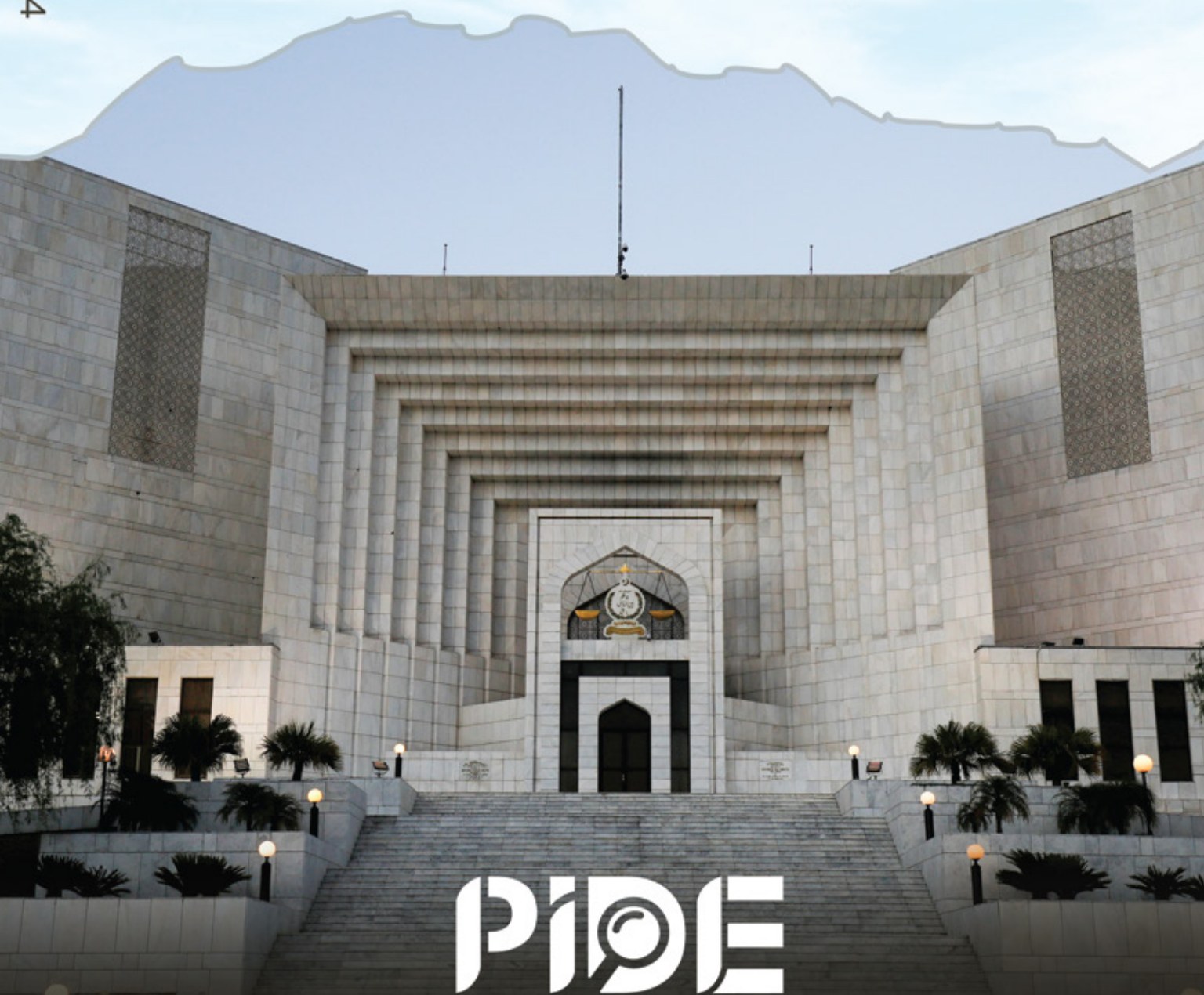


MARCH - APRIL - 2024

DISCOURSE

JUDICIAL TRANSFORMATION

EFFICIENCY ♦ TRANSPARENCY ♦ DEPOLITICISATION



PIDE

Pakistan Institute of Development Economics



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Discourse is a bimonthly magazine from the Pakistan Institute of Development Economics. Themed around public policy and political economy, it aims to offer insight into social, economic and political issues on both domestic and global levels. The publication provides a general overview of the latest developments in Pakistan's economy, identifying key areas of concern for policymakers to suggest policy interventions.

The publication is a hands-on and precise go-to document for the policymaker, academic, journalist, researcher, corporate/development sector professional, and/or student seeking to remain updated and informed. Discourse is geared to promoting open, original, and progressive viewpoints, with various sections that go beyond myopic academic/technical commentaries to promote rigorous, creative, and interdisciplinary analyses that cover a more expansive range of topics and appeal to lay audiences. In this vein, we have a) opened up submissions from the general public, and b) added several new sections to the bimonthly magazine, including: Opinion, Business, History, Arts and Culture, and more.

In light of recent judicial excesses, this issue is themed around restructuring/rethinking the institution for higher efficiency, effectiveness, and professionalism. The judicial landscape of Pakistan has historically been marred by excessive politicization, undermining public trust and the integrity of legal proceedings. The recent 2024 General Elections serve as a stark example, highlighting a coordinated crackdown on a specific party, including the incarceration of its leader and questionable electoral outcomes. To address this, reforms must focus on depoliticizing judicial appointments and decisions.

Additionally, Pakistan's courts are notorious for their slow pace of justice delivery, stemming from outdated administrative systems and a biased political economy favoring those with financial capital. Urgent reforms are needed to streamline court procedures, expedite trials, and combat systemic inefficiencies.

Alternative dispute resolution (ADR) emerges as a promising avenue to alleviate the burden on courts and empower litigants. Early initiatives show public willingness to engage with ADR services, which could address a wide range of disputes, particularly benefiting marginalized communities.

Reforming legal education is crucial to produce competent legal practitioners equipped with modern skills and ethical values. Efforts to update curricula, provide clinical training, and enforce quality standards must be intensified to address chronic underemployment and enhance the professionalism of lawyers.

Furthermore, legal advocacy plays a pivotal role in holding the judiciary accountable and advancing societal interests. While historical movements like the Lawyers Movement have contributed to democratic restoration, challenges persist, including misconduct within legal institutions and inadequate regulation of lawyers' behavior.

In sum, Pakistan's judicial system requires comprehensive reforms to overcome politicization, inefficiencies, and misconduct. Addressing these issues is essential for restoring public trust, promoting the rule of law, and fostering democratic consolidation.

We hope you enjoy this issue of Discourse!

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COVER PIECE

JUDICIAL TRANSFORMATION
EFFICIENCY • TRANSPARENCY • DEPOLITICISATION



The judicial landscape of Pakistan has always been fraught with excessive politicisation, where the scales of justice often sway under the weight of political influence. The most recent, and quite blatant, example of this was the 2024 General Elections, in which a coordinated clampdown on a particular party was observed – its electoral symbol stripped, workers detained, and campaigns barred. This is not to mention the incarceration of its leader, largely considered the most popular in the country at the moment, and the coming into power of a coalition that – as per official Form 45s – does not in fact possess a legitimate mandate. From judicial appointments to high-profile cases, the historic politicisation of this key organ of government – particularly by the security apparatus – has eroded public confidence and marred the integrity of legal proceedings. In the absence of a genuinely independent, impartial, and accountable, accessible, and transparent justice system, democracy will continue to remain a pipedream in Pakistan. For this to change, what is required is a critical examination of the executive and legislature in the appointment and removal of judges, as well as the influence of larger political considerations in judicial decision-making.

Another critical area of reform is the streamlining of court procedures and the pace of justice delivery. Pakistan's courts are notorious for their slow pace, with cases often dragging on for years. This is largely due to the preservation of outmoded systems rife with documentation and paperwork based on colonial-era administrative modalities and the political economy of justice in Pakistan – which leans toward facilitating those with financial capital (particularly land and real estate) over ordinary citizens. This naturally leads to a culture of adjournments, abuse of stay orders, cases being dragged due to simple incompetence on the part of both lawyers and judges, legal advocacy groups and their opportunistic activism, etc. The imperative to streamline court procedures and expedite justice delivery must be pursued with renewed urgency, spurring initiatives such as the Model Criminal Trial Courts and digitalising processes, as well as reviewing and overhauling unnecessary bureaucratic hurdles and institutional inertia.

One of the strategies that has propped up in recent years as a means of addressing the cacophony of litigation is alternative dispute resolution – which could be a possible pathway toward swift, accessible, and cost-effective justice. Defined as “a process in which parties resort to resolving a dispute other than by adjudication by Courts and includes but is not limited to, arbitration, mediation, conciliation and neutral evaluation” in the Alternative Dispute Resolutions Act, 2017, this could be a means of streamlining cases (there are

currently an estimated 2.1 million pending) and empowering litigants to reclaim agency over their disputes – alleviating the pressure on already overburdened courts. This is a relatively new domain and must naturally be experimented with, but initial findings suggest that there is a willingness on the part of the public to engage, and ADR services have successfully addressed a gap in the market – particularly for marginalised communities – by educating legal professionals as well as the citizenry and establishing/formalising various kinds of institutions (such as jirgas and panchayats) for its execution¹.

Rethinking the education and training of legal practitioners is also essential. Pakistan's legal education system has been criticised for its outdated curriculum, inadequate clinical training, and lack of emphasis on ethics and professionalism. Certain initiatives, such as the Bar Council's Directorate of Legal Education, have been taken to redress this by working in tandem with schools and colleges across the country to facilitate teacher trainings, promote legal research, organise short courses, and involve students in moot court competitions to prepare them for the challenges of law practice. A series of regulatory measures must also be explored in an effort to ensure that the quality of education is up to a particular standard that allows lawyers to excel in their careers following graduation; thus addressing the chronic underemployment that dominates the landscape currently.

Finally, legal advocacy forms a cornerstone of healthy judicial processes: with a fraternity of lawyers that functions to keep the institution of the judiciary accountable and responsive to the needs and desires of citizens. In Pakistan, lawyers have a storied and multifarious history of protest and pressure politics – the most well-known being the Lawyers Movement of 07-09, which played a pivotal role in toppling the military regime and restoring democracy. On the other hand, however, lawyers in Pakistan have not infrequently abused platforms such as the Bar Council and Supreme Court Bar Association for myopic, opportunistic objectives that have to do with personal interests rather than societal wellbeing. On the other hand, the assigned objective of these platforms – to regulate the conduct and behaviour of legal practitioners – is frequently sidelined, with gross misconduct (particularly in lower courts) routinely going unpunished. During the period 2009-15, less than 5% of complaints that were filed to the various Bar Councils in Pakistan were responded to with penalties for the perpetrators.²

¹Legal Aid Society: Brief – Alternative Dispute Resolution. <https://las.org.pk/thematic-streams/access-to-justice/alternate-dispute-resolution/> 'DAWN: A failed model.

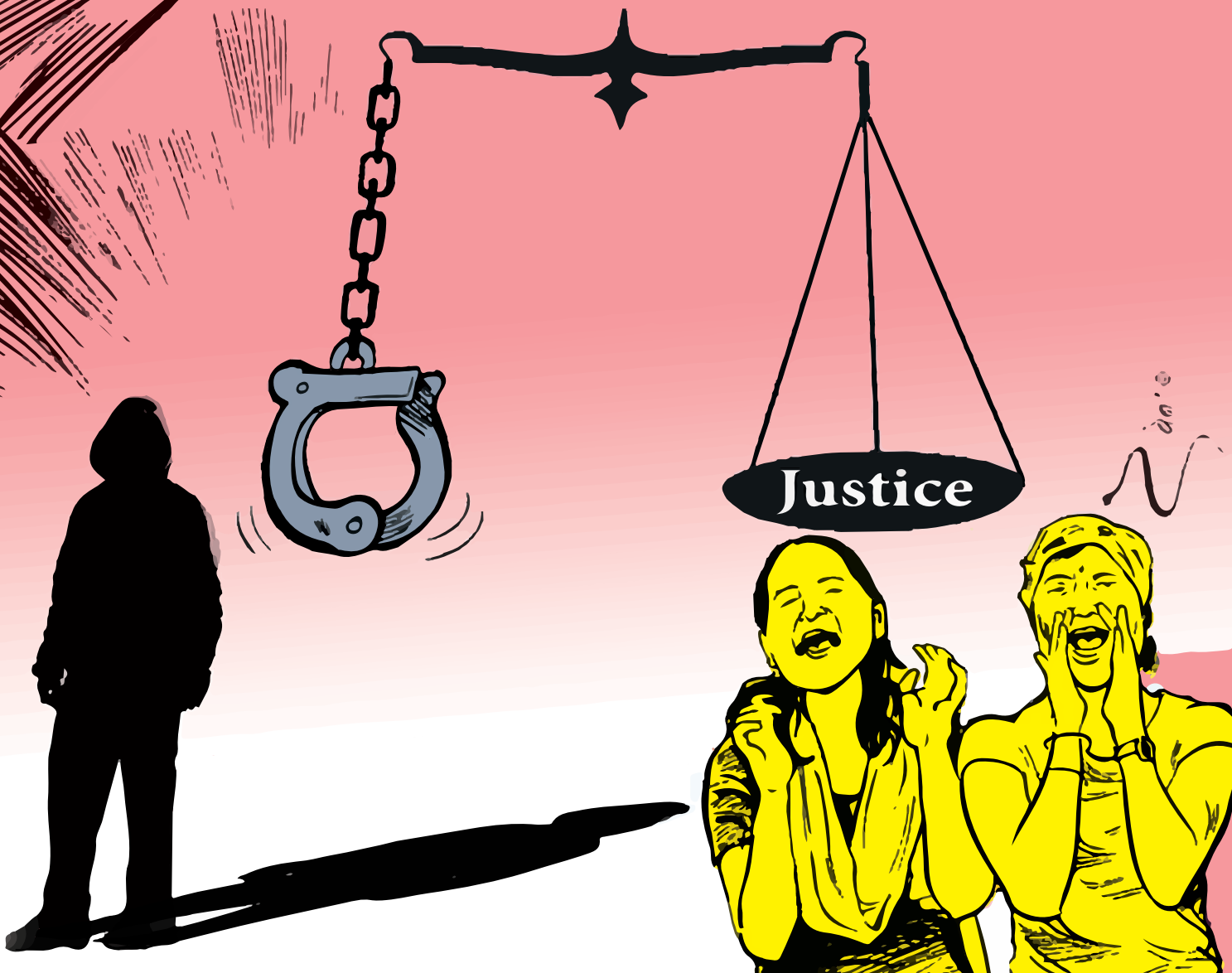
²<https://www.dawn.com/news/1591874>

Pakistan's judicial system has long been plagued by excessive politicisation, incompetence, and outmoded practices – leading to a crisis of credibility and public trust. As the country grapples with the challenges of democratic consolidation and the rule of law, the need for judicial reform has become increasingly urgent. In this issue, we explore the key areas that require attention and innovation to ensure a more efficient, effective, and independent judiciary.

We hope you enjoy this issue of Discourse!

Yours Sincerely,

Editorial Board
Discourse Magazine
Pakistan Institute of
Development Economics



JUDICIAL TRANSFORMATION

EFFICIENCY, TRANSPARENCY, DEPOLITICISATION



Reflections on the Political Economy of Judicial Delay in Pakistan

Umer Ijaz Gilani

According to research findings announced by a former Supreme Court judge, a civil suit of ordinary complexity takes 25 years before it is finally resolved by the Pakistani justice system.¹ Given that the average lifespan in Pakistan is only 67 years², this represents well above a third of an average citizen's total time. Like other Pakistani citizens, I have always been deeply concerned about how this delay-riddled judicial culture affects the overall business environment in the country.

The general understanding about the situation, which has been popularised by lawyers and economists alike, is that our delay-riddled civil justice system is inhibiting all kinds of business growth equally; and that everyone in the country is losing out because of this problem uniformly. Having practiced law for over a decade, I have come to realise that this assessment of the impact of civil delay is quite naïve. Judicial delay is a far more complex phenomenon than what is ordinarily postulated. Political economists know that, generally speaking, a social phenomenon persists only if there are some classes or categories of people who are benefiting out of it, even while others lose out. As I will explain in greater detail in this paper, the phenomenon of judicial delay is no different: it benefits some and harms others; and, at the very least, it doesn't affect everyone equally.

In fact, I would venture to suggest that one of the reasons why all earlier attempts to 'fix' this issue – including the Asian Development Bank's Access to Justice Program and numerous World Bank sponsored

efforts such as the setting of 'commercial courts' – have failed despite spending hundreds of millions of donor-funded dollars is because we haven't carried out enough research to understand what the problem really is to begin with. We have been focusing so much on the 'reform' and 'advocacy' part exclusively that we have almost ignored the anatomy of the problem. While the scientific study of a phenomenon such as civil justice delay cannot be carried out in one single paper, what I am trying to do in this paper is to urge the community of Pakistani social scientists to study the subject of who is winning and who is losing on account of judicial delay. A more indigenous and informed conversation on this subject is essential. Empirical study is an essential prelude to devising better policy interventions.

The way I intend to trigger this conversation is by asking a few questions which are never asked when talking about judicial delay.

¹<https://tribune.com.pk/story/1919111/prompt-justice-right-ev-ery-individual-jawwad-khawaja>

²<https://data.worldbank.org/indicator/SP.DYN.LE00.IN?locations=PK>

1. IS THE CIVIL JUSTICE SYSTEM UNIFORMLY SLOW IN DISPENSING 'REMEDIES' TO AGGRIEVED INVESTORS?

The simple and indisputable answer to this question is a resounding no. Any lawyer worth their salt will tell you that – if you ask him, that is. It is well-known that our judicial system provides for a certain set of 'remedies' which are infinitely more effective than others: 'stay orders' or, in legal parlance, 'interim injunctions'. If your 'grievance', whether real or imagined, is of a nature that entitles you to obtain a 'stay order', then the problem of judicial delay does not affect you at all. To the contrary, once you obtain a stay order, the problem of judicial delay becomes an asset to you and bane for your opponent.

The rule of thumb is that stay orders are easiest to obtain if your investment is in real estate, as opposed to an investment in a 'business' producing goods and services. The fact that the judicial system responds more quickly to real estate investors is such a major feature of our legal system but hardly anyone dwells upon the economic significance of this attitude. An example will illustrate this point better.

Suppose Mr. A sets up an enterprise called 'Urban Renewal' whose business model is as follows: buy dilapidated, multistory buildings in the city center, re-furbish them, and sub-let units in the building to users along with providing maintenance; and charge them a decent rent as well as maintenance charges. The net rent as well as the capital gains are reaped by Mr. A. Since this appears to be a reasonably profitable business, you reach out to Mr. A with a proposal to invest in Urban Renewal. There a number of ways you can do so.

If Urban Renewal is registered as partnership under the Partnership Act, 1932, you can become a 'partner' in it, with, let's say, a 5% stake in the company. If Urban Renewal is incorporated as a private limited company with the Securities and Exchange Commission of Pakistan (SECP) under Section 9 of the Companies Act, 2017, you can buy 5% of the company's total shares. If Urban Renewal is neither a partnership nor a company but rather a sole proprietorship registered only with the FBR upon Mr. A's National Tax Number, you can enter into an 'investment contract' with Mr. A directly where he simply acknowledges receipt of your money, promises to

return your capital to you upon demand and to share 5% of the profits of his enterprise with you, for as long as you don't demand your capital back.

Now assume that a few months after making this investment, you feel that Mr. A is not being transparent with the business and is not granting you your fair share of profits. What are the legal remedies available?

If you took the route of becoming a 5% partner in a registered partnership, you can file a 'Suit for Dissolution of Partnership, Rendition of Accounts and Recovery of Mesne Profits'. In a suit of this sort, there is very little chance, if any, of getting 'urgent' relief, i.e. a stay order. Mr. A will be able to continue to enjoy whatever ill-gotten profits he has made at your expense without facing any serious hassle – at least until the day the case is finally decided, which could take decades.

If you took the route of buying 5% shares in an SECP-registered company, you can file a complaint with the SECP claiming oppression of minority shareholder and, if that doesn't work, go to the Company Court under the Companies Rules, 1992. Here too, there is no real chance of getting a stay order or urgent relief. Nothing will pinch Mr. A as he drags the case in courts for years.

If you took the route of entering into an investment agreement, your only option is to file a 'Suit for Recovery of Money' before the Civil Court. Here, the changes of a stay order are nil.

There is, however, one other roundabout way to structure your investment transaction: buy real estate from Mr. A. If you were able to convince Mr. A to 'sell' one of the units in the buildings managed by Urban Renewal to you, you have a much better chance of fighting it out with him in the courts. It is fine if you never had any intention to actually obtain possession of this unit; for as long as you have 'property rights' over a unit in the building and some paperwork to support this claim, you have good leverage. The day you feel aggrieved by Mr. A's actions, you can go to the Civil Court and file a Suit of Declaration and Permanent Injunction along an Application for Interim Injunction. Within 24 hours of your instructions, any moderately skilled lawyer should be able to get you a stay order from the Civil Court restraining Mr. A from leasing out or selling or in any way changing the character of 'your' unit in the building during the pendency of the case. This 'freeze' order regarding real estate would have sufficient nuisance value to bring Mr. A to the talking table and eventually he might just

buy you out' to ensure smooth functioning of Urban Renewal.

The purpose of this illustration is to reiterate my point: the civil justice system does not respond with the same speed to the grievances of all kinds of investors. The grievance of investors in real estate are responded to with far better speed compared to the grievance of investors in other assets classes. Even when their claims are backed by evidence and have a solid chance of succeeding, they would still have to wait for decades before getting any remedy.

2. WHAT IMPACT DOES THIS PHENOMENON – SWIFTER REMEDIES FOR THE CLAIMS OF AGGRIEVED REAL ESTATE INVESTORS OVER INVESTORS IN OTHER KINDS OF BUSINESS – HAVE ON THE INVESTMENT CLIMATE?

One does not have to be a genius or even an economist to realise that this judicial approach – privileging the claims of aggrieved real estate investors over investors in other kinds of business – is quite likely to be one of the reasons why we are, by all estimates, over-investing in real estate. Recently, a World Bank study made ripples when it pointed out a significant percentage of Pakistan's demographic is investing more than 80 percent of all savings in the form of residential real estate. Not only is this leading to environmental destruction, it is starving other kinds of businesses of much-needed investment.³ It could even be causally connected with the country's declining export competitiveness because competitiveness can only be increased through investment in high-end service sector businesses.

3. IS THIS A QUIRK OR A DESIGN FEATURE?

It's not a quirk. And it's not because of 'corruption' or 'inefficiency'. It's a design flaw. The difference between the approach of courts toward different kinds of investor claims, illustrated in the example above, is enshrined in our laws such as the Specific Relief Act, 1877.⁴ This design, in turn, goes back to medieval English history which was transplanted here during the period of colonial occupation of the Indian

sub-continent and has been rather thoughtlessly perpetuated by the post-colonial state.

Contrary to popular perception, under English common law, the courts are not supposed to 'specifically enforce' all kinds of contracts. To the contrary, the general rule in English common law is that ordinarily the court will not compel the breaching party to perform its obligations; instead, the court will quantify the loss suffered by the complaining party and have it paid. It is only in certain enumerated exceptional situations that contracts are to be specifically enforced and damages are not deemed an adequate remedy. In this regard, reference may be made to Sections 12 and 21 of the Specific Relief Act, 1877. When both are read together, it becomes clear that the only real candidate for urgent relief is an investor in real estate, i.e. immovable property. Both provisions are reproduced below:

12. Cases in which specific performance enforceable. – Except as otherwise provided in this Chapter, the specific performance of any contract may in the discretion of the Court be enforced—

- (a) when the act agreed to be done is in the performance, wholly or partly, of a trust;
- (b) when there exists no standard for ascertaining the actual damage caused by non-performance of the act agreed to be done;
- (c) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or
- (d) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

Explanation. Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immovable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved

21. Contracts not specifically enforceable. The following contracts cannot be specifically enforced:-

³Joubert,Clement Jean Edouard; Kanth,Priyanka. Life Cycle Savings in a High-Formality Setting—Evidence from Pakistan (English). Policy Research working paper; no. WPS 10121 Washington, D.C. : World Bank Group. <http://documents.worldbank.org/curated/en/099335107072219949/IDU0bb79ceea0247c040340b67c085a6df6f5df5>
⁴<http://punjablaws.gov.pk/laws/8a.html>

- (a) a contract for the non-performance of which compensation in money is an adequate relief;
- (b) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;
- (c) a contract the terms of which the Court cannot find with reasonable certainty;
- (d) a contract which is in its nature revocable;
- (e) a contract made by trustees either in excess of their powers or in breach of their trust;
- (f) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers;
- (g) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;
- (h) a contract of which a material part of the subject-matter, supposed by both parties to exist, has, before it has been made, ceased to exist.

And, save as provided by the [18] Arbitration Act, 1940[19], no contract to refer [20] present or future differences] to arbitration shall be specifically enforced; [21] but if any person who has made such a contract [22] other than an arbitration agreement to which the provisions of the said Act apply] and has refused to perform it sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

4. HAS THIS DESIGN FEATURE BEEN CONSCIOUSLY ADOPTED OR IS IT AN ACCIDENT OF HISTORY?

It's an accident; and the reason why 'damages' and not 'specific performance' is the default remedy for breach of contracts in the English legal system. It is purely the outcome of certain accidents of English history, which are neither natural nor the result of conscious choice.

When the Norman dynasty first conquered England, they had little to no interest in dispensing inexpensive and expeditious justice to ordinary subjects. Like any other imperial power, their concern was primarily with ensuring 'law and order', especially amongst the landowning classes. The business of giving 'injunctions', final or interim, is a rather expensive one. It requires a court which assesses evidence deeply so that it can craft a fair and effective set of directions; and, above all, it requires a well-funded governance apparatus which penetrates deeply into the fabric of society and ensures that the injunctions of courts are being enforced on a daily basis and not simply ignored or blatantly defined. The grant of damages on the other hand is a judicial remedy which is much cheaper to enforce. At the end of the trial, the court can ask one party to pay money to the other side, there and then. It is probably because of this convenience that the 'common law' court, i.e. the courts set up in England by the Norman kings confined themselves to the granting of damages. Injunctions were simply not available under the common law system in the medieval era.

Because no society can flourish without speedy injunctions for contract enforcement, and because the state's justice system was reluctant to provide this, there cropped up in medieval England a system of courts running parallel to the common law courts called the courts of 'Equity'. This was a set of essentially ecclesiastical courts, staffed and managed by the representatives of the Christian Church, which evolved a more common-sense based legal system. Historical evidence suggests that over the course of centuries, it was these courts which became the main provider of 'justice' in English society. Also, there was a lot of cross-pollination of ideas between the courts of equity and the courts of the common law; however, for many centuries they remained parallel streams of governance. It was the courts of equity which would grant 'injunctions' of all kinds, including stay orders.

Finally, through the Judicature Acts 1873-75, the courts of common law and equity were merged in England. To mirror this development, in colonial India, the Specific Relief Act, 1877 was brought in which continues to remain in force in Pakistan and is still perhaps the single-most important statutory plank of our contract enforcement apparatus. This law makes it absolutely clear stay orders are not available to aggrieved investors, except if they are real estate investors. To conclude this discussion, we may reiterate that the differential treatment accorded to various kinds of investor grievances — a treatment which tilts in favour of real estate investors — is not a quirk; it is a design feature. However, this design feature is not the

outcome of any serious thinking about the best method of contract enforcement. It is the result of accidents in medieval English history.

5. HOW DO MOST COUNTRIES IN THE WORLD DEAL WITH ENFORCEMENT OF CONTRACT? DO REAL ESTATE INVESTORS GET SPEEDIER REMEDIES EVERYWHERE?

It is important to mention, by way of contrast, that the situation is the very opposite to that of ours in most countries of the modern world. This is because the legal system of almost every country other than former English colonies is based on 'civil law' and not 'common law'. Civil law is a modified version of Roman Law which was codified in France in the form of *Le Code Civil des Français*, also known as *Napoleonic Code*.⁵ In the 19th century, faced with the challenges of modernity, pretty much every non-Western country which had a choice in the matter – Ottoman Empire, Chinese Empire, Iran, Japan and Thailand – opted to model its law on the civil law instead of English common law. Within civil law, the specific performance of contract (*exécution en nature*) is the general rule – not damages. Since specific performance is the general rule, the issue of giving stay orders to real estate investors and not others, simply does not arise. According to some scholars, specific performance of contracts was also the default rule in medieval Islamic law.⁶

6. HOW DOES THE TIME-VALUE OF MONEY FEATURE IN THIS CALCULUS?

I want to encourage political economists to dwell upon one more facet of judicial delay which has serious repercussions. Time does not affect the value of all kinds of assets equally. While they wait for the case to ultimately be decided, claimants who are trying to recover appreciating and non-liquid assets are not hurt as badly. Disputed land, even when it is locked up in litigation, continues to appreciate. If you get it back after a delay of 25 years, the battle is still worth it. The case of liquid assets such as stakes in a business is entirely different. The value of such stakes varies greatly and generally depreciates rather quickly.

