

DEVOLUTION IN PAKISTAN:

REFORM OR REGRESSION?

22 March 2004



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DEVOLUTION IN PAKISTAN: REFORM OR REGRESSION?

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Pakistan's military government launched a campaign for political devolution in 2000 that it said was aimed at transferring administrative and financial power to local governments. The scheme was to strengthen local control and accountability and, according to President Pervez Musharraf, "empower the impoverished". In practice, however, it has undercut established political parties and drained power away from the provinces while doing little to minimise corruption or establish clear accountability at a local level. The reforms, far from enhancing democracy, have strengthened military rule and may actually raise the risks of internal conflict.

Under the Devolution of Power Plan announced in August 2000, local governments were to be elected on a non-party basis in phased voting between December 2000 and July 2001. District and sub-district governments have since been installed in 101 districts, including four cities. Operating under its respective provincial Local Government Ordinance 2001, each has its Nazim and Naib Nazim (mayor and deputy mayor), elected council and administration.

Like previous local government plans, Musharraf's called for re-establishing elected local councils at district and sub-district levels. It promised substantial autonomy for elected local officials and, most notably, placed an elected official as overall head of district administration, management and development, reversing a century-old system that subordinated elected politicians to bureaucrats.

Musharraf's scheme ostensibly aimed at establishing the foundations of genuine local democracy. However, the main rationale for devolution was and remains regime legitimacy and survival. Aside from the widespread allegations of rigging and manipulation that have shadowed them, the non-partisan nature of the local elections has exacerbated

ethnic, caste and tribal divisions and undermined the organisational coherence of political parties.

Devolution, in fact, has proved little more than a cover for further centralised control over the lower levels of government. Despite the rhetoric from Islamabad of empowerment, local governments have only nominal powers. Devolution from the centre directly to the local levels, moreover, negates the normal concept of decentralisation since Pakistan's principal federal units, its four provinces, have been bypassed. The misuse of local government officials during the April 2002 presidential referendum and the October 2002 general elections has left little doubt that these governments were primarily instituted to create a pliant political elite that could help root the military's power in local politics and displace its traditional civilian adversaries.

Friction is growing between various levels of government, especially since the military transferred power, at least formally, to the central and provincial governments that were formed after the 2002 elections. These tensions are partly the result of the manner in which the devolution plan was devised and implemented in the absence of elected officials and against the strong opposition of the major political parties, civil society and media.

Despite its lack of domestic legitimacy, the devolution plan has considerable support from donors, who mistakenly believe it is advancing democracy and building down military rule. For now, the military's backing as well as this external support works in its favour. But low domestic acceptance undermines its long-term prospects, and the military's political engineering that accompanies it is widening divisions at the local and provincial levels. Some of these could well lead to greater domestic violence and instability.

RECOMMENDATIONS

To the Government of Pakistan:

1. Demonstrate a commitment to real political devolution by:
 - (a) placing the Local Government Ordinance (LGO) before each provincial government for review to create the necessary political acceptance of the scheme;
 - (b) holding local government elections on a party basis, with direct polls for district officials; and
 - (c) refraining from imposing political discipline on local officials and misusing them for political ends such as partisan electioneering.
2. Take steps toward decentralisation from federal to provincial levels by:
 - (a) reducing the number of federal ministries involved in and hence capable of exercising control over local government; and
 - (b) allowing the representation and participation of provincial and national assembly legislators in key local government bodies such as the district development advisory committees.
3. Devolve administrative and fiscal powers to local units, in particular by:
 - (a) giving district governments greater control over budgetary resources and increasing allocations for development, especially in poorer districts; and
 - (b) linking provincial population-based fiscal transfers to each district's level of poverty, fiscal and development needs.
4. Improve the delivery of justice in local government through security sector reform, notably by:
 - (a) expediting the formation and operationalisation of district, provincial and national safety commissions and police complaints authorities; and
 - (b) allocating more resources and staff to the district police.

To UNDP, the international financial institutions and key donor governments, including the U.S.:

5. Encourage the Pakistan government strongly to devolve political, administrative and financial responsibilities to the provinces.
6. Re-evaluate and reorder devolution program assistance in order to emphasise sustained help for wider institutional reforms that address the longstanding problems of poverty, economic growth, public sector corruption and inefficiency.
7. Link support for devolution to progress on police reforms and provide budgetary support and other assistance to improve service incentives and conditions and build capacity for investigation and prosecution functions.

Islamabad/Brussels, 22 March 2004

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I. INTRODUCTION

On 14 August 2000, President Musharraf unveiled his government's Local Government Plan, intended to build genuine democratic institutions and empower the people at the grassroots.¹ The main stated objectives are political devolution, administrative decentralisation, and the redistribution of resources to local governments. In his words:

The basic issue is to empower the impoverished and make the people the master of their own destiny. We want to introduce essence of democracy and not sham democracy, which promotes the privileged. Devolution will bring far-reaching consequences and will change [the] fate of the country.²

In reviving local governments,³ Musharraf was following in the footsteps of his predecessors. Successive military rulers have typically instituted lower tiers of government as a substitute for democratisation at the provincial and national levels.

¹ The Local Government Plan was approved in a joint meeting of the National Security Council and the Federal Cabinet on 5 August 2000. Bureau Report, "NSC, Cabinet Approve Devolution Plan", *Dawn*, 6 August 2000.

² M. Ziauddin, "Musharraf Announces Partyless Local Bodies Polls", *Dawn*, 16 August 2000.

³ Pakistan has four provinces: Punjab, Sindh, Baluchistan and the Northwest Frontier Province (NWFP). There are three levels of local government: district, tehsil and union, each with a nazim and naib nazim, elected bodies (zila tehsil and union councils) and administrative structures (district, tehsil/town municipal and union). There are 92 districts, of which 33 are in Punjab, fifteen in Sindh, 21 in Baluchistan, and 23 in NWFP. Each province has one city district. There are 307 tehsils, of which 116 are in Punjab, 86 in Sindh, 71 in Baluchistan, and 34 in NWFP. There are 30 city/towns, of which six are in Punjab, eighteen in Sindh, two in Baluchistan, and four in NWFP. Source: Aazar Ayaz, "Decentralisation in Pakistan: An Approach to Poverty Reduction and Protection of Human Rights", The Researchers, Islamabad, October 2003.

Local governments have mainly been used to: (1) depoliticise governance; (2) create a new political elite to challenge and undermine the political opposition; (3) demonstrate the democratic credentials of a regime to domestic and external audiences; and (4) undermine federalism by circumventing constitutional provisions for provincial political, administrative, and fiscal autonomy.

Like his predecessors, Musharraf quickly seized upon local government. Within a month of his coup, he set up a National Reconstruction Bureau (NRB) under a retired general to develop a scheme for devolution. Drafted with technical assistance from the United Nations Development Programme (UNDP), the "Local Government Plan 2000" (LG Plan 2000) called for reestablishment of elected councils at the sub-district and district levels just like President and Field Marshal Ayub's Basic Democracy and President and General Zia-ul-Haq's local bodies. But unlike previous systems, Musharraf's plan promised to vest extensive political and administrative authority in district and sub-district governments by providing for matching federal and provincial grants to help them fulfil their new responsibilities.

Each level was to have an elected nazim and naib nazim (mayor and deputy mayor), elected councils and administration. For the first time in Pakistan's history, elected officials were to be placed at the apex of district government, with executive powers and responsibilities for law and order to "ensure the supremacy of the political leadership over the administration".⁴

While the ostensible aim of Musharraf's devolution scheme may be the transfer of administrative, political and financial authority to the lower tiers of

⁴ "Local Government (Proposed Plan): Devolution of Power and Responsibility Establishing the Foundations for Genuine Democracy" [hereafter LGP], Government of Pakistan, National Reconstruction Bureau, Islamabad, May 2000, p. 36.

government, the reality is starkly different. Local governments in fact exercise only nominal autonomy with respect to administrative and financial matters in their respective jurisdictions. Sweeping as it looks, the new system's telltale mandate is in the requirement that all local elections must be partyless.⁵

Local governments have proved to be key instruments in the military's manipulation of the Pakistani polity to ensure regime survival. District nazims (mayors) used public funds and other state resources to stage pro-Musharraf rallies during the April 2002 presidential referendum and to support the Pakistan Muslim League (Quaid-i-Azam) (PML-Q)'s parliamentary candidates in the 2002 national polls. Local governments have also had significant utility for the military's divide-and rule tactics. By juxtaposing more than 100 new local governments between it and the provinces, the centre, where the military continues to maintain its grip on the levers of state power, has been strengthened at the cost of Pakistan's four federating units.

If Pakistan's chequered political history is any barometer, the question of devolution cannot be addressed in isolation from the larger issue of provincial autonomy. Devolution of power, authority and resources is central to the viability of any multi-ethnic, multi-regional state. Although the federal principle is enshrined in the 1973 constitution, Pakistan's civil-military ruling elite has been averse to devolving powers to the provincial level. Instead, it has often used the administrative and coercive powers at its disposal to extend the centre's control over the provinces. Since military-inspired devolution is directed to local levels, it enhances tensions between the centre and the provinces. Such schemes undermine the very concept of federalism and increase ethno-regional rifts.

This centralisation of power and authority led to Pakistan's break-up in 1971, when the East wing rebelled against the centre's political control and fiscal exploitation. In present-day Pakistan, ethnic tensions, fuelled by bitter resentment against a Punjabi-dominated military, are rising in the smaller

federal units of Sindh, Baluchistan and the North West Frontier Province (NWFP). In the Punjab itself, Pakistan's largest province, the military has bargained opportunistically along *biradari* (caste, tribal, sub-regional) lines and unleashed equally divisive forces by deliberately suppressing party politics.

This report examines President Musharraf's devolution scheme in relation to its stated political, administrative, financial, and law enforcement objectives and assesses the impact on political stability, federal-provincial relations, and ethno-regional relations.

⁵ There are many circumstances and contexts in which non-partisan local elections operate as an effective part of the democratic process, of course. The criticism of the concept in this report relates to the specific circumstances of today's Pakistan in which the concept has been used to help bypass political parties and thereby strengthen an undemocratic military government.

II. BACKGROUND

A. GENERAL AYUB KHAN'S BASIC DEMOCRACY

While rudimentary forms had existed in parts of British India, the colonial state's need for centralised, authoritarian rule mitigated against the development of any real elected system of local government. Pakistan inherited the British system in which the deputy commissioner (DC) (administrative head of the district) virtually controlled all facets of district government: administration, development, revenue and criminal justice.

Upon assuming power in 1958, Pakistan's first military ruler, General Ayub Khan, opted for an elaborate, though nominally empowered, local bodies scheme. Having suspended the constitution, the regime needed for its survival to create at least a semblance of democratic representation at some level. In 1959, Ayub formally introduced his "Basic Democracy" (BD) plan, declaring that the nation was not yet ready for full democracy. "The scheme of Basic Democracies", he said, "has been evolved after a careful study of the experience of other countries and of the special conditions prevailing in our land".⁶

Under Basic Democracy, the country was divided into 80,000 wards (single member constituencies of 1,000 to 1,200 people each) to elect a "Basic Democrat" on a non-party basis. Local councils were created at the district and sub-district levels of union, tehsil (West Pakistan) and thana (East Pakistan). Roughly half the members of local councils were officially nominated, not directly elected.⁷ While these councils received state funds to perform municipal and civic functions, the district administrative bureaucracy retained virtually total authority over them, including the powers to overrule council decisions and suspend the execution of their orders.

Besides serving on the local councils, Basic Democrats constituted the Electoral College that selected the president. In 1960, Ayub used this new institution to have himself confirmed as president for five years through a referendum that gave him a 95.6

per cent vote. Having abrogated the 1956 constitution, Ayub promulgated a new one in March 1962. Federal in principle, it established a unitary, presidential government.

As president, Ayub arrogated to himself unchallenged executive powers and the authority to dismiss the national and provincial legislatures. Provincial autonomy was circumscribed further through the appointment of governors, answerable to the centre. Basic Democrats were retained as the Electoral College for both the President and members of the National Assembly and provincial legislatures.

In creating these local bodies, Ayub's intent was not to decentralise or democratise authority but to extend centralised control over the federal units through a new grass roots political base. The scheme was remarkably well orchestrated for extending direct patronage to, and manipulation of local power structures. Controlling access to the state's resources, the district bureaucracy was able to penetrate and manipulate local politics by dealing directly with the new elite, bypassing politicians and political parties and thus isolating them from the general electorate. In this way, governance was depoliticised and localised under the control of centrally appointed bureaucrats.⁸

At the end of his presidential tenure in 1965, Ayub sought re-election in a contested poll. While he defeated his principal civilian opponent, Fatima Jinnah, allegations of electoral rigging and manipulation from the opposition further weakened the declining credibility of his local government system.

The denial of provincial autonomy and systematic suppression of political views fuelled domestic dissent and, combined with skewed economic policies that mostly benefited a small industrial elite, exacerbated polarisation along regional, class and ethnic lines. In East Pakistan, resentment over denial of economic and political autonomy by a Punjabi-dominated civil-military establishment galvanised a popular movement for provincial autonomy under Sheikh Mujibur Rehman's Awami League. In the western wing, lack of opportunity for political participation and coercive authoritarian rule bred alienation and frustration among ethno-regional groups, urban intelligentsia, students and labour unions.

⁶ Ayub's Speech of 2 September 1959 on Basic Democracies, cited in Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi, 2001), p. 219.

⁷ The process of nomination was later abandoned.

⁸ See Mohammad Waseem, *Politics and the State in Pakistan* (Islamabad, 1994).

By 1969, violent protests and countrywide strikes crippled Ayub's authority. As it declined, the military high command withdrew its support and handed power to his army chief, General Yahya Khan. One of Yahya's first steps was to scrap "Basic Democracy". Lacking legitimacy and public sanction, Ayub's discredited system did not survive its creator. But Ayub's political engineering, aimed at legitimising the military's control over politics at every level, undermined federalism, exacerbated regional frictions and culminated in civil war and dismemberment of the Pakistani state.

B. GENERAL ZIA-UL-HAQ'S LOCAL GOVERNMENT SYSTEM

In July 1977, the army under General Zia-ul-Haq deposed the elected Pakistan People's Party (PPP) government of Prime Minister Zulfikar Ali Bhutto. Ironically, local government had remained defunct during the brief democratic interlude from 1972 to 1977. Although the PPP government promulgated a People's Local Government Ordinance in 1975, the elections were never held.⁹

Like Ayub, Zia saw merit in instituting local bodies in order to cloak a highly centralised, authoritarian system of government under the garb of decentralisation. In September 1979, he revived local governments through provincial ordinances.¹⁰ Unlike with Ayub's BDs, some functions of provincial governments were delegated to local bodies but they were to operate under provincial control.

