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Devolution: A way forward for Pakistan

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Abstract

The main objective of this research is to give a viable devolution plan for Pakistan, after studying the three main decentralization plans. . One was in 1959 under General Ayub Khan through the Basic Democracies Order 1959, while the other was in 1979 under General Zia ul Haq through the Local Government Ordinance (LGO) 1979. The devolution plan of the new millennium was also initiated by a military ruler, General Pervez Musharraf, in 2001 under the Local Government Ordinance (LGO) 2001. This new devolution plans also takes notice of the 18th Amendment in the constitution of Pakistan and scenario that was developed after it. After analysis the previous local bodies plan, literature and the 18th Amendment, a devolution plan is recommended that could be beneficial for political economy.

Keywords: Devolution, Decentralization, Local Bodies, 18th Amendment

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1. Introduction

Decentralization or devolution, as it is called in many contexts, is the re-arrangement and restructuring of the system of governance, into local, regional or subnational levels. The decentralization, whether it is fiscal, administrative or political, involves various factors that are essential to its process. A network of co-responsibility exists between the different institutions of the government structure, within the various levels of hierarchy. This is done on the basis of the principle of subsidiarity – the local governing authorities become authorized and responsible for the day to day affairs and issues faced within their domain and jurisdiction and their areas of authority. They address these problems within their capacity to solve them, partially or wholly, being independent of the higher levels. The outcome therefore reveals in an enhanced system of authority, greater capacity of the local or sub-national Government, and increased effectiveness and efficiency in terms of the quality of service delivery in the public domain.

Devolution, more specifically, is the transfer and movement of resources, power and tasks to the lower levels of hierarchy in terms of the Local Governments. These local bodies are democratic in essence. Decentralization or devolution is a global trend. It is not a novel idea in Pakistan, it has also been tried, tested and successfully implemented in various countries since many decades. Many developing countries in the East Asia, Europe and Latin America are also taking up devolution as the means to improve public service delivery.

Until the introduction of the 18th amendment, the Constitution of Pakistan did not recognise Local Governments as a separate tier of the Government with independent authority and responsibilities. However, it is constitutionally binding that Local Government elections be carried out and local bodies be formed to run the affairs of the country.

Pakistan's history has been filled with political instability and administrative lapses generally. Pakistan has had a poor record as far as democracy is concerned, since it has seen the presence of the military for majority of the years after 1947. The Military, non-representative regimes however, have been the ones behind the introduction of Local Government reforms each time. Pakistan adopted the system of local governments twice before the 2001 plan of devolution. One was in 1959 under General Ayub Khan through the Basic Democracies Order 1959, while the other was in 1979 under General Zia ul Haq through the Local Government Ordinance (LGO) 1979. The devolution plan of the new millennium was also initiated by a military ruler, General Pervez Musharraf, in 2001 under the Local Government Ordinance (LGO) 2001. This new plan brought many innovations into the old system in terms of political and administrative structure. The Local Governments have never been functional independently with full autonomy under the democratic Governments. Moreover, whenever the new reforms are brought about, they are created afresh having nothing in common with the previous reforms. Despite these reforms, the civil bureaucracy has been unable to fully resolve the problems of the general masses related with the public service delivery, while the military cannot easily participate in decision making, structurally

2. Methodology

This research is descriptive and exploratory in nature, and conducted mainly through secondary sources which include historical archives, past researches, internet resources and case studies. Furthermore, consultations were also done with university faculty. In the end, the paper proposes a suitable system of devolution of power that provides political economy and would define how to implement it. This will be done, taking into consideration, all the research done, so that the proposed system is a practical one, which ensures maximum political economy – the basic aim of devolution of power.

3. Literature review

Rondinelli (1981) emphasized on the point that implementing the devolution process can enhance the speed of projects that could lead to increase in providing public goods to the people. Devolving power to the people leads to collaborative system where maximum can participate in reforms and accountability can be upheld.

Esman and Uphoff (1981) identified seven benefits for the cause of devolution of power. They pointed out that decentralization lead to better participation, social mobilization, expertise at local level, data would be more precise, there would be more efficiency and effectiveness and more collaboration.