On the other hand, let's take the example of a venture capital investor who bought 49% stakes in an IT company and wants his money back whilst the company is still booming and the rupee is still worth something. If he has to wait 25 years, it wouldn't be worth it. Even where the court grants 'interest' on the disputed money at the end of a decade-long litigation, the interest rate is considerably less than the appreciation rate for land. This, again, creates a more favorable legal environment for investors in real estate than in other forms of business.

7. HOW IS THE BUSINESS COMMUNITY RESPONDING TO THIS SITUATION?

In a system where the contract enforcement mechanism is simply not effective in protecting investors in business (other than real estate), how are people structuring their transactions? If and when Pakistani investors invest in something other than real estate, they generally demand 'post-dated cheques' from the businessperson. In other words, the businessperson has to essentially treat their investment as a debt. He agrees to a certain debt retirement period and an 'interest rate'. Post-dated cheques are then given equivalent to the total instalments payable each month. In case the businessperson fails to honour the post-dated cheques, criminal proceedings can be swiftly initiated by the investor under Section 489-F of the Penal Code, 1860, a serious, non-bailable crime. Precisely because it has become the de-facto contract enforcement system in the country, this provision has been repeatedly amended by the government in the recent decade and made more and more strict. The risk of such proceedings puts the businessperson under considerable pressure to honour his or her contract with the investor or at least negotiate with the investor.

⁵See Gerard De Vries, *Right to Specific Performance: Is There a Divergence Between Civil- and Common-Law Systems and, If So, How Has it Been Bridged in the DCFR?* 17 *Eur. Rev. Private L.* 581 (2009); Ronald J. Scalise Jr., *Why No "Efficient Breach" in the Civil Law?: A Comparative Assessment of the Doctrine of Efficient Breach of Contract*, 55 *Am. J. Comp. L.* 721, 726-33 (2007); Henrik Lando & Caspar Rose, *On the Enforcement of Specific Performance in Civil Law Countries*, 24 *Int'l Rev. L. & Econ.* 473 (2004); John P. Dawson, *Specific Performance in France and Germany*, 57 *Mich. L. Rev.* 495, 496 (1958). However, the differences between civil- and common-law systems are not always as clear-cut as might at first appear.

⁶Almalki, Yasir, "Tort and Contract Remedies in Islamic law: A Comparative Study with Anglo-American Law" (2021). School of Law Dissertations. 72. https://open-scholarship.wustl.edu/law_etds/72

Whilst effective, this 'solution' can never be an adequate alternative to a well-functioning civil contract enforcement system. It only works for low-risk and relatively secure businesses where the chances of return are also low. It puts the businessman in a 'do-or-die' situation where he or she often has to either return the investment or re-structure it under the threat of arrest and prosecution. It is a transaction structure which reduces the scope for investor-entrepreneur negotiation and creativity.

8. WHO ARE THE WINNERS AND LOSERS OF A JUSTICE SYSTEM WHERE INVESTMENT CONTRACTS ARE LARGELY UNENFORCEABLE?

I think there is a high likelihood that our system, where contracts other than real estate contract are not quickly enforceable, benefits those who possess personal or family capital and do not need to raise it from markets. It harms those whose primary assets are entrepreneurship and labour and who could have made profits if there existed a reliable system for investment dispute resolution. This is because in a system where investment disputes – other than real estate – are delayed and not swiftly resolved, investors are reluctant to give capital to entrepreneurs. Also, those who are selling labour to the owners of capital in return for money are badly affected by a system where recovery of money is slow and painful, in the event that their wages are not paid. It gives employers an upper hand.

CONCLUSION

Overall, a system which is swift in protecting land-owners but slow in protecting those with entrepreneurship or labour, is detrimental to economic productivity. And that is exactly what we are seeing in Pakistan. Lack of productivity and innovation are considered to be the single-most important reasons behind Pakistan's lack of export competitiveness. My point in this paper is to explore the highly probable causal link between the problem and our contract enforcement laws. Therefore, if nothing else, this paper represents an open call to economists to carefully and scientifically study the political economy of our judicial system so that better and more accurate prescriptions for growth may be arrived at than the ones currently in vogue.

The author is an advocate of the Supreme Court of Pakistan.



CONCEPTUALISING JUDICIAL REFORM IN PAKISTAN

Abdul Moiz Jaferii

There is a rumour which refuses to go away - that the government is considering a constitutional amendment which will fix the tenure of the chief justice of Pakistan to a three year term. No one wants to come on the record to confirm it, but everyone who is anyone in power privately admits that there's something in the works.

We can only work on conjecture thus far, but it is still important to consider the issues which will surround such a move being attempted or even imagined at this particular time by this particular assembly with this particular court.

The ability of this assembly to tinker with the constitution in the first place, is directly related to the after effects of a Supreme Court decision which deprived a political party of its symbol prior to an election. When the Qazi led bench endorsed the ECP's decision to take away the PTI's bat due to its intra-party elections being deemed defective, it allowed the ECP in the subsequent weeks to act as if the party itself had ceased to exist. It branded every certified ticket holder of the party as independent. Not only did this cause direct chaos in the party ranks, it also later deprived them of the weighted attribution of reserved seats. The party had effectively ceased to exist in the ECP's consideration, exactly the outcome the PTI's lawyers had argued would occur. Yet the Supreme Court at the time had insisted that it was concerned only with the allotment of a unified symbol to the PTI and nothing else. That the ECP rules were illegally put together so as to make the allotment of a unified symbol far more than just

symbolic and make its existence the determinant of whether a party was in fact a political party or not to be allotted reserved seats was a matter the court did not want to look into. No one had challenged the relevant rule the court had remarked. It had been argued in the court during the bat symbol proceedings that such would be the after effects, effectively amounting to taking away the constitutional right of millions to associate as a political party. The court was uninterested in such a premise, dismissing it as conjecture. In the remarks which came from the bench, it was made clear that such a turn of events would be duly considered by the relevant fora if they occurred. When all of this came to pass, the relevant fora were firstly the perpetrators of the illegality themselves, namely the ECP. The Supreme Court is yet to determine its position on the issue as the matter has not yet made it to the Supreme Court in any meaningful way. A petition filed by Salman Akram Raja arguing broadly this was dismissed by the Lahore High Court and was appealed to the Supreme Court. It is yet to be listed.

Separately, the issue of consolidation of election results by the returning officers deputed by the ECP which if decided according to the discrepancies apparent on the record between Forms 45 and 47 of the relevant constituencies would lead to a remarkable renumbering of seats by party position. These issues slowly tortoise their way to an adjudicated resolution in election tribunals. The courts have refused to see this as a larger design and insist on taking each constituency dispute on its original merits.

So the reserved seats were allotted to everyone but the party with the most elected representatives. These allotments were made to parties who contain members that are conditionally victorious pending adjudication of the numerical discrepancies in their vote tabulation in the relevant election tribunals.

This government suffers from a dual impediment to its legitimacy. Firstly, the yet to be finalised nature of their elected members' individual victories and secondly from the weight accorded to these elected members from which their parties were then allotted reserved seats. Such a government ought ordinarily to be wary of enacting even ordinary legislation. Yet here we are, considering an amendment to the Constitution.

There is an inherent democratic deficit in the functioning of this government. Any attempt at addressing judicial reform, whether constitutional or through ordinary legislation, would have to be looked at through the same lens: that the government will be trying to legislate for a pillar of the state before which lies the decision of its legitimacy to legislate. Special focus would inevitably fall upon the Chief Justice of Pakistan, and whether he can see this deficit and the perception of the entire exercise lacking legitimacy.

There is a need for reform. But contrary to public perception; the steps needed require little or no legislative interference. Yes, we need a more open and meritorious process for judicial appointments. Deliberation upon that is already underway and progress is expected in the next judicial commission meeting scheduled in the first week of May. Structuring a parallel system of alternative dispute resolution and the modernising of our arbitration laws is necessary, and in the works.

But the vast majority of reform can be affected through using existing legal provisions and by intra judicial updates to the rules which govern the high courts. All that is really needed is dialogue between the superior court judges. Perhaps a judicial convention. A meeting of all judges of the superior courts to debate and decide upon a more efficient way forward. Electronic filing of briefs and replies. The supply of copies to counsel over email. The swearing of affidavits through a secure NADRA portal over a website. The ability to give testimony over a video link from anywhere in the world. Many of these measures have been ordered to be practiced in at least one instance in the superior courts of Pakistan. They need to become the rule for everyone rather than a judicially created exception.

There should also be consequences to delays in judicial proceedings caused by parties and by their counsels. This measure on its own would radically alter the litigation landscape. There should be consequences to filing a claim or suit in court which turns out at the end to be motivated by malice or having been completely frivolous.

Our judges are empowered to rule on costs. If a costs ruling at the end of every civil law decision, where the judge would determine the amount of court time, paid for by the public, went into determining a claim which turned out to be based on lies, and made the offending party pay for it, we would not have a tenth of the pendency we have today. If lawyers were unable to get away with seeking adjournments as a part of their legal strategy, another great chunk of litigation would end abruptly or never occur in the first place. Other commonwealth jurisdictions routinely hold preliminary cost rulings before a trial commences. The judge determines the amount of public funds that would be spent on the trial which is to be held, and leaves it to the parties to come to a resolution between themselves, or to come to an agreement regarding the share of costs and who will bear them. If an agreement cannot be reached and both parties still desire a trial, it is left for the losing party to face the consequences of paying the costs of trial. For all the thousands of civil cases pending before the superior courts, the real disputes requiring adjudication are but a fraction. And in several of those real disputes, there is always one party that wants to delay the other's day in court because it fears for the strength of its own case or for the outcome of adjudication. For that party, the time taken by judicial procedure itself is the judicial remedy. The delay of process is the victory, just as in criminal matters we see that the state relies on the process itself being the punishment. And just as it should be unacceptable for the FIA to turn up to a court and admit it has nothing to show for its investigation after incarcerating a journalist for a month; it should similarly be unacceptable for a property dispute to end after twenty years with one party being proven to have fraudulent designs yet not having to pay for it.

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NEED FOR JUDICIAL REFORMS

Shahid Kardar

It is by now conventional wisdom that good governance requires the strengthening of the rule of law and ensuring access to affordable justice. While our ethos of governance has given our ruling elite and the privileged segments of society the 'power' to ride rough shod over laws, rules and regulations, the poor suffer the harassment of public officials and are denied their basic rights. The poor feel increasingly disempowered because the subordinate judiciary, with which the bulk of the population has to deal with, suffers from lack of competence and corruption. And hence the widespread distrust in the judiciary in general and the lower judiciary in particular.

The excesses of state functionaries and the advantaged has been facilitated by state institutions becoming dysfunctional deficiencies in the design of the legal framework and the way it works. Many laws and regulations are poorly designed and are hence complicated or even defective. Moreover, these are administered in ways contrary to their intent and spirit.

Defects in laws are compounded by them being administered in ways contrary to their intent and spirit, the lack of their predictable application, the dearth of a culture of voluntary compliance of decisions, with just a handful being self-executing with little by way of actual execution – the system thus failing as a social deterrent. The weak enforcement in part reflects the difficulties of monitoring compliance.

For economic development, legislation, its predictable application (anchored on the twin foundations of equity and certainty) and the effectiveness and efficiency of the judicial system to enforce contractual obligations in a timely manner is paramount. Our courts on

average take three years to resolve a commercial dispute compared with less than half this time in other jurisdictions.

The system also struggles with a body of jurisprudence which is less than consistent, if not made up of conflicting judgements. There is no concept of over-rule – as is the case in other common law jurisdictions. Coordination between courts or benches of the same court suffers on account of a lack of clear guidelines flowing to the subordinate courts. Apart for this failing making it difficult to assess whether the court will uphold or strike down a particular public contract the resulting confusion has incentivised corrupt practices, granting a free hand to the lower courts to pick and choose from conflicting decisions to apply the law as a result-oriented tool. All this obviously erodes investor confidence. Whereas the law must be concerned with results but when the results are secured by ignoring the process you get palm tree justice.

The weaknesses of such factors which move the wheels of the economy restrict the scale of business transactions, and thereby growth, through reduced economic activity, with firms being forced to diversify operations into activities not their core competence. This lowers the efficiency of, and the return on, investment. Since it takes years to get disputes resolved through courts, contract violators gain simply by getting a case stuck in the court queue. The courts oblige by liberally granting stay orders, which facilitate, if not actively encourage, illegal occupation of property - testing the fundamental principle/right, i.e. security of one's property. Not surprisingly, business transactions get restricted amongst parties having trust in each other's business ethics. Development of trust requires long-term stable

interactions. If trust cannot be established, contracting remains restrained, the cost of conducting transactions remain high, discouraging business development and growth. Both economic actors and the economy remain small. The ease of contract repudiation increases the costs and uncertainty of investment. Pakistan, therefore, finds itself constrained by a low trust culture, where neither the regulatory environment nor the unregulated market is conducive to dynamic change.

One must also sympathise with the courts in that the prosecution service and police do not just function on the whims of the government (whereas they should be fiercely independent), they also epitomise incompetence. Similarly, whereas there are complaints that dockets of superior courts have a significant percentage of rent and property related cases, in several instances resulting in stay orders, this is partly owing to issues of legislation and absence of a system guaranteeing titles. A common complaint is that judges have a heavy work load. But then the solution is not what is most widely propagated, 'more judges'. The issue, as will be argued below, can be partly addressed through internal reforms. Currently, more than 90% of cases are litigated in courts without getting settled before trial because the system encourages frivolous litigation and a high proportion is appealed with, as mentioned above, generously conferring double-digit adjournments, granting of open-ended stay orders, and non-adherence to the civil procedure code causing delays owing to the dilatory ploys of lawyers with the judiciary, which play an enabling role by not imposing costs and denying adjournments.

The lawyers cannot be blamed for gaming the system to the advantage of their clients but the judge cannot be absolved for being an indifferent bystander or spectator. He is the referee with a duty to make both sides play fair. In our case, he seldom, if ever, performs that duty when an adjournment is requested. Yet, no one regards that as a serious dereliction of duty which makes the system unfair and in the long run dysfunctional and unworkable. All the factors highlighted above result in low disposal rates and are costly for the economy.

Then there is also the activism of the judiciary itself either through stay orders, or worse still, the overturning of economic decisions (e.g. the widely quoted examples of rulings on the privatisation of the Steel Mills, the LNG project, the domestic price of sugar, etc.) that essentially lie in the domain of the executive has added litigation risk to the already high-risk profile of the country from the poor law and order situation,

creating political uncertainty and unpredictability of policy decisions. Such judgments have contributed to policy paralysis and postponement of urgent economic decisions, driving away potential investors, while the country has ended up spending millions of scarce dollars to defend such actions in international courts.

But then, admittedly, a major reason underlying these occurrences is the government. It is the biggest offender, appealing against rulings against it, because no one is prepared to accept responsibility for not having appealed. For example, in tax related cases the demands of FBR can be excessive (if not illegal at times) to meet targets and any time bound stay orders may encourage state arbitrariness.

Furthermore, the judicial system needs judges with better understanding of commercial regulations and practices. The lack of an adequate skill set/skill mix is a major issue. To illustrate, the Federal HC, which has been given original jurisdiction, would be adjudicating important commercial and economic cases, especially since a key institution, FBR, is also located there. But this court seemingly has no judge with adequate experience/background of commercial law/practices on its bench.

The discussion above hints at issues afflicting the judicial system, governance, case load management, low disposal rates, skill set, inadequate allocations for non-salary inputs and laws not translated in Urdu (leaving much of the population unaware of its rights). This writer is of the view that the solution for reducing litigation and delays and making the system more efficient and effective is not simply more judges. A brief set of proposals is presented below. These should precede the determination of the need for additional judges and budgets, although, admittedly, the factors mentioned above and the implementation of the proposals below are inextricably linked; for example, i) judges adjourn cases because of their heavy docket; and ii) speedier adjudication of cases will reduce lives of stay orders.

a) Discourage frivolous litigation by imposing court costs and levying hefty charges on those seeking frequent adjournments, while recognising, as argued above, that government systems and behaviour of its functionaries also need to change.

b) Judges should encourage written arguments and limit the time for oral arguments. A transcription of all court proceedings beginning from the SCP and working its way down to High Courts and beyond

with copies should be made available to parties as a routine matter. This will prevent judges from wasting time by flippant remarks and counsel will become more precise when whatever they say becomes a matter of record.

c) Small Causes Courts should be settling minor disputes through summary procedure, while family courts and court-annexed Alternative Dispute Resolution should be strengthened (which, admittedly, would work only if litigation is made expensive) and civil, criminal and commercial cases assigned to different courts based on relevant expertise and experience of the judge - with arbitration being encouraged for commercial cases, saving court time on matters of routine awards.

d) There should be an institutionalisation of regular inspections, performance monitoring and investigation of complaints against subordinate courts by higher courts and publishing these in annual reports. But then the apex court is today controlling appointments, regulation and discipline (all rolled into one) and is not prepared to tolerate a role for anyone else -suggesting the need for a judicial ombudsman.

e) As argued above there is need for systematic and periodic reviews since unpredictability is being caused by conflicting judgments, without an over-ruling/over-arching one: as in other common law jurisdictions. Similar cases should be clubbed and heard by the same bench with clear guidelines flowing to subordinate courts.

f) The superior judiciary has become a self-perpetuating oligarchy. They control appointments, regulation, discipline and removal and countenance limited, if any, role for anybody else. Has this led to a better judiciary?

g) Contempt of court laws and the offence of scandalising/maligning a judge requires review, since the prevailing concept is archaic, stifling free speech and criticism of court processes. At a personal level judges have no right to a higher level of protection than any other citizen through defamation laws. In our case, the 'superior judiciary' is far more thin-skinned and uses the contempt laws to protect its image; a vestige of our colonial heritage, under which, when dealing with 'far away colonies with coloured people', it was necessary to maintain the majesty of law. However, it is now time that the coloured people are treated as citizens of a sovereign state instead of subjects of far away colonies.

Finally, the current system favours lawyers and lionises judges, inducing protracted litigation with limited benefit to the ordinary public; political cases taking precedence over ordinary civil and criminal cases. And without the necessary corrective actions it will be difficult to elicit wider support for additional resources.

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ECONOMIC COSTS OF JUDICIAL WEAPONISATION

Nadeem Ul Haque

X (name not given for obvious reasons) as Minister told many of us in an open meeting how easy it is for him to acquire a property cheap simply by getting it into court and then taking a 'stay' from court. The idea was, "I have lawyers and can keep you there until you are willing to give it at my price."⁷

Y's property was taken away illegally by a housing scheme in Lahore. The case sat in court for over a decade. Meanwhile the society was conveniently taken over by DHA. Though Y and many others won the case, they were told to take an alternative plot at much lower value by a very famous judge. Needless to say, the judge did not understand the principle of economic value and regarded all plots to be of the same value regardless of location. Y initially refused, but then the DHA general threatened to keep him in court indefinitely: "I have tons of lawyers," was the threat: and it was time for Y to cut losses.

Z ran a government agency and tried to instil discipline and work ethic. Those leading a comfortable 'no work' lifestyle went from court to court. Z discovered that there were many courts where such cases were heard and the liberty of many appeals. Meanwhile the 'no work' folks continued their lifestyle at full pay. Even if a High Court rejected the plea, there was always a service tribunal or a FOSPAH to entertain wild claims. And of course, all that was required was to drag out a case by claiming ill-health or simply refusing to show up. Further, Z found out once the case was in court that the 'no work' crowd could win extra favours from the court like taking leave or

avoiding performance appraisal for refusing to work. All administrative control shifted to courts who were happy to pass administrative orders at the expense of organisational efficiency.

Stories of tenants using courts to keep occupation of a place are legion, as are tales of how transactions are gamed for economic advantage such as qabza by the wily and powerful. We also know of unpaid taxes that lie in court without payment for years.

It seems courts have little idea of the time value of money. So financial obligations are often delayed through court proceedings for a long time. The expectation is that when the case is settled, the original amount with little penalty will be paid as the court will not try to ensure that the real value of a claim is enforced especially if the perpetrator is a predator with a known lawyer.

We also know of well-known cases where political opponents have been harassed through the court system. Even when bail is granted, they are arrested soon after leaving court.

⁷Any similarity to actual events or persons, living or dead, is purely coincidental.

In short, courts have been weaponised in Pakistan, which refers to the misuse or manipulation of legal processes and institutions for political or personal gain. This phenomenon can have serious implications for the rule of law, judicial independence, and public trust in the legal system.

Courts do not penalise such obviously strategic litigation making it very easy to use them for predatory economic gains. They also don't seem to do any strategic thinking on the state of justice in Pakistan. Perhaps being involved in transactional justice and day to day operations and many ceremonial duties, the lordships have little time to engage in strategic thinking. Lordships must huddle over how to stop strategic use as well as the weaponisation of courts that impede speedy and secure transactions.

There is a clear need to understand that GDP increases every time a transaction happens. An oft-used example of this is that when someone's leg breaks, GDP is increased by the sum of medical service provided.

GDP should be seen as the sum of all transactions. Courts need to recognise that delays (adjournments) and stays (injunctions), as well as lengthy and repeated appeal processes can be used to slow down transactions as well as game and devalue them. There are real economic consequences to these delays.

This is one reason for our low investment rate. Pakistan's investment/GDP ratio is 14% whereas India is close to 30% and Bangladesh is over 25%. When a case gets stuck in court, it ties up capital which could otherwise be used to generate employment and growth.

A greater understanding of economics would improve our justice system. In fact, in the rest of the world law and economics – in terms of their interplay and overlap – is a serious subject. Despite the fact that a vast majority of our cases are economic in nature and languishing in courts, judicial training and legal education remain devoid of economics. Efforts at redressing this are often rebuffed by powerful legal lobbies. Sadly, the economy always suffers!

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APING THE WEST: THE COST OF MULTIPLE JUDICIAL STREAMS

Nadeem Ul Haque

Prof. Ang, author of 'How China Escaped the Poverty Trap', empathically talked of the pragmatism of China going from Communism to developing a market for high growth and then moving to curbing the excesses of the market.

All our leaders talk of learning from China whilst in practice we seem to copy everything that happened in the West. All manner of consultant sells us that the West has started something, and that we should simply reproduce it. We end up making a new agency—a budget line with many perks that are often eyed by the powerful seeing a job opportunity. The agency then justifies its budget by creating further hurdles for effective transactions in the market. Thus, we have made a Fannie Mae, a Competition Commission, countless regulatory bodies, several MDG and SDG cells, institutes of corporate governance, a commodities exchange, project offices, and many arbitrary and ill thought-out initiatives for education and health.

Despite independence, we have never been able to modernise our colonial inheritance to bring our country into the modern era. The judiciary continues to chug along at a snail's pace giving controversial decisions and failing to earn trust among the people. 'Access to Justice' projects have been run by donors spending a lot of money but the old systems and procedures remain intact.

International consultants or consultants hired by the lender/donors often find the old colonial systems cumbersome and market unfriendly and propose bypassing them to add new agencies or projects. Behavioural economics however suggests that the old systems will game the add on systems to retain their old messy methods of work which often involve rents. Consumers too will use both systems to obtain less than optimal ends.

In order to deal with the overburdened judiciary suffering from low levels of trust, lenders have often added on systems that will supposedly help increase the efficiency of dispute handling. Ombudsmen in many different areas, tribunals and now 'alternate dispute resolution' have been put in place. Whilst these entities were established with the intention to provide alternate dispute resolution mechanisms and expedite justice, they have, in many cases, contributed to prolonged delays.

Pakistan's legal landscape is characterised by a multitude of judicial bodies, including ombudsmen, tribunals, and specialised courts established for specific purposes, e.g. banking courts, anti-terrorism courts, etc. According to research, this proliferation of judicial entities has led to administrative complexities and overlapping jurisdictions, contributing to delays in the dispensation of justice.⁸

Litigants find that hopping from judiciary to tribunal to ombudsman can be used as a means to delay dispute resolution when gains can be made from such delays. Alternate dispute resolution forums such as ombudsmen and tribunals want to keep their dockets full and entertain more and more cases. The extrajudicial dispute resolution offices are filled with retired people who often have connections to and are steeped in the old system. The fact is that there is little in the form of redress that they can offer.

Strangely enough, even the President's office has been made into an appellate judicial office offering litigants another stop in their search for delaying justice. Experience shows that in each court it is easy to take 2-3 years in resolving a dispute. Knowing this, litigants who want to hold up economic transactions can easily delay the fulfilment of a contract – which often leads to a suboptimal resolution outside the court. Judicial officers in all these multiple streams are in no hurry to solve an issue, nor do they understand economics or human resource management or the value of a transaction to be able to make an informed decision or understand the need for speedy disposal of cases.

Whilst a substantial caseload is economic in nature, none of the judicial officers have any training in economics. Without an understanding of the time value of money or the economic intricacies involved, we end up with decisions that are suboptimal. Law and economics a discipline has been in vogue in the rest of the world for half a century, but it remains relatively unknown in Pakistan. Few understand the cost of judicial delays and the poor understanding of economics even though the whole nation knows that Rekodiq, the steel mill, the sugar pricing and the Nesla towers decisions were very expensive to the economy.

The overburdening of the judicial system has resulted in significant case backlogs in each of these dispute resolution entities. According to data from the Law and Justice Commission of Pakistan, the backlog of cases in various courts across the country is alarmingly high, leading to prolonged delays in case disposition. Delays in the legal system disproportionately affect vulnerable populations who lack resources and face barriers in accessing justice. Studies have shown that prolonged legal proceedings can lead to increased costs for litigants, loss of confidence in the justice system, and impediments to economic development.

The proliferation of tribunals and ombudsmen may also raise concerns about the quality and consistency of dispute resolution. Research has indicated that the specialisation of courts and tribunals can result in varying interpretations of law and uneven application of justice, impacting legal certainty and predictability. Recommendations from experts and stakeholders emphasise the consolidation and rationalisation of judicial bodies, enhancement of judicial capacity through training and technology, and improvement of court administration to streamline processes and reduce delays.

Clearly, there is no escaping a deep modernisation of the judiciary especially in the area of law and economics. The system must be made robust, eliminating the multiple routes, getting competent and wise decisions, and reducing the number of appeals and the possibilities of gaming the system.

Do we have the capacity to do this? Relying on international experts is only going to lead to more aping the west—a suboptimal solution that we have tried to our detriment.

⁸Efficiency of Justice Sector Institutions and its Impact on the Investment Climate in Pakistan," World Bank, 2014

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JUDICIAL REIFICS AND THE QUEST FOR JUSTICE

Syed Sheheryar Raza Zaidi

Independence, equality, accountability and transparency are supposed to be the hallmarks of a functioning judicial system. One would assume that a country founded by a man who was known for his legal exploits would have succeeded in making its judicial system equitable, independent, accountable, and transparent. Yet, 77 years down the road, the state of the judiciary is such that six sitting judges of the Islamabad High Court, who are constitutionally tasked with securing the fundamental rights of the people of Pakistan, decried the lack of such basic fundamental rights for themselves.

The chaos that ensued such cry for help by the said Judges was a perfect embodiment of the dire state in which Pakistan's judiciary finds itself. For one and all, the fact that Pakistan's judiciary had failed, at least in the moment, to protect its own self from alleged 'interference' in judicial functions was not only shocking but downright depressing – particularly because these are the same judges who whilst being responsible to met out justice to the whole of Pakistan seem unable to protect their own constitutional mandate.

What has ensued over the past couple of months in Pakistan's judicial dispensation is just the foul smell which comes from an already rotten corpse. The only reason why it has garnered such airwaves is because this time, it was the infallibles, the individuals representing Pakistan's judicial elite, those with crisp, ironed robes with various different coloured laces, who had shown themselves to be vulnerable. For the first time, it wasn't

about politicians or bureaucrats sweating themselves before they were taken to task by the Courts, instead this time it were the guardians of the Constitution, who were having to look over their shoulders for a guardian of their own.

In spite of all this, the problem with Pakistan's judiciary, is not as much the widely talked about 'interference' which supposedly concerns matters relating to the Pakistani political elite, but the lack of effective dispensation of justice to the ordinary litigants.

The key to understand the problems with the judiciary is to understand its workings and what better way to do that than to visit a court. When you step into a court room in one of the opulently designed High Courts of Pakistan, you will be met with a sea of litigants and lawyers crammed into airy rooms, with modern air conditioners but archaic practices.