Zia established three tiers of local government in rural areas: union councils (consisting of villages), tehsil (sub-district) committees and zila (district) councils. In urban areas, town committees were established for towns with populations between 5,000 and 30,000; municipal committees for towns with a population up to 250,000, and municipal/metropolitan corporations for major cities (Peshawar, Lahore, Karachi) with populations in excess of 250,000.

Elections to union councils/town committees were held in 1979, 1983, and 1987 on a non-party basis,¹¹ with 80 per cent of members elected by universal adult suffrage and 20 per cent reserved for peasants, workers, tenants, and women. Councillors served as the electoral college for choosing the heads (chairmen and vice chairmen) of zila and tehsil councils.¹²

The main responsibility of the local councils was to manage small-scale public welfare and development activities (water supply, sanitation, maintenance and management of hospitals and schools) in their jurisdictions. The list of council functions was extensive but the revenue base was limited despite the delegation of some taxation powers by provincial governments.¹³ The bulk of their funds came as federal transfers and to a lesser extent allocations from provincial Annual Development Programs (ADP).

Similar to the BD scheme, Zia's local councils were not entrusted with general administration, law and order or policing, which were retained by civil bureaucrats (commissioners and deputy commissioners) who also served as ex officio, non-voting, members of these councils. Unlike the BD system, Zia's local government officials did not form an electoral college for provincial or national assemblies or the presidency. In the first local bodies elections, in September 1979, the *Awam Dost* (Friends of the People) group, a cover name for the Pakistan People's Party, secured significant representation. Their success was a rude shock to the military government. To forestall their victory, Zia postponed indefinitely national elections scheduled for 17 and 20 November 1979.

The primary motivations for Zia to create local bodies was to legitimise the military government, broaden its support base beyond the military, and use the newly created and pliable local elite to undermine its political opponents. In essence, the local bodies provided the "civilian base of his

⁹ Akbar Zaidi, "Pakistan: Country Paper", in *Local Government in Asia and the Pacific: A Comparative Study*, United Nations Economic and Social Commission for the Asia Pacific (UNESCAP), at www.unescap.org/huset/lgstudy/country/pakistan/pakistan.html.

¹⁰ Baluchistan's Local Government Ordinance was promulgated in 1980.

¹¹ Zaidi, op.cit.

¹² Ibid.

¹³ These included tax (octroi) on the import of goods and animals, tax on the annual rental value of buildings and roads, and tax on the transfer of immovable property. The main revenue source – over 50 per cent – for urban councils was octroi.

military government, supporting it in return for economic and political benefits".¹⁴

Gradually, these local governments became a vast mechanism for extending state patronage to pro-military politicians, providing the military government with ample scope for staging favourable, non-partisan elections. In due course, the new local elites formed the core of Zia's rubber stamp parliament, elected in non-party national elections in 1985. But these local bodies could not assuage popular demands for participation or bestow any lasting legitimacy on the military government. Eventually, a revolt within the parliament triggered by the military's refusal to share any meaningful authority with elected politicians led to dissolution of the democratic façade it had so assiduously manufactured.¹⁵

Tainted by its association with a military dictator, Zia's local government scheme was allowed to decay under elected governments in the 1990s. Local bodies were dissolved in the NWFP in 1991, in Sindh in 1992 and a year later in the Punjab province.¹⁶ While corruption and mismanagement were often cited, the primary reason for scrapping these local bodies was almost always political. Wary of the electoral influence of local officials, elected governments preferred to run local councils through appointed administrators, regular federal and/or provincially appointed civil servants. "Unfortunately, elected governments were at loggerheads with local bodies", says a senior PPP politician, "because they wanted to keep local politics under control for fear of losing out to their rivals".¹⁷

III. THE MUSHARRAF DEVOLUTION

A. DOMESTIC AND EXTERNAL IMPERATIVES

On 12 October 1999, Pakistan's military deposed Prime Minister Nawaz Sharif's elected government. Accusing Sharif of destabilising the army and creating dissension within its ranks, Army Chief, General Pervez Musharraf claimed that the armed forces had "no intention to stay in charge any longer than is absolutely necessary to pave the way for true democracy to flourish in the country".¹⁸

Primarily driven by the need to legitimise the coup, Musharraf quickly announced a seven-point democratic reform agenda to address Pakistan's institutional decay. This included rebuilding national confidence and morale; strengthening the federation while removing inter-provincial disharmony; reviving and restoring investor confidence; ensuring law and order and dispensing speedy justice; reconstructing and depoliticising state institutions; ensuring swift across-the-board accountability; and devolving power to the grass roots level.

Like his military predecessors Musharraf quickly seized upon the idea of using local government to advance regime survival and consolidation. Creating a National Reconstruction Bureau (NRB) under retired General Tanvir Naqvi in November 1999, he made devolution and diffusion of power a main policy priority of his military government. While the NRB had a broad national reconstruction agenda, Naqvi and his team of mainly donor-financed consultants concentrated on this.

The Bureau produced a broad local government blue print that Musharraf announced on 23 March 2000.¹⁹ He claimed devolution was "the beginning of a constructive, democratic, dynamic revolution whose sole objective is 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".²⁰ In "devolving

¹⁴ ICG Asia Report N°40, *Pakistan: Transition to Democracy*, 3 October 2002, p. 7.

¹⁵ Ibid, p. 15

¹⁶ Local bodies were later restored in the NWFP and Punjab.

¹⁷ ICG interview, Karachi, June 2003.

¹⁸ General Musharraf's televised address to the nation, BBC News Online, 17 October 1999, http://news.bbc.co.uk/1/hi/world/south_asia/477358.stm.

¹⁹ 23 March is celebrated every year to commemorate the passing of the Pakistan Resolution by the All India Muslim League in 1940.

²⁰ "CE Announces Holding of Local Government Elections", Associated Press of Pakistan, 24 March 2000.

powers", Musharraf was actually replicating the attempts of his predecessors to circumvent popular aspirations for representative rule. He and his fellow generals faced special constraints, however, in the context of the October 1999 coup.

Pakistan's military rulers have traditionally relied on U.S. diplomatic and economic support to prolong and consolidate their power but both Ayub and Zia had taken over when external conditions were conducive to military rule. Having deposed an elected government in a post cold-war environment where electoral democracy has emerged as the preferred form of government, Musharraf's need to dispel international apprehensions was far more acute. Says an analyst, "the military's decision to devolve substantial powers to local levels was informed in no small part by the need to assuage international concerns about political democracy, which could no longer be satisfied merely by creating nominal local bodies".²¹

Despite reservations over misrule and corruption, the international community had opposed the October 1999 military takeover, and the U.S., EU and Japan imposed trade and economic sanctions. Keen to end its isolation, the military government's strategies included the ostensible devolution of power to civilians at the local level even as it maintained control of the real levers of state power, those at provincial and national levels. Local governments were intended to establish the military's democratic credentials and confirm its intent eventually to restore civilian rule. Announcing his local bodies plan on the eve of U.S. President Clinton's visit, Musharraf declared, "Democracy starts here at the district and local governments, from here we will move up step by step to provincial and federal (elections) in due course".²²

The devolution decision was also aimed at co-opting domestic and external constituencies that favour decentralisation and local empowerment. Since donors as well as influential sections of civil society such as the media and NGOs have long blamed bureaucratic corruption and centralisation for Pakistan's political and administrative malaise, Musharraf distanced his government from the discredited machinery.²³ In his 23 March speech, he

stressed that "the entire administration system has been distorted, and interference by the Federal Government in local affairs has been extreme".²⁴

Another key motivation was to create new elites so as to undermine and marginalise political adversaries. Ruling through non-partisan local bodies is a time-tested strategy employed by Pakistan's military rulers. Echoing the military's traditional distrust of party politics, Musharraf made it clear in August 2000 that local elections would be non-partisan, ostensibly to discourage petty political rivalries at district level.²⁵

A multitude of scattered local power centres dependent on patronage are easier for the military to deal with than four, relatively more cohesive provincial governments. By creating a democratic façade at local levels, Musharraf hoped to circumvent constitutional provisions for provincial political, administrative, and fiscal autonomy.

Under the 1973 constitution, Pakistan is a federation, and local government is a provincial responsibility. The leaders of Pakistan's mainstream parties, including the PPP and the Pakistan Muslim League-Nawaz (PML-N), say Musharraf, like others before him, has employed devolution merely to extend military control over the provinces. "Real devolution", a PPP leader said, "would entail transfer of powers from the centre to the provinces, resulting in substantive provincial autonomy".²⁶ PML-N's Ahsan Iqbal, former head of the Federal Planning Commission, agreed: "The provinces are already weak with the centre usurping many of their powers under the concurrent legislative list, and local governments will be one more step in this direction".²⁷

B. THE BLUEPRINT

The NRB presented its full draft Devolution of Power Plan in May 2000.²⁸ The plan revived Zia's three-tiered system of local governance at the union, tehsil and zila levels, but envisaged unprecedented

²¹ ICG interview, Islamabad, May 2003.

²² "Clinton Tours Indian Village, Pakistan Announces Local Elections", CNN online, 24 March 2000.

²³ ICG interview, May 2003.

²⁴ "CE Announces Holding of Local Bodies Elections", Associated Press of Pakistan, 24 March 2000.

²⁵ Zaffar Abbas, "Musharraf Unveils Local Election Plan", BBC News Online, 14 August 2000<news.bbc.co.uk/hi/english/world/south_asia/newsid_880000/880655.stm>.

²⁶ ICG interview, Karachi, June 2003.

²⁷ ICG interview, Islamabad, April 2003.

²⁸ LGP, op. cit.

administrative and developmental functions for elected officials. One of the most radical measures was subordination of the district administration and police to the elected chief mayor.²⁹ District governments were also to be vested with significant financial resources through federal and provincial grants and tax powers.

The plan envisaged a district assembly comprising chairmen of all union councils in a district.³⁰ The assembly was made responsible for approving bylaws, taxes, annual development plans and budgets. To improve service delivery and monitor citizen rights, it would oversee governmental departments through its monitoring committees. A tehsil council, comprising union councillors from the tehsil, would perform functions at its level.³¹ The lowest tier, the union council, would have its own chairman and 26 councillors.³² Members of the union council were to be elected directly by adult franchise and would also act as the electoral college for reserved seats. The main function of the union councils was to undertake local development projects and monitor "citizens' rights, security and services".³³

The plan expanded the franchise by reducing the voting age from 21 to eighteen, while 50 per cent of the seats in union councils were reserved for women. Joint electorates were proposed for minorities in order to address long-standing demands from women and minority rights' groups.

1. Administrative Decentralisation

The plan proposed to abolish the posts of deputy commissioner and assistant commissioner, who traditionally controlled executive, judicial and revenue functions in a district, and establish a new administrative structure led by a district coordination officer (DCO). Magisterial and legal powers were transferred to the district and sessions judge and police oversight powers to the nazim. The divisional tier of administration headed by the commissioner was abolished, and the nazim received the power to

appoint and remove the DCO, albeit with the approval of the district assembly.

Justifying this restructuring, the NRB claimed that concentration of authority, particularly in the office of the deputy commissioner, creates the potential for "arbitrariness, incessant delays, management and corruption in government operations".³⁴ But critics say its most significant change was designed to weaken the civil service's elite district management group (DMG), which had virtually controlled district administration, as well as top tier posts in the provincial and federal governments. The military's decision to dilute its authority also resulted partly from strong opposition to the DMG among senior police and income tax officials, who occupied key posts in Musharraf's secretariat.

Targeting the DMG was also an attempt to capitalise on divisions within the civilian bureaucracy in order to expand direct military control over administration.³⁵ This was reflected in an NRB document:

The civil service is effectively controlled by the DMG. The group has close relations with international donors...Other groups in the public administration chafe under the control of one group and would welcome a democratisation of civil service structure as a basic element of civil service reform. The end of the domination of the bureaucracy by one group is a *necessary pre-condition for the attainment of administrative power by the Army and the creation of conditions for national reconstruction* (emphasis added).³⁶

The restructuring included devolution of provincial line departments to district level and creation of new departments of law, literacy and information technology. Each district department was placed under a district officer, assisted by a deputy (DDO) at sub-district levels.³⁷

²⁹ The designations for chief mayor and deputy chief mayor were later changed to "nazim" and "naib nazim".

³⁰ The district assembly was renamed "zila council".

³¹ Union naib nazims are now ex-officio members of the tehsil council.

³² The seats on the union council were allocated as follows: sixteen general seats, eight seats for peasants/workers, and two for minority communities. Half the seats in each of the three categories were reserved for women.

³³ LGP, op. cit., p. 32.

³⁴ LGP, op. cit., p. 27.

³⁵ "An urgent task facing Musharraf was to swiftly consolidate the army's authority over the administrative and political structures of the state", said a retired army general. ICG interview, Islamabad, June 2003.

³⁶ "Structural Analysis of National Reconstruction", National Reconstruction Bureau, 27 May 2000.

³⁷ Each district department is now headed by an executive district officer (EDO).

The tehsil (sub-district) government was to have overall responsibility for basic municipal services. Under Zia's local bodies system, rural and urban areas were separate political entities, divided into union and zila councils for the former and town committees, municipal and metropolitan corporations for the urban areas. With the ostensible aim of mitigating this rural-urban divide, the devolution plan proposed that tehsils (towns in city districts) would include the rural as well as urban union councils. In the words of the plan, "the integrated tehsil government will mitigate the prevailing rural-urban frictions by providing opportunities for representation in proportion to the population and taxation in proportion to the services".³⁸

To involve people in community development, the plan also called for creation of citizen community boards (CCBs) in both urban and rural areas.³⁹ Also planned were village (and neighbourhood) Councils for changing popular attitudes from a "reactive to a proactive mindset".⁴⁰ A zila *mohtasib* (district ombudsman) was to give the public an independent mechanism for addressing complaints against local government officials.

Acknowledging in principle the different administrative, policing and municipal needs of large cities, the plan also envisaged creating city district governments.

2. Fiscal Decentralisation

Pakistan has a highly centralised fiscal system with the federal government raising some 90 per cent of tax revenues. Provincial governments rely overwhelmingly on federal transfers, which are some 80 per cent of their revenues. Under the proposed Local Government Plan, local governments would receive revenue through formula-based provincial transfers and the decentralisation of specified taxation powers.⁴¹

While the plan remained vague on the exact modalities of fiscal decentralisation, it proposed a provincial finance commission (PFC) for the transfers, and envisaged that district and tehsil

Councils would have legislative authority to levy specific taxes.

3. Law Enforcement

Under the Police Act of 1861, the district superintendent of police was subject to the operational control of the deputy commissioner in addition to the provincial police hierarchy.⁴² With the proposed abolition of the office of deputy commissioner, the district police chief was made responsible to the elected chief mayor.