Aslam and Yihmaz (2011) studied the devolution plan of 2001 by conducting survey of 183 villages in Pakistan, by using panel data that came to conclusion that decentralization has led to better delivery of services in different areas like water canals, cleanliness sewer lines, and school services. However, the results were not very uniform, there were some diversifications. Furthermore, they discussed that the devolution of power generally lead to better performance, yet the empirical results have shown mixed picture of decentralization. Moreover, in terms of economic dividend there also have been mixed results and the picture is not crystal clear. The focus of the article was on political economy of devolution plan of 2001, which somewhat showed that there is improvement in performance when power is given to local level as they are more aware of needs and wants of the community.

Schneider (2003) researched on devolution of power by doing factor analysis utilizing facts and figures of 1996 and sixty eight countries. After doing the analysis he came to conclusion that there are three essential attributes of decentralization and that are monetary, management related and political. Furthermore, he emphasized on the point the local bodies are contributing to the development process more than past and system is evolving and taking better shape. However, he was of the point that this is debate on what exactly is the meaning of devolution of power and there is also a question on how the process should be measured. So he defined devolution process in terms of fiscal, administrative and political sense. Moreover, he discussed that his research can be used as a standard to further test the causes and effects of the process of devolution on the social development.

Cyan (2007) discussed that Pakistan has tried thrice to implement the system of devolution by involving the community through elected Councils and local political executives. He appreciated these steps and pointed these reforms as major push for changing towards new system from the old one. He emphasized on the point that by delegating authority to the local bodies issues can be understood and solved in a better way and the implementation of public policies can be tackled in more appropriate and pertinent way as the local

people can respond in a better way to the local needs and wants. However, there is one big hurdle that blocks the implementation of local bodies system and that is the monetary framework. Most of the funds remain under the discretion of the central or provincial governments, which make the local bodies insufficient to provide enough services to their community. In order to have effective devolution of power, it is absolutely essential that more monetary autonomy is given to locally elected people so that they can deliver sufficient services to the community. Only political and managerial reforms would not make the decentralization process effective, economic authority also needs to be devolved in order to have successful devolution of power.

Zaidi (2005) believes that, taken separately or in some combination, the three concepts of decentralization, de concentration and devolution and the method on the basis of which service is rendered to the public have become the code of governance related reforms and administrative and managerial decision making in the developing countries. The theory of development and its implementation are no longer seen to be the discretion of a strong, centralised state authority. It is rather seen now as a prerogative of a smaller and more representative unit which is political and administrative in nature, since they are assumed to be better at delivering services and doing development. The structures and duties of a state have evolved in administrative terms, but along with this, there has also been a parallel acknowledgment of the fact that participation from all fronts and the forms of democracy is important to bring results and make development work.

Im (2010) researched on the outcome of decentralization on the growth and development of an economy. He employed longitudinal data of around 63 different countries around the globe, with a time period of around 47 years (1960-2007). The findings of the research concluded that there is a negative relationship between the growth of GDP and the fiscal decentralization or devolution. There is also a negative relationship between the political devolution and the GDP growth. In the pursuit of finding the effect of decentralization or devolution, a similar parameter was employed on a group of countries that had been categorized into three main subgroups, based on the stages of economic growth of the countries. This also revealed a negative relationship between the political decentralization and the growth in GDP in the developing countries, and also between the fiscal decentralization and growth in semi-developed economies. It however, showed no relationship between the variables in developed economies. Hence, this research found out that devolution may not always be beneficial for the economic growth of a country, as largely believed. This indicates that it is the time of occurrence of the variable and the stage of economic growth of the country that are also the important factors in determining the required reforms in the devolution.

4. Eighteenth amendment and the current political environment

4.1. Current political environment

In the 1990s, there was limited provincial autonomy. Concurrent lists existed and the system was much decentralized. Often, traces of dirty politics existed too.

After the passage of the 18th Amendment to the Constitution of Pakistan, which gave great autonomy to the provinces, the current political scenario has completely changed. It is constitutionally binding that Local Government elections be conducted every 5 years. There is a lot of pressure on the Government from the civil society, the judiciary and the media to hold these elections, which are already behind the due scheme. Interestingly, both the Government and the opposition parties are against the set of local bodies for their own political motives and interests. This is not a new occurrence; rather the history stands witness to the fact that Local Government has always been zealously pursued by Military regimes rather than democratic Governments. Provincial Governments of Pakistan have also enacted laws for conducted local bodies' election under Act of 2013; amendments have been made in the acts in 2015 and 2016.