Sitting atop a stage like platform, with tens of files which are almost in tatters, is the judge, a man (given the gender imbalance in Pakistan's judiciary) modern in his appearance but often regressive in his decision making. This man, fancily clad in a judicial robe has the liberty to get up and leave for his chamber and call it a day notwithstanding that tens of people who were waiting for their day in court would have to leave for their homes empty handed, notwithstanding that some of them may have had matters of life and death which they had hoped the judge would settle or at least listen to.

On any given day that there are tens of litigants at the mercy of such judges at the High Courts conducting cases singly or in the form of a double bench. The situation in the lower courts is worse. There, shanty rooms with a creaking bench awaits litigants. A judge soiled by sweat and agitated by the sheer number of incoherent and often illegible bunches of papers, often called cased files, welcomes litigants. Such a judge is expected to dispense justice and decide hundreds of cases which are taking up most of the court and the record room's space. There exists a need for enhanced investment in infrastructure for the lower judiciary. The grandeur of the Supreme Court's building or that of the new High Court of Islamabad would amount to nothing if the first gateway to justice i.e. the lower courts are housed in buildings fit for slums. Similarly, there exists a very real need for increase in the number of judges at all levels of the hierarchy – failing which, access to justice will continue to remain impeded.

Lack of adequate judicial appointments is one thing and the quality and aptitude of such appointments another. Take political cases as a benchmark. Why is it that most of the cases which render a verdict against political leaders end up being overturned by the High Courts or the Supreme Court. This can signify one of two things. Either the judges in the lower courts lack the character to withstand 'external pressures' or simply lack the aptitude and competence to adjudicate matters of such complexities. Whichever one it may be, this raises serious question marks about the quality of judicial appointments.

Andrew Jackson, the 7th President of America once quipped that "All rights secured to the citizens under the Constitution are worth nothing, and a mere bubble, except guaranteed to them by an independent and virtuous judiciary". Thus, it is incumbent upon the Courts to ensure that bubble of the Constitution and the rule of law does not burst and yet to expect such intricate handling from individuals otherwise incompetent to adjudicate amongst people would be tantamount to living in a fool's paradise.

Serious introspection needs to be conducted by the decision makers, most certainly those at the helm of affairs in the judiciary so that the quality of judges can be improved. One way to do that is to ensure that the wealth of resources otherwise directed towards the salaries and pensions of superior court judges are also diverted to lower court judges, so that pre-retirement decisions are not dictated by the lure for post-retirement benefits.

Another problem which flows from the quality of judicial appointees is the manner of judicial appointments. The lack of transparency involved in judicial appointments has meant that the post of a judge has become more a lottery than a test of merit. The judiciary needs to work with the executive and determine a transparent and well-defined procedure in respect of judicial appointments, which ensures that people responsible for adjudication have undergone the rigours of judicial and administrative scrutiny.

In the United Kingdom for example, the procedure for judicial appointments is transparent, such that it is readily available on the website of their Supreme Court. The process, a step-by-step illustration of which is available, prescribes how even such posts for judges of the Supreme Court are widely advertised and written applications sought. Such written applications are thereafter scrutinised, shortlisted and interviews conducted. Thereafter, a report is compiled detailing the reasons for each recommendation and only once the said process has been completed does the appointment get approved by the King and announced by the Prime Minister.

Similarly, as far as judicial proceedings are concerned, there exists a very real need for automation and streamlining of procedures, which supplement and not hinder judicial decision making. For starters, when the economy's best bets of revival are fixated on technology, why isn't such technology and automation being inculcated in judicial processes. Why is it that Pakistan's courts are filled with hundreds of thousands of physical case files, containing millions of papers and each such file often hanging by the barest of threads to safeguard the sanctity of their records? Visit a court's records room and chances are you will be able to find a dead rat or an insect infestation before you are able to find the file you are looking for.

The judiciary's obsession with papers needs to be quelled. There needs to be a realisation that we have moved into the 21st Century and that our processes with automated filings need to reflect that. Take the infamous trial of Johnny Depp and Amber Heard as an example. The case filed in Fairfax County Circuit Court, Virginia involved hundreds of exhibits being displayed online, depositions being televised and video conferencing being used for evidence. Purely on the basis of the sheer volume of the paperwork involved in the said case, it is safe to assume that if it were to be taken up in a court of law in Pakistan, the matter would still have continued to remain pending.

One understands that judicial reform is easier said than done, and yet if we look towards our east and towards our west, we see examples of judicial reforms done right. In the east, India for example has drastically enhanced the infrastructure of its courts, with internet connectivity being at the forefront. India has also substantially enhanced the sanctioned strength of its judges, so as to allow for expeditious dispensation of justice.

In the west, the United Kingdom, from whom we have taken our judicial system, has now modernised itself and continues to do so. For example, they now have automated filings of cases, issuance of notices via email and allowance for conducting of much of the pre-trial proceedings including accepting of the claim filed or disputing of it to be done online via a dedicated website. This substantially decreases the time pre-trial stages would otherwise consume.

For Pakistan's judiciary to reform, two things must be kept in mind. The first is that a judge's time is an invaluable commodity and must not be wasted on things which can otherwise be conducted by an automated system. The second is that Pakistan's judiciary is only as good as its weakest link i.e. its lower courts. For Pakistan to flourish, its judiciary needs to provide speedy and effective justice and for that it needs to relegate the relics of procedures to the doldrums of history.

The author is a lawyer and political analyst, in which capacity he regularly appears on TV shows and has written for various publications such as Dawn, The News and The Friday Times. He can be reached on X/Twitter at @Jaferii.





JUSTICE OF THE PEACE

Uzair Kayani

The World Justice Project ranks Pakistan at 130 out of 142 countries in its 2023 Rule of Law Index. We ought to rank a lot higher. This badly misnamed index relies on eight, mostly irrelevant factors: fundamental rights; open government; civil justice; criminal justice; absence of corruption; constraints on government power; order and security; and regulatory enforcement. Most of these factors and associated subfactors check whether the law protects and facilitates ordinary citizens. However, what Pakistan instinctively knows, and the World Justice Project does not, is that the Rule of Law is not meant to facilitate or protect citizens. It is meant to control them as the government sees fit. Only the last two factors, and those in substantially revised form – order, security, and enforcement – should count.

Such would be the view of James Fitzjames Stephen, the strident critic of John Stuart Mill who developed or reviewed many of the key laws under which our judiciary operates today. The interested reader may consult Really Mebride's *Mr. Mothercountry: The Man Who Gave Us the Rule of Law*. Aside from codifying the laws that still govern most Pakistanis' legal experience, Stephen is known for his book, *Liberty, Equality, Fraternity*, which attacked Mill's *On Liberty* on the grounds that the purpose of the law was to enforce or compel obedience to the 'moral' authority (read 'government'). Stephen, perhaps Pakistan's greatest lawgiver, came from the conservative tradition of

Edmund Burke and Thomas Carlyle. He did not prevaricate, as Mill and other contemporaries did, in trying to justify colonialism as a necessary and temporary burden to civilise the oriental savage. He was, in fact, quite clear that all people, whether 'Western' or 'Eastern' had, and would always have, something of the savage in them. They had to be coerced to act 'morally,' just as his beloved scriptures suggested to him. Stephen's view of the 'liberty' that Mill spoke of along roughly libertarian lines was that of 'ordered liberty': liberty only to the extent that it did not countenance disobedience to rightful authority. He expanded in his book: "Estimate the proportion of men and women who are selfish, sensual, frivolous, idle, absolutely commonplace and wrapped up in the smallest of petty routines, and consider how far the freest of free discussion is likely to improve them. The only way by which it is practically possible to act upon them at all is by compulsion or restraint."

In line with this thinking, Stephen-e-Azam proposed codifying the common law of England just as he had in colonial India: it would become more intelligible to dimwitted judges and lawyers, and more stable, being statutory and difficult to amend, rather than judge-made and readily mutable. He also opposed local Indian judges having the authority to decide cases involving native Englishmen, and showed striking sympathy for Edward Eyre, the Governor of Jamaica who resorted to murder and barbarous floggings to

suppress and punish the Morant Bay Rebellion of 1865.

Stephen understood, as our courts and other institutions sharply do, the irksome problem of 'the bloody civilian'. It happened to be bloody colonial subject in his day, but if his laws have not merited much amendment until now, I must assume that they remain fit to purpose.

Our laws continue to be largely statutory or regulatory. They continue to emanate from a legislature, bureaucracy, or elsewhere, without much popular or representative legitimacy. Perhaps the one key innovation that we can claim from Stephen's time is that our laws and regulations have become more fragmented: distributing powers and privileges to many more groups or power centres than the Crown that Stephen sought to empower. We have special schemes and privileges for many of our state organs, and specific grants or favours to several private groups. We might ask: why was such an innovation necessary?

That question will lead us back to a critique of Millian utilitarianism. True believers in what is variously called classical liberalism or neoclassical economics argue for the primacy of the market, free exchange, protection of property, contract enforcement, and the correction of market failures such as collective action problems, moral hazard, adverse selection, or monopoly. This rosy picture animates most of the 'development' initiatives of the World Bank, the Asian Development Bank, and any other number of arguably well-meaning book-worms. However, Pakistan's lawgivers and law deciders seem to know that this picture is not quite right.

A 'developing country' like ours (as the euphemism goes) can only liberalise its economy if groups with the power to do substantial violence within the state accept such a liberalisation. They must reason that they stand to gain more from the liberalisation than from their existing special access to resources or other perquisites. This would only happen if the market is so thick and complex that they have to rely on relatively unknown market actors to generate their returns. Most of the time, they can just rely on the state or a small set of other power centres.

As the unrest in various parts of Pakistan, and indeed most developing countries, shows, the weak state does not enjoy a monopoly on the 'legitimate' use of violence. Most of the time, except in the technical sense of being a 'sovereign' entity in international law, the weak state is barely legitimate in the first place.

Violence can erupt at the drop of a hat in rural Punjab, Sindh, Balochistan, and KPK, usually with nontrivial local support. In such circumstances, the key problem for the state is indeed an 'order and security' problem rather than a development problem. It cannot force other power centres (whether public or private) to shed power, and must appease them to maintain the peace. To understand this dilemma more fully, the reader may consult Cox, North, and Weingast's article on The Violence Trap, or more generally, North et al's Violence and Social Orders. By protecting entrenched interests and ensuring an uneasy truce between groups with the power to do great violence, our legal luminaries can sometimes look inefficient and ungainly.

The good Mr. Stephen had only one plenipotentiary to worry about, but our jurists and lawmakers have a great many potentates to please. It is their job, then, to tell the common citizen which of these many Chaudharies must be obeyed or favoured, and in which domains. Such is the rule of law in a state with many chiefs and the steadfast articulation of this in the face of uninformed ridicule is a great personal sacrifice that our lawmakers and judges make. They are, perhaps in a truer sense than many others, 'justices of the peace'.

For further corroboration the author directs the reader to televised court proceedings that graciously allow the casual viewer to discover and record for posterity some fresh evidence of how the judicial sausage is made in Pakistan.

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REVIVING THE JIRGA SYSTEM AS AN ALTERNATIVE DISPUTE RESOLUTION (ADR) IN PAKISTAN'S TRIBAL AREAS

Samreen Fatima

The political architecture of Pakistan is inherently characterised by its tripartite structure, with the judiciary, legislature, and executive constituting the three branches of government. The role of the judiciary in shaping and interpreting Pakistan's political and constitutional order has been dynamic and complex, often punctuated by dramatic shifts and defining moments. The Constitution of Pakistan mandates an independent judiciary to ensure expeditious and inexpensive justice to its citizens. However, with a backlog of 2.4 million cases in courts across the country, whose fate has yet to be decided—as noted by Justice Mansoor Ali Shah at the recent 5th Asma Jahangir Conference—and Pakistan's ranking at 130th out of 142 countries worldwide in the Rule of Law Index according to the World Justice Project Report 2023, the need for alternative dispute resolution (ADR) has become more pressing than ever.

According to Alternative Dispute Resolution Act (ADR) of 2017, passed by the National Assembly, ADR encompasses a set of processes that allow conflicting parties to resolve disputes outside of traditional courtroom settings without formal litigation. This includes methods such as arbitration, mediation, conciliation, and neutral evaluation. In light of this definition, it can safely be said that prior to the introduction, formalisation, and adoption of the ADR, the Jirga system had already been functioning as a traditional form of alternative dispute resolution (ADR).

The Jirga system, both historically and in modern settings, has been used to mediate, conciliate, and resolve conflicts. Anchored in the wisdom of community elders and deeply rooted in local customs, whilst also accommodating the cultural and religious sentiments of the respective communities, the Jirga system remains an important mechanism for peacebuilding and conflict resolution, especially in the tribal areas of Pakistan.

Originating from the Aryan tribes of contemporary Afghanistan and India, the Jirga system is one of the oldest methods of conflict resolution. This centuries-old Jirga system holds significant historical and cultural importance, especially among the Pakhtun community and in the tribal belt. The word 'Jirga' in Pashto means a gathering or consultation aimed at reaching a mutually agreed-upon solution to a problem. It is a tenet of the Jirga system that the Jirga must be comprised of elders selected for their integrity, wisdom, and knowledge of Pakhtunwali and Islamic law. The Jirga has been used to resolve disputes between groups and tribes, especially in matters related to land distribution, property, blood feuds, and inter-tribal affairs. According to Goodhand and Meehan (2018), the Jirga functions horizontally as a dispute resolution mechanism, acting like a jury to adjudicate wrongdoings and violations of customary laws. Vertically, it serves as a mediator between local communities and the government to foster

connections with other tribes and facilitate jurisdictive, peacebuilding, progressive, and arbitration processes.

Recognised as an august forum for resolving disputes and promoting unity among warring tribes, the Jirga system aims to facilitate hearings and devise objective solutions based on Shariah law and local customs. Jirga proceedings take place in various settings, such as mosques, hujras (guest houses), and beneath large trees. In the tribal areas of Pakistan, the Jirga carries out both judicial and executive functions, closely aligned with local traditions and customs. For tribal communities, the Jirga system is a cost-effective alternative to the formal justice system. Its relative success stems from the community's deep respect for and attachment to this traditional method. Compared to the formal court system, which is expensive both financially and in terms of time, the Jirga is more accessible. It draws its legitimacy and authority from the community it represents, compelling all involved parties to honour its rulings.

Although the Jirga system has been practiced in tribal areas for centuries, its role has occasionally been the subject of debate and criticism, particularly when its mechanisms and methods of justice delivery are compared to the formal justice system in other parts of the country. Despite these concerns, the Jirga system continues to be the most reliable platform for resolving conflicts within tribal communities. The effectiveness of the Jirga system in conflict resolution can be assessed through its resolution of high-stakes disputes. For instance, the resolution proposed by the Tori Bangash Jirga in Kurram Agency showcases this effectively. In this case, a long-standing land dispute between the Tindawal and Ali-Sherzai tribes, which spanned 30 years and resulted in significant loss of life, was successfully resolved. The Jirga played a role in facilitating negotiations and reaching a unanimous verdict accepted by both sides, with essential support from district administration.

In a study conducted by Nawaz & Aman (2022) titled 'Dispute Resolution Councils in Khyber Pakhtunkhwa: The Personification of Jirgas,' the preferences of respondents regarding forums for resolving criminal and civil disputes were investigated. The study revealed that 47.6% of respondents preferred Jirgas, 37.7% opted for civil and police administration, while a mere 8% mentioned formal courts for criminal disputes. In civil disputes, 59.1% of respondents chose Jirgas, 16.9% preferred civil and police administration, and only 14% proposed formal courts. However, in complex cases, a majority of respondents (44.5%) favoured formal courts over Jirgas (5.8%). These findings provide valuable insights into the level of

confidence Pakhtuns have in the Jirga system compared to the formal justice system.

Although the Jirga system has played an important role in conflict resolution in tribal areas, it is equally important to acknowledge the concerns raised by critics and human rights activists. Criticisms leveled against the Jirga system include the absence of codified written rules, all-male council compositions (creating gender biases), its fundamentally patriarchal nature, and the potential for the misuse of power and authority. The Jirga system has faced immense criticism for discriminating against women and violating the sanctity of women's rights during the decision-making process and the implementation of those decisions. Most importantly, women are excluded from participating in Jirgas, even when they are the victims, accused, or witnesses. In 2011, a Jirga agreement in Kohistan, Khyber Pakhtunkhwa District prohibited 18,000 registered women from voting in by-elections. Furthermore, women's rights violations occur through practices like honour killing, swara, vanni, or sung chatti, which involve the exchange of women as settlement. In 2013, a Jirga of around 200 people from 25 surrounding villages in Upper Dir convened and decided to give 12-year-old Rubina in swara as a form of compensation for her uncle's alleged mistake. Additionally, reports by Aurat Foundation indicate that 475 women were killed in the name of honour in 2008, 604 in 2009, and 557 in 2010, with many of these decisions being made via Jirgas.

In response to these violations, the Supreme Court of Pakistan, in line with the principles of Universal Declaration of Human Rights (UDHR), declared Jirgas unlawful in 2019. Chief Justice Saqib Nisar emphasised that Jirgas lacked precedents, predictability, and certainty in their decisions. Personal knowledge and hearsay were used to determine civil rights violations and criminal charges. Such practices were deemed contradictory to Article 4, IOA, 25, and 8 of the Constitution, which prohibit customs that infringe upon fundamental rights. However, the court also recognised that certain customary and traditional sentiments could still be addressed by gatherings of village elders, provided these disputes were resolved within legal boundaries and without functioning as parallel courts.

Considering the inherent limitations of the Jirga system, coupled with the challenges confronting Pakistan's formal justice system, including the backlog of millions of cases and draconian laws requiring structural reforms, it is reasonable to say that with the revival of Jirga system, it can continue to serve as a

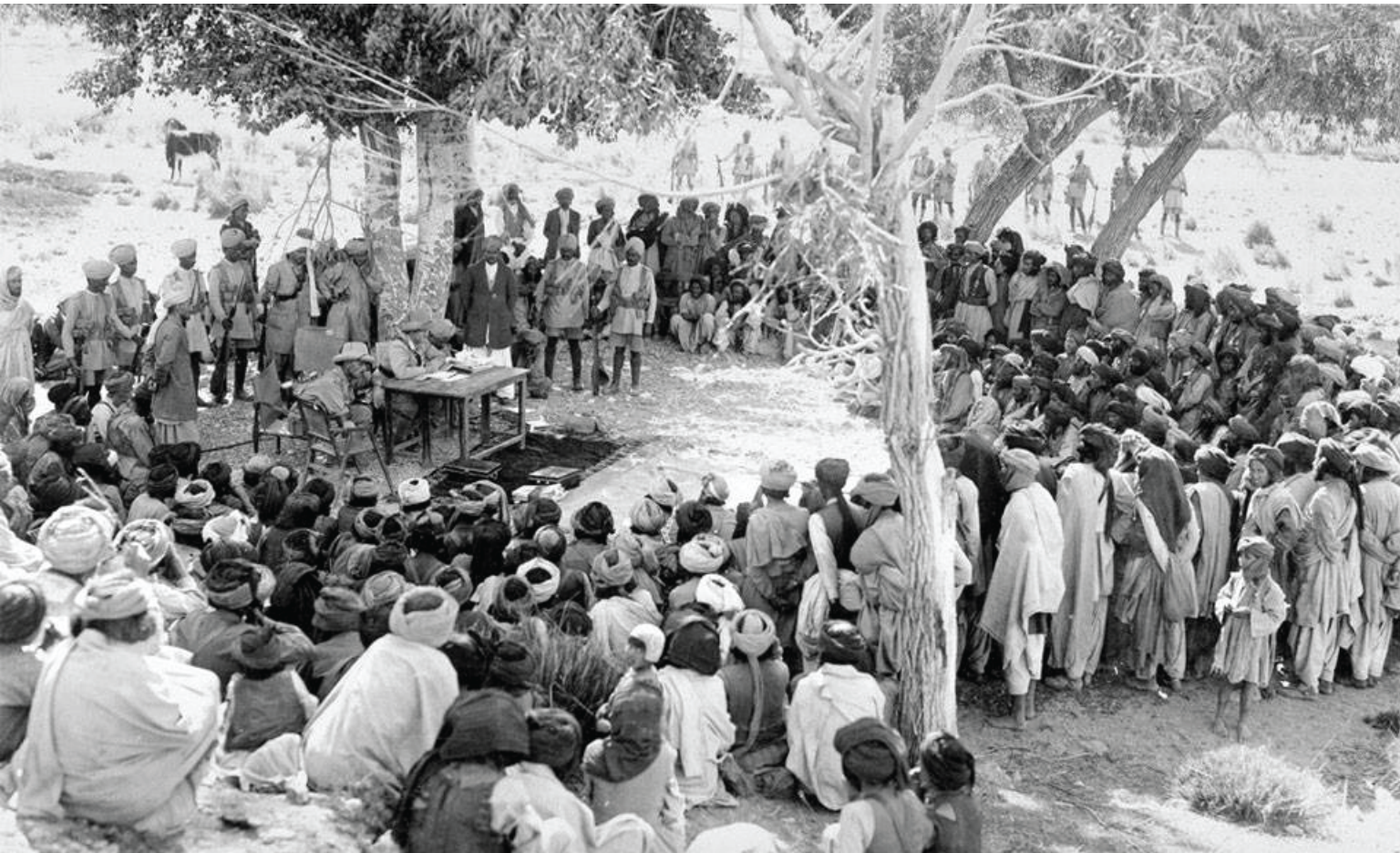
form of Alternative Dispute Resolution (ADR) within legal boundaries and in compliance with the law. This is important, given that despite the Supreme Court's ban, people in tribal settings continue to rely on the Jirga system. Therefore, to revive and integrate the Jirga system as ADR within the formal legal framework and make justice accessible to all, the following measures are proposed.

First, institutionalising and formalising the Jirga system within Pakistan's judicial system as a recognised form of ADR can lead to more efficient and cost-effective justice and reduce the burden on courts. Second, it is important to provide conflict resolution training to influential societal figures, such as religious clerics and tribal leaders to ensure that Jirgas operate within the bounds of justice and inclusivity.

These training programs must include mandatory instruction regarding fundamental teachings on Islamic law and jurisprudence. This will also help clarify that practices like honour killings, vanni, and swara are not in accordance with Islamic teachings. Third, the inclusion of a learned judge, lawyer, and an accredited mediator and arbitrator in every Jirga committee is crucial to ensure the legality of the decisions being made. Fourth, mandatory female participation in Jirgas should be enforced at all levels. Inspiration can be taken from the Sister's council, an all-female Jirga based in Khyber Pakhtunkhwa (KPK). Fifth, a comprehensive monitoring and evaluation framework should be formulated to regularly assess the performance and impact of Jirgas. Lastly, all Jirga proceedings must be recorded and documented using modern technology.

These measures, if taken, have the potential to revive the Jirga system as an efficient and compliant mechanism of Alternative Dispute Resolution (ADR) in the tribal areas of Pakistan.

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ESG, IMPACT LAWYERS & INNOVATION IN THE PAKISTANI LEGAL SYSTEM

Ammara Farooq Malik

At the Annual Summit of the Global Alliance of Impact Lawyers (GAIL)I recently held at the London School of Economics & Political Science (LSE) in London, more than 250 global lawyers from leading law firms gathered to discuss how they could play a more meaningful role for impact through law.² I was invited to speak as the Chair of the GAIL Asia Pacific Board where we discussed a potential Regulatory Mapping exercise that we could conduct across Asia Pacific. All the while, my mind was racing with what we can do as Pakistani legal practitioners to put Pakistan on the map as a serious contender for commercial giants to invest in, post adoption of the EU's Corporate Sustainability Due Diligence Directive (CSDDD), even though we are in the Global South.

It was once considered that the first and foremost agenda in Pakistan is the need for a robust and business friendly regulatory environment. That now is not enough if we want to be able to do business, at scale, with the Global North. The world is developing at an exponential scale thanks to AI and technology, innovative investment tools and sustainable governance structures and our systems need to keep up with the pace.

One aspect of commercial law reforms that need to be reviewed and updated is that the need to integrate Environment, Social & Governance (ESG) metrics in governance documents of the Securities & Exchange Commission of Pakistan (SECP) regulated listed companies, still needs to pick up momentum. SECP launched the ESG Regulatory Roadmap in 2022 and has only very recently issued draft guidelines on ESG disclosures for consultation as part of its ESG Regulatory Roadmap of 2022.³

What can the bar, bench and policy makers, do to build that momentum and what is the urgency of the matter?

Many mainstream lawyers in Pakistan are not fully aware of the connection between the impact that can be generated through the integration of ESG in corporate governance. There is a clear business case for higher profits associated with ESG metrics and assessments. The effect will not only be seen in terms of investor confidence and higher regulatory compliance but will also help incorporate the triple bottom line (TBL) of People, Planet and Profit into the equation of business, thereby making it an 'impact business'.

Impact businesses can be 'social enterprises', 'for profit' or 'not for profit' entities that are focused on being sustainable and support the objectives of the UN Sustainable Development Goals. Examples include sustainable food chains, circular economy, race to net zero initiatives through business, and so on.

Gone are the days, when 'social enterprises' would be equated only with 'SMEs' and small business owners. Today, global investors are not just interested in the return on investment (ROI) on large capital investment deals but are also keen to see how far their dollar will push to make the world greener, more sustainable and just.

¹GAIL (2024), About Gail, Web: <https://gailnet.org/about/>. Accessed on 6th May, 2024.

²Uba E., (2024), Pioneer Post, 'Make the distinction between law and justice to avoid environmental destruction'. Web: <https://www.pioneers-post.com/news-views/20240425/make-the-distinction-between-law-and-justice-avoid-environmental-destruction>. Accessed on 6th May, 2024.

³SECP (2023), 'SECP Initiates Consultation on Voluntary ESG Disclosures Guidelines', Web:<https://www.secp.gov.pk/media-center/press-releases/secp-initiates-consultation-on-voluntary-esg-disclosure-guidelines/>, Web accessed: 6th May, 2024.

The European Parliament has taken the front seat in advocating for ESG metrics integration in corporate governance by launching the Corporate Sustainability Reporting Directive (CSRD) adopted in 2022, which came into effect in 2023.

And the most recent, EU's Corporate Sustainability Due Diligence Directive (CSDDD - also known as the CS3D), was passed in April 2024. The CSDDD is broadly aligned with the United Nations' Guiding Principles on Business and Human Rights (UNGPs) passed in 2011 and the Organization for Economic Co-operation and Development's Guidelines for Multinational Enterprises (updated OECD guidelines 2023).

The EU's CSDDD is one of the most in depth and ambitious sustainability laws in the world. Over the next 2-3 years after it comes into effect⁴, thousands of EU and non-EU companies will be required to identify, assess, and mitigate environmental and human rights violations based on the new sustainability law and will introduce comprehensive mandatory human rights and environmental due diligence obligations, with significant financial penalties and civil liability for companies that do not fully comply. It also will create a new obligation for companies to adopt and put into effect a climate transition plan aligned to 1.5°C in line with the Paris Agreement of 2016⁵ agreed upon at COP21, as well as a requirement for companies to report on their due diligence processes.

Each EU country will create supervisory authorities to investigate and impose penalties on non-complying firms. Member states will be given two years to transpose it into national law.

At the Global Alliance of Impact Lawyers (GAIL) conference at LSE, where impact lawyers from North America, Latin America, UK & Europe, Asia Pacific and Africa had convened, it was clear that the implications of this new EU sustainability law would have a far-reaching effect not only on EU and non-EU companies operating in the EU; but the CSDDD could also serve as a beacon of new sustainability standards that could potentially be adapted and replicated in some form in other regional jurisdictions as well. This continued development of sustainability checks by regulators can potentially create an effective action plan to bring some of the global pledges of COP28 and successive COPs to some fruition through sustainable businesses.

In the Asia Pacific region, China, Singapore, Japan, South Korea, Hong Kong and Thailand already have ESG regulatory guidelines or regulatory frameworks in place. Pakistan now needs to come up to speed with these global developments to be able to attract FDI and build its market in Europe and the Asia Pacific in the wake of the new EU ESG regulations such as the CSRD and the CSDDD that may negatively impact Global South businesses unless they also integrate the same metrics into their governance models.

In Pakistan, the regulators, the bar and the bench all need to speed up the advocacy for ESG frameworks development and implementation. Within the judiciary, the Honorable Justice Mansoor Ali Shah is pro legal innovation and is receptive to new ideas. He can push the bar and bench to closely study the emerging and growing field of 'impact law' that covers issues such as sustainability, ESG, blended finance, corporate due diligence and business & human rights.