While the province remained the designated level for "raising, training and equipping" police, the plan called for revising law enforcement functions. District (and provincial/national) safety commissions were proposed to monitor police performance and redress public grievances. Watch and ward functions were separated from investigation. An independent prosecution service and a provincial police complaints authority were also envisaged.

C. MILITARY EXCEPTIONS

Following the 1999 coup, the military swiftly put its own people into key civil service institutions in the name of reducing corruption, introducing accountability, and monitoring government.⁴³ This insertion of 3,500 military people into civilian bodies at the national, provincial, divisional and district levels as "army monitoring teams" promoted official abuse and belied the official rhetoric of citizen empowerment and devolution of power.⁴⁴

The spirit of devolution was also negated in a far more significant way. The local government plan was to be applied to the four provinces, but not to

³⁸ LGP, op. cit., p. 52.

³⁹ Ibid, p. 34.

⁴⁰ Ibid, p. 33.

⁴¹ Ibid, p. 60.

⁴² Under paragraph 2, section 4 of the act, "the administration of the police throughout the local jurisdiction of the magistrate of the district shall, under the general control and direction of such magistrate, be vested in a district superintendent and such assistant district superintendents as the Provincial Government shall consider necessary".

⁴³ The system of appointing serving and retired military personnel to civil service posts, institutionalised under General Zia, was greatly expanded under Musharraf in violation of rules and quotas.

⁴⁴ Annex III: Monitoring Teams, "Report on the Work of the Government: 12 October 1999 to January 2000", Directorate General Films and Publications, Ministry of Information and Media Development, Islamabad, Government of Pakistan, 2000. "Reform or Repression: Post-Coup Abuses in Pakistan", Human Rights Watch, October 2000.

some 41 largely civilian populated cantonments (military garrisons) in towns and major cities, which would remain under the control of military station commanders.⁴⁵ The issue of integrating cantonments with elected local governments was left to the future since "local government already exists in the cantonments in the form of cantonment boards".⁴⁶

That is simply untrue. Cantonments are run under the Cantonment Act of 1924, which vests statutory control to the army. Under the act, the army station commander is, *ex officio*, President of the Cantonment Board, which has a nominal elected component but can be dismissed by the president.⁴⁷ Dating back to colonial times, this act mainly concerns the orderly administration of military lands and garrisons. Says a former elected member of the Rawalpindi Cantonment Board, "the devolution plan only reinforces the non-elected nature of governance in cantonments where civilians have little or no voice or representation".⁴⁸ Even freedom of movement is often severely restricted in cantonments by military checkpoints.

Official sources confirmed to ICG that the initial decision to include cantonments in the plan met with stiff resistance from army corps commanders, who justified their opposition on national security grounds.⁴⁹ According to a federal official, "the army is loath to abdicate control over the cantonments, which contain lucrative army real estate and installations under its exclusive administrative control since independence".⁵⁰ Exclusion of the cantonments meant that the station commander could continue to exercise colonial-style control over civilian populations while the entire district administrative structure was being abolished, ostensibly to empower citizens.⁵¹

The Federally Administered Tribal Areas (FATA) was also not included in the devolution system, although this was left open for future review. Opposition from tribal leaders was cited as the main reason but critics say the federal government's traditional aversion to public participation in the

strategic border region played a part. The Federal Capital Territory (Islamabad) was likewise left out.⁵²

D. DOMESTIC REACTION

Major political parties, independent human rights groups, the media and analysts opposed the draft devolution plan. Most political parties believed the military's scheme was little more than a ploy to ensure regime survival. Another aim, according to the opposition, was to deflect international attention from the need to restore democracy even as the centre extended its direct control over local politics and administration. Said an opposition politician, "with generals controlling state authority from the top, the devolution plan is an attempt to cover up and postpone the main issue of transferring power to elected representatives".⁵³

Party leaders from across the political divide shared this view. "The federal government encroaches on a number of provincial subjects which it controls through central ministries", said the PML-N's Ahsan Iqbal. "Devolution from the centre to the district will further undermine the principles of federalism and provincial autonomy".⁵⁴ According to the PPP's Senator Raza Rabbani, "the NRB's devolution system completely bypasses provinces to create over 100 districts that could be directly controlled and manipulated from Islamabad. Provinces have been made redundant".⁵⁵

The fiercest opposition came from ethno-regional groups in Baluchistan, Sindh and the NWFP, who have traditionally demanded the provincial autonomy guaranteed to Pakistan's federal units by the 1973 constitution.⁵⁶ In Baluchistan, where the centre's usurpation of provincial political and economic rights had resulted in an armed insurgency in the mid-1970s and opposition to the Punjabi-dominated military is strong, the plan was suspected to be a cover for army efforts to consolidate control over provincial affairs. "The already limited powers of the provinces are being forcefully transferred to the district. The real

⁴⁵ Cantonments exist in large cities like Karachi, Lahore and Peshawar, large garrisons like Kharian and Gujranwala, and small garrisons like Bannu and Kohat.

⁴⁶ LGP, *op. cit.*

⁴⁷ Cantonment Act 1924.

⁴⁸ ICG interview, Rawalpindi, June 2003.

⁴⁹ ICG interview, June 2003.

⁵⁰ ICG interview, Islamabad, June 2003.

⁵¹ ICG countrywide interviews, June 2003.

⁵² The NRB has been unwilling or unable to hold elections though it has prepared a draft Islamabad Capital Territory Local Government Ordinance 2002.

⁵³ ICG interview, Lahore, May 2003.

⁵⁴ ICG interview, Islamabad, May 2003.

⁵⁵ ICG interview, Karachi, June 2003.

⁵⁶ See "PONAM opposes District Government Plan", *Dawn*, 29 March 2000.

aim is to undermine provinces, fragment political power and ensure direct control of the military over governance", warned Abdul Hayee Baloch of the Baluchistan National Movement (BNM).⁵⁷

In the NWFP, where demands for political and fiscal autonomy have also been traditionally suppressed, the Pashtun-dominated Awami National Party (ANP) rejected the plan and compared it to earlier failed military experiments. "The fact that the federal government is taking the decision to hold local elections", said ANP leader Asfandyar Wali Khan, "is indicative of further centralisation of powers and negates the concept of local governance".⁵⁸

These critiques remain relevant. In 1971, centralisation of power and authoritarian government resulted in bloody civil war and Pakistan's dismemberment. In 2004, the military's propensity to concentrate all power in its hands and its aversion to democratic governance are exacerbating regional divisions and promoting internal tensions. Instead of empowering citizens, the devolution scheme has exacerbated the Pakistan state's institutional crisis by rooting the military in local politics.

The independent Human Rights Commission of Pakistan (HRCP) has rejected the military's devolution plan on the ground that its main aim is to "depoliticise governance and to earn a lease of life for the (military) government behind a sort of democratic facade".⁵⁹ The Commission has also called upon the military-led government "to develop a consensus with political parties on a strategy for its own withdrawal and the country's return to democratic rule".⁶⁰

IV. FINE-TUNING THE PLAN

Some of the more radical reforms envisaged in the draft Local Government Plan were diluted in the final version released in August 2000. The nazim lost the crucial powers to appoint and remove the district coordinating officer, the district's most senior civil bureaucrat, for instance. While government sources cited "institutional stability" concerns for this, the military was clearly reluctant to forgo the option of using the civil bureaucracy to control elected officials,⁶¹ particularly potential opponents. "The military would have been left with no levers to control the districts in case of political surprises", says a senior government official privy to NRB policy meetings.⁶² NRB advisors recommended to Musharraf and his corps commanders that the centre control civil service transfers and postings, and thus retain power over local decisions.

The initial scheme had also envisaged repeal of the separate electoral system for minorities⁶³ but the final version retained it, with five per cent of seats reserved. It also reduced reserved seats for women from 50 per cent to 33 per cent. Both steps, analysts say, were to accommodate the religious right, traditional allies of the military.⁶⁴

At the same time, academic qualifications of not less than a secondary school certificate or equivalent were made mandatory for all nazims and naib nazims, ostensibly to create a "more educated and well informed" elected leadership.⁶⁵

The Final Local Government Plan 2000 also introduced a far-reaching change to the election method for the zila and tehsil nazims and naib nazims. The draft plan had recommended direct elections for both offices on a joint ticket. However, army corps commanders overruled the NRB, and the

⁵⁷ ICG interview, Quetta, May 2003.

⁵⁸ Marianna Babar, "ANP Rejects Government's Devolution Program", *The News*, 4 April 2000.

⁵⁹ "HRCP Rejects Devolution Plan of CE", *Dawn*, 25 March 2000.

⁶⁰ *Ibid.*

⁶¹ Others believe that successful lobbying by the bureaucracy was responsible for this change. ICG interviews, Islamabad and Lahore, May-June 2003.

⁶² ICG interview, Lahore, July 2003.

⁶³ "EC suggests joint electorate to ensure proper representation", Associated Press of Pakistan, 3 March 2000. Widely seen as an attempt to marginalise non-Muslim minorities, the separate electoral system introduced by General Zia reserved a limited number of parliamentary seats for each minority community and restricted the franchise of non-Muslim voters to these seats.

⁶⁴ ICG countrywide interviews, June 2003.

⁶⁵ ICG interview, Islamabad, May 2003.

final plan replaced this with indirect elections whereby directly elected union councillors would choose the nazim and naib nazim.⁶⁶ The official justification given was that as the district in many cases was much larger than a National Assembly constituency, direct elections could produce complications when national elections were held.⁶⁷

Otherwise, the crux of the reforms remained more or less intact. The district administration remained answerable to the nazim; provincial line departments were devolved to districts (including education and health); and the divisional tier of administration was abolished. As a result of the new delimitation of administrative boundaries, 97 districts and four city districts, one in each provincial capital, were created.

A. LOCAL ELECTIONS

The government's actual motivation for indirect elections was soon revealed by the local government elections. Indirect choices lend themselves better to rigging. Simply put, it was far easier for the military government to manipulate a constituency of a few hundred union councillors than face the unpredictable vote of over 1 million voters (the mean number in a district).

Political parties were formally banned from the elections. However, most fielded candidates unofficially to take advantage of the partial electoral opening⁶⁸ and retain a degree of leverage through the nazims in case the military decided to use them as an electoral college for the national presidency.⁶⁹

Army corps commanders knew full well the risks of a direct election in light of the PPP's largely intact strength. In fact, the direct elections for union nazims

and councillors, held from December 2000 to July 2001, proved their worst fears. PPP-backed candidates were returned in large numbers to union and tehsil councils across the Punjab and Sindh and even the NWFP. According to a former NRB consultant, "Opting for indirect polls was a calculated move to prevent the PPP (and PML-N) sweeping the district nazim polls in their traditional strongholds".⁷⁰

The local elections were held in five phases, over almost nine months. This allowed careful monitoring of each phase so that "surprises" could be managed accordingly.⁷¹

Opposition parties say the indirect elections were selectively rigged to install pro-military nazims, especially in the Punjab. Rigging took both direct and indirect forms. First, the military manipulated official electoral mechanisms. Since local government is a provincial responsibility under the 1973 constitution, provincial authorities traditionally conduct local bodies elections. However, the Local Government Elections Order 2000 bypassed the provinces, entrusting the task to the Election Commission of Pakistan (ECP), which operates, for practical purposes, under federal control. On the eve of the elections, it threatened to disqualify candidates with party affiliations in what was widely seen as a politically motivated move to strengthen military-backed candidates.⁷²

The military also used coercion and cooption. On 6 July 2001, for example, senior leaders of the pro-military PML-Q were reportedly summoned to the Presidency to help identify suitable zila nazim candidates for key Punjab districts. Instructions were then issued to corps commanders and heads of military and civil intelligence agencies to ensure their victories.⁷³

In Rawalpindi, home to Army Headquarters, pro-PPP or PML-N candidates for district and tehsil nazim were pressured to withdraw and support military-backed candidates. Sheikh Rashid Ahmed, then a PML-N leader and now Federal Information Minister in the PML-Q cabinet, withdrew citing his inability to win under the "circumstances".⁷⁴ In

⁶⁶ ICG interview, Islamabad, June 2003.

⁶⁷ ICG interview with an NRB official, Islamabad, June 2003.

⁶⁸ Unlike most parties, the Muttahida Qaumi Movement (MQM), which represents Urdu-speaking migrants and their descendents in urban Sindh, boycotted the local elections, calling them a "legal cover to an unconstitutional government". The MQM opposed the re-demarcation of electoral constituencies and the division of Karachi into eighteen town councils under the devolution plan, which it saw as an attempt by the military government to undermine its voter base. According to Dr. Farooq Sattar of the MQM, "we refuse to be part of a process that usurps the rights of the smaller provinces and divides Karachi along ethnic and linguistic lines". Interview in *Herald*, June 2001.

⁶⁹ ICG countrywide interviews with PML-N, PPP and Jamaat-i-Islami (JI) leaders, May-June 2003.

⁷⁰ Ibid.

⁷¹ ICG interview, Islamabad, May 2003.

⁷² ICG countrywide interviews, May-June 2003.

⁷³ Mubashir Zaidi and Ali Hasan, "Old Habits Die Hard", *Herald*, August 2001.

⁷⁴ Ibid.

Jhelum district, the elected nazim was "motivated" to switch to the PML-Q. In Gujarat district, the brother of Chaudhry Shujaat Hussain, now PML-Q parliamentary leader, was chosen nazim despite a clear PPP majority among the elected union councillors. In Lahore, Punjab's provincial capital, pro-PML-Q candidates openly solicited votes on the basis of support from the military.

District administration officers were changed to influence the outcome in PPP Punjabi strongholds. Deputy commissioners and police superintendents were instructed to "encourage" union councillors "to vote for the party committed to General Musharraf's agenda of national reconstruction", a clear euphemism for the PML-Q.⁷⁵ Similar tactics were deployed in Sindh, the NWFP and Baluchistan.

As a consequence, rather than creating the conditions conducive for electing a credible local leadership, the military made further incursions into civil society and undermined the rule of law. Its bid to sideline party politics through non-partisan elections also encouraged the politics of patronage based on tribal, ethnic and sectarian affiliations or even just monetary considerations.

An official reports that, "a curious process of political realignment took place at the district level with party loyalties subordinated to the goal of winning the elections".⁷⁶ According to Ahmed Rashid, "the non-partisan nature of the elections and the military's manipulation of the process has exacerbated caste and *biradari* divisions, further undermining already weak political parties and their representation at the lower levels".⁷⁷ Since these elections bypassed political parties and weakened party loyalties, electoral competition took place along caste lines. With caste-based candidates pitted against each other, the elections reinforced traditional hostilities at the local level.