The institutions in Pakistan are strengthening very swiftly. There is a shift from traditional politics to a more merit and performance based politics. The accountability standards and procedures have tightened gradually over the past few years. In the 1990s and the 1980s, these changes had not developed, and hence things were different. Democracy was immature and public awareness through media was slow. During 2002-2007, there was more of a guided democracy while today; we observe the trend of a more maturing democracy, with institutional separation of power, vibrant and efficient media, better accountability as compared to the past, and more general awareness among the masses. Therefore, the rules of the game have changed. Whoever fails to deliver today, fails to win and take a place in the politics.

4.2. Structure of the current local government system

The Commonwealth Local Government Forum developed a report in 2015, which elucidated the organization of the current local bodies system in Pakistan. The following is basic structure of the current system:

4.2.1. Local government within the state

If no local bodies' election is held, the management of each district is allocated to an appointed district administrator. However, when the elections are held, the system is then based on the federated structures of a three-tier system of district (zila), tehsil and union councils. The responsibilities and functions of every level of local bodies are defined. There is a focus on health, education, community development and agriculture at district level; on municipal infrastructure services at tehsil level; and on community-based services at union level. The levels of government are integrated through a bottom-up planning system, the council electoral arrangements, and specific procedures for monitoring service delivery.

4.2.2. Ministerial oversight

Local governments are formed by the provinces and therefore ministerial oversight rests with local government departments at provincial level. Each department is led by a provincial minister of local government. At the federal level, the Ministry of Inter Provincial Coordination provides a coordination role.

4.2.3. Council types

District councils and metropolitan corporations are the top tier of local government in the five provinces, while both urban and rural local government have two or three tiers in all provinces except Khyber Pakhtunkhwa, where councils are not identified as either urban or rural

4.2.4. District councils

As of April 2015, there are 129 district councils across the five provinces. No further information was available.

4.2.5. urban councils

There are a total of 619 urban councils made up of one city district, two metropolitan corporations, 13 municipal corporations, 96 municipal committees, 148 town councils and 360 urban union committees.

4.2.6. rural councils

There are 1,925 rural councils, in addition to 3,408 neighbourhood, tehsil and village councils in Khyber Pakhtunkhwa.

5. Way forward (a viable devolution plan)

This section gives an overview of a new devolution plan which is different from and more viable than all the previously adapted Local Government systems. This new devolution power plan has a major difference from its predecessors in that it is not the brainchild of any military Government who wishes to use this power plan to serve its own rule. Rather this power plan is constituted in good faith so that all its benefits are directed towards the people only, rather than satisfying any political goals of the incumbent Government.

After the introduction of the 18th amendment and abolishment of the concurrent list that subsequently increased the autonomy of provinces, it seems a moral and constitutional responsibility of every province to introduce such reforms at the local level so that the real fruits of democracy actually reach out to the people. It may have become a provincial subject to introduce such reforms at the local level, nonetheless, the Federal Government has to play its due role in the timely introduction and implementation of such reforms as well as incorporating this third tier of Government into the system, as provided in the constitution of Pakistan through Article 140A.

These new reforms are somewhat in proximity to the devolution of power plan introduced by the former President Gen. Musharraf, which has been closest to the actual devolution of power for the people. The gaps of this devolution of power plan need to be covered apart from introducing a few other measures which are in line with the democratic ideals. A humble attempt has been made in this paper to highlight the changes that were felt important to be made in the 2001 LG plan as well as new ideas have also been described that could make the devolution plan even more effective.

Firstly there is a need to understand that actual devolution doesn't occur if only the administrative and expenditure responsibilities are devolved. The real backbone of this system lies in the fiscal autonomy of the Local Governments where the local bodies are able to generate their own resources. The absence of such autonomy has resulted in the fact that these Local Governments have always been dependent on the provincial and federal transfers of fund, for their smooth and effective running. Lack of such fiscal autonomy also casts a doubt on how these Local Governments will resist the political pressure of the political headquarters, rather they succumb to it. Apart from this there is a dire need to introduce uniform measures for devolving all the administrative departments. Local Governments have to be independent in all aspects of their governance, so that they can effectively and efficiently function and deliver services to the people at the grass root level.