Pakistan needs more impact focused lawyers for larger acceptance of ESG regulatory compliance to meet foreign investors' expectations, confidence and regulatory requirements. Sustainability experts, lawyers and judges together, can play a vital role in supporting the SECP campaign for greater understanding, visibility and acceptability of their ESG Roadmap.

At LSE, I represented the Seplaa Group and AFMalik Law from Pakistan. Expanding on the role of these two, the Seplaa Group's consultancy services for Pakistani companies in Impact Business, ESG (Environmental, Social, and Governance), and Sustainability is where purpose meets profit and responsible business. With Seplaa's 20 years of experience at both grassroots and policy level to build the momentum first for social enterprises in the region and then for 'Impact Law', they are at the forefront of guiding organisations towards a future where positive societal and environmental impact coexists with financial prosperity.

In an era where businesses are increasingly recognising the importance of aligning their strategies with global sustainability goals, it is important to work with experts who bring a wealth of knowledge to help businesses navigate this evolving landscape.

ESG considerations have become integral to investment decisions, and the Seplaa consultants assist companies in understanding, reporting, and improving their presently 'voluntary' ESG reporting, navigating through the maze of sustainability metrics, helping companies build a robust ESG framework that aligns with industry best practices and meets the expectations of stakeholders, investors, and consumers alike.

Furthermore, AFMalik Law has been guiding young law students and fresh graduates on the scope and meaning of impact law in Pakistan since 2020 thereby hoping to create a nursery of young lawyers who will understand what Impact Law means.

⁴Cooley (2024), EU Adopts Mandatory Rules on Corporate Sustainability Due Diligence That Will Apply to Many US Companies, Cooley Alert, April 2024, Web: <https://www.cooley.com/news/insight/2024/2024-04-24-eu-adopts-mandatory-rules-on-corporate-sustainability-due-diligence-that-will-apply-to-many-us-companies#:~:text=On%2024%20April%2024%2C%20the%20European%20Parliament%20voted,shift%20in%20corporate%20attitudes%20to%20responsible%20business%20conduct>. Accessed on: 6th May, 2024.

⁵UNFCCC (2016), The Paris Agreement, Web: <https://unfccc.int/process-and-meetings/the-paris-agreement>. Accessed on: 6th May, 2024.

Recently a law student from the LUMS Law School interviewed the author of this piece for her research and during the discussion disclosed that students are shying away from ‘corporate law’ because they consider it too commercial and would rather pursue ‘human rights’. Since many lawyers and judges still do not know about the innovative concept of ‘impact law’ similarly, many students are not aware of this dimension of law as well. Impact law is by all purposes, an extension of corporate and commercial law albeit with a humane and more responsible approach and methodology of implementation. Impact law focuses on purpose and not just on profit.

Legal reforms or advocacy alone are also not enough to support an impact business. In the ever-evolving landscape of business, sustainability, purpose and profit, the focus should be on a systems approach that extends beyond compliance, encouraging innovation and resilience. ‘Seplaapreneruship⁶ - the Seplaa 5 Cog Wheels of Sustainable Business Strategy’ incorporates the 5 Ps of People, Planet, Profit, Policy and Purpose and focuses specifically on this systems and network approach to build sustainable businesses in emerging and frontier economies.

This approach empowers organisations to identify and capitalise on sustainable business opportunities, creating a roadmap for long-term success in a world where environmental and social responsibility are paramount. Through the Seplaa 5 Cog Wheels’ systems collaborative approach, stakeholder engagement, and in-depth analysis, businesses can integrate sustainable practices into business models, unlocking both short-term gains and long-term value.

The time has never been riper to embark on a journey towards a future where business thrives in harmony with the planet and society to not only navigate the complexities of a changing world but also to lead the way in creating a positive and lasting impact. The question is, how soon the legal community in Pakistan can come up to speed and embrace the impact law domain.

The author is the Founder of Seplaa since 2004 and presently is CEO of the Seplaa Group & AFMalik Law. In 2018, she became the first ‘Impact Lawyer’ from Pakistan and was the first to Chair the Asia Pacific Board of the Global Alliance of Impact Lawyers (GAIL) in 2013.

⁶Seplaa Group (2024), ‘Sustainability, Oxford & Seplaa’, Web: <https://seplaagroup.com/sustainability-oxford-seplaa/>, Accessed on 6th May, 2024.



JUSTONOMICS = JUSTICE + ECONOMICS

Saddam Hussein

In any society, individuals rely on one another for their daily chores. What sets humans apart is their ability to evaluate actions based on morals and ethics. Yet, determining what is moral can be tricky. That's where a system of checks and balances comes in.

Firstly, there needs to be an authority that establishes rules, allowing behaviors to be judged accordingly. This is where legislation plays a crucial role. However, when disputes arise between members of society, we need another layer - a detective mechanism. This calls for a judiciary to arbitrate, determining who adhered to the rules and who did not. Once a verdict is reached, it falls upon the enforcement authority, such as the police, to ensure that the judgment is carried out. Given the propensity for conflicts to arise among individuals, every member of society deserves access to justice. This access is essential for resolving disputes and eliminating uncertainty, crucial for future interactions.

In the marketplace of justice, the affluent script their own endings, relegating the downtrodden to mere bystanders

That's why across the globe, access to justice is considered a fundamental human right, vital for the functioning of developed societies.

The Pakistani Constitution, much like others, guarantees access to justice for all residents without discrimination. Two key articles, Article 4 and Article 10-A, outline this provision in detail, emphasising the importance of ensuring justice for every individual. However, the reality of Pakistan's judicial system often diverges from these constitutional ideals.

Despite the constitutional mandate for affordable and swift justice, the institutional mechanisms and organisational structure of the judicial system impose numerous formalities and costs on litigants. From lawyers' fees to court expenses and documentation costs, accessing justice in Pakistan often comes with a hefty price tag.

This discrepancy echoes the principles of the neo-classical school of thought in economics, which views justice as a commodity, subject to the laws of supply and demand. In this framework, price plays a pivotal role, with those able/willing to pay higher prices dominating the market.

In a perfectly competitive market, equilibrium is reached where consumers willing to pay more receive the goods, while suppliers with lower willingness to accept are excluded. This optimal outcome ensures that goods flow to those who need them most and are willing to pay a competitive price. However, this equilibrium also results in a surplus for suppliers, benefiting those who were willing to pay higher prices but ultimately paid less, while suppliers received more than their initial willingness to accept.

The justice market operates much like a conventional market, with two key players: the demand side, comprised of litigants seeking justice and willing to pay for it, and the supply side, represented by lawyers offering their services at a price. This dynamic results in an equilibrium where only those who can afford the specific price can access justice, leaving others in the demand pool unable to afford it.

However, this scenario assumes perfect competition, which is rarely the case in the justice market due to information asymmetry regarding the due process of justice. Lawyers often exploit this information gap, creating a quasi-monopoly situation that further restricts access to justice.

In some instances, the justice market resembles a tourist model as well, where litigants consult one lawyer and then refrain from seeking further advice due to the associated transaction costs and lack of information. This advantageous position empowers lawyers to demand higher prices, exacerbating exclusion from justice for those unable to meet the equilibrium price. In Pakistan, the unchecked inclusion of lawyers in the justice system poses a significant barrier to accessibility for the demand side. In any dispute, there are typically two parties seeking justice, but the current system's imbalance favours those with financial means, perpetuating injustice for those unable to afford the steep costs.

Thus, technically, those in dispute require a neutral third party to facilitate resolution without personal involvement. Ideally, these third-party facilitators, such as lawyers in Pakistan, should not be motivated by monetary gain linked to the case. However, here, the monetary incentives tied to case proceedings pose a significant barrier to access to justice. The longer a case drags on, the more lucrative it becomes for lawyers. Additionally, cases of greater severity command higher fees, leveraging the demand for justice against those in

need. This imbalance in the justice market, fueled by the constraints faced by the common person, ultimately drives up the cost of accessing justice.

In this context, recent research on Islamabad, conducted by the author with the Pakistan Institute of Development Economics (PIDE) reveals that the average litigant spends nearly 04 years resolving a case in civil or magisterial courts.

During this time, they may need to appear before the court approximately 40 times for hearings. It's noteworthy that out of these 40 hearings, on average, 15 are rescheduled, further prolonging the process. Even after this extensive wait, the litigants may face an additional three-year wait for the thorough disposal of the case. Throughout this ordeal, they must bear the burden of legal fees, totaling around Rs. 65,000. When factoring in other expenses like conveyance, accommodation, and meals, the true cost of justice far exceeds initial estimates.

According to the Household Integrated Economic Survey (HIES 2018-19) data, the average annual income of a Pakistani citizen is Rs. 427,944. However, household expenses average around Rs. 390,936 per annum. So on average, Pakistani citizens allocate around 90 per cent of their income to expenses. Consequently, the average annual savings amount to Rs. 37,008. Given these financial constraints, an ordinary Pakistani would struggle to afford legal fees, particularly if faced with a legal matter in civil court, where lawyer fees alone can reach Rs. 65,000. The fees for litigation in higher courts are even higher, placing them entirely out of reach for the average citizen.

When comparing costs, income, expenditure, and savings, the outlook appears grim. The average cost of a case in the lowest court stands at Rs. 117,000, while the annual savings are just Rs. 37,008. Clearly, when juxtaposed with the cost of accessing justice, the gap is insurmountable. Although the government nominally provides a prosecutor for such cases, implementation remains chaotic. Moreover, there's little incentive for lawyers to fully engage with the case, as monetary benefit here is way lower than the lawyer's expectation.

Summing it up, accessing justice in civil courts proves immensely challenging, if not outright impossible, for the average Pakistani citizen. It's a stark reality that often forces ordinary citizens to resort to borrowing or selling their assets to pursue legal matters. It's worth noting that these calculations assume only one legal issue per household per year, without considering any unforeseen emergencies like health crises. One can only imagine the added strain in such situations. Should this ring alarm bells? Well, it must.

The author is an institutional economist and political analyst, currently serving as Assistant Chief (Policy) at the Pakistan Institute of Development Economics (PIDE), Islamabad.

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MISCONCEPTIONS THAT IMPEDE NATIONAL DEVELOPMENT

Zafar U. Ahmed

A series of myths and misconceptions have perforated across public policy circles in Pakistan that are incorrect, misleading, and ultimately counterproductive for all intents and purposes.

A widespread impression received by the general public in Pakistan is that the country needs foreign aid to survive. More aware segments know that is not correct. What makes the situation so tenuous is a lack of international currency. Since the country's exports are less than half its imports, and the rupee is not accepted as an international currency, to buy goods from abroad and to repay foreign currency loans necessitates additional international currency. When there is talk of default risk, it is about not having sufficient international currency, as the country traditionally depends upon the dollar for foreign transactions. Pakistan finds itself in this debt cycle because it has taken foreign currency loans to import and even fund domestic projects. What is perhaps worse is that also continues to import unnecessary and extravagant items! Once its exports, remittances and foreign investment are able to exceed its foreign currency requirements (to import, repay loans and repatriate profits on foreign investments), it will no longer be beholden to financing agencies. At present, since the country is indebted to international agencies, it is under the pressure of their 'guidance', such as a) not restricting unnecessary imports, and b) not guiding its currency exchange

value - which results in more loans and digs the country deeper into the predicament.

For decades, in Pakistan, economists and finance specialists have focused on interest rates, currency exchange rates, GDP growth rates, deficit rates, and such—short-term tinkering perhaps within their comfort zone, at the expense of focusing on the real economy. But this tinkering essentially just relates to financial levers that the government has. Pakistan's real economy is its agriculture, industry, and services. There is no mystery here: The country's agriculture is highly inefficient with low yields and quality not tailored to the export market, and what is being called industry or manufacturing is more often the assembly of imported parts and mostly internationally uncompetitive businesses. Services, such as wholesale, retail, hotels, transport, real estate business, telecommunications, IT, banks, insurance—excluding public sector services—are mostly for domestic purposes. They do not attract much foreign investment (besides telecommunications) and have very low exports. To top it off, it can be argued that the country's governance is largely through cronyism instead of merit. The result is the dire condition of the economy and poverty amongst the majority of the people. **When the real economy is in such a state of disarray, no economist has any hidden formula for progress. There is only one way—fix the real economy, and progress will come.**

¹An edited version of this article was published in The Friday Times on the 24th of October, 2023.

Under the current circumstances, technical specialists can tinker with financial levers as much as they want, to little effect. Media analysts, not knowing better, follow their lead and endlessly focus on these rates and percentages, detracting focus from the real economy and real long-term solutions.

2. A peculiar perception has been created in Pakistan that business enterprises have to be given subsidies and concessions to motivate and incentivize them to undertake their business, especially for exporters. And it seems that some businesses attempt to give the impression that national patriotism and uplift are their only goals. Not true. **Profit earned in open and fair competition must remain the incentive and motivation for private business.** If a business is running at a loss, let more competitive entrepreneurs take its place. It is wrong to give hard-earned taxpayer money to subsidize uncompetitive private businesses, which then keep the resulting profit and assets as their private wealth, while the citizens whose contributions were given as subsidies get nothing. Profit earned in competitive business (on a level playing field, at least domestically) must remain the reason and motivation for private business, not state concessions and subsidies.

The assembly of imported parts does not qualify as a mature manufacturing sector. Amongst other disadvantages, it raises imports (requiring spending scarce international currency). As assembly rises, instead of imports going down, they also go up—such ‘manufacturing’ does not substitute imports (or create exports), it is a part of imports, and during times of shortage of international currency, its efficacy ought to be assessed. **It needs to be kept in mind that for import-dependent countries, such GDP growth has a major negative side.**

Similarly, as people in the industry understand, when, for instance, textiles or other manufacturing uses imported materials (machinery and inputs), it means that if the rupee value is depreciated, exports do not rise as predicted since the cost of manufacturing also goes up, as a higher price has to be paid for the imported materials and machinery that go into manufacturing. So, the assumption of elementary economics that a devaluation of the rupee will result in higher exports does not come true, as the country is highly import-dependent for its manufacturing, apart from other issues such as producing low-end products. The answer is to make better quality, higher value-added products whose sale does not depend on them being

cheap or low-end (and very price-sensitive); devaluation is not the answer. And the expertise required here is in business management, not in economics or finance.

3. Any economic ‘experts’ are sceptical of **encouraging trade in national currencies or arranging mutual direct exchange of goods.** Such trade by mutual direct exchange is a means to encourage (or leave no other option) for international sellers to, in-exchange, buy some things from this country, which otherwise they are unlikely to do. It also means that the country ought to buy not from traditional sellers but from those who agree to in-exchange purchase. That is what can make direct exchange (also called barter) trade, to the extent that it is possible, a better option for the country. Direct exchange trade does not necessarily mean an actual exchange of items, but it might be in the form of accepting payment in national currencies which can later be used to buy from each other. More and more countries are beginning to realise that they can trade with each other directly without first having to somehow get hold of traditional international currency through loans and favours with conditions attached. However, many Western-trained economists find that difficult to assimilate with the established tenets of their field.

4. There is a misconception about the role of economists in Pakistan. **“Economists have no special competence in determining what the objectives should be, but they can help in translating the objectives into a more operational form,”** to quote M.S. Ahluwalia (former Director Evaluation IMF and Deputy Chairman Planning Commission of India). Education in economics is valuable for economic policymakers but by itself it is simply not sufficient. By training, economists support policymakers by presenting them with results of economic analysis, but that by itself is not sufficient to make policy. To give a crude illustration—China has achieved the fastest economic growth in world history, but most people have not heard of any Chinese economist, there is not a single Nobel laureate in economics from China.

Then the question is what qualities are required in policymakers to address national development issues? They include: being intimately aware of the living conditions of the country’s people and their needs; understanding society’s core values and priorities; considerations such as fairness and equality; an analysis of interest groups and an understanding of the influence of socio-political institutions; clear long-term

national goals and strategy; loyalty only to this country; deep knowledge and experience in one or more sectors, or in administration; being chosen by the people as their representative and not having any conflict of interest. Such policymakers ought to make decisions after considering the inputs from economists and other technical specialists.

Former staffers of IMF/multilaterals rarely have these qualities. Further, with a few worthy exceptions who might have a much broader perspective and experience, the former staffers of multilaterals are oriented to follow their given institutional policies and procedures. But equally worrisome is the potential conflict of interest. Those receiving a pension from international agencies or hoping for lucrative future assignments (revolving door system) from them have a clear potential conflict of interest. A few might conceivably be more loyal to their international employer (with the added prospect of settling in a developed country) rather than to a low-paying unstable GoP. And whilst certainly invaluable in their fields, commercial bankers and accountants have little direct relevance to policy issues in national development.

5. Because India is doing so well in IT, with current annual exports of \$190 billion, that we are also capable of doing so is a common refrain. Unfortunately, our country's educational foundation is far too weak for such a feat. We have drifted from (sometimes donor-led strategies) a focus on access to primary education to a focus on filling gaps in school infrastructure, to a focus primarily on the girl-child, to pushing PhD studies (e.g. on climate change) and so on. In some educational institutions, there are many times more students enrolled in Urdu, Pakistan Studies, and Islamiyat than in Science subjects and Mathematics. Educational content is crucial; it must not be overlooked; otherwise, graduating students have no work prospects, and national development cannot go forward. Donor agencies have the liberty to focus on their global priorities in supporting education—on the flavour of the year or five years—but we do not have that liberty. **We need to have very clear objectives, strategies, and a timeline to achieve the educational requirements for national development and brook no ideological hindrance.**

6. Reiterating from my earlier article [in Dawn], in Pakistan, whilst a few donor agencies usually work through the government, most agencies also sponsor projects themselves. International NGOs bring in their funds or implement donor agency projects. To illustrate, let's say there are some

17-20 major donor agencies present in the country and perhaps 20 significant INGOs. Each of these might have many projects ongoing, and some projects may involve numerous national and local NGOs. Therefore, at a time, hundreds of projects/local partners can be working in diverse sectors under the guidance of these foreign agencies and INGOs. This has meant that there has not been a single fully integrated development strategy or programme for the country over the last few decades. Donor agencies and INGOs, whilst formally sharing progress with the GOP, are in reality answerable to their external management. **Such outsourcing of country priorities and development strategy and implementation goes against any recognised concept of management and chips away at the country's sovereignty.**

When projects end, experienced and trained project staff are let go. There is a knock-on effect on government capacity, as its regular staff has missed out on that, not received any experience and training in programme design, implementation, and oversight. Institutional learning and memory are lost.

The right course would be for the country to make its own provincial and federal policies and strategies and then any willing friendly countries or funding institutions may pick up a portion of that, as it is, for their financial support only.

7. Until now, **Pakistan's defence expenditure has taken a substantial part of the budget, but it still cannot come close to the spending of a neighbouring country. Pakistan's defence budget can be affordable, even enhanced,** provided the country can produce and export modern armaments to friendly countries. It is said that usually, militaries prepare for the last war; we must prepare for the wars of the near future and export the surplus produced. In the foreseeable future, there will be heavy dependence on advanced air defences, electronic warfare, hi-tech ISR (intelligence, surveillance, reconnaissance) linked to precision targeting, combined arms warfare with all elements interlinked through satellites and other means, intelligent armed and networked drones, long-range precision missiles and artillery, motorised mine laying, very long-range over-the-horizon air attack capability, massive quantities of artillery ammunition, and such. Pakistan could take up the challenge to produce a few such armaments (or some key components) and export them at premium prices.

8. There is a widely held belief in the general public that the country is poor because a few people have stolen all the money and taken it abroad. This is easily debunked by the facts. A quick Google search of Pakistani dollar billionaires (who have lived and earned in Pakistan, excluding those who

migrated in youth and have built businesses abroad) shows that even the richest are estimated to be worth less than \$4 billion—the numbers are unlikely to be accurate, but give some idea. The two richest politicians are estimated to be worth less than \$2 billion each. Pakistan has yearly (gross) domestic production of more than \$300 billion. Therefore, **emphatically, a few people have not taken away all the country's money.** On the other hand, unjustified annual subsidies and concessions of an estimated Rs. 2,660,000,000,000 (2.6 trillion, according to a UN report), to the corporate sector and banks, to big agricultural landowners, high-net-worth individuals, large traders, and others get minimal airtime on the media.

9. Finally, people in the country constantly complain about corruption and, in particular, vilify the politicians. But that is misleading; the responsibility is spread all around. People related to sectors/entities with a problematic background ought not just to ignore that and constantly point to others. Let us list some such sectors, and people associated with them ought to ponder their own share of responsibility. The Police—nothing more needs to be said; Judiciary (including lawyers)—is totally dysfunctional and does not provide justice for the weak and hinders quick resolution of business disputes; Bureaucracy—still hasn't realised they no longer represent a colonial occupier but were now supposed to provide a service to the people, not to speak of incompetence or corruption; Electricity companies—they have a well-deserved awful reputation; Corporate sector and Banks—the biggest recipient of state concessions and subsidies, but it would be hard to argue that they deserve it the most; Military—often suspected of a role in grooming the vilified politicians and is now the largest conglomerate of business entities in Pakistan; Manufacturers, who demand concessions and then mostly assemble imported parts; some leaders of Industry, not because of their innovation or efficiency but due to being 'insiders' of the crony network; large agricultural landlords who make it impossible to levy direct income tax; high earning professionals who hide their true income; and the list goes on. Those who partake in such distribution of spoils really shouldn't protest too much. It is a sad fact that most of the people who would have some influence to make needed reforms are the greatest beneficiaries of the dysfunction.

And then prices are raised for electricity and petrol/diesel etc., and resultantly on food, on the premise that there is no other option, nothing else can be done. Gas prices are illustrative, in Pakistan traditionally natural gas has been priced much higher in cylinder form (widely used by the poor) compared to piped gas supplied to where the rich live.

Real and long-lasting progress will come from:

- Raising agricultural output to international standards, using existing methods
- Industry (not assembly of imported parts) and its exports or else at least to the extent of reducing unaffordable imports—for example, manufacturing of public transport, railway equipment, agricultural machinery and storage, utility infrastructure, machinery for factories, and essential consumer items, e.g., refrigerators, mobile phones. But not energy-hogging optional items like air conditioners and expensive personal cars. Professionally led mining and export of precious minerals at favorable prices. And domestically, open competition with equal opportunity for all—no cronyism network
- Support and push the Services sector (IT, etc.) to attract foreign investment or else export abroad as much as possible. Develop the related human resource
- Professional management of overseas labour export, a transition from unskilled labour to (higher-paid, low turnover) skilled and highly skilled
- Fair and full (direct) income tax collection, including from large landholders and the services sector
- Imports are restricted and kept within the limits of the country's international currency earnings. The country has a right to only import in international currency as much as it has such currency to buy. No multilateral agency has a right to force it to 'open' imports [no restrictions] when it does not have the international currency to pay for such imports, a process that inevitably leads to pleas for more [international currency] loans
- Budget expenditures by national development priorities. Cut unnecessary spending (unnecessary by the needs or measures of a country where the growth of one-third of the under-five population is now classified as stunted due to malnutrition and frequent infections), and in the short term cut low-priority items. Losses on state-owned enterprises have to be dealt with and eliminated (by professional reorganisation if/where still feasible, otherwise by outsourcing management to a minority shareholder or via transparent privatisation
- Raise exports by a) selling items besides the country's traditional exports (textiles, rice, etc.); b) focusing on better quality products, not only low-end highly price-sensitive items; c) finding new export destinations, especially among less developed countries; d) as far as possible, making mutual direct exchange trades, instead of buying with international currency; e) relevant and effective education/vocational training, reasonable health-care for all and social protection for those in need, are essential for real sustained economic development; f) export of military equipment produced, to a level to at least offset the costs of military equipment that the country wants to import.

To be able to do all the above, it is crucial to get rid of governance by cronyism and instead strictly follow merit and fairness (financial corruption is just one result of cronyism).

Media people often put forth the question of who is ready to take the tough decisions. They refer to raising prices and indirect taxes (which impact the poor the most). This is, therefore, wrong! The real tough decisions are to impose justified income tax on large landholders, to make traders keep proper business records and fully pay taxes, to remove all unjustified advantages for 'insiders' in the corporate sector, to make government service contingent on performance, to ease out the military from its diverse for-profit businesses and so on. That is the way to deliverance for the country.

The author consults on national development and is the author of 'Pakistan: Principles of Public Policy Redefined'.



THE HUMANITARIAN CRISIS IN THE ISRAEL-GAZA WAR: What Needs to be Done?

Tayyaba Razzaq

The Israel war on Gaza is long-standing, with tensions extending back many years. The war has caused tremendous human suffering and a terrible humanitarian crisis. The most recent surge of violence was triggered by the events on October 7th, 2023 – leading to what can only be deemed an act of genocide on the Palestinian people. The past few months have involved a profoundly destructive series of human right violations, exposing the limitations and tensions inherent within the frameworks of international law and its various execution bodies. Despite the existence of these laws, Israel's inhumane atrocities clearly violate the existing rules whilst completing discrediting all the organisations responsible for adherence to them.¹

According to international humanitarian law, it is mandatory for both states and non-state actors involved in an armed conflict to safeguard the well-being of civilians, medical personnel, and humanitarian aid workers. They must also guarantee unhindered access for humanitarian relief. However, since the conflict escalation, the Palestinian death toll stands today at over 34,000, including 14,500 children who have either been killed, slaughtered, burned or buried alive.² Apart from this, figures of misplaced persons are approaching alarming rates – whereas approximately 8,000 are reported to be under the rubble of collapsed buildings. Additionally, a report by UNICEF depicts a grim picture: documenting how 17,000 children are unaccompanied or separated from their parents. Approximately 1,000 children in Gaza have lost one or the other part of their legs as per the Palestine Red Crescent Society (PRCS). Moreover, Israel has carried out almost 400 assaults on healthcare facilities in the Gaza Strip, targeting each and every hospital – causing the majority of them to be inoperable. As of February 13, a mere 11 out of the total 36 hospitals in Gaza were operating –

– and that too, at less-than-optimal capacity. Five hospitals are currently running in the northern region, while six are operational in the southern region.³ The World Health Organisation (WHO) reports that the total hospital bed capacity in Gaza has declined from 3,500 to 1,400.⁴ In January, Oxfam International reported that the daily mortality rate in Gaza surpassed that of all other major conflicts in the 21st century⁵, depicting Israel's total disregard for rules of war and lack of concern about being held accountable.

The United Nations Security Council (UNSC) is meant to serve a pivotal function in resolving global disputes. The United Nations issues resolutions that can be categorised into two types. Some resolutions are binding under Chapter 7 of the UN Charter, which deals with threats to peace, authorizing the use of force. Other resolutions are non-binding under Chapter 6, which focuses on the peaceful settlement of disputes.

¹The views expressed here is author's alone and do not necessarily represent the views of the Discourse Magazine or PIDE more broadly. The author alone is responsible for any error or omission.

²Somdeep Sen, "It's Time to Declare Israel a Rogue State," Al Jazeera, accessed April 26, 2024, <https://www.aljazeera.com/opinions/2024/4/25/its-time-to-declare-israel-a-rogue-state>.

³Fatima Hassan London Shuaib Manjra, Leslie, "Israel's Unrelenting War on Gaza Healthcare Requires Urgent Action," Al Jazeera, accessed April 26, 2024, <https://www.aljazeera.com/opinions/2024/2/14/israels-unrelenting-war-on-gaza-healthcare-requires-urgent-action>.

⁴WHO Director-General's Opening Remarks at the Special Session of the Executive Board on the Health Situation in the Occupied Palestinian Territory – 10 December 2023," accessed April 26, 2024, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-special-session-of-the-executive-board-on-the-health-situation-in-the-occupied-palestinian-territory--10-december-2023>.

⁵"Daily Death Rate in Gaza Higher than Any Other Major 21st Century Conflict - Oxfam," Oxfam International, February 21, 2024, <https://www.oxfam.org/en/press-releases/daily-death-rate-gaza-higher-any-other-major-21st-century-conflict-oxfam>.

Chapter 7 of the international law also permits the application of sanctions on countries considered a danger to global peace and security. Additionally, the International Court of Justice (ICJ) is the primary judicial body of the United Nations (UN). States can present conflicts to the International Court of Justice (ICJ) for resolution according to international law. In this regard, no matter which way we look at the genocidal situation, Israel is committing war crimes. The question is: how do we challenge statements/sentiments that claim or imply that there are no red lines for Israel, and address the alarming issue of the international community's inaction? The International Court of Justice (ICJ) is also being suspected of employing double standards.