Another political commentator said, "the non-party elections for district councils have destroyed the organisational credibility and institutional ethos of political parties. Compromised candidates of expedient multi-party alliances will neither represent

policies nor issues nor ideologies".⁷⁸ "The flawed local electoral process", according to Nasim Ahir, PPP politician and former federal Interior Minister, "has created new divisions in Pakistani society. The military had left no doubt in anyone's mind that only abiding loyalty to the establishment can pay off politically".⁷⁹

President Musharraf's oft-repeated pledge to create a new, more credible leadership notwithstanding, his government relied on established but pro-military politicians to win the district nazim elections. A vast majority of the district and tehsil/town nazims elected in the Punjab and Sindh were party activists or belonged to well-known political families.⁸⁰ Once the military government created the PML-Q as an alternative to the PPP and PML-N, local elections became merely "a spring board for creating an avowedly party-less elite that could be politicised as and when the military needed its support".⁸¹

⁷⁵ ICG countrywide interviews, May-June 2003.

⁷⁶ ICG interview with a senior field officer, Lahore, June 2003.

⁷⁷ ICG interview, Khushab, May 2003.

⁷⁸ Mohammad Waseem, "Elections without a Mandate", *Dawn*, 5 August 2001.

⁷⁹ ICG interview, May 2003.

⁸⁰ Azmat Abbass, "A Punjabi Risotto", *Herald*, August 2001, pp. 38-40. See also Ali Hassan, "Waderas Take All", *ibid*, February 2001, pp. 49-51.

⁸¹ ICG interview with Adnan Adil, BBC Urdu analyst and correspondent, Lahore, April 2003.

V. IMPLEMENTING DEVOLUTION

A. THE POLITICS OF DEVOLUTION

On 13 August 2001, all four provincial governments issued local government ordinances to operationalise the devolution plan. The irony was not lost on critics of the plan that the "Local Government Ordinance 2001 was prepared by the federal government but each province was directed to notify it as its own law".⁸²

On 14 August, Pakistan's independence day, elected local governments were formed in 97 provincial districts and the four city districts of Karachi, Lahore, Peshawar and Quetta.

Its internal contradictions leave Local Government Ordinance 2001 (LGO) open to varying interpretations and make its implementation difficult. No clear lines of authority delineate the relationship between the nazim and the bureaucratic head of a district, the DCO, who represents the centre. The LGO designates the zila nazim as the head of the district government to be assisted by the DCO⁸³ but many zila nazims complained to ICG that DCOs often ignore them in administrative matters since there is no provision in the LGO to ensure their compliance with local government directives.⁸⁴ Section 20 makes nazims personally responsible for financial losses and unlawful expenditures.⁸⁵ Several nazims complain this creates "responsibility without authority" and leaves them vulnerable.⁸⁶

The manner of implementation suggests that the military government is far more interested in political manipulation than political devolution. The political use of the scheme is best demonstrated by the April 2002 referendum that extended President Musharraf's term by five years with 97.5 per cent approval.

The military used the newly installed nazims to help ensure a favourable outcome. They were persuaded or coerced to mobilise their constituents for a pro-Musharraf vote. Many organised and funded rallies in return for economic and political rewards.

According to some reports, union councillors were funded by local governments to campaign on Musharraf's behalf.⁸⁷ Others were warned of the withdrawal of government support and termination of development projects in their areas if they did not cooperate. Those who refused were also threatened with prosecution for corruption.⁸⁸

Shah Mehmood Qureshi, then Multan District nazim and a PPP leader, said: "The provincial government wanted me to release money from the district budget for Musharraf's referendum. I refused since I could not transgress my authority".⁸⁹ This resulted in the provincial government prosecuting him for misuse of public resources.⁹⁰ Nafisa Shah, nazim of Khairpur district in upper Sindh, refused to attend Musharraf's referendum rally, branding it a political gimmick.⁹¹ Since then, district officials are transferred without her knowledge, and development funds are frequently withheld.⁹²

From the start, the military has carefully controlled the pace and direction of devolution. Military personnel have remained intimately involved in the day-to-day affairs of local bodies. District transition teams, formed to facilitate the start of the new structures, were headed by military officers who called the administrative and financial shots. With the structures in place, the military has continued to oversee administration as well as the disbursement of development funds. Several nazims in the Punjab say they have received direct orders from senior officers to undertake certain "visible development projects that could later be cited as achievements of the military government".⁹³

Field officers, as well as union council nazims interviewed by ICG, say that the elected local

⁸² Kunwar Idris, "From Politicians to the People", *Dawn*, 3 August 2003.

⁸³ SBNP Local Government Ordinance 2001.

⁸⁴ ICG countrywide interviews with nazims, May-June 2003.

⁸⁵ SBNP, Local Government Ordinance 2001.

⁸⁶ ICG countrywide interviews with nazims, May-June 2003.

⁸⁷ Massoud Ansari, "How the Referendum Was Won", *Newsline*, May 2003.

⁸⁸ ICG countrywide interviews, May-June 2003.

⁸⁹ ICG interview, Islamabad, April 2003.

⁹⁰ The charges were later dropped. *Ibid.*

⁹¹ ICG interview, Khairpur, June 2003.

⁹² In January 2004, a charge of water-theft was filed against Nafisa Shah. In her statement before the Sindh High Court, she said that pro-PPP nazims, naib nazims and councillors were being pressured to change their political loyalties by threats of false charges would be brought against them. The court directed the Khairpur district police officer to discontinue the practice. "SHC asks DPO not to book councillors in fake cases", *The News*, 10 December 2003; "Khairpur court grants bail to three Nazims", *The News*, 16 January 2004.

⁹³ ICG interviews, May-June 2003.

governments have been empowered only in name and do not enjoy any meaningful administrative or financial autonomy. Of special concern is the imbalance of powers between the directly elected union councillors and the indirectly elected zila nazims. "The actual intent was to consolidate the military's power at the district level through zila nazims", says a union councillor from Quetta. "Below that level, we mostly do what previous councils did: register marriages, deaths and births".⁹⁴ It was with this primary objective in mind, critics say, that the military's devolution plan has tilted power in local structures in favour of district and tehsil nazims. Elected councils retain only residual functions. "Devolution has stopped at the level of the district nazim", says a Baluchistan district naib nazim. "The [directly elected] district council is a rubber stamp".⁹⁵

Given the indirect nature of their elections, district nazims are answerable to a narrow "electoral college" of union councillors. "Under the new local government scheme", says one in the Punjab, "the allocation of limited development funds is the central pivot around which political loyalties revolve".⁹⁶ In several districts ICG visited, councillors claimed that their union councils are neglected in development projects because of their opposition to the nazim.⁹⁷ The nazim's need to reward supporters "has resulted in a lopsided situation where some union councils are richer and more developed than others".⁹⁸ Hence the local government scheme has created its own pro-military elite, with strong political and financial stakes in the military-created system. As a zila nazim from the Punjab told ICG, "our loyalties should lie not with a political party or government but with General Musharraf who has really empowered the people at the grassroots".⁹⁹

Contrary to official claims that the devolution scheme has successfully increased representation of women in government, it has done little to guarantee legal, administrative or financial responsibility for them other than the reservation of 33 per cent of local council seats. "When the local councils are powerless as a whole", asks a woman councillor

from Baluchistan, "Can you imagine the extent of our influence on local affairs"?¹⁰⁰ Most women councillors interviewed agree. Says one from the NWFP, "We don't get anything. We have no vote. We have no voice".¹⁰¹ Says another from Sindh, "we are mere rubber stamps. The zila council approves schemes and we are asked to vote for them".¹⁰²

The facts speak for themselves. In the 101 districts, only two nazims are women and both come from traditionally dominant political families in Sindh. Male councillors say that since they have nominated women councillors, these are "unequal".¹⁰³ "If the military government was really serious about giving women powers rather than appeasing donors", says a woman councillor, "it would have reserved a share of nazim slots at the district and tehsil levels".¹⁰⁴

Women councillors complain that the government and NGOs raised their hopes unrealistically. Most say they have received no special training to familiarise them with the provisions of the LGO or the functioning of the local government system. Their participation in Council meetings is made even more difficult in the absence of adequate pay, though male counterparts frequently cite this problem also.¹⁰⁵

B. ADMINISTRATION AND DEVELOPMENT

1. Restructuring Administration

With the promulgation of the four provincial LGOs, the previous system of administration ceased to exist. But while elected governments took the oath of office on 14 August 2001, decentralisation of the administration took far longer. The entire divisional tier that acted both as a coordination link between the district and the province, as well as the appellate authority in the district system, was abolished.¹⁰⁶ A new bureaucratic structure, with the district coordination officer (DCO) at the top and executive district officers (EDOs) heading each district department, was put in place. The administrative, financial and appellate powers of divisional officers

⁹⁴ ICG interview, Quetta, May 2003.

⁹⁵ ICG interview, Quetta, May 2003.

⁹⁶ ICG interview, May 2003.

⁹⁷ ICG countrywide interviews, June 2003.

⁹⁸ ICG interview with an official in the ministry of local government, Punjab, Lahore, June 2003.

⁹⁹ ICG interview, Lahore, June 2003.

¹⁰⁰ ICG interview, Quetta, June 2003.

¹⁰¹ ICG interview, Kohat, March 2003.

¹⁰² ICG interview, Sukkur, March 2003.

¹⁰³ ICG interviews in NWFP and Sindh, March-May 2003.

¹⁰⁴ ICG interview, Islamabad, May 2003.

¹⁰⁵ ICG country-wide interviews, May-June 2003.

¹⁰⁶ The closure of the divisional, regional and zonal offices commenced on 14 August 2001, with the provision that such offices would cease to exist by 31 December 2001.

were devolved to this restructured district administration. Staff from older local councils and municipal bodies was transferred to the district and tehsil levels. Provincial line departments such as education, health, and works were devolved to those levels and new departments, including information technology, law, and literacy, were created.

The new system was flawed since it was installed in haste, reflecting the military government's need to meet its own arbitrary independence day target.¹⁰⁷ Not enough preparation was devoted to implementation details. The perception within the NRB was that once the system was in place, the military's backing would ensure smooth operation. While transition modalities were worked out on paper and provincial transition mechanisms put in place, little attention was given to the actual dynamics of replacing a well-entrenched system with an unfamiliar, untested one. Even less was paid to the weak administrative capacity at local levels.

Not unsurprisingly, the initial weeks were marked by confusion within the official machinery and among the public. While teething problems were gradually removed, structural problems remain. Many administrative powers previously exercised by the district commissioner remained unspecified in the new system. Poorly defined enforcement mechanisms are another problem. While the tehsil administration enjoys quasi-judicial powers such as imposing fines, its officials find it nearly impossible to enforce their writ without the enforcement powers previously exercised by executive magistrates backed by the police. According to a Baluchistan minister, "in the previous system, the DC had executive magistrates at his disposal who could effectively check prices, food quality and encroachments. There is a vacuum now, and the writ of the state has been weakened".¹⁰⁸

The NRB is critical of the "the absence of horizontal integration and the consequent inadequacy of functional co-ordination between the line departments at the division, district, and tehsil levels which lead to inefficiency and corruption, and are the root causes of the crisis of governance at the grass root level".¹⁰⁹ Coordination has grown worse. There are no hierarchical linkages between the various levels of local government, and each practically operates in isolation. "Lack of vertical linkages and

coordination between tehsil and district often lead to jurisdictional conflicts", says Ahmed Wassan, a Lahore town nazim.¹¹⁰ A former Karachi DCO adds, "intra-local government coordination is zero", thus reducing the NRB's "goals of coordinated planning and coherent administration to a practical joke".¹¹¹

The stand-alone nature of administrative changes at district level is another shortcoming.¹¹² Absent wider civil service reforms at provincial and national levels that address the broader problems of poor skills, low incentives, weak capacity and widespread corruption, the ambitious changes sought by the plan have little chance.

Officers of the District Management Group, who continue to run district and tehsil-level administrations, feel unfairly targeted, not least because they were completely ignored during the process that led to adoption of the devolution plan. And despite NRB claims,¹¹³ the district coordination officer and his deputies enjoy wider administrative and financial powers than the former DC, however reduced the new administration's law enforcement and judicial authority may be.

In addition, the current form of administrative decentralisation cannot address the issue of corruption and misuse of office unless there are corresponding changes in the lower structures of land revenue management, that is, at the level of the tehsildar/patwari (pre-independence revenue officials). Says a former federal secretary, "merely re-orienting the upper links in the chain of exploitation and corruption will only bring cosmetic changes...the common man still has to deal with the

¹¹⁰ ICG interview, Lahore, June 2003.

¹¹¹ ICG interview, Karachi, June 2003. The only coordinating mechanism between district and tehsil levels is the *Mushawrat* (consultation) Committee comprising zila nazims, naib nazims and tehsil nazims. Under the LGO, it can "co-ordinate inter-tehsil development plans and resolve intra-district disputes". However, it is largely dysfunctional since it is hostage to the political relationship between district and tehsil nazims.

¹¹² "Devolution in Pakistan: Preparing for Service Delivery Improvement", Asian Development Bank, June 2003, at http://www.adb.org/Documents/PRM/Working_Papers/w02.pdf.

¹¹³ In the proposed LGP, the NRB had planned to induct personnel from other civil service occupational groups and even the private sector.

¹⁰⁷ ICG countrywide interviews, May-June 2001.

¹⁰⁸ ICG interview, Quetta, June 2003.

¹⁰⁹ LGP, op.cit.

horrifying reality of bribing the patwari or the local policeman to get things done".¹¹⁴

Provincial line departments were to be devolved and new ones created at the district level. Aided by a bureaucracy unaccustomed to change, however, provincial governments adopted a go-slow approach in devolving line ministries and relinquishing administrative controls over their staff in the districts. In some districts, several departments remained under provincial control for over a year. "There is need for the real devolution of departments of the provincial government such as health and education", says Malik Asad, district nazim of Kohat in the NWFP. "So long as the provincial government retains control, there will only be surface devolution".¹¹⁵

The precarious position of the city district government of Karachi is a case in point. Under section 182 (3) (a) of the LGO, "the control of the development authorities, water and sanitation agencies and solid waste management bodies was to be vested in a city district government".¹¹⁶ Nevertheless, citizens continue to face serious water and sanitation problems, and the Karachi Sewerage and Water Supply Board (KSWSB), the civic agency delivering water and sanitation services, remains outside the operational control of district authorities. In several poor localities of the city, water shortages have led angry residents to demonstrate outside town council offices.¹¹⁷ Elected officials fear water riots if problems persist. Says Muslim Pervez, a senior presiding officer of the city district council, "people bring their complaints to us, and we have no powers over the water board. I am afraid things could easily spiral out of control".¹¹⁸

District authorities in Gwadar, a remote coastal district in Baluchistan, face similar problems. The provincial chief minister heads the governing body that controls the Gwadar Development Authority, and a provincially appointed director general acts as head of administration.¹¹⁹ The provincial government also retains control over the works and services department while staff salaries are deducted from the

account of the district government. Says Babu Gulab, a zila nazim, "for the last two years, I have felt powerless in the face of the continued provincial control over the district's affairs".¹²⁰

2. Devolving Corruption?

Another key problem with the devolution scheme is the lack of checks and balances between and across the various levels of district government. There is a virtual absence of accountability of district nazims. The provincial Local Government Commission can initiate special audits and inspections of district governments¹²¹ but these can be at best sporadic and are not a viable substitute to permanent, institutionalised checks and balances at district level.