One must remember that the accountability level is the highest at the local level as people are then directly able to manage their local affairs. Moreover, as a stopgap measure, Provincial Secretariat keeps an additional check on the Local Governments through the bureaucracy. The bureaucrats remain servants of the Provincial Secretariat, serving the local government although in the new devolution plan, more autonomy has been given to the bureaucracy.

The structure of this Local Government system is formulated in such a way that it does not serve the whims of any political party or any Military General turned President. This new form of Local Government in its outlook may reflect the structure of Local Governments introduced during the Musharraf era. Under this devolution plan, a three tier structure in its own self exists in the form of a District level followed by the Tehsil level and then the Union Council level of Local Governments, and that is to be headed by the District Nazim flanked by a DCO and a District Assembly. Tehsil Nazim and Union Council being the representatives of the people will head the Tehsil and Union Council level respectively. The features of the new local government system are the following:

5.1. Effects of the 18th amendment

The 18th amendment cleared the way for a smoother transition towards introducing Local Government system. Many of the Federal subjects including health and education were devolved to the provinces so that this power could diffuse between the province and the Local Governments. Apart from this a direct contribution towards establishing Local Governments was the insertion of article 140-A in the constitution of Pakistan. However, this was one step short of a concrete effort towards Local Government system as it was not accepted as a third tier of the Government to exist at all times after the national and provincial political system. This is a necessary requirement before introducing Local Government reforms under the democratic system, so that it may not be sidelined under any political considerations.

5.2. Administrative autonomy

The LG provincial acts passed by the four provinces to give authorization and political autonomy to local bodies are restricted as the acts are extremely submissive to Provincial Governments. The LG laws do not

offer any significant delegation of political and administrative powers. Provinces enjoy arbitrary powers through discretionary removal of elected LG representatives; also they have arbitrary powers of inspection, to leave affairs of District Councils to bureaucracy and to exclude areas from LG jurisdiction. However, to efficiently run the system, the devolution of administrative responsibilities to the grass roots level is integral for the smooth functioning of democratic system.

5.3. Greater fiscal autonomy to the local government

The LG Acts for each province, in the present form, provides restricted independence to the local councils in terms of fiscal management and control over service delivery, revenue, and tax and police departments. Local Government has to be given more fiscal autonomy in terms of revenue generation and collection. Earlier, the Local Governments had limited fiscal autonomy and were dependent on the Federal and Provincial Governments on the provision of funds which therefore reduced the scope of their effective functioning. In the Local Government Ordinance (LGO) 1979, Local Governments were given the powers to collect taxes such as the Octroi tax. After that, such facility of revenue collection was taken back in the latter Local Government setups. The Provincial Government in the post 18th amendment era can easily dry up the funding of any rival Local Government if any fiscal decentralization does not take place. The fiscal autonomy is to be given in such a way that Local Governments become revenue generating independent units. This would greatly increase the development projects according to the local needs of the area and the people, in contrast to the earlier culture of undertaking development projects prioritized by the Federal or Provincial Government.

Apart from such fiscal measures, the employees in the Local Government setup shall be clearly distinguished as either the Local Government or Provincial Government employees, so that the Local Government can manage the salaries of its own employees. There was limited autonomy in the salary adjustment powers of the Local Government as it had to pay the employees through the Provincial Government.

5.4. Integrating the three tiers of the Government

This problem has been greatly resolved by the 18th amendment to the Constitution of Pakistan, as the Federal Government has transferred most of its powers to the Provincial Governments including the introduction of Local Government reforms. Most of the departments working earlier under the Federal Government have been transferred to the Provincial headquarters. Provincial Governments can in turn transfer the necessary departments to the Local Governments while keeping some of them in their own purview. This matter is to be dealt with utmost care so that the Provincial Government can keep its checking power on the Local Governments and see if they are deviating from the set provincial policy, e.g. No Local Government can amend the syllabus or change the school curriculum on its own will.