The Court's decisions in instances involving disputes are legally binding. South Africa filed a legal complaint with the court on December 29, addressing Israel of violating the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.⁶ Several signatories of the Genocide Convention, including Bangladesh, Bolivia, Jordan, Malaysia, the Maldives, Pakistan, Palestine, Turkey, Namibia, Nicaragua, and Venezuela, expressed their support for South Africa's application. The Organisation of Islamic Cooperation also released a statement expressing its endorsement of the case. The International Court of Justice, in response, determined the sensitivity to specify particular actions 'to safeguard the rights asserted by South Africa, which the Court has deemed to be credible' such as 'ensuring the protection of the Palestinians in Gaza from acts of genocide'. The court's mandate additionally required Israel to stop the annihilation and guarantee the preservation of evidence related to the case, whilst also obligating it to provide a report on the execution of the mandated actions within a one-month timeframe. Nevertheless, Israel's defiance of the ICJ's decision demonstrates the ongoing difficulty in implementing these legal judgments. This prompts a debate on the efficacy of these institutions in the modern world.

WHAT NEEDS TO BE DONE?

It is crucial to recognise that Israel is using 'imposed starvation' as a weapon of war. Access to humanitarian assistance is being blocked, resulting in fatalities due to severe malnutrition and dehydration, exacerbated by acts of violence targeting relief personnel. The situation is really bleak, and what is needed is to create a worldwide setting in which everyone's rights are protected without discrimination. In order to achieve this, it is imperative to establish an alternate collective mechanism that guarantees fair decisions that are free from Western influence and possesses the power to implement humanitarian laws. All stakeholders in the international community ought to be engaged in this process so that a shared policy can be derived on the basis of 'humanitarian aspects' which are not ideologically driven.

It is crucial to acknowledge that international law is not a philanthropic effort or charity; it is a humanitarian right that demands implementation of its principles at any cost. The lack of enforcement of laws from the existing bodies is shameful, especially considering that Israel has already illegally occupied 75% of Gaza's territory. The IDF's current primary goal seems to be the expulsion of the Palestinian population.

Israel's assertion of the right to self-defence under Article 51 of the UN Charter is ambiguous, as this provision does not extend to the territory it has forcibly occupied in Gaza. The actions taken by Israel are clear evidence of a racially motivated occupation and can be deemed as ethnic cleansing. Unfortunately, it appears that the global community is prepared to undermine the fundamental principles of international law.

Muslim states do not have sufficient political will and economic clout to effectively challenge the influence of Western powers and the allies of Israel, largely because of their own myopic economic interests that render them powerless as singular entities. On the other hand, if they were to unite – not just amongst themselves but with other countries in the Global South – and leverage platforms such as the OIC and BRICS to have a shared voice, perhaps this could create some momentum in the right direction in the international arena.

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⁶ "Convention on the Prevention and Punishment of the Crime of Genocide.Pdf," accessed April 26, 2024, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

IMF and the Pro-Growth Strategy 2024

Naqi Akbar

Pakistan has been the recipient of the IMF programme since the second five-year plan, when the country under the direct military rule of Ayub Khan opted to align the economic, military and political direction of the nation state with the western hemisphere led by the United States. If on one hand the military was integrated into the Pentagon's remote partnership via CENTO and SEATO, the same arrangement brought in economic strategy of growth based on expanding the two gaps – namely the saving-investment gap and the import-export gap, both of which can be seen as having been created deliberately in order fill them up with investment as well as foreign assistance from multiple sources.

That has been the order of the day since that period of history. For good or for bad, the impact of the IMF programmes has cast its intrusive shadow on one single count; that the system we have sought to follow cannot stand without these dosages. Over the past half-decade, that intrusion has permeated into the domains that would otherwise be out of reach: the informal urban economy and the rural economy. As things stand, the devastating cost impact of the disproportionate reform as advocated by the IMF has done more damage than any meaningful correction of the economy. It would be safe to deem the situation we see in Pakistan as IMF led poverty rather than IMF led reform.

Returning to the early years debate, which may help identify the contradictions and move towards course correction. During those times, the World Bank was commissioned to create infrastructure reforms. Likewise, the IMF entered the scene with SDR input aimed at keeping the exchange rate stable enough for the private sector to import capital goods at favourable rates and push forward the wheels of industry in a somewhat controlled environment. For all practical purposes, the system was tuned to serve the elite, not the masses.

That development strategy had an early 'political mishap' in the form of managed presidential elections which defeated the sister of the father of the nation and consolidated the grip of the ruling establishment. As expected, the state – intoxicated with impressive economic growth and complete political control – got itself embroiled into a conflict that served to undo much of the achievements of the planning period. The war with India in 1965 completely disturbed the assumptions that had been laid out. The arms embargo from the United States, despite Pakistan being part of the defence pacts of the period, forced the country to seek arms on hard cash payment from China, France and Russia to address the additional threat perception generated as a result of the ongoing war. This hit on the foreign exchange stunted imports for the industrial sector. This adversely impacted the industrial growth projections and slowed down growth in even minimum wages for the urban working class. Political agitation ensued, fueling the separatist movement in erstwhile East Pakistan and divisive populist politics in the western wing. The dire situation in 1971 has been best chronicled in the White House talking points prepared by then Secretary of State Henry Kissinger. A statement from him on April 28, 1971¹ reads, "The West Pakistanis, on their part, face serious financial difficulties... default on the outstanding loan repayments... restrict imports to the point of stagnating the economy."

Without delving further into that crisis, the takeaway from that period was that the development strategy which was based on widening the gaps fell flat and the economy was exposed to doses of foreign assistance which were ultimately counterproductive in the final assessment.

Periodic exposures with the IMF and other donor agencies since then sometimes landed the central bank to devalue the Rupee to the tune of 131 percent in 1972

¹<https://nsarchive2.gwu.edu/NSAEBB/NSAEBB79/BEBB9.pdf>

(keep in focus the Nixon Administration Policy Brief), progressive devaluation during the 1988-99 era, artificial stability in the exchange rate during the war on terror years (the previous stability dated back to Cold War years).

The story since then has been of the slow transformation of the economy from nominally inflationary to a high-cost one. The inflation cycle, whilst pushing an increasing number of Pakistanis beneath the poverty line, has also made it extremely difficult for businesses to earn bumper profits; suggesting that the firms are now unable to break even to remain afloat, both in the micro and macro sense. This aspect discourages the expansion of operations and consequently leads to slower generation of job opportunities in the economy.

The current state of affairs can only aggravate the situation where the Pakistani economy cannot go beyond getting loans and repaying them; with no growth or reform prospects in the real sense. Politically, it means strengthening of a client state like Egypt rather than fostering a growth economy like Turkey or India.

Coming to the possible ways out of the current quagmire, it is imperative that the reform not be based on a bland mix of checklists. It must rather involve an overhaul of the system in its barest sense, including political reform, transformation into an authentic democracy, social reform, and legal reform. Perhaps most importantly, building an economy with equal opportunity for access to resources.

What seems to be happening now is that the tasteless and unhinged policies, disconnected from ordinary citizens and without any reform agenda, are being finalised between the IMF and political elite. It looks more like an exchange of ideas in a foreign language between the referred above stakeholders with hardly any resonance with the prime stakeholders, the Pakistani masses, whose growth in economic terms actually defines the success or failure of any reform process. The options within the political system might not readily allow a more optimal arrangement; however, it is imperative that instead of passing on the stringent cost of reform to the informal economic sphere, the regulated and high-income strata of the economy may be put as the target in clear terms.

Recently there has been talk of disinvestment or privatisation of corporations like the PIA. That might be a welcome sign, but not enough of a step. The cost of administrative maintenance itself needs to be questioned for audit and eventual resetting. This may

not be welcomed by entrenched interests in the Pakistani economy, polity or society, but it is imperative and unavoidable.

The above argument stands on the ground that passing on the inflationary impact of the reforms as advocated by the IMF in the form of haphazard withdrawal of subsidies might not win over the general population. Instead, it is likely to cause riots and political instability. Here it is important that the fuel subsidy operations of India and Iran in 2010-2011 are studied, where the reform was gradual. Targeted subsidies can also be explored such as those deployed in Iran or other middle eastern economies. Here it may be noted that the draconian image of IMF reform in Pakistan has actually discouraged vast tracks of the population from voluntary documentation of the economy.

The recipe for going forward needs to be based on the following commitments, failing which the upsurge of revolt can easily overtake reform. The reform process needs to be owned by the people and not something from above. With ideal prerequisites of the reform still not present; administrative measures should be balanced out to create breathing space for the informal, agricultural and SME sectors to go beyond subsistence planning at the micro level.

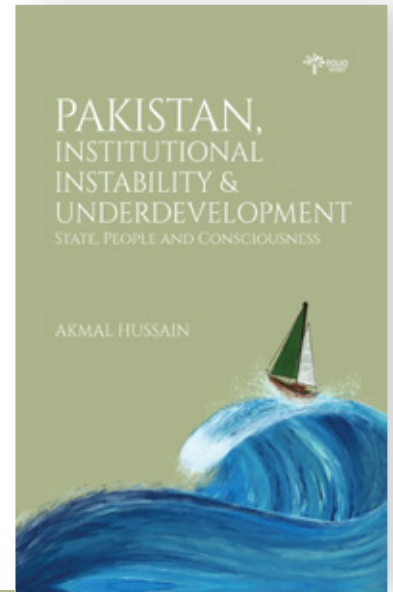
Secondly, the gradual resetting of the budget in a manner that improves productivity and export potential at a systemic level may be an important direction to adopt. Without mincing words, the defence establishment's weapon systems manufacturing can be leveraged to identify needs and capture markets in the international arena. With Pakistan having made its name in airborne assets, these ideas can be realized: offering third world operators better solutions at more affordable rates. The USA is perhaps the greatest example of a success case in this vein, its defense-industrial complex being a major source for armaments and military technologies across the globe but with democratic processes placing parameters around the decision-making process.

Political reform based on cost-cutting and aimed at discouraging extravagant spending needs to be pursued. Here the state and the government as they are now have to take bold steps and introspect. Conclusively, with the current ground realities and the paucity of time, it is a hard choice for the established setups to cajole the masses towards a partnership in reform. A difficult proposition, but a necessary one to move forward in a meaningful sense.

The author carries with him 34 years of a diverse profile in print journalism, macro and micro policy advocacy and banking industry regulation.

BOOK REVIEW |

Pakistan's Institutional Instability and Underdevelopment: State, People, and Consciousness by Akmal Hussain



Dushka H. Saiyid

Akmal Hussain is an economist par excellence, but his book is all encompassing: covering history, politics, literature, neuroscience and philosophy.¹ He enquires into the epistemological issues of knowledge and consciousness. It is a study about what has caused institutional instability in the state of Pakistan, which he regards as a key factor in the underdevelopment of democracy, economy and the fragility of the state itself.

The author delineates three challenges that Pakistan was faced with at its creation in August 1947: to create a nation; make a constitution reflecting the will of the people; dismantle the dependence on the West, both economic and political. However, the author argues, that the constitution was sabotaged on four different occasions: by Governor-General Ghulam Muhammad in 1954, when he dissolved the Constituent Assembly; Ayub Khan's coup d'état of 1958, when he abrogated the Constitution of 1956; General Zia ul Haq suspended the Constitution of 1973, following his coup in 1977; and in October 1999, General Musharraf overthrew the elected government of Nawaz Sharif.

Maulvi Tamizuddin had challenged the Governor-General Ghulam Muhammad's dissolution of the Constituent Assembly, and the Sindh High Court ruled that the Governor-General had no power to dissolve it in February 1955. However, the Supreme Court over-ruled the decision of the Sindh High Court on technical grounds that it did not have the jurisdiction in the case.

Justice Munir legitimized the coup d'état of Ayub Khan using Kelsen's "doctrine of necessity". The author argues with sharp analysis that it was wrongfully applied to coup d'états, as coups only perpetuate the current system and class rule, while revolutions change the whole political, social and legal order. By removing the difference between the two and giving legitimacy to the seizure of power by force, based on the "principle of effectiveness", amounts to legitimizing might is right. General Zia suspended the Constitution of 1973 that the Parliament had made by consensus and that had been elected by universal adult franchise. He was encouraged and supported in this by the opposition parties. In October 1999, General Musharraf overthrew the elected government of Nawaz Sharif. The Supreme Court once again validated the coup based on the Doctrine of Necessity.

Akmal Hussain discusses how the Quaid's vision for Pakistan was inspired by the philosopher-poet, Allama Iqbal's thought and concept of Islam. Iqbal had sought the reconstruction and revival of the Muslim community and emphasized the spiritual, as opposed to its literal interpretation. Iqbal had sought the revival and regeneration of Muslims by the creation of an independent state in southwest Asia. The author quotes from the Quaid's speech in a radio broadcast on 26 February 1948, in which he said: "Islam and its idealism have taught us democracy. It has taught equality of men, justice and fair play to everybody. . . In any case, Pakistan is not going to be a theocratic state, to be ruled by priests with a divine mission. We have many non-Muslims, Hindus, Christians and Parsis, but they are all Pakistanis." Jinnah sought the de-colonization of the consciousness, but by September 11, 1948, Pakistan

¹This article was originally published in the Youlin Magazine on 27th September, 2023. <https://www.youlinmagazine.com/article/book-review-akmal-hussain-pakistan-institutional-instability-and-underdevelopment-state-people-and-consciousness/> MJYyMg==

lost the Father of the Nation before he could begin the challenging task of nation building.

The author points out that General Zia-ul-Haque introduced militant Islam to serve American interests in Afghanistan and perpetuate his own rule, causing an intolerant and militant Islam to take root and spread in Pakistan. This policy eventually gave birth to the rule of the Taliban in Afghanistan, and its offshoot, the Tehreek-e-Taliban Pakistan (TTP), which continues to be the scourge for Pakistan to date. The apogee of the TTP's depravity came with the attack on the Army Public School in Peshawar on December 16, 2014, resulting in the deaths of 132 children and 15 adults!

The nation building project suffered a setback when the Muslim League, which had led the struggle for the creation of Pakistan under the leadership of the Quaid-i-Azam, began to be dominated by the landed elite, and having failed to establish the supremacy of the legislature, began to disintegrate. Quoting Hamza Alavi, the author argues that since the bureaucracy and the military were over-developed as compared to the civil society, the state became a dominant element in the political power structure.

The prime example of an "institutional collapse" is what Akmal Hussain scathingly describes as "sub-colonialism". In a revealing section he discusses with candor the partisan economic and political policies that led to the alienation of East Pakistan and the birth of Bangladesh, resulting with East Pakistan, which had most of the Pakistan's population, breaking away from the home country. He describes how the export earnings from East Pakistan's primary goods were transferred to the nascent industrialists of West Pakistan, and the racist attitude of the ruling elite towards Bengalis. The first injustice to East Pakistan came with the formation of the One Unit, whereby power was concentrated in the central government, and the two wings were to be governed based on parity, rather than in proportion to their population. He points out that this constitution was imposed on the country by the Governor-General, approved by the Commander-in-Chief and made by bureaucrats, the former two were from West Pakistan, and the senior bureaucracy was dominated by people from the same wing. The dissonance between the two wings started with the language movement, and the demand for regional autonomy began as early as 1954 by the United Front parties of the then East Pakistan. That struggle culminated in the 6 points of Sheikh Mujibur Rehman, whose Awami League won 167 out of 169 seats from what was then East Pakistan to the National Assembly, while the Pakistan Peoples Party under Zulfikar Ali Bhutto won only 83 out of 131 seats from West Pakistan. However, when negotiations broke down, General Yahya Khan, the President, resorted to military action. A bloody civil war followed, and since the two wings were separated by 1600 kilometers, it presented an ideal opportunity for the Indian military to train the local militias or Mukti Bahini, who resisted the military operation. Not surprisingly, the Pakistan

Army was surrounded and forced to surrender to the Indian Army!

The author has an erudite discussion on how the economic policy advocated by Kuznets was followed by Ayub Khan's economic adviser, Dr Mahbubul Haq, which only exacerbated the inequality in the country. However, just an opposite policy was followed, whereby redistribution from the poor to the rich took place as the assumption was that it would maximize saving and investment, and the author quotes from the Third Five Year Plan to support his contention: "First it is clear that distribution of national product should be such as to favor the saving sector". There was a concentration of industrial assets by the end of the 1960s, and he quotes from Rashid Amjad's study that 18 monopoly houses, controlled 60 percent of the assets of companies listed in the Karachi Stock Exchange. Thomas Picketty, six decades later, overturned the Kuznets thesis, arguing with empirical evidence that there is a tendency for inequality of income and wealth to increase, unless countered with policy intervention.

The author analyzes in detail the failure of the IMF programs in Pakistan over the decades. The IMF program had conditionalities: reduction of public expenditure to reduce the fiscal deficit; increasing the interest rate and trade liberalization; exchange rate devaluation so that it is in line with the market forces and the privatization of state-owned enterprises. While the aim was to integrate Pakistan into the global market, but countries like Pakistan had structural issues that hampered its economic growth. However, not only did the economic growth slow down but poverty increased, as did the current account deficit and inflation. He shows that the actual effect of the IMF program was the opposite of what they claimed was the objective. The author goes on to argue that there is enough research to prove that the impact of IMF programs on underdeveloped countries has been negative, and their economic situation has just worsened. The author is critical of the New Institutional Economics (NIE), arguing that its focus is just sustained growth but with little interest in making growth work for the people or for the protection of the environment. According to the NIE analysis, undeveloped economies are unable to sustain a high per capita income, unlike the developed countries. An inability to achieve export diversification into high value-added products, led to an inability to sustain high economic growth. A major problem with Pakistan's economy is that it is oriented towards low value-added goods, which constitute 82% of Pakistan's exports: rice, leather, yarn and textiles. Pakistan is ranked 87th out of 108 countries in the Economic Complexity Index, because its export structure has not changed towards knowledge intensive products.

Mismanagement and corruption became the hallmark of the civilian governments, both under Nawaz Sharif and Benazir Bhutto. Quoting Hafiz Pasha and Shahid Javed Burki about the Benazir government, the author says that USD 15 billion or 25% of the GDP was lost due to corruption, mismanagement and nepotism in 1996-'97. This was particularly so in the state-run enterprises like the Pakistan International Airlines or Pakistan Steel Mills, amongst others. Both Pasha and Burki considered authorities in their field, also suggest that several banks were lending for projects of "dubious feasibility on political grounds", resulting in bank default. This resulted in less credit available for genuine entrepreneurs and increase in interest rates, which was discouraging for the genuine investors. The author refers to Mushtaq H Khan's Report for the World Bank, in which the rent seeking politicians and bureaucrats formed a nexus of power and facilitated each other to misappropriate state resources. However, these characteristics of corruption and mismanagement became the hallmark of many civilian governments before, and since Benazir's stint in power.

The last chapter of the book on Consciousness, Heart Knowledge and Development, breaks away from Descartes's materialism. While emphasising the role of reason and analysis through language, the author draws from traditional wisdom as well as quantum mechanics to show that humans also have the faculty of a direct experience of the transcendent. In critiquing materialist philosophy, he quotes Professor Seyyed Hossein Nasr as saying that the whole is not simply the sum of parts, but rather that the human experience of beauty and truth indicates the indivisibility of wholeness, wherein the whole is greater than the sum of the parts. The author discusses the nature of silence evoking a wholeness beyond language. He draws upon the Cambridge linguistic philosopher, Wittgenstein, the literary icon, Georg Steiner and the Muslim Sufis to argue that silence is a mode of knowing the truth. He mentions the great thirteenth century Sufi poet Rumi as saying that the Divine's message is only heard in silence.

With a holistic approach, he addresses the question as to why 76 years after the birth of Pakistan, it is still faced with such challenges as: 38.9% food insecurity; 40.2% stunted children; 64.7 of the population without access to safe drinking water, and 50% of diseases and 40% of all deaths caused by contaminated water; mean years of schooling only 5.3 years, while 72% of the labor force is unskilled. Pakistan's unbridled population growth rate of 2 per cent is much higher than that of Bangladesh's 1% and India's 1.04%, causing a negative impact on its social indicators.

The book is a sad tale of the misgovernment of a state created with the highest of ideals, but its people betrayed by an incompetent and self-serving ruling elite with a "colonized consciousness"!

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UNLOCKING SUCCESS: THE POWER PLAY OF POLITICS VERSUS ECONOMY

Laiba Farooq

The success of any nation hinges not on the economic might of any country but on the politics of that country because “Money is the McMansion in Sarasota that starts falling after 10 years, and power is the old stone building that stands for centuries.”¹ Thus, a robust political system is the cornerstone of a country’s prosperity. To substantiate this assertion, it’s imperative to delve into the case study of Pakistan. Despite arguments positing economic prowess as paramount, evidence suggests that political stability is what reigns supreme. In Pakistan’s context, political stability underpins the country’s journey towards progress. Weak institutions, political polarisation, and chronic instability have impeded economic growth. It is only by stabilising the political system can Pakistan hope to unlock its full potential and pave the way for development. This essay will compare the success of nations with political and economic stability with specific reference to Pakistan.

Some people believe that economic power is the sole power for the success of any nation because a strong economy provides opportunities for upward social mobility. This mobility functions as a catalyst for spending and increases the wealth of the country. New classes are formed in this process, and people become conscious about protecting their economic rights. Hence, this economic growth and class consciousness result in the formation of an accountable and vibrant political system.

However, there is enough evidence to refute this school of thought and prove that only politics is necessary and the primary determinant behind a nation’s success. For every instance of economic progress in any country, political stability has played a key role. Similarly, a stable political system ensures the supremacy of the rule of law, which, in turn, is necessary for generating an

environment conducive to trade, industry, and economic growth. The Malaysian model of transformation can be seen as a case study because after decolonisation, the Malaysian economy was in great recession. With the dynamic leadership of Mahathir Muhammad, the country transformed itself and became an Asian Tiger.

Similarly, politics is key for the successful implementation of economic agendas of any government. Economic policies need good governance if they are to be effectively implemented, as their implementation is carried out by bureaucrats and institutions supervised by politicians. Hence, if politicians are not capable of overseeing the implementation process and managing the bureaucracy, the country cannot progress. It is always imperative for politicians to institute a meritocratic and efficient civil administration which can enforce the economic policies of the government.

Additionally, politics is not just limited to the provision of an environment conducive to the generation of wealth; it is also the key to ensure that fruits of economic development are equitably distributed between the various stakeholders in society. In the absence of political intervention to ensure fair redistribution policies, income inequality between rich and poor segments only exacerbates. In order to ensure a level playing field, a political government not only enacts progressive taxation policies to prevent the concentration of wealth in a few hands but also takes affirmative action to support disadvantaged sections at the lower rungs of the social hierarchy. Such arguments are also validated by Dambisa Moyo in her book, *Dead Aid*.

¹Quote from Frank Underwood, *House of Cards*. https://www.goodreads.com/author/quotes/17106118.Frank_Underwood_House_of_Cards

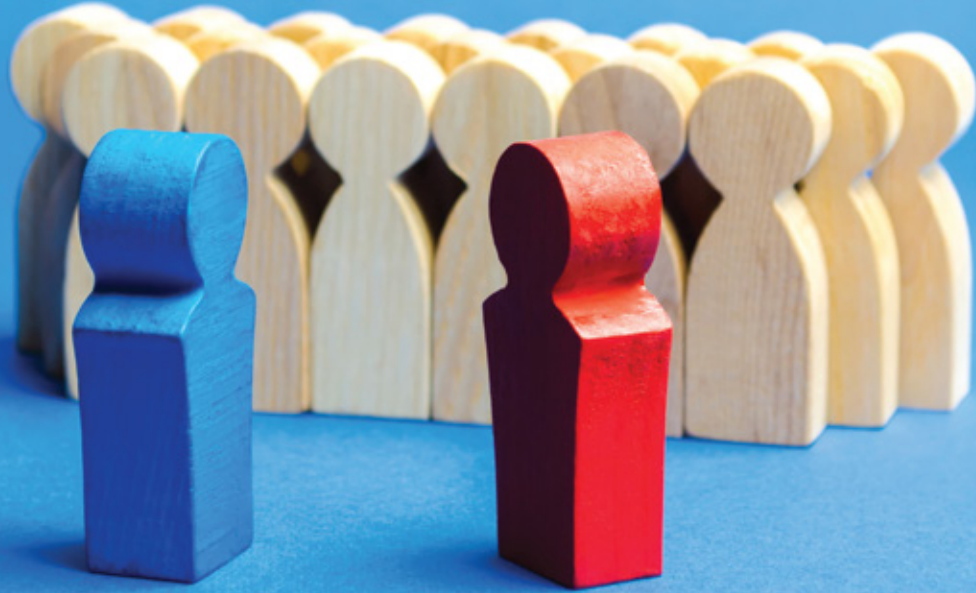
There is a dire need to understand that economic decisions are not purely technocratic; they have an important political side. They affect different sections of society differently and there are bound to be losers and winners from these decisions. To resolve these conflicts, forums like Parliament and Cabinet exist where all stakeholders present their views and decisions are taken through mutual consultation. Any attempt to implement economic decisions in isolation without taking into account their political side results in a complete fiasco, which is evident from the case study of the Kalabagh Dam in Pakistan. Similarly, the philosophies of trickle-down economics and social welfare for instance, are not purely technocratic policies. Both of these sets of policies present two polarising schools of thought dealing with the question of government intervention in the economy. Hence, a political consensus between different stakeholders is required for the implementation of these economic ideas.

In the realm of academia, famous economists Daron Acemoglu and James Robinson have supported the thesis of politics being the primary determinant of a nation's success in their famous magnum opus, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*. The core idea of the book was that political institutions are a precursor to inclusive economic institutions. The politics of colonialism destroyed the indigenous institutions of many developing countries and replaced them with extractive economic institutions to benefit the colonisers. There is a plethora of examples from different time periods of history to prove the thesis. In the United States of America, for instance, the success of the New Deal would not have been possible without the vibrant and dynamic political leadership of Franklin D. Roosevelt. The Great Depression of the 1930s was the result of excessive deregulation of the stock market. Roosevelt built a cross-party coalition, known as the New Deal Coalition, to increase the role of the federal government in managing the economy and regulating private business. He transformed the American economy into the largest economy of the world. Furthermore, the history of European Nations, Britain, France, and Germany, which were involved in many wars throughout history due to strained political relations, meant that the economic potential of the region was never fully realised. Learning from their mistakes, the European Countries forged strong political ties after WW2, which led to the formation of the European Union. The European Union is now the largest and most successful model of regional integration in today's world, and its existence only became possible because of the normalisation of global politics.

Nowhere is all this more relevant than in Pakistan. The political instability coupled with political polarisation and weak institutions are the major reasons behind the lack of economic progress. This has become painfully evident from the political hullabaloo over the past few years. The principle of the rule of law is still operational to only protect the interests of the ruling elite. The state institutions, particularly military, bureaucracy, and the various organs of government are still operating on the mantra of extractivism due to which the country is on the brink. In order to fully utilise the potential, there is a dire need to first stabilise the political system. All other things are downstream that.

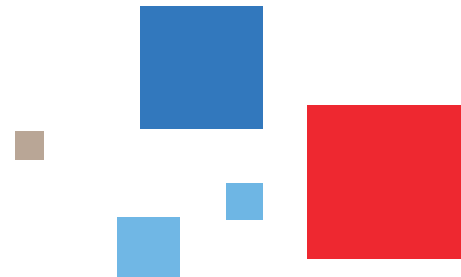
The sum and substance of the discussion is that politics, not the economy, is the key to success. The success of economic policies is solemnly dependent on the political stability of any country. The history of successful nations testifies to this assertion. The emergence of Malaysia as an Asian Tiger, the transition of Singapore from the third world to the first world, the emergence of the USA as a superpower after the Great Depression, and the formation of the European Union – all these were made possible due to the consistent and visionary policies of the political leaders of these countries. Pakistan can also take lessons. Hence, politics is truly the 'art of the possible', and it is only through the route of politics that the success of a nation can be guaranteed.

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DEBATĚ

The Debate segment of Discourse seeks to initiate open, good-faith exchanges on ‘big picture’ questions of policy: in particular, ones that involve two consolidated ‘schools of thought’ that have each evolved in apparent isolation and become the antitheses of one another over time. This is due, of course, to ideology and the incentive structures of both media and academia – which are structured to foster the growth of echo chambers. Through this section of the magazine, the Pakistan Institute of Development Economics is attempting to lay out the two salience perspectives of a particular topic in a manner that centres our audience, allowing them to engage with both sides and arrive at their own conclusions.



INDUSTRIAL POLICY: FREE TRADE AND GLOBALISATION OR STATE-LED INCUBATION?

Conventional wisdom in the world of economics suggests that the road to industrial growth and development is paved with market competition. In particular, it is suggested that opening up trade with regional neighbours and the global community at large will trigger pressure on domestic firms operating in the import/export sectors and thus act as an incentive to improve efficiency by streamlining operations, conducting research/development, and enhancing the productivity of the workforce. This is the approach advocated by the World Trade Organisation and other international intergovernmental bodies – including the World Bank and International Monetary Fund – in an overarching ideological orientation animated by the Washington Consensus of 1989.