Technically, the zila council can be an effective check on the nazim, and through its monitoring committees on the district government as a whole. By law, the council approves by-laws, taxation proposals, annual development plans and the district budget. The extensive range of financial controls and their effective exercise, however, remain contingent on the political relationship between nazims and the council headed by the naib nazim. Since the nazim and naib nazim are elected on a joint ticket, the former can wield enormous influence over the council without enduring corresponding legislative checks on his authority.¹²²

The joint ticket was conceived with the ostensible goal that the naib nazim would be the link between the nazim and the council. But this interface is under severe strain because of the gross imbalance of powers between the two offices. "The naib nazim is a show piece who can't even sign a legal document", says one of those officials.¹²³ In districts where the relationship is antagonistic, the naib nazim can simply refuse to summon the council when required by the nazim. In such cases, the nazim, as executive head of the district, often runs the government without consulting the council, which can at best censure his actions through non-binding resolutions.

Under the LGO, the district coordination officer is the principal accounting officer of the district

¹¹⁴ ICG interview, Islamabad, June 2003.

¹¹⁵ ICG interview, Kohat, March 2003.

¹¹⁶ SBNP, Local Government Ordinance of 13 August 2001, Government of Pakistan.

¹¹⁷ "Water Shortage May Cause Riots in Orangi", *Dawn*, 28 March 2003.

¹¹⁸ ICG interview, Karachi, 23 May 2003.

¹¹⁹ Amanullah Kasi, "Gwadar Development Authority Bill Passed", *Dawn*, 29 July 2003.

¹²⁰ ICG interview, Gwadar, May 2003.

¹²¹ The commission is headed by the provincial minister for local government and can initiate annual and special inspections and audits of local governments.

¹²² ICG interview, Islamabad, June 2003.

¹²³ ICG interview with a naib nazim, Lahore, July 2003.

government. He is, however, responsible to the public accounts committee of the provincial assembly in financial matters, not to the nazim or the zila council. He also heads the district development committee (DDC),¹²⁴ which can approve development schemes up to Rs.5 million (U.S.\$90,000) "The new DCO is the financial kingpin of the district", says a provincial minister in the Punjab, "with access to a larger financial pie than the former district commissioner but without any substantial changes in contracting or other financial procedures".¹²⁵ Consequently, corruption opportunities have increased. "The checks and balances system envisaged under devolution is practically absent or operationally ineffective", says an EDO (Finance), in the Punjab. "This has increased the already rampant and unchecked corruption" in the province.¹²⁶

Under the LGO, elected monitoring committees of zila, tehsil and union councils are responsible for reporting administrative malpractice and corruption in local governments to the nazim for appropriate action. But these committees exist mostly on paper. While many have been elected, there are no financial or administration provisions for their functioning. The head of a district education monitoring committee in Punjab's Khushab district told ICG, "We have no resources or capacity to monitor governmental functions. Besides, there are no official rules of business that govern our operations". Elected councillors interviewed in Baluchistan, the NWFP and Sindh cited bureaucratic resistance as a key stumbling block: "Executive district officers who are supposed to furnish us with information rarely respond to our queries since they know we have no powers over them".¹²⁷

The tehsil is the designated level at which most local municipal services such as water, sanitation, and sewerage are delivered. The tehsil municipal administration (TMA) is also responsible for awarding contracts for signboards and advertisements, an area prone to opportunities for rent seeking. Since there are virtually no financial checks on the tehsil administration, and it can assign or contract out any of its functions to private and public sector

organisations, allegations of corruption in contracts are rife. In theory, the zila nazim can initiate inspections of tehsil and municipal administrations but in practice, they have neither the time nor the enforcement machinery. According to a senior official in the Sindh Ministry of Local Government, "corruption is up with a new mafia of nazims, tehsil officers and contractors emerging under the devolution plan that works in unchecked collusion with respect to awards of public contracts".¹²⁸

Access to information can enhance transparency and accountability by creating pressure on the government to take into account citizen preferences when reaching decisions. While the devolution plan claimed commitment to "information empowerment", public and media access to information about the actions and performance of government is still subject to tight controls exercised by government. "Devolution will remain meaningless without an effective Freedom of Information Act", says a newspaper editor in Baluchistan. "The presence of legal obstructions like the Official Secrets Act practically preclude the possibility of access to any information unless explicitly declared public by the government of the day".¹²⁹ The LGO envisages "transparent, automated information systems at all levels in each district", but little provision has been made for the lack of local information technology capacity, infrastructure and resources.

3. Development and Service Delivery

The devolution plan emphasised community involvement in development through creation of citizen community boards (CCBs). Nevertheless, the NRB took almost two years to frame by-laws. While many districts in the Punjab and some in Sindh have registered many CCBs, they can receive project-based cost sharing support from local governments only up to 80 per cent. "In rural districts," says a zila nazim from Punjab, "it is impossible to generate the remaining 20 per cent funds from communities who can barely make ends meet".¹³⁰

The cost sharing provision, many officials and analysts believe, effectively works against the official LGO policy of "energizing the local communities through voluntary, proactive and self-help

¹²⁴ In the NWFP, district development committees were initially headed by nazims but are now under district coordination officers.

¹²⁵ ICG interview, Lahore, June 2003.

¹²⁶ ICG interview, Lahore, June 2003.

¹²⁷ ICG interview with a zila council member, Peshawar, May 2003.

¹²⁸ ICG interview, Karachi, May 2003.

¹²⁹ ICG interview, Quetta, May 2003.

¹³⁰ ICG interview, May 2003.

initiatives".¹³¹ An observer says that, "it seems that the concept of CCBs is more a function of the flowery rhetoric of the writers of the devolution plan aimed mostly at international donor agencies and the domestic NGO community than ground realities or real intent".¹³²

Most nazims interviewed by ICG, however, argue that elected local councils have improved public access to official business. Devolution has certainly reduced the gap between state and citizen since local councillors and elected nazims are easily accessible, unlike a district commissioner. This could facilitate the local solution of day-to-day problems that were previously managed by bureaucrats in provincial capitals. In addition, budgets, prepared at district level, can reflect local priorities. Development schemes (roads, sanitation, water supply) can be locally planned and executed, thus eliminating delays involved in getting approvals from provincial or federal authorities.

Yet, many senior federal and provincial as well as local government officials told ICG that the system is not working, citing as evidence the steady deterioration in delivery of basic social services like education and health. According to one federal health official, "nazims tend to focus on quick impact projects like sanitation and sewerage rather than longer term investments in education or health".¹³³ Says a critic:

the plan may have facilitated the creation of new facilities and infrastructure but so did Ayub's Basic Democracy system. The real test is visible improvements in the basic living standards and services of the people. There is no evidence of that happening anytime soon.¹³⁴

Others point out that municipal infrastructure, especially in urban areas, has come under enormous pressure as tehsil administrations try to cope with the expansion of their functions to rural areas. "Mitigating the rural-urban divide is a good idea in the long run. But at the moment, it has undermined service delivery", believes a tehsil nazim in Sindh province. Many nazims typically blame the shortage

of development funds and the lack of staff capacity. "Whatever development funds we get", says Amjad Noon, zila nazim of Sargodha in the Punjab, "flow mostly through federally or provincially funded schemes, leaving districts little leeway over the planning, implementation and budgeting".¹³⁵

Shortage of funds is a serious problem with many district and tehsil administrations struggling to pay the monthly salaries of employees. In the absence of any reliable national data, it is hard to reach definitive conclusions on the impact of devolution on service delivery but the widespread perception remains that it has done no better, if not worse, than the system it replaced.¹³⁶

C. FISCAL DECENTRALISATION

The bulk of local government resources come as fiscal transfers from provincially appointed provincial finance commissions (PFC) -- 98 per cent in some cases. Provinces transfer some 40 per cent of their total receipts to local governments, fuelling already widespread perceptions of encroachment on provincial autonomy.

District governments, however, have limited discretion over their budgetary resources. Over 80 per cent of the money transferred is for salaries and cannot be used for any other purposes. Except in Punjab, salaries are still paid from provincial accounts.¹³⁷ Only the non-salary component (utilities and other recurring costs), a fraction of the total expenditure, is transferred to district-controlled accounts.¹³⁸

By and large, transfers are population rather than needs-based.¹³⁹ Population estimates remain problematic in light of the controversial nature of the census the army conducted in 1998. In Baluchistan, for instance, the Pashtun Khwa Milli Awami Party called for a boycott of the census. Rahim Kakar, the

¹³¹ ICG countrywide interviews, May-June 2003.

¹³² ICG interview, Karachi, June 2003. Both the devolution plan and the LGO also envisage village and neighborhood councils that are yet to be defined or created.

¹³³ ICG interview, Islamabad, July 2003.

¹³⁴ ICG interview, Karachi, June 2003.

¹³⁵ ICG interview, Sargodha, May 2003.

¹³⁶ ICG countrywide interviews, May-June 2003.

¹³⁷ Nick Manning et al., "Devolution in Pakistan: Preparing for Service Delivery Improvements", draft working paper prepared for the Forum on Inter-governmental Relations in Pakistan, 27-29 June 2003, p. 33.

¹³⁸ Ibid.

¹³⁹ In Sindh, 40 per cent of the transfers in 2002 were based on a backwardness index that factored in population, under-development, fiscal effort, revenue generation capacity, and expenditure requirements.

Quetta City district nazim, said, "this resulted in an unfair PFC award for Quetta since the census grossly underestimated the city's actual population".¹⁴⁰

Under the LGO, local governments can raise additional revenues through specified taxes. Previously the main source of taxation revenue for local councils was the octroi (urban) and zila tax (in rural areas) on the movement of goods in and out of the territorial jurisdiction of the council. Under IMF directives, the federal government abolished this in 1998 to remove tax distortions. To make up for the revenue loss, 2.5 per cent of the revenue generated by the centre from the new general sales tax is now allocated to provinces. Provinces transfer this directly to the tehsil administrations. Without an octroi tax, however, the taxation base of local governments (especially urban councils) is severely circumscribed. Says an economist in the Federal Planning Commission, "The LGO does not significantly increase the tax base of the district governments, without which meaningful devolution will remain elusive".¹⁴¹

The tehsil administration can collect the more lucrative urban immovable property tax (UIPT) and transfer of property tax.¹⁴² Any proposal for new taxation, however, requires approval of the relevant provincial authority.¹⁴³ "Previous councils were more financially autonomous as they could raise substantive taxes", says a former chairman of the zila council and now a town nazim in the Punjab. "This is devolution with a centralised financial system".¹⁴⁴ Financially starved, many districts are centralising taxation powers. In Karachi, for instance, the city district government collects the fee on advertisement billboards and posters, otherwise a tehsil fee.

D. LAW ENFORCEMENT

In August 2002, President Musharraf promulgated Police Order 2002,¹⁴⁵ under which the district police officer (DPO) is responsible to the zila nazim for

police functions "other than administration of the district police, investigation of criminal cases and police functions relating to prosecution".¹⁴⁶ The nazim writes an annual performance report on the DPO.

Emulating the Japanese National Safety Commission system, the Police Order calls for establishment of oversight bodies with both elected and appointed members at district, provincial and national levels. It also creates an independent prosecution service to act as an additional check and balance on the police, who have investigation as a separate responsibility.

But the Japanese police system has been implanted in Pakistan without account being taken of the political and administrative differences between the countries. The Japanese system is predicated on institutional mechanisms that shield the police from political pressure and ensure civilian control. In Pakistan, the police are highly politicised, inefficient and corrupt.

Despite provisions for police autonomy on assignments, these remain centrally or provincially controlled. Law and order is a provincial responsibility, and the new federally enacted police order has understandably engendered apprehension and resistance among provincial authorities.

More importantly, since assuming power in October 1999, the Musharraf government has given no practical indication that it intends to reform the police. On the contrary, like its military predecessors, it has deployed police for regime ends. This includes using law-enforcement agencies to obtain favourable results in local elections and the presidential referendum as well as to harass political opponents.

The military's failure to implement police reforms is evidence of its unwillingness to hand over law enforcement to public representatives. According to a police official, "while much was made of the purportedly historic nature of police reforms, there appears to be no enthusiasm within the senior military echelons to back police reforms in substance".¹⁴⁷ Provincial reservations were cited as reasons for delay in implementation of reforms but the military has conveniently transferred responsibility for enacting those reforms to a powerless elected government.

Sections of Police Order 2002 that grant powers to the police have indeed been enforced but areas that

¹⁴⁰ ICG interview, Quetta, May 2203

¹⁴¹ ICG interview, Islamabad, June 2003.

¹⁴² The UIPT is collected by the district government on behalf of the tehsil for a 10 per cent fee.

¹⁴³ In the Punjab, this provincial check was introduced after a plethora of overlapping toll fees and user charges were imposed by union and tehsil administrations.

¹⁴⁴ ICG interview, Lahore, June 2003.

¹⁴⁵ Interim changes in the district police set up as envisaged in LGP 2000 were implemented through the Police (Amendment) Order 2001 of 14 August 2001.

¹⁴⁶ Police Order 2002.

¹⁴⁷ ICG interview, Islamabad, June 2002.

prescribe accountability remain poorly implemented. While the district commissioner's lateral control has been removed, the district police officer remains only tangentially responsible to the nazim for law and order. Previously, the DC had been positioned to intervene on behalf of the public to redress grievances. "Though the DC's operational check on the police had been diluted over the years", says a former police official, "periodic visits to the police station did bring relief for those in unlawful detention".¹⁴⁸

Technically, the district nazim can inspect police stations to check illegal detentions but except for districts in which individual police officers have personally established a good working relationship with the nazim, district police authorities are widely accused of running a parallel government. Says Khairpur nazim Nafisa Shah, "I have no information about the activities of the police. Unless a cooperative police officer comes along, I fear the police will continue to operate without any check or accountability".¹⁴⁹

The viability of police reforms depends largely on how the planned safety commission system evolves. Initial signs are discouraging. While provincial governments have notified the creation of district safety commissions,¹⁵⁰ few are properly constituted, fewer still operational.¹⁵¹ These latter, including the one in Quetta, owe their success mainly to the personal involvement of individual police officers.¹⁵² Provincial safety commissions and the police complaints authorities are yet to be created.