The integration of the three tiers has been made easier by the reduced role of the Federal Government after the introduction of this provision in the 18th amendment. This was a major loophole in the Local

Government Ordinance 2001 when most of the provincial subjects were transferred to the Local Government while no powers were delegated by the Federal Government to the Local Government from its own pool.

5.5. Division of resources

To make the three-tiered governance fully functional, the “principle of subsidiary function” with a genuine decentralization of power, whereby political and financial powers are distributed among different tiers based on their capacity to deliver is required. The devolution of power should be from upper to lower tiers of local government. The authority of the elected local government representatives should be enhanced. A balance should be created where bureaucracy and elected local representatives can work in harmony.

5.6. Balancing rural urban divide

The new devolution of power plan must strike a balance between the rural and urban divide, where Gen. Ayub Khan’s reforms were predominantly biased in favor of the rural areas whereas Gen. Musharraf’s reforms were tilted towards the urban areas. The new Local Government system must have a balancing force between the rural and urban areas, where one is not preferred over the other.

5.7. Empowering CCBs

The new devolution plan must include the revitalized idea of Citizens Community Boards (CCBs). This must be implemented in letter and spirit as it was also a part of the LGO 2001 but was not implemented in its true sense, rather only half-heartedly. This setup would truly empower people in the local decision making process through the locally formed citizen boards. These are voluntary and non-profit groups supported by the Local Government in matters of the local areas where citizens are a part of the decision making process. This is important because community participation is important in the local affairs, as it assists in carrying out the planning and development function according to the local requirements. Moreover, it also increases transparency and accountability in all the affairs that are of public concern. These Citizen Community Boards can play a vital role in many different areas of the system, ranging from selection of local teachers for primary and middle schools to the appointment of the local SHOs as well as in proposing the local development projects.

6. Challenges

6.1. Bureaucratic hurdles

The bureaucracy would create hurdles for the local bodies as these unelected bureaucrats will not accept the sharing of power and resources with the local representatives. They would delay approval to development

projects planned by the local governments, thus dispiriting local councils from serving the people at the grassroots level.

6.2. Transfer of financial resources

MPAs and MNAs are absolutely reluctant to transfer their mushrooming financial and administrative powers to the local governments. They are hesitant that once the elected local representatives are settled, the MPAs and MNAs will be deprived of development funds and control over local communities.

6.3. Affiliations

The local bodies would either misuse the resources or use them for their personal interests if the system lacks proper checks and balances, which indeed is a dilemma in Pakistan. The system of accountability is weak; it needs to be strengthened in order to gain fruits from the local body system.

6.4. Political instability

Since inception of Pakistan, it has struggled from political instability, there has been a power struggle between, military and political leadership. Furthermore, bureaucrats and Supreme Court has also played a negative role that has never allowed political stability. In order to have effective local bodies system is essential that political stability is established.

7. Conclusion

Devolution of power has been tried and tested in Pakistan. It has always been the military regime that has initiated the Local Government reform, because of the need to legitimize their rule and give it a flavor of representational democracy. This happened during the regime of Gen. Ayub Khan, the era of Gen. Zia-ul- Haq and the rule of Gen. Parvez Musharraf. All these regimes had long durations. The benefits that were extracted from the devolution of power through the Local Government system strengthen the point that it is an effective system for Pakistan's Governmental setup, especially if a few changes are made in the New Devolution of power Plan 2001. The LGO 2001 has been taken as a starting point for the recommendation of a better and more viable plan for devolution that suits Pakistan as a whole. The devolution reforms have always had various political and economic advantages. The appropriate extent and quality of administrative, political and fiscal decentralization determine how the reforms would actually perform in the longer run in achieving the objectives behind the LG system.

The paper discussed the suitable options and improvements in the LG system that should be implemented in order to reap the benefits of the Local Government System. The LGO 2001 has been taken as a starting point to analyze the flaws and improve it with better steps, according to the needs of the Pakistani national suitable system of devolution of power that could best go with Pakistan's structure, system and mechanism

has then been discussed to help improve the previous reforms. This has been explained in detail keeping in view the post 18th Amendment environment that is currently prevailing in the country and which is making the political leadership come under the pressure of implementing the devolution reforms. This study gives a general plan applicable in all systems and it can also be taken as a model for other developing countries. However, it is important that further research is conducted separately with respect to provinces in Pakistan.

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