Cases that are frequently cited in this vein are India's reform initiative of 1991, China under Deng Xiaoping, and the 'East Asian Tigers' – which all experienced rapid growth following trade liberalisation in their respective countries. In other countries, particularly in Latin America, Sub-Saharan Africa, and South Asia, this approach has been less successful. Pakistan, for instance, experienced tremendous industrial prowess in the 1960-80 period – and was categorised amongst the most rapidly developing nations in the world at the time. Following Zia ul-Haq's regime, however, it all went awry – and the notion of 'industrial policy' was all but abandoned in the late '80s, triggering a move toward premature deindustrialisation. This was, of course, when the first IMF-led 'structural adjustment programme' was signed onto: which advocated for the neoliberal 'privatise-liberalise-deregulate' agenda as top priority.

Various scholars have studied this phenomenon at depth to understand the reasons for why countries like Pakistan have failed to experience the sort of success that India did. Most famously, economist Ha Joon Chang has documented how the state apparatus had a central role to play in the development of not just contemporary cases but also the likes of USA, France, and Germany during the Industrial Revolution. This was achieved, it is claimed, by state involvement in restricting trade via tariffs, embargoes, customs duties, and a variety of non-tariff barriers (NTFs) to 'protect' its industries from being walloped by bigger players across borders. At the same time, initiatives were taken to 'incubate' domestic players via support in the form of subsidies, research/development grants, acquisition and upskilling of manpower, sponsored cultural/technical exchange programs, and incentives for performance most broadly conceived. This is largely known as the 'infant industries' model of development.

In countries like Pakistan, however, large scale manufacturers (LSMs) operate as a large and consolidated lobby group – extracting rents from the government exchequer in a manner that is delinked from performance. In exchange, funds are directed to politicians and used for personal and political activities in a myopic and self-interested fashion. According to the UNDP, industry was granted a total of PKR 528 billion in the form of privileges (lax taxation and favourable prices) in 2017-18. During the same period, the category of 'exporters' was granted PKR 248 billion (lax taxation, favourable prices, and preferential access). Similarly, 'large traders' were granted PKR 348 billion. Cumulatively, this amounts to approximately USD 4.5 billion – a stark figure.

These realities have prompted most analysts and commentators to conclude that the racket of 'infant industries' is abused in Pakistan to engage in the politics of patronage – in which members of the elite scratch one another's backs to advance their collective interests.

This issue's Debate section of Discourse is focused around incubating our industrial sector, in terms of stakeholders to engage, technical policies to pursue, strategies to ensure their implementation, and the broader political economy reasons – domestic and international – for why governing elites simply cannot, or are not willing to, take the problem seriously. The exchange will delve into who ultimately benefits from current industrial configurations and the consequences this has had, and will continue to have, on Pakistan's economy and polity.

We hope the debate offers useful information, and encourage you – our respected audience – to chime in with your thoughts and feelings on the matter. Our social media platforms always welcome healthy, respectful, and fact-based exchange of ideas: regardless of how 'controversial' they may be. So hop on!

Remember to keep the discourse alive!

Yours Sincerely,

Editorial Board
Discourse Magazine
Pakistan Institute of
Development Economics





DOUBLING DOWN ON INDUSTRIAL POLICY

Ammar H. Khan

Over the last fifteen years, Pakistan has become an increasingly consumption oriented economy. The average share of consumption as a percentage of GDP has been around 90 percent. During the year 2022-23, it was close to 98 percent. This has led to a series of unintended consequences, necessitating availability of foreign currency to satiate incessant consumption, whilst making economic growth heavily dependent on import-fueled consumption.

As the structure of the economy transitioned towards a consumption oriented one, the aggregate supply in the economy grew at a slower rate than aggregate demand, resulting in greater demand for goods and services that could not be matched up by aggregate supply. This led to a bridging of the demand-supply gap through imports. As the structure of the economy skewed towards imports-driven consumption, lack of investment in aggregate supply further exacerbated the problem.

Aggregate supply increases with a lag, and requires deployment of investment capital for the same. However, as that capital flows out whilst incentives for investing in aggregate supply remain weak, the economy inadvertently moves towards a consumption oriented model.

As population continues to increase at a 2.5 percent+ growth rate, there is a dire need to not just provide good jobs, but also to ensure price stability and sustainable economic growth. The same is simply not possible with a consumption oriented model, and needs to be catalysed through a growth model spearheaded by exports, which ought to be made a core tenet of an industrial policy.

The case for an export-oriented industrial policy has never been stronger. Such a policy will not just increase aggregate supply, but also improve Pakistan's position in the global value chain, where the country is situated in a highly uncompetitive quartile. Considering a low base in terms of participation in the global value chain, the room for growth is substantial. The same can only be achieved if a long-term plan is in place to improve productivity and competitiveness. Without a focus on increasing productivity, it will remain difficult to compete in a global marketplace.

An industrial policy can identify goals that enhance productivity and competitiveness, and chart out a growth trajectory for the same. A disaggregated approach where there is no uniform policy might continue leading to a scenario where the low hanging fruits of consumption-oriented growth is the priority over export-oriented industrial growth. Continuing on the path of consumption-oriented growth will only erode any residual competitiveness and make recovery much more difficult over the mid to long term.

Industrial policy for Pakistan would build up on its comparative and competitive advantage. Our comparative advantage largely lies in agriculture and availability of human capital. Any industrial policy must double down on these two factors, and work out interventions that increase the productivity of both. Transitioning towards more mechanised agriculture, and moving along the value chain of agriculture, where instead of producing and exporting primary goods, the interim goal should be to export value-added agriculture goods. Redeploying the labour force towards the same would also enable acquisition of necessary skills to enhance productivity.

Another component of industrial policy in the country would be co-opting industries that are still heavily dependent on human intervention. It is to be noted that as various economies move along the growth trajectory to advanced stages, there will be industries that will be up for grabs, and this is where we should redeploy our labour force. Such a policy can also not be looked at in isolation, and needs to be concurrently pushed with a plan to upgrade technical ability and productivity of labour, and the same can only be done through an aggressive rollout of literacy and advanced skills programs across the board.

Similarly, in order to develop an export oriented industrial base, regional connectivity and increasing trade within the region is also critical. Inability to develop export markets within the region will continue to act as a drag on the country, as export competitiveness in markets that are geographically distant will always be low relative to markets that are in proximity.

Effectively, an industrial policy isn't just restricted to developing an industrial base, but it is about aligning trade, human capital, and other factors in a manner such that optimal outcomes can be generated. Without effective coordination, this objective will be compromised by one factor or another – thereby necessitating development of an industrial policy.

Moreover, an industrial policy does not mean an inward looking structure that makes production uncompetitive. But it is about iterating different options such that they may lead to optimal outcomes, which in this case is export oriented industrial growth.

The author is an independent macroeconomist. He can be found on Twitter as @rogueonomist.





RETHINKING INDUSTRIAL POLICY IN PAKISTAN: A POLITICAL ECONOMY VIEW

Shahram Azhar

On March 24, 2024, the Tata Group of Industries—India’s largest conglomerate—recorded a market capitalisation of \$382 billion; a staggering valuation larger than the entire GDP of Pakistan (\$338 billion). Within the last year, the group became the first Indian company to join Apple’s iPhone supply chain, unveiled an \$11 billion investment to set up the first semiconductor fab facility in Gujarat, and introduced plans to develop an end-to-end cutting-edge chips assembly and packaging unit in Assam. Contrast the aims of India’s top group to penetrate the global high-tech manufacturing space with the colourless aspirations of one of Pakistan’s largest conglomerates, which recently announced its vision to expand its product portfolio by grabbing a further stake in the food and cereal business.¹

In her seminal work on economic development, Alice Amsden points to the centrality of elite aspirations in shaping patterns of long-term industrial development.² Drawing upon a host of empirical studies from across the globe, she demonstrates that “the foundations of elite influence and the incentives they face are rooted in an economic structure which is continuously shifting”³. Thus, “by understanding the origins of certain elites, we gain greater insight into how different parameters change the balance of influence between groups”.⁴

How do we explain the divergent sectoral aspirations of Indian and Pakistani business groups? Why are the former vying for a greater share of the semiconductor, Artificial Intelligence, and robotics industrial space

while the latter continues to operate in low-value activities?

What are the prerequisites to industrial development, specifically the 'eco-system' (knowledge centres, universities, skill sets, R&D) that must be in place for industrial policy to work? Are private investments in some sectors more likely to succeed in one policy environment and fail in another? If actual outcomes, i.e. the sectoral winners and losers of a policy mix, can be used as a proxy for the revealed preferences of the state, a glance at Tables 1 and 2 demonstrates a fundamental fact about the two economies: of the top 10 listed companies, three are from the IT sector in India; in contrast, energy, fertiliser, and food businesses continue to dominate the imaginations of the Pakistani business landscape.

Table 1: Sectoral Distribution of India's Top 10 Listed Companies

Company	Sector
Reliance Industries	Conglomerate
HDFC Bank	Banking
Tata Consultancy Services	Information Technology
ICICI Bank	Banking
Bharti Airtel	Information Technology
Hindustan Unilever	Consumer Staples
Infosys	Information Technology
ITC	Conglomerate
State Bank of India	Banking
Housing Development Finance Corp	Banking

Table 2: Sectoral Distribution of Pakistan's Top 10 Listed Companies

Company	Sector
OGDC	Energy
Meezan Bank	Banks
Mari Petroleum	Energy
Nestle	Food and Beverage
Colgate Palmolive	Household
Pakistan Petroleum	Energy
Pakistan Tobacco	Food and Beverage
MCB Bank	Banks
Lucky Cement	Materials
Engro Fertilizers	Materials

As the business world looks to diversify its supply chains—a phenomenon known as the 'China plus one' business strategy—what lessons can Pakistani policy-makers learn from successful entrants into global value chains? This short essay argues that an answer must be sought in reimagining Pakistan's industrial policy and the political economy that underpins it. Such rethinking must go beyond the archaic binaries of state versus private, free trade versus protectionism, and exchange-rate flexibility versus fixity. As Dani Rodrik points out, the discussion on industrial policy should rarely ever be about "whether the government should be involved"; rather, it should be about the how dimension.⁵

To understand why, let us ask a simple question: can the recent rise of Indian firms be seen in isolation from the will of the Indian state? Far from it. The meteoric rise of Tata, and its rapid expansion in the high-tech manufacturing space, are intricately tied with the government's Make-in-India programme and the massive amounts of financial incentives offered to sectors under the Production Linked Incentive (PLI) scheme. The PLI scheme is an initiative that offers targeted incentives to firms operating in specific sectors to "promote domestic manufacturing and reduce reliance on imports".⁶

But the Tata Group is not the only beneficiary of the PLI scheme; a host of companies are claiming a stake in India's future as an industrial powerhouse. This remarkable ascent is backed by a host of rising stars in the high-tech sector in 2024: Star Trace (Chennai) amassed a revenue growth of 223% in the domain of Industrial Supplies; Allied Engineering Works (Delhi) doubled its revenues in the Electronic and Electrical Goods industry, while Synnova Gears and Transmissions recorded a 43% growth spurt in the Industrial Engineering sector.

This is exactly what economic theory predicts: a networked effect of sectoral accumulation ensues when steered by appropriate targeted incentives by the state, resulting in a diffusion of economy-wide effects. As Figure 1 shows, the market capitalisation as a percentage of GDP—a measure of how the valuations of publicly listed firms relate to the overall output of the economy—stands at 102% for the Indian economy. Market valuations reflect investor's assessments of the long-term earnings potential of a business and are, as such, a measure of the cash flow generating potential of a firm on the one hand and investor's optimism on the other. The comparable number for Pakistan is 7%. These differences must be traced back to industrial policy for reasons described below.

¹<https://www.thenews.com.pk/print/1131214-fauji-foods-plans-expansion>

²Alice Amsden, *The Role of Elites in Economic Development*, 2014; Oxford University Press

³*Ibid*

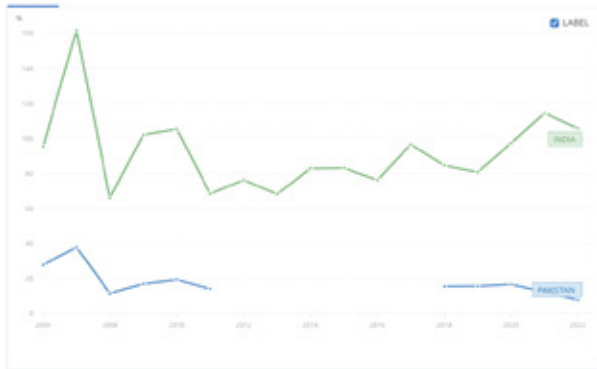
⁴*Ibid*

⁵Dani Rodrik, "Industrial Policy: Don't ask why, ask how", *Middle East Development Journal*, 2008

⁶Priyanka Wandhe, "An Overview on Production Linked Incentive Scheme by the Government of India", 2024.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4693578

Figure 1: Market Capitalisation of Listed Firms as a % of GDP (World Bank)



Firstly, the financial incentives offered to companies under the PLI scheme are not a blank cheque; instead, the government adopts a carrot-and-stick approach so that “companies are incentivised based on their incremental sales of manufactured goods over a specified base year”.⁷ This is critical. For instance, in the Pakistani case, fertiliser companies have benefitted enormously from input subsidies on the pretext that farmers would gain access to cheaper fertiliser. Yet, fertiliser prices on the Pakistani side continue to outstrip prices across the border. Clearly, this is a case in which the Pakistani economy would benefit from less state intervention, more free trade, less protectionism, and a redirection of precious tax-payers money toward high-performing sectors. Mubarak Ali, in an authoritative analysis of Pakistan’s fertiliser sector, runs several simulations to find that “removing the gas subsidy and investing in agricultural research will result in the highest social benefit”.⁸ It is not then a question of ‘whether the state should intervene’, but rather, how, and where (i.e. which sector).

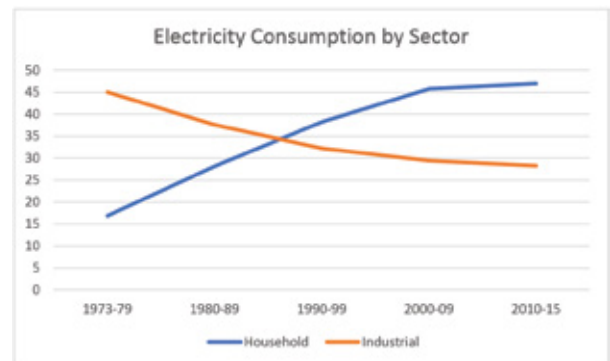
Industrial policy deals with precisely those questions. It is defined as the set of sector-specific policies that aim to direct industrialisation towards the pursuit of ‘some definition of national interest’.⁹ As Ha Joon Chang points out, given the fact that there are scarce resources to work with, industrial policy is always about steering the economy towards some sectors (and hence, not others). Thus, any discussion of the ‘correct mix’ of policies, that will promote industrial growth and activity must be preceded, as well as guided by a delineation of those interests via 1) an analysis of the challenges, or the set of forces obstructing industrialisation, and 2) a counterfactual analysis of how similar economies have dealt with those issues.

It is crucial to appreciate the nature of the disease at the outset; whatever solution (policy mix) is proposed can then be assessed in terms of how well (or badly) it performs on those fronts. After all, a treatment plan is only as good as its ability to identify and discriminate between the causes on the one hand and its ‘symptomatic’ manifestations, on the other. While there are a host of confounding issues befuddling policymakers, three distinct, yet interrelated, sets of fundamental problems stand out as the most urgent ones and must be the immediate focus of attention:

1. Labour absorption and under-investment. The fact that the rate at which new entrants enter the labour market—approximated by the rate of population growth—far exceeds the rate at which the domestic economy generates quality jobs to absorb this reserve army of new workers. The symptoms of the disease? Chronically high unemployment, under-employment, and migration of high-skilled workers. Moreover, the problem creates a chicken-and-egg problem of under-investments, whereby the lack of job creation, in turn, leads to lower domestic effective demand due to the corollary that unemployed workers do not have sufficient incomes with which to buy the products produced by Pakistani capitalists, thus disincentivising the latter to invest and produce goods profitably.
2. Non-productive consumption. Specifically, the alarming tendency that over the years Pakistan has become an economy that seeks to consume without producing. As Joseph Schumpeter and Luigi Pasinetti, two of the greatest minds on structural transformation in the long run, point out, an emerging industrialising economy is characterised by its ability to consume inputs productively, which means that it generates an output that can be sold to domestic or foreign consumers at a margin, that is, in a manner that produces a surplus. This surplus can then be ploughed back, thus leading to structural expansion over time.

Unfortunately, Pakistan’s input consumption patterns reveal the opposite. One example (there are numerous inputs to consider) can be drawn from the sectoral patterns of electricity consumption shown in Figure 2.

Figure 2: Percentage Share of Electricity Consumption by Sector



⁷Ibid

⁸Mubarak Ali, “Water Use Efficiency, Pakistan’s Fertilizer Sector Structure, Performance, Policies, and Impacts”: Pakistan Institute of Development Economics P & R October 2021

⁹Mushtaq Khan, “The Political Economy of Industrial Policy in Asia and Latin America”, Industrial Policy and Development. Oxford: Oxford University Press 2009

In the five decades between 1973 to the present, household consumption as a share of total electricity consumption increased from 16% to 47%; the share of industry, by contrast, fell from 48% to 28%. For the sake of comparison, this sharply contrasts with India and Bangladesh, where the consumptive share of the productive sectors rose in the preceding decades and consistently remains above 45% today. Moreover, a large share of Pakistan's imports consists of final consumer goods, or goods that will not undergo any value addition in the domestic economy other than the marginal returns it will generate for freight, transportation, and retailing firms in Pakistan. Since no economy can sustainably keep consuming without producing an equivalent or incremental value in return, this problem manifests itself in Pakistan's balance of payments deficits, debt crisis, and exchange-rate depreciation to name just a few of the symptoms of this disease.

3. External dependence in primary inputs. Industrial production is inseparable from the procurement and costs of the inputs that will be used up in the process. If an economy is unable to reduce its reliance on external economies for its productive needs, it follows that it will not be able to sustain its growth spurt for very long. As Table 3 shows, imported inputs occupy an ever-greater proportion of all inputs consumed by Pakistan's economy. As a result, Pakistan's exports are also heavily dependent on imports¹⁰, thus creating a situation where the goal of export promotion and import restriction may cancel each other out.

Table 3: Imported Inputs as a % of Total Intermediate Goods

Imported Inputs as a Percentage of Total Inputs		
Sector	2000	2022
Coke, refined petroleum, and nuclear fuel	33%	44%
Chemicals and chemical products	18%	24%
Rubber and plastics	23%	31%
Machinery	19%	27%
Electrical and optical equipment	33%	45%
Transport equipment	38%	52%
Construction	15%	21%

Source: Author's calculations based on Pakistan's Input-Output Tables

This gives birth to two critical questions: firstly, how can the Pakistani economy turn this tide?

Building an industrial base in any 'late-developing economy'—Pakistan being no exception—may "not involve doing anything new from a global point of view". Yet, it "poses a similar incentive problem because it is still a 'new thing' for the nation".¹¹ This follows from the simple fact that to industrialise in a competitive world, a late-developing country must create sufficient rents for firms to justify the risk of starting new industries in that country and not somewhere else. "Such risk" implies that "those who are starting new industries in a late-developing country have to be provided with some form of entry barrier and the resulting rents".¹² This has been the path of all 'late-developing' economies, including Germany, Japan, and Korea. It is also the central idea latent in the aspirations of the Indian state and its business owners.

Second, can the process of industrial policymaking be seen in isolation from the political economy that underpins it? The state is never an uncontested site. Its institutional prowess always produces winners and losers. Darron Acemoglu, a preeminent scholar on comparative development has convincingly demonstrated this through a host of empirical studies. But the underlying logic is simple to grasp. There are broadly speaking two fundamental institutions: economic institutions, which deal with the distribution of resources in a society versus political institutions, which pertain to the distribution of power. Acemoglu demonstrates that political institutions, that is the balance of power, dictate the trajectory of economic institutions: those in power at time t will redirect scarce resources towards their interests at time $t + 1$ and over time the economy will produce its winners and losers.

Any discussion of whether the state should intervene, which is separated from the question of who the prospective winners and losers will be, is then a purely scholastic question. It is clear who the losers are in the Pakistani case. But to understand what is wrong with Pakistan's industrial policy one must only look around and ask: who are the winners?

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¹⁰Kaiser Bengali (2021) finds a correlation of 0.98.

¹¹Ha Joon Chang, "Industrial Policy in Korea", Cambridge Journal of Economics, 2006

¹²Ibid



OPINIOŃ



PUBLIC CHOICE AND PUBLIC VALUE

Dr. Usman W. Chohan

In a recent virtual book launch¹ at PIDE for the book *Public Value and the Post-pandemic Society*, it was distinctly noted that a comparison between public value theory and public choice theory would be highly warranted, and I was advised to analyse both theories in light of their presuppositions, analytical bases, and policy recommendations. I also believe this is a useful exercise and, in that regard, I offer a brief comparative analysis of both theories here.

The fields of public administration and political science have long grappled with the question of how best to manage and evaluate government activities. Public choice theory and public value theory, both of which are highly influential in academia as well as policy praxis, offer contrasting frameworks for understanding the dynamics of public sector decision-making and the creation of societal value. Although both theories provide valuable insights into the workings of government and public institutions, they diverge significantly in their foundational assumptions, perspectives on government intervention, and implications for policy and management. These may be examined sequentially.

First, the foundational assumptions, the very points of departure, of public choice and public value are markedly different. Public choice theory is grounded in the economic principle of individual self-interest, and it views politicians, bureaucrats, and voters as rational actors who pursue their personal objectives within the public sector. This perspective is akin to the neoclassical economic analysis of markets, where individuals' pursuit of self-interest is seen as the driving force behind economic transactions. Conversely, public value theory posits that public sector organisations and their stakeholders are motivated by the desire to create societal value, focusing on collective interests and the public good. This theory assumes that public institutions have the unique capacity to pursue objectives that enhance social welfare, beyond mere economic efficiency.

Second, the two theories offer divergent views on government intervention. Public choice theory tends to view government action skeptically, highlighting the potential for inefficiency, rent-seeking behaviour, and the influence of special interest groups that can distort policy outcomes away from the general public's interest. In contrast, public value theory advocates for proactive government involvement in creating value

for the public, arguing that public sector innovation and leadership are essential in addressing societal challenges that cannot be effectively resolved by market mechanisms alone.

Third, concerning the role of markets, public choice theory often champions market-based solutions to societal problems, suggesting that markets are more efficient at allocating resources than government interventions. On the other hand, public value theory recognises that whilst markets play a critical role in economic systems, they are not always capable of addressing all societal needs, particularly in areas like public health, education, and environmental protection, where public sector leadership is crucial.

Fourth, the governance and decision-making processes are seen differently through the lenses of public choice and public value theories. Public choice theory argues that political and bureaucratic decision-making is prone to being influenced by narrow interests at the expense of the broader public good, due to the rational self-interest of those involved in the process. Public value theory, however, emphasises transparent, inclusive, and democratic decision-making that seeks to serve the public interest, advocating for engagement with citizens and stakeholders in defining and achieving public value objectives.

Fifth, the measurement of success diverges between the two theories. Public choice theory focuses on the efficiency of public sector outcomes, often measured through economic cost-benefit analyses. Public value theory, in contrast, assesses success through the achievement of societal objectives and the creation of value for the public, incorporating qualitative measures such as well-being, equity, and environmental sustainability, in addition to economic efficiency.

Sixth, the policy implications derived from public choice and public value theories are distinct. Public choice theory often leads to recommendations for reducing the size and scope of government, arguing for deregulation, privatisation, and policies that limit government's role in the economy. Public value theory, conversely, encourages policies designed to enhance social welfare, foster public sector innovation, and engage citizens in the policymaking process, supporting a more active and expansive role for government in solving complex societal issues.

Seventh, both theories place emphasis on a proactive civil society role. In public choice, the people and their civil society formations need to remain vigilant to political and bureaucratic capture by special interest groups. Public choice also implies that civil society itself can be hijacked by special interest groups, of course, but the best check on that is likely to be other civil society groups. Meanwhile, in public value, civil society was historically ignored, but in recent research² it has been emphasised that civil society is and can be a mainstay of value creation rather than a mere spectator or customer for the value paradigm.

This is an important recognition, because the decentralised non-state formations of the 21st century need to look beyond just state bureaucracies and elected officials, and empower civil society to drive the social direction and bargain with elite structures, as Acemoglu has also argued³ separately.

Eighth, and finally, while public choice theory provides a critical analysis of the potential pitfalls of government action, highlighting the importance of safeguards to prevent inefficiency and special interest influence, public value theory offers a normative framework for enhancing the role of public institutions in creating societal value. Public value theory encourages a visionary approach to public management, advocating for leadership, innovation, and accountability in pursuing the public interest.

In the context of Pakistan, the application of public choice and public value theories reveals a nuanced picture of public sector dynamics, reflecting the interplay between theoretical ideals and practical realities. Public value theory, with its emphasis on the potential of public institutions to create societal value, presents an aspirational vision for governance. This vision aligns with the collective efforts and innovative responses observed during crises, such as the Covid-19 pandemic⁴, where the government, civil society, and public institutions collaborated to address the health emergency, showcasing the capacity for public value creation in times of dire need. Such instances highlight the potential for public sector leadership and innovation in mobilising resources, implementing public health measures, and engaging with communities to mitigate the impact of the crisis, embodying the aspirations of public value theory.

However, the everyday experience of governance in Pakistan often mirrors the scenarios depicted by public choice theory more closely, where self-interest, bureaucratic inefficiencies, and the influence of special interest groups play a significant role in shaping government actions and policies. Public choice theory provides a lens through which to understand the challenges of corruption, rent-seeking behaviour, and the inefficiency of public services that are frequently encountered by the Pakistani people. This theory elucidates the complexities of political and bureaucratic decision-making in an environment where the pursuit of individual and group interests can overshadow the collective good, leading to outcomes that may not align with the broader public interest. The lived experience of the Pakistani populace, vis-à-vis their government, thus often reflects the practical realities underscored by public choice theory, highlighting the gap between the aspirational goals of public value creation and the constraints imposed by political and economic self-interests.

¹<https://pide.org.pk/webinar/public-value-and-the-post-pandemic-society/>

²<https://www.tandfonline.com/doi/abs/10.1080/01900692.2022.2043365>

³<https://www.goodreads.com/book/show/52884091-the-narrow-corridor>

⁴[https://www.taylorfrancis.com/chapters/-](https://www.taylorfrancis.com/chapters/)

mono/10.4324/9781003223139-6/comparative-public-value-developing-countries-usman-chohan?context=ubx&refId=bdd82529-9986-480f-9c7e-160996eb3c48

These observations underscore the importance of fostering transparency, accountability, and public engagement in Pakistan's governance processes to bridge the gap between the aspirational ideals of public value theory and the practical realities illuminated by public choice theory. While public value remains an aspirational goal, its sporadic manifestation during crises suggests the potential for broader application with concerted effort and reform. Simultaneously, the insights from public choice theory offer valuable lessons in designing governance structures and policies that can mitigate the influence of self-interest and enhance the capacity for public value creation, aiming for a governance model that not only reflects but also elevates the lived experiences of its citizens.

As such, whilst public choice and public value theories both contribute important perspectives to the study of public administration and policy, they embody fundamentally different views of the nature of public sector activities, the motivations of public sector actors, and the goals of government intervention. Public choice theory, with its emphasis on individual self-interest and the potential for government failure, calls for caution in expanding the government's role in society. In contrast, public value theory champions the potential of public institutions to create significant societal value, advocating for an engaged, innovative, and accountable public sector that actively pursues the public good. Understanding these differences is crucial for policymakers, public managers, and scholars as they navigate the complexities of government action and strive to enhance the public value generated by public sector endeavors.

REFERENCES

1. Benington, J., & Moore, M. H. (2011). Public value in complex and changing times. In *Public value* (pp. 1-30). Palgrave, London.
2. Brown, P. R., Cherney, L., & Warner, S. (2021). Understanding public value—why does it matter?. *International Journal of Public Administration*, 44(10), 803-807.
3. Buchanan, J. M., & Tollison, R. D. (Eds.). (1984). *The Theory of public choice—II*. University of Michigan Press.
4. Chohan, U. W. (2022). *Pandemics and public value management*. Routledge.
5. Chohan, U. W. (2023). *Public value and the post-pandemic society*. Routledge.
6. Rowley, C. K., Schneider, F. G., & Mueller, D. C. (2008). Public choice: an introduction. *Readings in public choice and constitutional political economy*, 31-46.
7. Self, P. (2021). *Government by the market?: the politics of public choice*. Routledge.
8. Tønurist, P., & Bækgaard, M. (2018). Economics and PA: Public Choice Theory, Transaction Costs Theory, Theory of Expectations, and the Enduring Influence of Economics Modeling on PA—Comparing the Debate in the US and Europe. *The Palgrave Handbook of Public Administration and Management in Europe*, 1105-1120.