Since the promulgation of the Police Order, a corrupt and violence-prone force has been allowed a free hand without external accountability. In fact, selective implementation of the order in an overall environment of the absence of rule of law has

resulted in a sharp rise in reported police excesses, crimes, and deteriorating law and order.¹⁵³

Even if the safety commissions were constituted as envisaged, questions would remain about their effectiveness. The Police Order gives the commissions vague powers to approve policing plans and encourage public-police cooperation. A commission can only ask the district police officer "in writing" to remedy of public complaints. It has no independent enforcement mechanisms or powers of inspection.¹⁵⁴ The federally appointed provincial governor selects half the commission's members. More importantly, the governor can remove members "on his own volition" on several grounds, including "involvement in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan", a euphemism for arbitrary removal.

Police officers as well as many district nazims interviewed by ICG still support the new reforms. Nazims pointed out that nazim-police coordination helped keep relative calm in the wake of countrywide protests against the U.S.-led military campaign in Afghanistan. "During the violence-prone month of Muharram when Sunni-Shia tensions are running high", said Amjad Noon, nazim of Sargodha district in Punjab "the police and district government worked hand in hand to avert any untoward incidents".¹⁵⁵

Police officials say that DMG officers who remain unwilling to shed their colonial powers are maligning the Police Order. There is no doubt that the previous system was outdated and contrary to all principles of

¹⁴⁸ ICG interview, Lahore, July 2003.

¹⁴⁹ ICG interview, Khairpur, May 2003.

¹⁵⁰ According to the Police Order 2002, the provincial government is to establish a public safety commission in each district with eight, ten or twelve members depending upon size and population. The zila council is to elect half the members. The other half (independent members) are to be appointed by the governor from a list recommended by the district selection panel. One third of both elected and appointed members are to be women.

¹⁵¹ ICG interviews, Hyderabad and Hala, January 2004.

¹⁵² Shoaib Suddle, the current chief of police in Baluchistan, was a leading member of both the federal interior ministry's focus group on police reforms and the NRB's police reforms think tank.

¹⁵³ Noting that torture was widespread, the Human Rights Commission of Pakistan documented several cases in 2003 and added that, to its knowledge, no police official was punished. http://www.hrcp-web.org/police_torture.cfm. In a written statement submitted to the UN Commission on Human Rights, the South Asian Human Rights Documentation Centre claimed that citizens were arbitrarily arrested and detained; torture and harassment in custody were common, and at least 100 persons died from police torture annually. [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.2003.NGO.162.En?Ope23/02/2004](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.2003.NGO.162.En?Ope23/02/2004).

¹⁵⁴ The commission can direct the district police officer in writing to ensure registration of a first information report on receiving complaint of any unjustified delay by the head of a police station and report in 48 hours on the action taken by him. On receiving a public complaint against a police officer, it can ask the district officer to act within a specified time. It can also form a team to ascertain the facts and recommend action to the district police officer.

¹⁵⁵ ICG interview, Sargodha, May 2003.

modern policing. "The Police Order has removed the colonial system of administrative controls over the police", said the senior superintendent of police in Quetta. "Investigation has been separated; we can now work more efficiently if given the resources and political backing".¹⁵⁶ There is, in fact, a consensus among senior law enforcement officials interviewed by ICG on the need to see the Police Order implemented in letter and spirit. At the same time, they express doubts about its legitimacy and viability given its association with a military regime. According to a former police service interior secretary, "for the police to function effectively, the society has to ensure that the Constitution is honoured by all. With the military in control, the government is no longer accountable to the people. This creates a precarious situation, particularly for the agency which is responsible for law enforcement".¹⁵⁷

VI. DONORS AND DEVOLUTION

When the military took power on 12 October 1999, Pakistan was nearly bankrupt. The U.S. had imposed military and economic sanctions as a result of Pakistan's pursuit of nuclear weapons. After a series of nuclear tests in May 1998, new loans from the IMF and World Bank were suspended, and Japan, its largest bilateral donor, also froze aid and made resumption contingent on accession to the Comprehensive Test Ban Treaty (CTBT). The coup itself triggered further "democracy sanctions".¹⁵⁸ Confirming that the UK had frozen all direct development assistance, Secretary for International Development Clare Short said:

Pakistan needs a democratic government, which is transparent and accountable....obviously, we cannot provide development assistance to the military authorities in Pakistan. No new funds for programs linked to governmental institutions will be made available, and all our specialists who have been advising the Government have stopped work.¹⁵⁹

The military required urgent and immediate access to the international financial system for its overall corporate interests and regime survival. As international pressure for return to civilian rule mounted, the Musharraf government pledged a series of devolution reforms both to "distract the international community from its coercive actions and to appease donor agencies that favour decentralisation".¹⁶⁰

Well aware of the hostile international environment, the military government appropriated the donor-friendly lexicon of "good governance", "devolution", "grassroots empowerment", and "bottom-up reforms". In this it had the support of a politically vocal coalition of local NGO leaders. It was also more than coincidental that the modes, methods and

¹⁵⁶ ICG interview, Quetta, May 2003.

¹⁵⁷ I.M. Mohsin, "Police Reforms Delayed", *Daily Times*, 31 March 2003.

¹⁵⁸ U.S. nuclear proliferation sanctions were imposed under the Pressler and Glenn Amendments to the Foreign Assistance Act, 1961. U.S. democracy sanctions were imposed under the Foreign Operations Appropriations Act, Section 508, which bars Washington from providing military or economic assistance to non-elected governments.

¹⁵⁹ BBC, "UK Halts Aid to Pakistan," 15 October 1999 <http://news.bbc.co.uk/1/hi/ukpolitics/476091.stm>.

¹⁶⁰ James Manor, "The Political Economy of Democratic Decentralisation", Washington, D.C, The World Bank, 1999, p. 39.

rhetoric of the Musharraf devolution plan closely resembled decentralisation reforms advocated by some donor agencies.¹⁶¹

Long before the 1999 coup, donors had led the debate on the need for decentralisation.¹⁶² The World Bank's "Framework for Civil Service Reforms in Pakistan" had strongly recommended "devolution of substantive authority" to lower tiers of government. The Bank had also strongly emphasised the need for "re-examining the roles of District Commissioners and their Deputies" and for "safeguards to prevent their encroachment on local governments and intervention in their affairs".¹⁶³

In February 1998, the Planning Commission's good governance group (G3) had conducted four provincial seminars on local government with UNDP assistance. Legislators, civil servants, NGO leaders and aid officials held extensive discussions. The World Bank urged the government to draw on this "consensus building process" and another of its reports, "Supporting Fiscal Decentralisation in Pakistan", to "make early strategic decisions on devolution".¹⁶⁴

Soon after the 1999 coup, the UNDP, sensing an opportunity, approached the military government with generous offers of technical assistance.¹⁶⁵ Donor officials based in Pakistan sought to redirect their pre-coup earmarked funds to Musharraf's "democratic reforms" agenda. With little else on which to base its external legitimacy and anxious to co-opt donors, the military government made calculated overtures to enlist support for its "bottom up" reconstruction of Pakistan.

¹⁶¹ Indeed, the NRB devolution plan virtually mirrored the latest development policy discourse in calling for "devolution of political power, decentralisation of administrative authority, de-concentration of functions, redistribution of resources and enhanced representation". LGP, op. cit.

¹⁶² The new consensus in donor policy on good governance includes decentralisation as a key component. It is seen as a means of shifting power and authority from the centralised state to local levels and civil society, increasing governmental transparency and accountability, and making delivery of social services more efficient. Manor, op. cit.

¹⁶³ World Bank, "Framework for Civil Service Reforms in Pakistan", 1998, p. 54.

¹⁶⁴ *Ibid.*, p. 53.

¹⁶⁵ Aid officials ICG interviewed in Islamabad made no effort to hide their frustration with Pakistan's elected government in the 1990s, which they saw as corrupt and inefficient.

¹⁶⁶ Other short-term international consultants, and inputs, including information and communication technology support, were also provided, 15 April 2003. <http://undp.un.org.pk>.

At a crucial meeting held soon after the coup, in November 1999, the National Reconstruction Bureau chairman, Lt. General Tanvir Naqvi, requested UNDP to coordinate support to the government's "national reconstruction reform process" from other UN programs, as well as multilateral and bilateral partners. Thereafter the military government relocated the G3 group to the NRB and made it the focal point for external assistance to the devolution plan.

UNDP re-activated its U.S.\$1.89 million support to the G3 project, providing national consultants as well as a senior international governance advisor for NRB's devolution think tank.¹⁶⁶ UNDP advisors were given unprecedented access to high-powered NRB policy planning meetings. They drafted background papers, policy briefs and substantial parts of the original devolution plan. Through the Institutional Development Task Force, an inter-aid agency body on governance issues (renamed the Governance Group), UNDP also provided the main platform for donor coordination and discussion on the devolution plan.¹⁶⁷

As General Musharraf consolidated his grip on the state, initial scepticism in some aid agencies over support to a military government gave way to heightened enthusiasm over the opportunity to reshape and redefine Pakistani governmental structures. Donors like the UK Department for International Development (DFID) and the Canadian International Development Agency (CIDA) committed their "democratic governance programs" to the military's devolution project.¹⁶⁸ In due course, multilateral financial institutions like the Asian Development Bank dedicated substantial resources for "the government's far-reaching Political Devolution and Administrative

¹⁶⁷ In addition to support from its regular country programs, UNDP has spearheaded an inter-donor advocacy campaign to establish a U.S.\$300 million Devolution Trust for Community Empowerment to "activate the community participation elements of devolution".

¹⁶⁸ For instance, CIDA's Democratic Governance Program supports almost exclusively "the devolution of power, the decentralisation of administration, and the participation of citizens in local governance", which is expected to lead to "improved local governance policies and policy implementation, effective local democratic institutions and practices, and effective citizens' voice in setting local priorities and delivering social services". Canadian International Development Agency website, at www.acdi-cida.gc.ca.

Decentralisation Plan, among the boldest governance reforms ever undertaken by a developing country".¹⁶⁹

As these and other donors re-routed their governance resources to build Pakistani democracy from below, the military government was dismantling it from the top. With General Musharraf simultaneously occupying the offices of chief executive (and later president), chief of army staff, chairman joint chiefs of staff and defence minister, military officers were appointed to top civilian posts in the federal and provincial governments. Political rallies were banned; parliament remained dissolved, and the constitution was put in abeyance. On 26 January 2000, the chief justice and half the bench of the Supreme Court were arbitrarily removed when they refused to take an oath under the military government's provisional constitution.

This destruction of the independence of the courts and the separation of powers did not change donor policy. In fact, donors continued to support Musharraf's devolution of power scheme even after the military resorted to coercive tactics in the elections for nazims. After 11 September 2001, even the international community's rhetorical emphasis on a return to democracy in Pakistan was put on the back burner as the Musharraf government joined the fight against al-Qaeda and the Taliban in Afghanistan. Emboldened by his international acceptance, Musharraf used the newly created local governments to manipulate the run up to the national elections of October 2002.

Despite extensive "pre-poll rigging" that led international observers to censure the 2002 electoral process as "seriously flawed",¹⁷⁰ UNDP, DFID, CIDA and the Norwegian Agency for Development Co-operation (NORAD), continued to back a U.S.\$5 million umbrella project on "Supporting Democratic Electoral Processes in Pakistan (SDEPP)" to provide "the basis for coordinated international donor

community support for the preparation of truly democratic elections".¹⁷¹

Donor agencies such as UNDP also supported the NRB's proposed constitutional amendments to "provide constitutional coverage to and ensure stability of the devolution initiatives".¹⁷² Actually, only a small fraction of the constitutional amendments package, the August 2002 Legal Framework Order (LFO), relates to devolution. Many features of that package, now enshrined in the constitution through the 17th amendment, are widely seen as an attempt to retain direct military rule.

Donors have not been ignorant of the military's intentions. A senior governance advisor of a multilateral bank says, "we knew that regime security was primary to devolution; it was obvious to us that the military was circumventing provinces to create new constituencies for local support while reaping the added benefit of donor support".¹⁷³ Another aid official says, "we did and still have serious reservations about the local government plan but we could either equivocate and risk reform failure, or put our money behind [the military government] to gain a voice".¹⁷⁴

Many other donors gave their support apparently more enthusiastically and are much more sanguine about the military's reformist zeal. According to a senior DFID official, "mass empowerment was the real motivation behind devolution. Colonialism and centralisation, twin evils of Pakistan's bureaucratic institutions, can't be abolished overnight -- 101 elected districts are the answer".¹⁷⁵

This unquestioning acceptance by some donors of Musharraf's "readiness to confront issues that eluded the country since independence",¹⁷⁶ has led many to violate even their own declared goals of "local ownership" and "stakeholder consultations". While the overall objective of the UNDP Governance Program in Pakistan, for instance, is "to create an enabling environment within which the people of Pakistan can influence the direction and conduct of

¹⁶⁹ Asian Development Bank, Press Release. "Helping Pakistan's Devolution Program Improve Delivery of Social Services", Manila, 21 November 2002, at www.adb.org. The ADB funds a U.S.\$300 million "Support to Devolution Program" that mainly provides budgetary support to the Pakistan government.

¹⁷⁰ See the report of the European Union Election Observation Mission (EUEOM) at <http://www.eueom.org.pk/finalreport.asp>.

¹⁷¹ For a project synopsis see <http://undp.un.org.pk>.

¹⁷² UNDP "Governance and Gender Unit Quarterly Progress Report: April -June 2002", at <http://undp.un.org.pk>, 2 April 2003.

¹⁷³ ICG interview, Islamabad, June 2003.

¹⁷⁴ ICG interview, Islamabad, June 2003.

¹⁷⁵ ICG Interview, Islamabad, June 2003.

¹⁷⁶ Asian Development Bank, "Pakistan: Country Strategy and Program 2002-2006", at www.adb.org.

their governing institutions",¹⁷⁷ political parties, civil society organisations, professional associations, and even the civilian bureaucracy were largely bypassed in the policy planning process that eventually led to adoption of the devolution plan.¹⁷⁸ Throughout the formulation, design, dissemination and implementation of that plan, UNDP even overlooked existing institutional arrangements, including the ministry of local government, opting instead to support the NRB.¹⁷⁹

This experience is a cautionary tale that in extreme situations, reforms carried out according to donor specifications can reinforce authoritarian regimes and undermine democracy.¹⁸⁰ In the specific example of Musharraf's devolution, donor acceptance of the official rhetoric of good governance has, as a practical matter, undermined the democratic transition.

Although criticised by most Pakistani political parties and independent human rights groups, donor acceptance and ownership of the devolution plan has certainly endowed the military's local government system with its own momentum and an otherwise missing semblance of legitimacy. With low levels of internal accountability, donor funding not only contradicts declared objectives of supporting democratic governance but also wastes scarce resources. The lack of domestic legitimacy means there are high risks of failure and adverse political impact. No matter how unintended, by supporting the regime's devolution plan, donors have reinforced the military's hold on power.

