ it was inevitable that the Chief Minister and his/her associates would jockey for influence at the local level, at the expense of those *nazims* who were not willing to abide by the party lines and support the related clientelistic networks. More generally, for the Chief Minister the political figure of the *nazim* represented one layer too many in the governance system. As for the bureaucracy, it occasionally developed perverse strategies for adapting to the devolution process. For instance, several cases were reported of civil servants, motivated by the aim of staying close to the financial flows, "going through the election system in order to become *nazims*".²⁴

The devolution process more or less completely missed the opportunity to integrate traditional structures of local governance. Some timid attempts were made, as for instance through the establishment of Musalihat Anjumans (conciliation committees), but these hybrid institutions never really got off the ground. Ambiguities in their jurisdictional boundaries severely limited their proper functioning so that so far they have remained mainly confined to the conceptual stage.

What is also distressing to note is the fact that while the first round of elections that accompanied the introduction of the LGO showed a sizeable increase in the level of participation, in terms of both candidates and electorate, compared with the average figures for previous national and provincial elections, this positive effect on participatory democracy was short-lived. As the rules of the game were adjusted along the way, in order to accommodate the usual power-brokers and, to a certain extent, protect male dominance over political institutions, people's initial fascination with the new process faded and with it their interest in taking part in an electoral context.

The LGO fell also victim to the chronic distrust and enmity characterizing the relations between central government and the provinces. Balochistan, for instance, with its strong inclination for autonomy had "always been contrary to it, because it was perceived as yet another political initiative imposed by the federal government".²⁵ Other provincial administrations raised similar objections, but mainly to obtain political favours in return,²⁶ or because they were worried about losing political control at the local level.²⁷

The inherent complexity of the Ordinance represented another major stumbling block in the effort to get it widely accepted. As often emphasized in the course of this paper, its often ambiguous directives and the impenetrable language meant that a large-scale effort should have been made to popularize it, before starting its implementation. This fundamental omission profoundly affected the fate of the LGO. Recently, some international actors have started to address this problem. The Canadian International Development Agency (CIDA), for instance,

²³ Where party-based electoral competition was allowed.

²⁴ Interview, Canadian diplomat, Islamabad, 27 November 2009.

²⁵ Interview, Paul Lundberg, Chief of Party DTW, Islamabad, 26 November 2009.

²⁶ For example, the MQM in Sindh.

²⁷ Such as the ANP in the NWFP.

has launched a project that tries through visuals to “explain the basic principles of the devolution process to the local population”,²⁸ and in particular to that considerable part that is illiterate.

Nevertheless, there definitely are aspects of the whole process that deserve recognition: there are clear signs that some degree of devolution, or at least of political participation at the local level and of community organization, has actually taken place. The above-mentioned CCBs are one of these examples that need to be recognized and encouraged, if only because they seem to have escaped from the ‘power cage’ that had originally been conceived as a means of reining in the genuine process of bottom-up organization.

The LGO could have also moved, had its spirit been properly interpreted and implemented, towards political pluralism. It created in fact a new layer of elected representatives – as mentioned above – which constituted an additional element in the usual political struggle taking place at all levels of government. Unfortunately, this new layer was not properly defined and protected by the legislation.

The increased involvement in service delivery of local, often voluntary and community-based, bodies led to many innovations taking place. With locally attuned service delivery, eventually there appeared to be a radical change from a past where the central government had proved incapable of following the growing needs of the peripheral areas. The CCBs are probably the best example of how the delivery of social services at the local level could be greatly improved by the new system. One of their greatest merits was the fact that they offered people the chance to recognize and articulate their own needs.

²⁸ Interview, Canadian diplomat, Islamabad, 27 November 2009.

References

- Anten, L. (2009). *Strengthening Governance in Post-Conflict Fragile States: Issues paper*. Netherlands Institute of International Relations 'Clingendael', Conflict Research Unit, The Hague, The Netherlands.
- Asian Development Bank, Department for International Development, World Bank (2004). *Devolution in Pakistan: Overview of the ADB/DfID/World Bank Study*.
- Asian Development Bank (2005). *Improving Devolved Social Service Delivery in NWFP and Punjab*.
- Bennett, J. (ed.) (2007). *Scratching the Surface: Democracy, Traditions, Gender*. Heinrich Boll Foundation.
- CESSD (2006). *Report on Gender Equality Achievements (2003–2006)*.
- Cheema, A., A. I. Khwaja and A. Qadir (2005). "Decentralization in Pakistan: Context, Content and Causes", *Faculty Research Working Papers Series*, Harvard University, MA.
- Hasnain, Z. (2008). "Devolution, Accountability and Service Delivery: Some Insights From Pakistan", *Policy Research Working Paper 4610*. World Bank, Washington, D.C.
- Hopkins, T.J., A. S. Shaikh and N. Hussain (2006). *Mid-Term Review: Support to Devolution Trust for Community Empowerment (DTCE)*, UNDP PAK/02/009.
- International Crisis Group (2004). "Devolution in Pakistan: Reform or Regression?" *Asia Report*, No. 77. 22 March 2004.
- Jalal, A. (1995). *Democracy and Authoritarianism in Pakistan: A comparative and historical perspective*. Lahore: Sang-e-Meel.

Keefer, P.E., A. Narayan and T. Vishwanath (2003). “Political Economy of Decentralization in Pakistan.” Paper presented at the Decentralisation Conference, organized by the London School of Economics, in London, on 23–25 May 2003.

Malik, N. (2009). “The Modern Face of Traditional Agrarian Rule: Local Government in Pakistan”, *Development in Practice*, Volume 19, No. 8, pp. 997-1008.

Manor, J. (1999). *The Political Economy of Democratic Decentralization*. World Bank, Washington, D.C.

National Reconstruction Bureau (2001). *The SBNP Local Government Ordinance 2001*.

Nayyar-Stone, R., R. Ebel, S. Ignatova and K. Rashid (2006). *Assessment Report: Pakistan Devolution Support Project*, Report prepared for USAID. The Urban Institute, Washington, D.C.

Parker, A. (1995). “Decentralization: The Way Forward for Rural Development?”, *Policy Research Working Paper 1475*. World Bank, Washington, D.C.

Peterson, G. E. (2002). *Pakistan’s Fiscal Decentralization: Issues and Opportunities*, World Bank, Washington, D.C.

UN Committee on the Elimination of Discrimination Against Women (CEDAW), UN Committee on the Elimination of Discrimination against Women: Combined Initial, Second and Third Periodic Reports of States Parties, Pakistan, 3 August 2005, CEDAW/C/PAK/1-3, available at: <http://www.unhcr.org/refworld/docid/453778260.html> (accessed 20 April 2010).

UNDP (2002). Project Document, PAK/02/009 – Support to Devolution Trust For Community Empowerment (DTCE).

Webster, N. and H. Fredborg Larsen (2006). *Policy Support for Devolution Pakistan*, Final Report. Bangkok: UNDP Regional Centre in Bangkok.