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THREATS ACROSS THE BORDERS:

Tackling Transboundary Environmental Injustice

Sobia Rose

As air quality is currently a little better compared to the smog season, both the public and people in policy circles seem to be thinking that there is nothing to redress when it comes to the environment. As soon as it hits again, however, we will inevitably see both mainstream and social media spaces rife with alarmism about these issues and the failure of the health system to respond effectively. Taking action now is crucial to prevent a recurrence of these inefficiencies in the upcoming smog season. This is a problem that has gotten progressively worse, with PM_{2.5} levels surpassing WHO guidelines by seven times for nearly 60 percent of the population. This level of severity has shortened average lifespans by 7.5 years, particularly for Lahore residents (the city with highest level of smog in Pakistan). The gravity of the matter has initiated heated debates about cross-border emissions from India. Pakistan needs to drastically up its diplomatic activity worldwide for bearing the severe effects of cross boundary pollution.

Transboundary concerns are critical as pollution does not care for passports, visas, or permissions to infiltrate the air. The expansion of rice cultivation and the consequent rise in stubble burning in India severely impacts Pakistan by majorly contributing to smog and rendering our environment less livable. To combat the associated consequences, a comprehensive strategic regional effort is the need of the hour.

The evidence supporting Pakistan as a victim of environmental injustice in the context of smog is quite robust and convincing. India has the highest count of polluted cities globally. Between 2017 and 2021, thirty-five out of the fifty most polluted cities worldwide were from India. A report published by NASA underscored that 80 percent of crop burning hotspots in Indian Punjab, notably in Haryana, contributed to the smog in Lahore due to the shifting effluence. Further, the Borlaug Institute for South Asia (BISA) disclosed that approximately 23 million tonnes of rice residue are burned annually in Haryana, Punjab, and Western Uttar Pradesh. This practice significantly contributes to air pollution. Pakistan in this regard represents a scathing example of 'tragedy of global commons'. Consequently, efforts to curb emissions in Pakistan have shown limited impact, highlighting that addressing the smog issue requires a collaborative strategies rather than isolated solutions or conventional unilateral approaches.

There is no doubt that collaborative efforts amongst Pakistan and India will be vital in tackling the transboundary issues of smog as the failure to do so would mean the continued heavy loads on public health and economies of both countries. As per a World Bank report, air pollution costs Pakistan roughly 5.88% of its GDP annually, whilst in India, it accounts for approximately 8.5% of its GDP. This necessitates the formation of agreements for collective efforts in

implementing a shared system of tracking air quality across borders which aid in understanding the sources of smog and their relative impacts, as well as harmonising the environmental regulations for emission standards and practices. The investment in shared advanced pollution control technology and public engagement in emission reduction initiatives is also imperative.

International environmental norms, established notably during the 1992 Rio Earth Summit, emphasise the principle of common responsibility with differentiated roles. This means all states share the duty to protect the environment and curb carbon emissions, with those who contribute more shouldering a greater responsibility. International Law also prohibits activities causing harm to other countries, thus offering a basis for a strong case to curb transboundary air pollution in the subcontinent. More broadly, the *Trial Smelter Case* (USA versus Canada) underlines that a state cannot permit activities on its land that jeopardise life or property in another state according to International Environmental Law. Instances like the Singapore-Malaysia haze issue, where Indonesia's burning of palm trees affected neighboring countries, illustrates the importance of collective action all around the world: at least when it comes to environment related issues.

To tackle the issue of air pollution in South Asia, a joint regional framework is an urgent requirement. If pursued and applied with full might (political will), this will certainly reduce the emission in affected countries. Pakistan has already emphasised the necessity for bilateral discussions on air pollution and smog during COP-26 in 2021 and it still wants the issue to be resolved for the sake of our future generations. Pakistan also proposed hosting a regional conference focused on transboundary air pollution and smog in accordance with The Malé Declaration, 1998. However, when considering Indo-Pak relations, the stipulations demand a thorough examination of practical opportunities to help materialise a collaborative framework.

Let us assess the effectiveness and drawbacks of the The Malé Declaration. This declaration emphasised the necessity for regional collaboration in managing transboundary air pollution. However, the countries' thirst for economic growth has obstructed its implementation. Consequently, its goals remained unfulfilled. The recurring smog incidents in South Asia vividly illustrate the limitations of this agreement, and the current air quality crisis demands an urgent need to overhaul this framework, potentially under the guidance and support of organisations like ICIMOD and SAARC. The shared limitations among South Asian nations, especially the lack of monitoring facilities and resources, continue to persist. Unlike China, which has the capacity to independently address its issues without extensive cooperation with neighbours, South Asian countries face a myriad challenges. Therefore, the revitalisation of this declaration considering new requirements should serve

as a bridge, aiming to alleviate any geopolitical tensions and foster cooperation.

The severity of the smog issue could serve as an opportunity for India and Pakistan to break the historic deadlock and collaborate on mutual environmental challenges. But the reality is bitter. Politics often strays from justice, swayed by power dynamics. The current right-wing leadership's orientation makes it seem like cooperation, fairness and justice are a pipedream. Further, economic disparities between Pakistan and India further diminish prospects for collaboration. The sabotage of the Indus Water Treaty and recent violations of International Law regarding Kashmir restrict options of seeing regional cooperation on future prospects. However, assistance from international environmental organisations and regional economic powers can make it possible.

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REVITALISING AGRICULTURE: ROAD TO GREEN REVOLUTION

Sobia Rose & Muhammad Faisal Ali

The agricultural sector is constantly in the spotlight, attracting attention from all corners. Despite various efforts, diverse initiatives, talks of agricultural revolutions, and the emergence of concepts like Green Revolution 2.0, there's a noticeable lack of sincere attempts to understand the sector's deep-rooted challenges that hinder its full potential. Superficial discourse has overshadowed deeper introspection into the fundamental issues plaguing agriculture. Investigating these complexities is crucial to unlocking the sector's full capacity and promoting sustainable growth.

AGRICULTURE CENSUS

The first and foremost emphasis should be on updating the census data, specifically the agriculture and livestock census. A whimsical outcome is unavoidable when all the planning is based on data that is almost 14 years old for agriculture and 18 years old for livestock. We are developing and recommending strategies to assist farmers, but are unsure of which specific number to emphasise. Based on these data points, we intend to revolutionise the agricultural sector: a recipe for disaster. This problem of transparency also undermines the accuracy of growth figures and sectoral dynamics.

Developed countries such as the US and Japan conduct their agricultural censuses every five years. Even India has so far conducted 11 agricultural and 20 livestock censuses, which have a weighty impact on its agriculture sector. Echoes of a new agricultural census are now being heard in Pakistan, and if this initiative materialises, its efficacy could be greatly enhanced by shifting its approach from being based on traditional administrative boundaries to agro-ecological zones. Such a move would undoubtedly aid in addressing the consequences of

climate change.

A census should also be prioritised and carefully conducted every five or ten years, as it is crucial for research and development, resource allocation, policy formulation, monitoring, and evaluation, without which the agricultural sector will continue to suffer. If this fails to happen, all dreams about a second 'Green Revolution' are mere fantasies based on outdated figures.

PRODUCTIVITY

Pakistan holds a prominent position in global agriculture, often ranking among the top ten producers in several crops. However, productivity levels lag considerably behind. For example, despite being the 7th largest wheat producer globally, Pakistan ranks 62nd in productivity. Similarly, in rice production, it is placed 13th but ranks 54th in productivity¹, and so on. Despite maize competitiveness, there is substantial scope for improvement. If we can lift our average production up to the level of progressive farmers, only five major crops could add Rs. 1.76 trillion in the economy. These figures represent lost potential, owing to productivity issues. Low productivity basically stems from issues related to current land dynamics, problems with input markets (specifically seeds and fertilizers), distortions in output markets like wheat support price, insufficient and inadequate storage facilities, lack of business opportunities with respect to food processing and second-hand mechanisation.

¹<https://pide.org.pk/research/evaluation-of-seed-industry-way-forward/>

FRAGMENTED LAND

Pakistan's agricultural landscape is characterised by small and fragmented land holdings. The average landholding size is relatively small, making it challenging for farmers to adopt modern farming techniques, mechanisation, and efficient resource management. As a result, productivity remains low, and the sector's growth potential is largely untapped. To harness its full potential, Pakistan must consider Agricultural Land Consolidation (ALC) as a strategic, long-term solution.²

ALC is a land management procedure which entails restructuring, reorganisation or redistribution of land holdings by reducing the number of plots or parcels to create larger, more efficient, and more logically shaped land holdings. The legal provisions for this are present and suggest promising advantages, presenting a compelling argument for adopting ALC in Pakistan. This shift would establish the groundwork for a more prosperous and sustainable agricultural future. Such a transformation would not only benefit farmers but also play a crucial role in enhancing food security, promoting rural development, and contributing to overall economic growth. However, there have been no substantial efforts made towards implementing ALC in Pakistan.³

INPUT MARKETS

In the realm of input markets, seeds play a pivotal role. A concerning observation is that despite a diverse range of varieties and increased production of certified seeds, only 37 percent of the required seeds is certified for all the crops.⁴ The entire industry is beset with numerous challenges. Firstly, the current regulatory processes of seed certification and variety approval involve multiple government departments, causing delays and hindering growth. Over-regulation has deterred private sector investment in research and development (R&D), as brand reputation outweighs government certification. The private sector is reluctant to share germplasm with government authorities for approval due to conflicts of interest and lengthy approval procedures. Consequently, some companies release varieties without official approval. Informal seed suppliers proliferate due to regulatory failures which result in low-quality seeds in the market, ultimately contributing to low agricultural productivity. Hence, there is a pressing need to liberalise the seed sector from a centrally managed variety approval systems to a free market mechanism, where entry and exit are not impeded by restrictions. There is a need to abolish the stringent seed certification process to attract private sector investment. The role of FSC&RD should be to maintain records of registered firms only. The involvement of the public sector in the seed production business and price regulation must be eliminated.⁵

The Government of Pakistan allocates significant funds annually to input subsidies, such as fertilisers, seeds, etc. aiming to maintain low prices. However, the actual impact of subsidies on price reduction is minimal and ultimately proves to be an ineffective policy tool for price control. Primarily, these remain ineffective because they are reimbursement-based, which are not helpful for already cash constrained small farmers. About 64 percent (with less than 5 acres of land) of them fail to get benefits, and technical complexities in the procedures make matters even worse. Hence, there's a critical need to redesign the entire input subsidy model to better support small farmers.

The government's plan to support tube wells on solar energy is promising, particularly amidst soaring petroleum costs for farmers. However, without modern irrigation techniques, there is a risk of water wastage and overuse, exacerbating the already declining groundwater reserves. This necessitates fair water pricing for sustainable agriculture. The potential of current warrabandi⁶ is about Rs. 13 to 19 billion even after the amended rates. Adequate water pricing could generate revenues of almost Rs. 800 billion for the government. A price on water will also lead to more sustainable and judicious use of the scarce resource in agriculture.

The land transfer regulations, dating back to pre-partition times, have seen minimal updates since the 1967 revision of the Revenue Act of 1887, failing to meet modern needs. Revising these outdated laws is crucial by integrating technology for automated procedures. Excessive local government involvement decrease land tax revenue due to undervaluation by patwaris. This has prompted a reevaluation of Land Transfer Fees and an elimination of the DC rate system. Land valuation should consider location, amenities, and other factors, using PLRA and satellite data. Simplifying transfer procedures, reducing intermediaries, and enhancing information exchange amongst stakeholders, including Revenue and Agriculture Departments and farmers, are vital for improving agricultural production and resolving land-related disputes.

THE DILEMMA OF SUPPORT PRICES

In terms of output markets, the wheat support price system proves detrimental as it consumes a big share of the agricultural budget but fails to keep up with the population growth or demand for wheat, resulting in the need for wheat imports every year. Additionally, the government struggles to provide wheat to consumers at reasonable prices each year, thus failing on both policy objectives. Moreover, the support price advantages do not reach out to small-scale farmers. Wheat, a staple food providing 60 to 70 percent of caloric intake for a large population, is primarily grown for food security. 35-40 percent of produced wheat is used for home consumption, seeds, and animal feed.

²<https://pide.org.pk/research/land-refroms-through-agricultural-land-consolidation/>

³<https://pide.org.pk/research/agricultural-land-consolidation/>

⁴https://www.finance.gov.pk/survey_2023.html

⁵<https://pide.org.pk/research/evaluation-of-seed-industry-way-forward/>

⁶System of water rotation as per a schedule, used to determine water prices.

Large-scale farmers dominate production and sales, leaving small-scale farmers with minimal benefits. Large-scale farmers account for 79 percent of wheat production and sell 84 percent of it, while small-scale farmers produce 11 percent and are only able to sell 6.4 percent. The policy of supporting wheat has created a huge circular debt, and the burden of which on just the Punjab government is estimated to be about Rs. 680 billion. The government procured about 24 percent of wheat produced during 2023, but the total burden of this wheat procurement was about Rs. 233 billion exclusive of rental cost. Interest payments alone were about Rs. 89 billion. Furthermore, the support price system leads to a significant area under wheat cultivation, reducing the land available for more profitable competing crops. Therefore, immediate abolition of the wheat support price system is recommended, allowing market forces to dictate prices, as demonstrated by the case of maize crop.

INSUFFICIENT AND NON-STANDARDISED STORAGE FACILITIES

Insufficient and non-standardised storage facilities in Pakistan lead to significant post-harvest losses for grains and perishable crops like fruits and vegetables due to spoilage, pests, and improper handling. Traditional warehouses lack proper ventilation and pest control, reducing the quality and quantity of stored grains. Additionally, the lack of cold storage facilities decreases the shelf life and market value of perishable goods. Pakistan cultivates a variety of fruits and vegetables year-round, but faces significant fruit wastage due to inadequate cold storage facilities, especially in KPK and Balochistan, where distances to storages are extensive – amounting to averages of 77 and 133 kilometers respectively.⁷ A crucial aspect lies in standardising the existing cold storage units. Prioritising this aspect could save the losses of about USD 1.3 billion⁸ and significantly amplify export earnings for the country.

FOOD PROCESSING AND SMALL BUSINESS

Fostering the growth of regional agricultural enterprises is crucial for expanding our agricultural economy. However, budget allocations for subsidised loans to support these businesses is insufficient (PKR 5 billion, 2023-24)⁹, to effectively promote the development of new agricultural enterprises. Furthermore, the food processing sector has historically been overlooked, leading to significant challenges, particularly for commodities like vegetables and fruits with short shelf lives. There is a lack of awareness amongst farmers regarding the value addition potential of agricultural products, coupled with inadequate facilities in this regard. To address these issues, special attention is required to this sector to attract more investments. A five year tax exemption is granted to processing units, which is expected to generate earnings of around

Rs. 80 crores. To ensure the success of these units and realise the true export potential, it is recommended that loan acquisition align with international standards for their establishment. Furthermore, awareness campaigns and training programs should be implemented to enhance food safety practices and boost domestic exports.

SECOND-HAND MECHANISATION:

For years, the agricultural sector has received support aimed at enhancing the efficiency and speed of the harvesting process. The government has taken steps to ease the financial burden by repealing taxes and fees on machinery, with particular emphasis on essential equipment like combine harvesters, seeders, planters, and dryers for rice harvesting. However, there's a significant limitation hindering the sector's true potential: the use of second-hand imported machinery. This practice not only compromises efficiency but also increases the risk of losses during harvesting. To address this issue, it is imperative to consider either restricting the importation of second-hand machinery or encouraging the importation of first-hand machinery or supporting the local industry in developing more efficient machinery options. This approach will not only enhance productivity but also contribute to the long-term sustainability of the agricultural sector.

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⁷<https://www.pbs.gov.pk/content/mouza-census-2020>

⁸<https://www.eurasiareview.com/08112022-pakistan-needs-food-grain-storage-facilities-oped/>

⁹https://www.finance.gov.pk/budget/Budget_2023_24/Budget_in_Brief.pdf

GREENING THE NATION: PAKISTAN'S WAY FORWARD

Wajhullah Fahim

The invention of steam engines in the context of global industrialisation had two primary effects: rapid economic growth and climate change. The former was limited to certain regions which we call first-world countries today. The latter, however, was observed globally, especially in the 'developing' world. Today, the issue has become a real threat to the planet.

The developed world has signed several international agreements and arranged climate mitigation and adaptation conferences annually, but positive outcomes have not been observed. According to the CRED (2023), the average occurrence of climate change related disasters was higher in 2022 than during 2010 and 2021, clearly illustrating that these elaborate conferences themed around mitigation and adaptation in air-conditioned halls is not exactly bringing us closer to resolving the issue. In such a scenario, nature-based solutions can be a potential intervention for both objectives. These constitute actions and interventions that help restore ecosystems whilst also addressing various societal issues such as climate change, water crisis, food insecurity, and disaster risk reduction (World Bank).

IMPORTANCE OF NATURE BASED SOLUTIONS

Numerous arguments have been documented for the effectiveness of nature-based solutions for climate change, including the following.

- Involvement of local communities. Local communities are important stakeholders in the policy cycle, but are rarely if ever included in the policy cycle. These communities know indigenous techniques and methods based on historic traditions specific

to their contexts that can tackle the consequences of climate change. Their inclusion can empower them and deliver superior results for mitigation as well as adaptation.

- Lower Economic Cost. Currently, both developed and developing nations are advocating difficult and often complex solutions such as the construction of dams to minimise the impact of climate change. There are two main challenges for this: time and investment. Nature-based solutions on the other hand do not require huge funds to 'figure out solutions' since local communities are already aware of them. With a little investment at the local level, nature-based solutions can lead to a huge impact in the positive direction.
- Preservation of Biodiversity. Nature-based solutions can promote sustainable agricultural practices and better management of water, as well as absorbing environmental stressors and rehabilitating degraded lands. Along with these, niches of biotic elements of the ecosystem are also preserved.
- Local Solution. The 'one-size-fit-all' policy cannot deliver optimal outcomes but localisation can, since it is tailored to the specific socioeconomic and cultural specificities of the area(s) in question. Nature-based solutions are coherent with demographic features.

POTENTIAL NATURE-BASED SOLUTIONS FOR PAKISTAN

Despite less than 1% contribution to global emissions, Pakistan faces serious issues of climate change. In Pakistan, the occurrence of natural disaster events such as heat shocks, unpredictable rain patterns, land sliding, and flooding has increased over the years. Nature-based solutions can be a potential solution in helping move towards both climate mitigation and adaptation. The following are some potential nature-based solutions for Pakistan.

- **Urban Wetlands.** These help in absorbing heat shocks and cooling the ecosystem. In Haizhu, China, an eleven-square-kilometre National Wetland Park has been established – which successfully fosters urban cooling (World Bank, 2022). In Colombo, the same helped reduce flood risks along with improving water quality and treatment of water waste (McInnes & Everard, 2017). Over the past years, many waves of heat shocks have been observed in numerous parts of Pakistan, particularly in the province of Sindh. With the help of urban wetlands, these can be minimised. The government should allocate various public spaces such as parks and zoos for this purpose.
- **River catchment.** The increase in global average temperatures has intensified the probability of river and flash flooding. During the 2022 floods, about 1/3rd of Pakistan was under-water. River catchments on the river basin of Pakistan such as the Indus River Basin, Jhelum River Basin, and Chenab River Basin can improve climate resilience from flooding. In Sweden, restoring river catchments has improved climate resilience in the southern plains and led to an improvement in agricultural productivity (European Environment Agency, 2023).
- **Rainwater Management.** Pakistan is facing extreme water stress and is ranked 14th out of 17th in facing extreme water risks (Maqbool, 2022). An excessive amount of rainwater is wasted, especially during monsoon season. With nature-based solutions, there are several techniques in which excess rainwater can be stored and used as a reserve in times of water stress. Some of the techniques that are used for this purpose globally are permeable pavements, green roofs, rain gardens, managed aquifer recharge, and retention ponds.

CONCLUSIONS

A plethora of successful interventions involving nature-based solutions have been documented, but these seem to get little to no attention at both national and international levels. As the impacts of climate change are transboundary, without regional collaboration significant results are unlikely. South Asian countries are considered most vulnerable to climate change, and all of them need to understand the importance of nature-based solutions and form separate platforms populated with subject experts. These platforms ought to be used pilot studies with the intention of

identifying the most effective techniques in the given context and optimizing implementation complexities. These should ultimately be mainstreamed. Since international climate change financing is also a challenge for South Asian countries, these platforms can assist with that as well.

At the national level, certain steps need to be considered. Following the 18th Amendment, some ministries shifted to the provinces, but the Ministry for Climate Change remained at the federal level. Due to a lack of proper communication between the federal and provincial levels, various interventions have failed to deliver upon their intended outcomes. For policy formation and implementation of nature-based solutions in Pakistan, there are two possibilities. The first is to devolve the ministry to provincial levels and push for nature-based solutions for climate change in line with the socio-economic conditions of the respective regions. The second is the formation of a committee at the federal level consisting of climate change experts and equal representatives from all provinces, including AJK and GB. This step can help reduce the communication gap between federal and provincial governments.

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REFERENCES

- CRED, I. D. D. – E.-D., CRED, 2023). (2023). CRED Crunch 70—Disasters Year in Review 2022 [Newsletter]. <https://www.emdat.be/categories/newsletter/>
- European Environment Agency. (2023). Scaling nature-based solutions for climate resilience and nature restoration. <https://www.eea.europa.eu/publications/scaling-nature-based-solutions>
- Maqbool, N. (2022). Water crisis in Pakistan: Manifestation, causes and the way forward. Pakistan Institute of Development Economics.
- McInnes, R., & Everard, M. (2017). Rapid Assessment of Wetland Ecosystem Services (RAWES): An example from Colombo, Sri Lanka. *Ecosystem Services*, 25, 89–105. <https://doi.org/10.1016/j.ecoser.2017.03.024>
- World Bank. . What You Need to Know About Nature-Based Solutions to Climate Change. <https://www.worldbank.org/en/news/feature/2022/05/19/what-you-need-to-know-about-nature-based-solutions-to-climate-change>
- World Bank. (2022). Assessment of Key Ecosystem Services Provided by the Haizhu National Wetland Park in Guangzhou, China. https://www.thegpsc.org/sites/gpsc/-files/haizhu_wetland_report_fin.pdf



CHILDREN AND WORKING-CLASS WOMEN: Trade Liberalisation, IMF, and International Law Protections

Shahzeb Usman

One of the hallmarks of the Structural Adjustment Programmes (SAPs) of the International Monetary Fund (IMF) is trade liberalisation, which focuses on allowing imports into the market and increasing exports to earn foreign exchange. This policy often exposes vulnerable segments of the Pakistani population, particularly children and working-class women, to extreme levels of exploitation primarily to extract their cheap labour and provide a competitive edge to Pakistani exports. This is a situation in which both the IMF is culpable and complicit in violations of international law, particularly from the perspective of Public International Law, International Labour Law, and International Human Rights Law.

TRADE LIBERALISATION OF IMF

In most IMF SAPs, economic liberalisation is encouraged. In 2002, IMF required from the GoP that custom tariffs to be reduced to 25%.¹ Similarly, one of the facets of IMF's trade liberalisation is allowing anti-dumping laws which abolish any kind of regulatory duties which might have a discriminating effect against imports.² In this way, any difference in terms of excise tax between domestically produced goods and imported goods was removed.

The temporary high duties and import restrictions

which were present to preserve the balance of payments were promised to be removed by the end of July 2002. Quantitative restrictions and license requirements were also eliminated under SAPs of the IMF in terms of imports and exports of wheat as well as the export of oil products. Therefore, a complete deregulation of wheat procurement in terms of procedures as well as pricing was considered to be implemented. To streamline trade liberalisation, tariff rates were considered for simplification. Statutory Regulatory Orders (SROs) which resulted in the establishment of special rates or non-tariff trade barriers at around four thousand products were removed. To create a transparent system, a framework of four slabs was created with percentages ranging from 1% to 25% with very few exceptions. Moreover, trade relations were planned to be improved with a plan to take full advantage of the trade preferences from the European Union as well as better trade relations with other countries.³ All surcharges were abolished in relation to trade policy.⁴

EFFECT ON CHILDREN

Pakistan accounts for a major chunk of the world's exports of soccer balls. Due to the policies of increasing exports and trade liberalisation, international sports companies increasingly rely on the local manufacturers of Sialkot for the sophisticated fine art of producing high-quality footballs. However, since there was an increasing use of child labour in making such footballs, international companies with very weak inspection methods started using the certification of 'child-labour-free' to protect any tinge on their reputation. In effect, these labels became a method of further 'value-addition' just like 'no animal testing'.

This was similar to the processes followed in the carpet manufacturing sector where such corporate fashions resulted in the creation of four international certification organisations. In a way, the use of child labour is successfully washed through the creation of such certifications. In this scenario, the GoP believes that the only comparative advantage for them is the provision of cheap and hassle-free labour in the form of even children.⁵ In 10 years, only in reported terms, 96 child labourers were tortured and raped while 44 of them were murdered with 79% of the cases being from Punjab.⁶

EFFECT ON WORKING CLASS WOMEN

The introduction of economic liberalisation in countries like Pakistan through the IMF's neoliberal agenda often uses a variety of popular social movements such as women's entrepreneurship to reaffirm the structural framework of the free-market model. It assumes that empowering elite women through 'platinum entrepreneurship' will have social impacts which will trickle down to other women in lower income households. However, the effects of such empowerment do not

trickle down to female domestic servants and other employees who are generally in the informal sector. Thus, the use of women empowerment at a corporate level reproduces relations of servitude and social hierarchies for industrial labour, especially women, who are employed mostly in export-oriented textile industries.⁷

IMF loans also detrimentally impact the labour force participation of females. Informal economies, in which working class women tend to work, expand following the onset of trade liberalisation initiatives. With little to no regulatory oversight, employers in these domains increase exploitative practices, triggering a reversion to caregiving and household duties for a large chunk of these women.⁸

Prior to 2005, the Multi-Fibre Agreement (MFA) had provided Pakistan a quota in the global share. After 2005, it was removed – prompting Pakistani textile capitalists to worry about the competitiveness of their products in international markets. In response, Pakistani textile owners replaced male workers with female workers. Female workers had less exposure and were less educated. Therefore, they were cheaper and were less insistent about their rights. As a result, the number of female workers increased from 10% to 30% from 2000 to 2010 and were severely exploited for their labour by international textile retailers.⁹

IMF IS BOUND TO RESPECT INTERNATIONAL LAW

The duties of third-party international organisations are of special importance. Article 35 of the Vienna Convention on the Law of Treaties Between States and International Organisations or Between International Organisations (VCLTIO) states that an obligation can arise to the third party in an agreement between two parties if the third party expresses acceptance of the obligation in writing. However, it seems improbable for the IMF to make itself bound by the implications of these policies.

¹Government of Pakistan, Memorandum of Economic and Financial Policies (Letter of Intent, November 4, 2000), Para 49

²Government of Pakistan, Memorandum of Economic and Financial Policies (Letter of Intent, March 18, 2001), Para 49, Para 8

³Government of Pakistan, Memorandum of Economic and Financial Policies (Letter of Intent, December 5, 2013) Para 35

⁴Government of Pakistan, Memorandum of Economic and Financial Policies (Letter of Intent, June 27, 2013) Para 19

⁵Saadia Toor, 'Child Labor in Pakistan: Coming of Age in the New World Order' (2001) 575 *Annals Am Acad Pol & Soc Sci* 194, 216

⁶Zia – ur – Rehman, '140 child domestic workers tortured, raped or murdered in a decade' *The News* (Lahore, January 20, 2020)

⁷Ghazal Mir Zulfiqar and Adrienne Roberts, 'The political economy of women's entrepreneurship initiatives in Pakistan: reflections on gender, class, and "development"' (2019) 26:3 *Review of International Political Economy* 410,426

⁸Yassaman Saadatmand, Michael Toma, 'IMF-Induced Structural Adjustment Programs and Women in Ecuador', (2008) 14 *Int Adv Econ Res* 181, 189 – 190

⁹Kamal A. Munir, Natalya Naqvi and Adaner Usmani, 'The Abject Condition of Labor in Pakistan', (2015) 87 *International Labor and Working-Class History* 174, 181

The duties of third-party international organisations are of special importance. Article 35 of the Vienna Convention on the Law of Treaties Between States and International Organisations or Between International Organisations (VCLTIO) states that an obligation can arise to the third party in an agreement between two parties if the third party expresses acceptance of the obligation in writing. However, it seems improbable for the IMF to make itself bound by the implications of these policies.