VII. DEMOCRATIC TRANSITION AND LOCAL GOVERNMENT

A. PREPARING THE GROUND

To protect the devolution scheme from interference by elected governments, Musharraf's LFO placed the four provincial Local Government Ordinances in that part of the 1973 constitution (the Sixth Schedule) that can only be amended with consent of the president.¹⁸¹ It was also required that provincial governments "shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected local representatives".¹⁸² This provision creates the false impression that devolution remains within a provincial framework but its protected constitutional status effectively precludes provinces from amending the LGO.

With this constitutional cover, the military government could rely on its local clients ensure a favourable outcome in the October 2002 national elections. In the Punjab, where a majority of district and tehsil nazims could be counted on to support military-backed candidates for the national and provincial assemblies, they were encouraged to mobilise support openly for the pro-Musharraf PML-Q in return for generous developmental funds. Elsewhere, nazims were threatened and intimidated to support PML-Q candidates. In parts of Sindh and Baluchistan, wholesale transfers of district officers were ordered to blunt the authority of "hostile" nazims.¹⁸³

Local governments proved instrumental in the military government's manipulation of these general elections, which international human rights and election observer groups termed "seriously flawed".¹⁸⁴ With the military's backing, the PML-Q obtained the most seats in the National Assembly and the Punjab Provincial Assembly. "The blatant political use of

¹⁷⁷ UNDP Governance Unit, at <http://undp.un.org.pk>.

¹⁷⁸ Funded by the Asia Foundation, the only visible attempt to solicit public views was a series of "People's Assemblies" held under the auspices of the Ministry of Local Government and Rural Development.

¹⁷⁹ UNDP continues to support the devolution concept: "The devolution project is one of the fundamental projects in Pakistan in alleviating poverty. The UNDP stands behind it 100 per cent and will continue to support the initiative". ICG interview, Farhan Sabi, head of the UNDP governance unit in Islamabad, 22 March 2004.

¹⁸⁰ Carrie Meyer, "The Irony of Donor Efforts to Build Institutions: A Case Study From the Dominican Republic", *Journal of Institutional and Theoretical Economics*, No. 148, 1992, pp.628-44.

¹⁸¹ Under Article 268 (2) of the 1973 Constitution, the laws specified in the sixth schedule may not be altered, repealed or amended without the previous sanction of the president.

¹⁸² Legal Framework Order 2002, Chief Executive's Secretariat, Government of Pakistan, Islamabad, August 2002.

¹⁸³ ICG interviews, May-June 2002.

¹⁸⁴ See the final report of the European Union Election Observation Mission (EUEOM) to Pakistan, at <http://www.eueom.org.pk/finalreport.asp>. Also see Human Rights Watch Background Briefing, "Pakistan: Entire Election Process Deeply Flawed", 9 October 2002, at <http://www.hrw.org/press/2002/10/pakistan-1009.htm>.

elected councils in the general elections has proved beyond any doubt that the local bodies had been primarily created for that very purpose", said Afrasiab Khattak, then Chairman of the independent Human Rights Commission of Pakistan.¹⁸⁵

B. THE POLITICS OF DEVOLUTION

With the transfer of power to the elected national and provincial governments in November 2002, there are growing frictions between elected officials and local governments, which are perceived as tainted by their association with the military government and its political machinations. Elected politicians see in local bodies an alternative power structure that undercuts their authority. They have just cause since the power dynamics have been radically altered by the military's politically motivated delimitation of both provincial and national electoral constituencies (especially in the Punjab) and the installation of nazims. In Lahore, for instance, the area under the control of one town nazim includes several provincial and national electoral districts. Members of provincial assemblies (MPAs) and the National Assembly (MNAs) also feel that nazims have usurped their legitimate right to oversee development projects in their constituencies.¹⁸⁶

In interviews with ICG, many legislators stress that their access to development projects is essential because Pakistani voters expect their representatives to deliver patronage and resolve their day-to-day problems. According to a pro-military PML-Q MNA from the NWFP, "If I tell my constituents that sanitation, water supply or police matters are now the responsibility of local governments, they turn around and say: we voted for you, not the nazim".¹⁸⁷ An MNA of the same party and from a northern Punjab district asks, "if I don't deliver on public demands, what is my political future?"¹⁸⁸

Opposition legislators from the PPP and PML-N agree, adding that President Musharraf had reserved many public policy areas such as devolution under the LFO. The President retains his control over the devolution scheme after its inclusion in the Sixth schedule of the constitution. This seriously limits the policy making options of politicians and encourages them to focus on local as opposed to regional or national issues.

To assuage their demands for participation in local development schemes, the PML-Q central government decided in late November 2002 to allocate special funds to provincial and national legislators that would enable them to undertake development projects in their own constituencies. This reinforced the public perception that legislators remain the appropriate address for resolving local problems, not nazims. While they can only identify electrification, gas and telecommunication projects, the official re-introduction of their developmental role has spurred local authorities to match them project for project.¹⁸⁹ In many districts where the political relationship between nazims and legislators is less than friendly, energies are consumed by the need to build independent political capital, often through parallel and hence wasteful developmental schemes.

In the Punjab, Sindh and NWFP, rivalries between nazims and legislators often cut across party lines. In many districts of the Punjab, for instance, even nazims and provincial or national legislators from the ruling and pro-Musharraf PML-Q are at loggerheads since the military either deliberately supported, or at least acquiesced in, the victories of mutually hostile candidates at the different tiers of government. According to a PML-Q national legislator, "I sense a deliberate strategy on the part of the federal government to keep MNAs embroiled in a competition with the nazim, lest they begin to challenge the military's role at the centre".¹⁹⁰ An analyst agrees: "Since divide-and-rule tactics are a favourite with the military, creating the district government as a rival power centre was part of a deliberate strategy to keep politicians and nazims at each other's throats and thus take pressures off the centre where the generals rule".¹⁹¹

Wary of these growing tensions, Prime Minister Zafarullah Khan Jamali instructed the NRB in

¹⁸⁵ ICG telephone interview, November 2002.

¹⁸⁶ The involvement of legislators in local development schemes dates back to General Zia's time, when state funds were disbursed to loyal "non-partisan" parliamentarians to create a political clientele for the military ruler. Systematic suppression of partisan loyalties and state patronage of corruption under authoritarian rule have gradually replaced issue-based political competition with easier to manage, personality-based patronage politics.

¹⁸⁷ ICG interview, June 2003.

¹⁸⁸ ICG interview, July 2003.

¹⁸⁹ ICG interviews, June 2003.

¹⁹⁰ ICG interview, Islamabad, July 2003.

¹⁹¹ ICG interview, July 2003.

February 2003 to work out a mutually acceptable mechanism for coordination between elected members of the local governments and parliamentarians. Several proposals are on the table (including participation of elected members in district development committee meetings), but the tussle between different tiers of government shows no signs of abating in the absence of any effective mechanisms for dispute resolution.¹⁹²

C. PROVINCIAL DISCONTENT

Provincial and local governments were on collision course from the start. Most opposition politicians see devolution as Islamabad's infringement on an already reduced sphere of provincial autonomy. "Devolution was bulldozed over the provinces by a military regime without taking political parties into confidence", says Shah Mehmood Qureshi of the largest opposition party, the PPP. "It was only a matter of time before the various tiers of government locked horns with each other".¹⁹³ Most elected provincial governments, including those controlled by the ruling PML-Q, also view devolution with varying degrees of suspicion.

Provincial demands range from amendments to abolition of the Local Government Ordinance. "The LGO is silent on many issues and requires adjustments", notes Raja Basharat, Punjab Minister for Local Government.¹⁹⁴ A minister in Baluchistan from the Muttahida Majlis-e-Amal (MMA, the six-party religious alliance) says, "Islamabad has usurped the administrative, legislative and financial powers of the provinces in the name of devolution which should be abolished".¹⁹⁵

Above all, there is consensus across the political spectrum that the local government scheme cannot work without adjusting it to Pakistan's federal parliamentary system. Even in the Punjab where a majority of district nazims remain loyal to the ruling PML-Q, Chief Minister Pervez Elahi concedes that "certain changes would have to be made in the local government law to create linkages between the provincial and the district governments".¹⁹⁶ In

February 2003, the Punjab government created a devolution committee to address these problems and suggest reforms. Headed by the provincial minister for local government, the body includes provincial legislators and nazims.

Such ad hoc measures can hardly rectify the distortions that have resulted from the military's manipulation of the political process. By purportedly depoliticising governance, for instance, the military has reinforced loyalties along the lines of *biradari* (caste, tribe, sub-region), thus actually aggravating social and political divisions in society. Centralised control, the absence of the rule of law, and patronage-based politics are promoting corruption and have increased the potential for confrontation and conflict between the federal units and the centre and within the provinces.

In provinces where nazims and elected governments come from different political parties, the problems are predictably more severe. Notes an analyst, "no sooner had elected governments assumed office than political rivalries, forced underground by authoritarian manipulation, resurfaced with a vengeance".¹⁹⁷ In the NWFP, the MMA government is dominated by the Jamiat Ulema Islam (JUI), which had boycotted the local government elections. Ever since, zila nazims say, the MMA government has attempted to reassert control over local bodies by gradually usurping their already limited powers. "Release of development funds has been stalled and district nazims are ignored in almost all the important administrative matters".¹⁹⁸

While tensions had been brewing for some time, they came to a head in late May 2003 when the MMA government introduced resolutions in the provincial assembly to remove the district nazims of Kohistan and Bannu for misuse of power and corruption. The assembly speaker formed a special committee to deal with the cases. The threat of prosecution prompted all 24 NWFP district nazims to tender their resignations, citing "undue interference" from the provincial government. The resignations came against the backdrop of the military's stalled negotiations with the MMA to gain its support in the national parliament for Musharraf's Legal Framework Order.¹⁹⁹ Analysts believe they were meant to

¹⁹² ICG interviews, Hyderabad, January 2004.

¹⁹³ ICG interview, Islamabad, April 2003.

¹⁹⁴ ICG interview, Lahore, June 2003.

¹⁹⁵ ICG interview, Quetta, June 2003.

¹⁹⁶ "Devolution plan to be strengthened: Pervez", *Dawn*, 17 December 2002.

¹⁹⁷ ICG interview, Lahore, June 2003.

¹⁹⁸ ICG interview, August 2003.

¹⁹⁹ Relations between the centre and the NWFP government also deteriorated when the MMA tabled a bill on *shari'a*

pressure the MMA to support the LFO. The signal to the MMA government was "fall in line or face the consequences".²⁰⁰

According to federal government sources, it was not surprising that the nazims, whether sensing a favourable political climate or heeding Islamabad's directive, deliberately bypassed provincial authorities and tendered their resignations directly to President Musharraf.²⁰¹ A district nazim who spearheaded the revolt against the provincial government confirmed to ICG, "while most nazims had legitimate grievances against the MMA government, we had been bypassed since 14 August 2001, so this was a golden opportunity to make our voices heard".²⁰²

Demonstrating an indifference to provincial autonomy, President Musharraf intervened, refusing the resignations and directing the MMA government to restore powers delegated to the nazims under the LGO within ten days.²⁰³ The NRB subsequently drafted new rules in consultation with the provincial government and the nazims but little has changed on the ground. The tussle between nazims and provincial governments is far from over.

The military's political use of its devolution scheme is further illustrated by President Musharraf's benign neglect of -- some say blessing for -- the Punjab government's plans to pressure and remove nazims with links to opposition parties.²⁰⁴ In Lahore city, for instance, it reportedly colluded in ousting Ahmed Hassan, the pro PML-N nazim of Data Gunj Bakhsh Town, through a no-confidence motion.²⁰⁵ "I have been a victim of a conspiracy hatched by the

provincial PML-Q authorities", he claimed.²⁰⁶ Several PPP and PML-N tehsil and district nazims told ICG they are under intense official pressure to join the PML-Q.²⁰⁷

In provinces where the ruling PML-Q has formed coalition governments, the devolution scheme has fared no better. In Baluchistan, nazims have appealed to the courts to stop provincial interference in district affairs. Rahim Kakar, the district nazim of Quetta City, says, "I have had to approach the High Court to stop provincial intrusions in the affairs of the city district government".²⁰⁸ The roots of local opposition to devolution run much deeper in this province than battles over political turf. The scheme is widely seen by the Baluch as yet another attempt by a Punjabi-dominated military to usurp their political and economic rights. While they accept decentralisation to district levels in principle, Baluch leaders and academics are quick to point out that the administrative and financial autonomy guaranteed to the federal units in the 1973 constitution has been undermined by continued military rule.

History warns that central intrusions into provincial affairs can seriously exacerbate ethno-regional tensions. In the 1970s, the dismissal of the provincial National Awami Party-JUI government in Baluchistan culminated in a bloody insurgency against the central government. Several thousand Baluch were killed in the military's counter-insurgency operations. Worryingly, the deepening sense of Baluch alienation from centralised military rule is already manifesting itself in periodic attacks on oil and gas installations.

In Sindh, local rivalries aggravated by the military's political manipulation mar provincial-local government relations. The military's decision to cobble together a fractious coalition that includes the PML-Q, the MQM and the Sindh Democratic Alliance rather than allow the PPP, which has the most seats in the assembly, to form the provincial government is largely responsible for heightened ethnic, regional and factional infighting.

As pro-PPP district nazims pay the price for their political affiliation, Sindhi resentment against the Punjabi-dominated military is on the rise. With memories of the execution of a Sindhi Prime

(Islamic) law in late May 2003, causing much embarrassment to President Musharraf on the eve of his trip to the U.S., France, Germany and the UK. Vigilante action by the youth wing of the Jamaat-i-Islami, a key member of the MMA, which included the defacing of billboards across the provincial capital, Peshawar, prompted Islamabad to threaten administrative action. "Shariat Bill tabled in NWFP's provincial assembly", *Dawn*, 28 May 2003.

²⁰⁰ ICG interview, Islamabad, July 2003.

²⁰¹ "District Nazims in NWFP Resign", *Dawn*, 2 June 2003.

²⁰² ICG interview, August 2003.

²⁰³ Senior officials in the MMA government say that Musharraf had given them a green light for action against corrupt nazims. Quoted in Mubashir Zaidi and Ali Hasan, *op.cit.*

²⁰⁴ ICG Punjab-wide interviews, June 2003.

²⁰⁵ Ali Lahori, "Councillors on Sale in Lahore", *The Independent*, 4-10 September 2003, p. 4. Councillors were reportedly bribed to vote against Hassan.

²⁰⁶ ICG telephone interview, September 2003. Hassan has appealed to the Supreme Court of Pakistan.

²⁰⁷ ICG interviews, Punjab, May-June 2003.

²⁰⁸ ICG interview, Quetta, June 2003.

Minister by a military ruler still fresh, the Sindhis have little faith in the legitimacy of the state and its institutions, least of all in the local government scheme.²⁰⁹

In the Muhajir-dominated urban centres of Sindh, which have repeatedly witnessed violent ethnic conflict, local rivalries are already assuming a dangerous shape. The MQM, which boycotted local elections, opposes control of the city district and several town governments by its archrival, the Jamaat-i-Islami. Senior MQM leaders, who hold important posts in the provincial government, including that of governor, say it is only a matter of time before they bring no-confidence motions against JI nazims. According to JI city district council members, "the provincial governor and the local government minister have left no stone unturned to undermine the city nazim by blocking the devolution of municipal bodies, slashing budgets and transferring officials".²¹⁰

While the federal government has acted to ease tensions by removing the local government minister, informed observers fear that the JI-MQM dispute could intensify to engulf Karachi in yet another cycle of violence and instability.²¹¹ Armed clashes between activists have already claimed several lives.

Growing tensions between the centre and the smaller provinces are also prominent in the increasingly strident criticism of the devolution scheme by Baluch, Sindhi and Pashtun ethno-regional parties. Rejecting the military's involvement in politics in general, and demanding more independence for the federal units, parties such as the NWFP-based Awami National Party, the Pashtun-dominated Pakhtoonkhawa Milli Awami Party, the Baluchistan National Party and Baluchistan National Movement, the Sindhi Taraqi Pasand Party and the Jeay Sindh Mahaz, among others, believe that the devolution scheme is yet another means for the Punjabi-

dominated military to undermine provincial rights.²¹² This growing resentment might not translate into armed conflict, given the military's power. If left to fester, however, it could, as in the past, still turn violent.²¹³ Resentment of the devolution plan might well prove the catalyst.

²⁰⁹ Criticising the Punjabi-dominated military for usurping power at the cost of the smaller federal units, a Sindhi political activist said, "We might not be capable of fighting the military but we will never accept military rule". ICG interview, Hyderabad, January 2004. Former Prime Minister Zulfikar Ali Bhutto was removed from office in 1978 by General Zia's military government and executed the following year.

²¹⁰ ICG interview, Karachi, June 2003.

²¹¹ "MQM Minister Replaced", *Dawn*, 24 August 2003.

²¹² On 23 February 2004, the police booked 25 leaders of PONM parties, including members of both houses of parliament, in Islamabad for preaching provincial and ethnic prejudice after they held a seminar on the 17th amendment and its infringement of provincial rights.

²¹³ Commenting on the government's action against the PONM leaders, *The News* editorialised that, "the issue of provincial autonomy" requires "immediate attention if the country's unity is to be strengthened. The example of East Pakistan inevitably emerges as a nightmare of what can happen if again those same errors are committed". "Hear these voices", *The News*, 24 February 2004.

VIII. CONCLUSION

While the NRB claims it is too early to know whether the new administrative arrangements are working, most officials in the field and nazims told ICG that law enforcement has emerged as a particularly serious problem. According to an official of the federal ministry of interior, "the poor performance of the local governments in relation to the enforcement of rule of law could force all four provincial governments to reconsider the whole devolution scheme".²¹⁴ In Sindh, Baluchistan and the NWFP, provincial authorities complain that nazims are constrained by political affiliations in controlling law and order. In February 2003, the Punjab government gave district revenue officers power to try offences under the local and special laws for three months.²¹⁵ This partial return of magisterial powers to executive officers is a serious blow to the devolution plan and has fuelled speculation that it will not last long.²¹⁶

Although President Musharraf and Prime Minister Jamali have ordered the provinces to implement Police Order 2002 by 14 August 2004, it is unlikely they will comply.²¹⁷ And with demands for restructuring of the LGO echoing in provincial and central legislatures by government ministers and opposition politicians alike, doubts about its survival continue to grow.

For those with stakes in the system, including the nazims, President Musharraf's backing remains the mainstay of their hopes for political survival. The

devolution scheme is also still backed by a number of donors in the belief that "new pro-devolution constituencies" will ensure the viability of the system.²¹⁸ This optimism, however, is not widely shared.

"Lacking internal legitimacy", says Ahmed Rashid, "the devolution plan faces the political and legal ambiguities common to projects in which authoritarian means are deployed to achieve democratic goals".²¹⁹

Since key stakeholders were bypassed in the process, it is not surprising that devolution remains controversial with political parties, provincial governments and the bureaucracy. Without their support, it is vulnerable, especially because of its association with the military.

A Sindh nazim says, "you can't legitimise a system of government by putting it in a glass case. Legislators and parties will have to be taken into confidence if the system is to last".²²⁰ According to Senator Sanaullah Baluch of the Baluchistan National Party, "A system devoid of legitimacy and propped on military crutches can hardly be expected to outlive its creator".²²¹

There is indeed pressing need for the devolution of political, administrative and economic power in Pakistan but any scheme has to take into account the legitimate concerns of elected politicians and provincial governments.

Party-based, direct elections for posts in any local government scheme are crucial if there is to be electoral accountability of local officials and the divisive impact of non-partisan elections on political affiliations is to be curtailed.

Provincial grievances will have to be addressed through meaningful step towards decentralisation of administrative and financial powers. Provinces must also be consulted and involved in the timely implementation of police reforms.

To make devolution viable, the financial autonomy of local units of government will have to be enhanced with provisions for raising additional revenue through

²¹⁴ ICG interview, Islamabad, June 2003.

²¹⁵ ICG interviews, Lahore, June 2003. Section 144 allows the government to take preventive measures if it perceives danger to public order. These can include a ban on meetings and processions of five or more persons, carrying of firearms, and preventive detention of any person likely to disturb public order. A senior local government ministry official said, "the provincial government was facing serious difficulties in implementing its policies which compelled us to confer magisterial powers on the executive magistrates". ICG interview, Lahore, 2003.

²¹⁶ According to an NRB official, "the return of the magistracy puts a question mark on the Bureau's main objective of de-concentrating the executive and judicial powers of the DMG". ICG interview, Islamabad, May 2003. The DMG group in the federal bureaucracy, which had previously exercised magisterial powers, still controls strategic positions at provincial and federal levels.

²¹⁷ "Police Order that no one wants", *Daily Times*, 29 January 2004.

²¹⁸ ICG interview, Islamabad, July 2003.

²¹⁹ ICG interview, Khushab, May 2003.

²²⁰ ICG interview, Karachi, June 2003.

²²¹ ICG interview, Islamabad, July 2003.

taxation. And provincial transfers to local tiers of government must be adjusted to reflect local fiscal needs, underdevelopment and poverty levels.

Given the paucity of local resources, international assistance is also essential to successful devolution. However, the international community should link financial and technical assistance to time-bound progress on federal-provincial devolution, fiscal decentralisation and police reforms.

In its present form, the Musharraf local government scheme has failed to give any lasting legitimacy to military rule. But the political engineering that accompanies it has strained a fragile polity by exacerbating sub-national divisions and fanning provincial grievances over reduced financial and administrative autonomy.²²²

Now that the military and MMA have reached a deal on the LFO, there is speculation that Musharraf could choose to reshape the devolution scheme in the NWFP and Baluchistan to assuage the concerns of the religious alliance.²²³ In Punjab, devolution is likely to be retained with no more than minor adjustments. In Sindh, political rivalries between nazims and provincial ministers (especially in Karachi) will continue to mar the prospects of any meaningful devolution and increase the potential for conflict, particularly in the provincial capital.

For now, the coercive powers at the military's disposal, combined with international support, favour the present devolution scheme. But centralisation of powers, denial of provincial autonomy and the absence of any meaningful public participation in government will almost inevitably cause it to unravel. In the final analysis, the fate of President Musharraf's devolution plan remains linked to his own.

Islamabad/Brussels 22 March 2004

²²² ICG interview, Islamabad, May 2003.

²²³ ICG countrywide interviews, July-August 2003.

APPENDIX A MAP OF PAKISTAN



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Courtesy of The General Libraries, The University of Texas at Austin

APPENDIX B

GLOSSARY OF USEFUL TERMS AND ACRONYMS

ANP: Awami National Party

Awam Dost (Friends of the People): Cover name and widely known euphemism for Pakistan People's Party (PPP) members participating in the 1979 local body elections.

Biradari: Kin-based loyalties.

Basic Democracy: System introduced by Ayub Khan in 1959 under which Pakistan was divided into 80,000 single-member constituencies, each to elect a Basic Democrat; the Basic Democrats from each constituency would then elect the national and provincial assemblies and form the presidential electoral college.

BNM: Baluchistan National Movement

CCB: Citizen Community Board

CIDA: Canadian International Development Agency

DCO: District Coordination Officer

DDC: District Development Committee

DDO: Deputy District Officer

Devolution of Power Plan: Proposal presented by the National Reconstruction Bureau in May 2000 to create a three-tiered system of local governance: at the district, sub-district and union level.

DMG: District Management Group

DPO: District Police Officer

DFID: UK Department for International Development

ECP: Election Commission of Pakistan

EDO: Executive District Officer

FATA: Federally Administered Tribal Areas

G3: Good Governance Group

HRC: Human Rights Commission of Pakistan

Ji: Jamaat-i-Islami, member of the religious alliance, MMA.

KSWSB: Karachi Sewerage and Water Supply Board

Legal Framework Order (LFO): Musharraf's Set of constitutional amendments. Many LFO features were enshrined in the constitution in January 2004 under the 17th amendment.

Local Government Plan 2000: The Musharraf government's August 2000 proposal to devolve political power, decentralise administrative authority and management functions, and distribute resources to the district level.

Local Government Ordinance (LGO) 2001: Ordinance promulgated in August 2001 in each province to reconstruct and regulate local government at the district (zila), sub-district (tehsil) and union (villages) level.

MMA: Muttahida Majlis-i-Amal (United Council of Action), an alliance of six religious parties.

Mohtasib: Ombudsman.

MQM: Muttahida Qaumi Movement (United National Movement)

Muharram: First month of the Islamic calendar.

Muhajir: Muslim migrant from India who settled in Pakistan after partition.

Nazim: Mayor.

Naib Nazim: Deputy mayor.

NRB: National Reconstruction Bureau

PFC: Provincial Finance Commission

PML-N: Pakistan Muslim League -- Nawaz (Sharif), a faction of the Muslim League loyal to former Prime Minister Nawaz Sharif.

PML-Q: Pakistan Muslim League -- Quaid-i-Azam, a pro-Musharraf faction of the Muslim League,

which currently heads coalition governments at the centre and in Punjab, Sindh and Baluchistan.

PPP: Pakistan People's Party, a political party founded by Pakistan's first elected prime minister, Zulfikar Ali Bhutto, and headed today by his daughter and former Prime Minister Benazir Bhutto).

Tehsil: Sub-district, or town.

Thana: Town.

TMA: Tehsil Municipal Administration

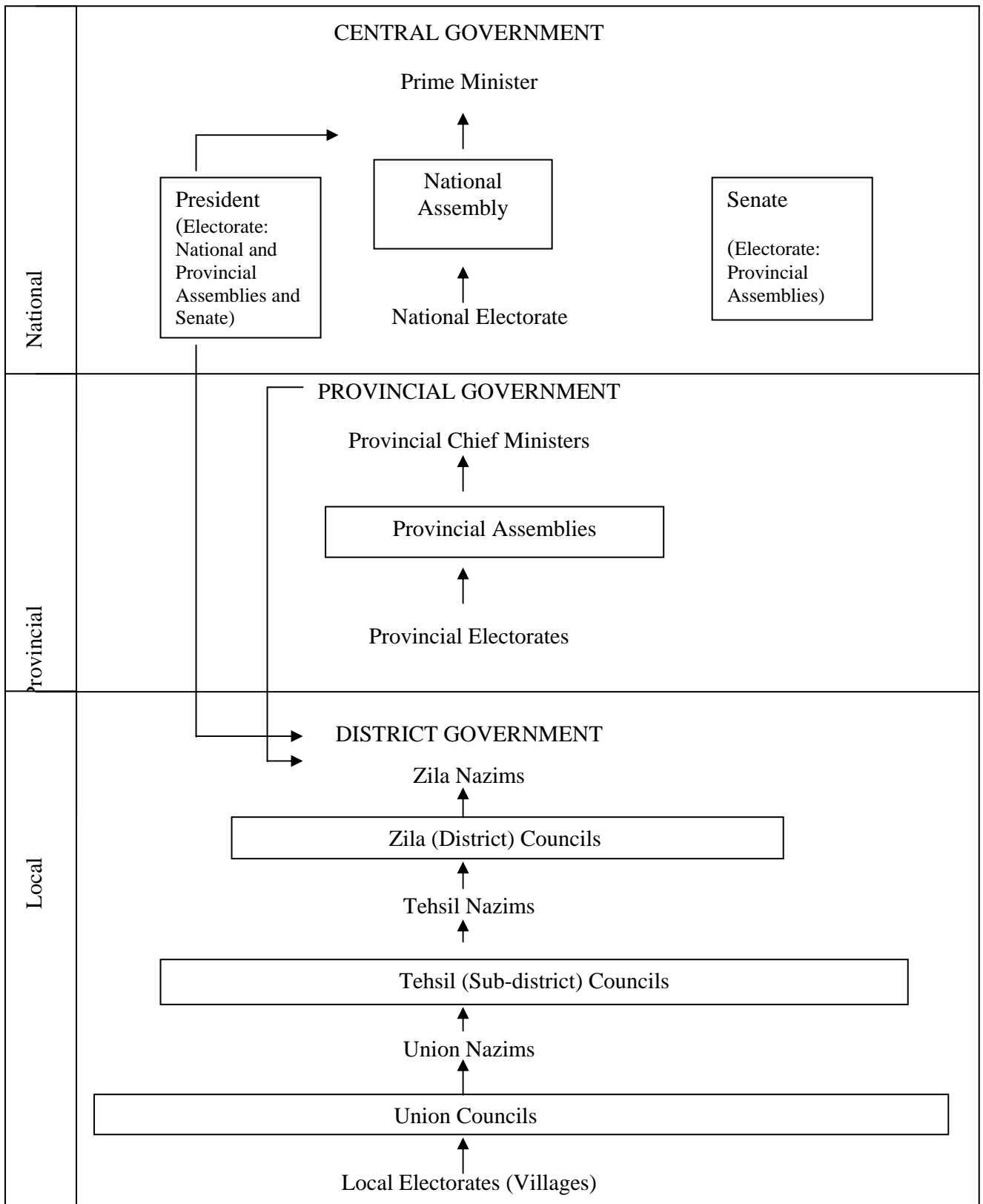
UNDP: United Nations Development Project

Zila: District.

Zila Mohtasib: District ombudsman.

APPENDIX C

DEVOLUTION OF POWER: STRUCTURE OF THE GOVERNMENT OF PAKISTAN



(Arrow = direction of power)