Another way to hold IMF accountable for its actions is through the United Nations Charter which possesses human rights provisions concerning economic, social, and cultural rights. Due to the central place of the UN Charter in the international system of governance, international organisations like the IMF are required to respect human rights instruments like the International Covenant of Economic, Social and Cultural Rights (ICESCR).¹⁰ The responsibility of the IMF extends to at least the compliance of human rights, i.e. the right to respect, to enable states to protect and fulfil safe working conditions. Thus, an 'obligation of result' can be applied to the IMF¹¹.

The exploitation of working-class women due to the neoliberal agenda of the IMF is in direct contradiction with Article 11 of the Convention on Elimination of Discrimination Against Women. Article 11 requires that women must be provided with the Right to Work in a way which is free from exploitative practices, as this is an inalienable right of every human being.¹² The International Labour Organisation (ILO) also prescribes a considerable number of maternity benefits to women as they cannot be forced to work during the six weeks following their confinement. They also have the option of leaving work if they believe that their confinement will occur within six weeks. During this period, the woman in question must be provided full access to health services, as well as a payment for her children and the costs of delivery.¹³ In some jurisdictions, Article 8 of the ILO Convention 183 is also applied to provide maternity benefits and reinstatement to the same position for a woman who was fired due to the conditions related to her pregnancy which constricted her ability to work properly.¹⁴ The hostile labour conditions encouraged and fostered by IMF SAPs mean that women are unfortunately barred from these rights.

The gross use of children for industrial labour also violates the international human rights obligations of Pakistan in ICESCR and the Convention on Rights of Children (CRC). Most of the Human Rights instruments are supplementary and complementary. Article 32 of the CRC unequivocally states that children must be protected from every kind of economic exploitation.¹⁵ ICESCR also places adequate emphasis on the protection of children from all work which will hamper their physical or mental health. Moreover, children must

equipped with technical and vocational education.¹⁶ The Economic, Social and Cultural Rights Committee has clearly stated that transnational corporations must not use forced or compulsory labour and should respect the rights of children. They should strive for healthy working conditions for all with adequate compensation and sufficient freedom of association.¹⁷

CONCLUSION

The IMF has acted as a transmission belt for globalisation and caused violations of multiple human rights. Generally, for neoliberals, there is no collective desire for expanded rights or even the prevention of the violations of existing ones. In this globalisation process that leads to a gradual crippling of the state apparatus, it is strange to see an absence of push back from many of those that have been on the receiving end. The fact is that states do not possess the development capacity of bygone times. Governments are expected to resolve all issues through the IMF, the policies of which are virtually designed to incapacitate them further.¹⁸ In this situation, organisations like the IMF must be held accountable under international law even if the traditional actors of international law are states themselves. It would be willful ignorance on the part of international legal scholars to continue to stick with the traditional philosophy of international law when the lives of billions of human beings are numbed and made miserable due to the crassness of predatory international financial actors.

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¹⁰Jason Morgan Foster, 'The Relationship of IMF Structural Adjustment Programs to Economic, Social, and Cultural Rights: The Argentine Case Revisited', (2003) 24:2 MJIL 578, 630

¹¹The 1997 Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 291, 262

¹²Convention on the Elimination of All Forms of Discrimination Against Women 1979, Article 14

¹³ILO Maternity Protection Convention, 1919 (No. 3), Article 3

¹⁴Hossou Djossou z v. Plan International Benin (2009) Cotonou Court of First Instance, First Class, 54-2002

¹⁵Convention on the Rights of the Child 1989, Article 32

¹⁶UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18: The Right to Work (Art. 6 of the Covenant), (CESCR, 6 February 2006) Para <https://www.refworld.org/docid/4415453b4.html> accessed 26 September 2022

¹⁷Economic and Social Council, 'Report of the sessional working group on the working methods and activities of transnational corporations on its fourth session' (Report: E/CN.4/Sub.2/2002/13), Para 5-9

¹⁸Eric Toussaint, 'The World Bank, the IMF, and the respect of human rights' (CADTM, 25 October 2020) <<https://www.cadtm.org/The-World-Bank-the-IMF-and-the-respect-of-human-rights>>



HISTORÿ



THE SIRAIKI PROVINCE IMBROGLIO: TWO STEPS FORWARD, ONE STEP BACK

Asma Faiz

The Siraiki nationalist demand for a new province in south Punjab has been part of Punjab's political landscape since the early 1980s. This movement is part of a larger political campaign demanding territorial reorganisation of Pakistan. These claims picked up steam especially in the aftermath of the passage of the 18th Amendment in 2010. This amendment had empowered the provincial majorities by transforming 57.9% of the divisible pool to provinces, as per the 7th NFC Award, subsequently generating a reaction amongst provincial minorities. The result was the galvanisation of demand for the creation of new provinces, led by the Siraiki nationalists in south Punjab, Hindko-speaking Hazara activists in Khyber Pakhtunkhwa (KP) and Muhajirs in urban Sindh. Despite an almost three-decades long existence of the claim for a separate Siraiki province, this issue was hardly visible during the 2024 elections. Where does the movement for a separate Siraiki province stand at present? Why have the mainstream political parties seemingly distanced themselves from this issue? Is it a consequence of the administrative decentralisation underway in south Punjab since 2018?

The demand for the creation of a new province in south Punjab is a long-running objective of the Siraiki nationalist movement. This movement, like other ethno-nationalist movements in Pakistan, is primarily a middle-class phenomenon. The quest for a new province is rooted in the perception of cultural, material and political marginalisation of the Siraikis at the hands of a purportedly Punjabi-dominated state of Pakistan. Political aspirations of the Siraiki movement have been expressed by groups such as the Siraiki Suba Mahaz (Siraiki Province Front) and Taj Langah's Pakistan Siraiki Party (PSP), amongst others.

The quest for a separate Siraiki province started with the recognition of Siraiki as an official language in the 1981 Census of Pakistan. At the start of the movement, the biggest grievance pertained to the non-recognition of Siraiki as a distinct language. Conventionally, the Punjabi intelligentsia described Siraiki as a mere dialect of the Punjabi language - a claim still repeated by the Punjabi nationalists. This claim was vociferously rejected by the Siraiki literati who referred to Lord Grierson's Linguistic Survey of India as a proof of the historically

distinct existence of their language. Once the struggle of the Siraiki intelligentsia succeeded in 1981 in this regard, the inevitable transition from language to territory took place in the case of Siraiki movement. This language-land spillover is very similar to the trajectory of language movements across the border in India where the linguistic question was couched in broader material anxieties that subsequently acquired a territorial dimension. In the case of the Siraiki province movement, the issue is complicated by the presence of a rival ethnic movement in Bahawalpur. The Bahawalpur nationalist movement has advocated for the creation of a separate Bahawalpur province in an attempt to revive the erstwhile princely state of Bahawalpur. This movement hit its peak in 1970 at the end of One Unit but was subsequently overtaken by the more vibrant Siraiki province movement with its epicenter in Multan.

The Siraiki nationalist movement has marched ahead with the demand for 'right-sizing' the province of Punjab despite the absence of a broad-based electorally viable Siraiki political party. Pakistan's political landscape has historically witnessed public mobilisation by ethnic parties such as the Awami League (AL), National Awami Party (NAP), Muttahida Qaumi Movement (MQM) and various Sindhi, Pakhtun and Baloch nationalist parties. Unlike these parties, the 'sons of the soil' parties are either non-existent or are still at an infancy stage of operationalisation in South Punjab. Since the passage of the 18th Amendment, the demand for the Siraiki province became visible after it was endorsed by the Pakistan Muslim League - Nawaz (PML-N), the Pakistan People's Party (PPP) and the Pakistan Tehreek-i-Insaf (PTI). In 2012, when the PPP was in power at the federal level, it established a commission to evaluate the prospects of territorial reorganisation of the federation of Pakistan. This development was followed by two resolutions passed by the Punjab Assembly endorsing the creation of two provinces in Punjab, i.e. south Punjab and the Bahawalpur provinces. Thus, the demand for a new province in Punjab received official endorsement at both national and provincial levels.

Creation of a separate province in south Punjab was a major electoral slogan for the PPP in the 2013 elections campaign. It was matched by the PML-N which went one step further and championed the creation of two new provinces based in Multan and Bahawalpur respectively. However, the PPP failed to reap electoral dividends on the issue of the new province. In 2018, the demand for a new province once again came to the forefront of the election campaign when several prominent politicians from the PML-N broke away from the party for its alleged failure to deliver on the demand for a new province. These disgruntled electables, led by Khushro Bakhtiar, formed the South Punjab Province Front that eventually merged into Imran Khan's PTI. The issue of south Punjab was once again set ablaze by slogans of creation of a new province during the 2018 election campaign. Unlike the PPP in 2013, the PTI made impressive electoral gains as it won 25 out of 49 seats from south Punjab.

During the tenure of Imran Khan (2018-2022), a process of administrative decentralisation ensued. The PTI government announced the establishment of two Secretariats in Multan and Bahawalpur to respond to complaints of centralisation of power coming from the residents of south Punjab. In this way, the seat of power, the takht-e-Lahore (Lahore throne), was finally going to have a presence in the Siraiki waseb. The planning for a separate South Punjab Secretariat to be established in Multan and Bahawalpur started in 2019. Initially 18 departments were to be operationalised in these secretariats with the proposed creation of 385 new posts. Whilst the developments on this front have been slow, partially impacted by the fall of the PTI government in April 2022 as a result of no-confidence motion, the administrative decentralisation process continued under both the Pakistan Democratic Movement (PDM) government and the Shahbaz Sharif-led government that came into power after the 2024 elections.

The issue of a new province did not figure prominently during the 2024 elections. Amongst the mainstream parties, only the PPP raised slogans about the creation of a new province in south Punjab. Neither the PML-N nor the PTI campaigned on the need for division of a Punjab province. What explains this perceived apathy towards the issue of a new province? The 2024 elections witnessed a populist surge in Pakistan when the PTI-backed independent candidates made impressive gains in the elections. Was the demand for a new province lost in the mist of populist euphoria? Did the administrative decentralization—underway in south Punjab since 2018—answer the grievances of the people of south Punjab thereby taking the wind out of the nationalist movement? Are the administrative measures adopted since 2018 enough to answer the long-running sense of marginalisation felt by residents of south Punjab? Will this administrative decentralisation be sufficient for the leaders and intelligentsia of a movement that is looking for an identity-based province?

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ECHOES OF WISDOM:

Tracing the Intellectual Heritage of Old Delhi's Madrasas

Sonia Gulzeb

What do you envision when you think of old Delhi, before the British East India Company besieged it in 1857? When I imagine Delhi, I picture women draped in ghararas, cotton sarees, and banarasi sarees, and peshwazes adorned with ornate gemstones, running around the forts and along the watercourses. Durbars echoing the sounds of mushairas, madrasas filled with intellectuals, discussing logic, theology, philosophy and rhetoric. The aroma of freshly cooked food wafts through the air, tempting passersby to indulge in the local concoction of cuisines – puris, kachauris, juchais; rice, vegetables, pulses, sweets, fresh and dry fruit.

In the words of Ghalib,

*Ik roz apni rooh se poocha, ki dilli kya hai,
to yun jawab main keh gaye, yeh duniya mano
jism hai aur dilli uski jaan.*

*I asked my soul, "What is Delhi?"
It replied: "The world is the body and Delhi its soul."*

For over a millennium, Delhi has held prominence as a major city, serving as a hub of power for diverse rulers, including Rajput clans, early Sultans, Mughal emperors, British administrators since the mid-19th century, and India's federal government since its independence in 1947. The British response to the revolt (1857) resulted in the removal and imprisonment of Emperor Bahadur Shah Zafar II, the transformation of the Jama Masjid and the Red Fort into military barracks, and the mass exodus of Muslims from the city. In his work 'Dastambu,' a journal chronicling the events during the revolt, Ghalib depicts the turmoil and confusion that unfolded around him.

"The city has become a desert... by God, Delhi is no more a city, but a camp, a cantonment... No fort, no city, no bazaars, no watercourses... Four things kept Delhi alive – the fort, the daily crowds at the Jama Masjid, the weekly walk to the Yamuna Bridge, and the yearly fair of the flower-sellers. None of these survives, so how could Delhi survive? Yes, there used to be a city of this name in the land of Hindustan."¹

The educational standards in the madrasas of that era were of such high calibre that they drew considerable admiration from European observers. William Fraser (1784-1835), who served as the British Resident and Commissioner of Delhi during the reign of the last Mughal Emperor, Bahadur Shah Zafar II, exemplifies this profound respect for the madrasas' learning. He became a student of Shah Abdul Aziz at Madrasa Rahimiyah, which belonged to the prestigious Waliullah family, illustrating the considerable intellectual influence these institutions commanded.

¹Ralph Russell, *The Oxford Ghalib: Life, Letters and Ghazals*, New Delhi, 2003, pp.166, 188

William Sleeman, best known for his role in suppressing the thugs and for his sharp criticism of the Indian judicial system, couldn't help but acknowledge the extraordinary quality of madrasa education in Delhi: "Perhaps there are few communities in the world among whom education is more generally diffused than among Muhammadans [Muslims] in India," he wrote on a visit to the Mughal capital. "He who holds an office worth twenty rupees a month commonly gives his sons an education equal to that of a prime minister. They learn, through the medium of Arabic and Persian languages, what young men in our colleges learn through those of Greek and Latin – that is grammar, rhetoric, and logic. After his seven years of study, the young Muhammadan binds his turban upon a head almost as well filled with the things which appertain to these branches of knowledge as the young man raw from Oxford: he will talk as fluently about Socrates and Aristotle, Plato and Hippocrates, Galen and Avicenna; (alias Sokrat, Aristotalis, Alflatun, Bokrat, Jalinus and Bu Ali Sena); and, what is much to his advantage in India, the languages in which he has learnt what he knows are those which he most requires through life."²

The reputation of Delhi's madrasas was compelling enough to motivate the young poet Altaf Husain Hali to escape his marriage in Panipat and traverse the 53 miles to Delhi, all by himself, without money, and sleeping outdoors, in an effort to fulfill his dream of studying at the celebrated colleges there. "Everyone wanted me to look for a job," he wrote later, "but my passion for learning prevailed."³ Delhi was a prominent intellectual hub, particularly in the early 1850s, when its cultural vibrancy was at its peak. The city was home to six renowned madrasas and at least four smaller ones, along with nine newspapers in Urdu and Persian, five scholarly journals from Delhi College, countless printing presses and publishers, and over 130 Yunani doctors. It was also the site where many recent Western scientific discoveries were translated into Arabic and Persian for the first time. The intellectual climate in the various colleges and madrasas was charged with open-mindedness and enthusiasm. However, the most significant attraction of all was the presence of poets and intellectuals like Ghalib, Zauq, Sahbai, and Azurda.

Before writing this article, I asked my classmates and British colleagues what they think of when they hear the word 'madrasa'. The majority associated it with an extremist school that teaches students jihadist ideology. In the post-Cold War era, and particularly after 9/11, madrasas have been subject to significant misconceptions, often fuelled by Western media and even Pakistani media. These portrayals lack nuance and ignore the historical context of traditional madrasas, which had unique structures and curricula, distinct from the modern madrasas funded by the United States and the Kingdom of Saudi Arabia. Today's madrasas are a colonial legacy that were later shaped by U.S. interventionist policies in our region, resulting in madrasa graduates who are labour market mismatches, as noted by many Pakistani scholars.

It would be unfair to label mediaeval madrasas as solely theological institutions, as the rational sciences were part of their curricula. They produced jurists, mathematicians, physicians, astronomers, theologians, and other professionals who went on to manage the state apparatus.

It is crucial to differentiate between mediaeval madrasas and pre-colonial madrasas, as the latter were influenced in part by the colonial dichotomy of public versus private spheres. It's disheartening to realise that an advanced madrasa culture was systematically dismantled, with the remaining vestiges relentlessly eradicated. A significant number of Europeans assimilated into Indo-Islamic culture weaving themselves into its fabric through marriage, establishing homes, and gaining fluency in the language and literature. Some even pursued a deeper understanding of classical Islamic sciences by studying in the madrasas.

One could ask, what rendered this educational approach so distinctive that a British officer was left in awe while witnessing a madrasa graduation during the British Raj, even going so far as to compare a madrasa's curriculum to Oxbridge education. Is it possible to reimagine the current madrasa curriculum from scratch, reviving the one that used to train graduates to excel in Aristotelian logic, Persian and classical Arabic grammar, aythamian optics, or the poetic use of metonymy, metaphor, and synecdoche?

BIBLIOGRAPHY

Dalrymple, W. 2006. *The Last Mughal, The Fall Of A Dynasty, Delhi, 1857*. United Kingdom: Bloomsbury.

Ghalib, M. A. K. 2003. *The Oxford India Ghalib: Life, Letters and Ghazals*. Oxford University Press.

Sleeman, W. H. 1915. *Rambles and Recollections of an Indian Official*. Oxford University, Press.

Stephens, J. and Ottaway, D.B. 2002 From U.S., the ABC's of jihad -The Washington Post. (<https://www.washingtonpost.com/archive/politics/2002/03/23/from-us-the-abcs-of-jihad/d079075a-3ed3-4030-9a96-0d48f6355e54>)

²W. H. Sleeman, *Rambles and Recollections of an Indian Official*, Oxford, 1915, pp. 523-4

³Hali, *Kulliyat-e-Nasir*, vol. I, p.344, cited in Pritchett, *Nets of Awareness*, p.14.

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BUSINESS



DRIVING PAKISTAN'S INDUSTRIALISATION STRATEGY:

Rethinking Import of Capital Goods

Aadil Nakhoda

Pakistan has one of the lowest gross fixed capital formation (GFCF) rates in the world. The gross fixed capital formation can be a useful indicator for the level of business activity in a country and to gauge the level of confidence in its economic future. According to the World Bank's World Development Indicators, the value for Pakistan was at 14 percent in 2022. It was one-half of the average reported for the South Asian region and almost two-fifths of the average reported for the East Asia and Pacific region. Further, it is more intriguing to note that it has remained consistent for Pakistan since the 1960s when the data was first reported, whilst major regional counterparts have shown significant improvement over the last four decades. For instance, India increased from 16 percent in 1970 to 36 percent in 2007, whilst Vietnam also reported a surge in the early 2000s when it undertook reforms to boost its economic activities. Low levels of business activities are likely to not only reflect poorly on exporting activities but also on the ability to attract FDI. Therefore, the low levels of GFCF as a percentage of GDP must raise concerns for policymakers.

Several developing countries tend to be reliant on the supply of imported capital goods to produce their goods domestically as their capabilities to produce high-tech machines and equipment are likely to be low. According to the trade statistics available at the World Bank's World Integrated Trade Solution (WITS), the imports of capital goods in Pakistan constituted between 18 percent and 20 percent of total imports into Pakistan between 2018 and 2021. India reported between 21 percent and 25 percent. The numbers for the East Asian countries are starkly different as more than 40 percent of imports into Vietnam were capital goods, whilst it exceeded one-third for Thailand. The average share of capital goods in total imports for the East Asia and Pacific region is also approximately 40 percent. It is also crucial to note that the share of fuels

in total imports in Pakistan has traditionally been higher than the share in other Asian counterparts.

The average tariff on the imports of capital goods in Pakistan is relatively higher than in its Asian counterparts. Although the average tariff rate on all products imported into Pakistan was 9 percent in 2021, it was 8.9 percent on the imports of capital goods. India imposed an average weighted tariff on capital goods of 5.9 percent, Thailand imposed a rate of 1.7 percent and Vietnam imposed a rate of 0.4 percent. East Asian countries impose negligible tariff restrictions on the imports of capital goods, allowing their manufacturers easier access to the latest machinery, equipment and technology needed to produce their goods.

As the balance-of-payment crisis in 2022 put pressure on the foreign exchange reserves and the currency exchange rate, the government undertook several interventions to reduce the trade deficit vis-a-vis a reduction in import demand. According to data on government interventions borrowed from Global Trade Alert, Pakistan imposed interventions such as trade payment measures which included cash margin requirements, internal taxation on imports and import tariffs to discourage imports. Businesses have also reported difficulty in opening their letters of credit with their banks, which is crucial in importing capital goods into the country. According to the State Bank of Pakistan, the amount of stock provided by the scheduled banks as fixed investment/long term loans under the State Bank's Long Term Financing Facility (LTFF) and Temporary Economic Refinancing Facility (TERF) schemes to private sector businesses increased from approximately PKR 180 billion in January 2020 to PKR 650 billion at the end of September 2022.¹ However, this has declined to PKR 562 billion in January 2024. Although the rise can be attributed to the recovery in business confidence and support to businesses post COVID-19,

fall in the stock is likely an indicator of poorer business and investor confidence.

Unfortunately, the most affected category according to the different stages of production was the import of capital goods. Import of capital goods in 2022 decreased by approximately 40 percent, whilst import of consumer goods decreased by 7 percent. Import of consumer goods such as vegetable oil and tea increased by at least 12 percent in 2022, while import of capital goods such as mobile phones, weaving machines, and electric motors and generators decreased by more than 50 percent in 2022, increasing challenges for manufacturers.

Duty-free import of capital goods into Pakistan will increase imports by \$4.8 billion, an increase of almost 48 percent.² Import of parts and accessories of vehicles will increase by almost \$700 million, import of mobile phones will increase by \$500 million, import of gears and gearings will increase by \$350 million, import of buses will increase by \$280 million and the import of water tube boilers will increase by \$180 million. The major beneficiary of reduction in the tariffs on the import of capital goods is likely to be the auto industry. There is a need to rethink the government policies that have led to greater interventions and restrictions on trade as they have harmed the capabilities of the producers in Pakistan. Comparatively, the increase in trade creation as a percentage of total imports into the regional counterparts is much lower. It is 21 percent for India, 6 percent for China and 3 percent for Vietnam. The findings suggest that Pakistan has stronger restrictions on the import of capital goods into the country not only in the form of import tariffs but also in the form of non-tariff related government restrictions.

Technical non-tariff measures can play an important role in ensuring that the products imported into the country meet minimum standards. The presence of technical NTMs can limit the imports of dangerous and substandard products into the country. Several countries have reduced their tariff rates and adopted technical non-tariff measures in order to not only ensure that imported inputs are available at the lowest cost possible, but also comply with certain quality standards. The importers of capital goods complying with technical NTMs are more likely to meet with production process and procedure standards that should limit the production of outdated and redundant goods. The frequency index and the coverage ratio, the proportion of products facing at least one technical NTM and the proportion of imports facing at least one technical NTM respectively, is calculated using data borrowed from UNCTAD's NTM Hub and import data from BACI's CEPII dataset. At approximately 5 percent each, Pakistan has one of the lowest frequency and coverage ratios for technical NTMs on the imports of capital goods. China, Vietnam and the EU have at least one measure on all their imports of capital goods. The South Asian nations lag behind.

Inspection, certification, and pre-shipment inspections are commonly applied by China and Vietnam on their

imports. The lack of such measures in Pakistan is not only likely to increase the inflow of substandard and low-quality products but also increase the likelihood of redundant technologies installed in the country that produce outdated products. With the surge in demand for better environmental standards from key export market destinations, this may create a situation where exports from Pakistan are further limited as machinery and equipment may fail to meet the desired standards of our importers.

In essence, Pakistan must rethink its policies on the import of capital goods if it is to encourage local manufacturing and improve the capabilities of local manufacturers. The government restrictions, which include non-tariff barriers and tariffs, have limited the ability of manufacturers to import needed machinery and equipment. The high tariff rates accompanied by the complex web of government interventions have deterred investments by the private sector in Pakistan. In order for Pakistani producers to become competitive, it is imperative to reduce import tariffs on all products imported into Pakistan, particularly capital goods, and consider imposing technical measures that ensure redundant, substandard and dangerous goods are not imported into the country, whilst pursuing newer and deeper trade agreements with trading partners that involve negotiations on developing the capabilities of small and medium enterprises, technology transfer clauses when receiving FDI and deterrence from dumping low quality products. Pakistan needs a rethink on its trade strategies. Policies that encourage access to the best technologies regionally and globally through import of capital goods is key.

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Note on Data sources: Data on gross fixed capital formation was extracted from the World Bank's World Development Indicators. Data on import shares by product category and on import tariffs was borrowed from the World Bank's World Integrated Trade Solution (WITS). Data on import levels for 2021 and 2022 to calculate the growth rate was borrowed from CEPII's BACI dataset. Data on NTMs was extracted from UNCTAD's NTM Hub.

¹SBP combines the data for LTFF (Long-Term Financing Facility) offered to export oriented businesses for purchases of imported and locally manufactured machinery and equipment and TERF (Temporary Economic Refinance Facility) available to all business, except in the power sector, to purchase new machinery and equipment. Both schemes serve similar purposes.

²The methodology to calculate the amount of trade creation is similar to that adopted by United Nations ESCAP's Trade Intelligence and Negotiation Adviser (TINA) (<https://tina.trade>). The numbers reported are calculated as average for 2019, 2020 and 2021. This reduces the COVID-19 related distortions to trade data.

PAKISTAN'S MISSING 95 TRILLION RUPEES

Shahjahan Chaudhary

I'm a son and grandson of Air Force officers. My grandfather taught at Petaro Cadet School after migrating to Pakistan in 1947. My father served as an Aeronautical Engineer in PAF. He was transferred back from East Pakistan a little before the '71 war broke out. I was born in a Sunni Punjabi family at the Okara Cantt. Hospital.

I have lived in Peshawar, Rawalpindi, Lahore and Karachi. I have been lucky to travel around Pakistan - from Hunza to Gwadar, from Quetta to Multan.

I was fortunate to see village life in Sahiwal and Okara, and to experience living at PAF Base Badaber, Army Cantonment Chaklala and DHA Karachi. I was educated in PAF schools, at a government college (FC College Lahore) and at an Air Force supported institute (IoBM). I was Project Director of the National Incubation Centre in Karachi fully funded by the Ministry of Information Technology and Telecommunication.

From my birth, to my education, to the care of my parents at military hospitals, to parts of my work life - I am a beneficiary of the system in place: both public and private. I am, you might say, as fully Pakistani as you can be by any definition.

But does this system truly work for me? Does it work for young people growing up in today's Pakistan? Does it work for you and your children? What is our journey and our destiny as a nation? Would I have done better as a Chinese entrepreneur building my career as part of a Rising China of the '90s and 2000s or as a privileged Pakistani in a struggling Pakistan? Would I do better in a country filled with hopes and dreams, or a country entangled in fear and despair?

STRIVE FOR A BIG VISION, WHY NOT

We should want to be a prosperous society, a thriving economy, and a vibrant culture in 2047 after a hundred years of this nation. How do we go in that direction?

Our national poet Iqbal has urged us:

Khudi ko kar buland itna ke har taqdeer sey pehley,

Khuda bandey sey yeh khud poochey, bata teri raza kiya hai.

I approach this problem from three angles. As a life-long entrepreneur who has worked with and advised over a thousand entrepreneurs, as someone who runs a global venture building firm working with diverse teams in the Middle East, Africa and America, and as someone who studied economics deeply without becoming an economist.

ECONOMISTS GET IT WRONG, AND INSIST WE LISTEN

Economists around the world are famously unable to predict what happens to the economy. Whether it is American economists who were caught unaware by the 2008 mortgage crisis, or the Fed economists who failed to see the inflation after 2020 whilst rapidly increasing money supply, or the Pakistani economists who suggest remedies for Pakistan with no positive effect. Why is that?

Every field of study has its share of conventional wisdom. The reason it is conventional, traditional and acceptable is because it is generally correct. Any innovation must prove its efficacy before becoming conventional.

Economics, unfortunately, does not work like that. Economists have built an imaginary world of assumptions. Their theories work in this fictional world. And when the reality differs from their fiction (which is more common than they would like to concede), they stick to the fiction because 'reality is too complex' anyway. I wish we could, as citizens and as a nation, live in their fictional world. But we have to face reality as it is and not as we want it to be. Economists, on the other hand, get paid despite living in their delusional world.

I won't go into a detailed explanation of why economists choose to ignore reality. But as they say: follow the money. Since economic policy is a tool to distribute wealth, resources and opportunities, economists tend to work for those who have and want to keep a tight grip on resources. In most cases, they do it as part of a well-funded group-think than any organised conspiracy.

In our case, the driving force of our economic policy is the global economic elite. We serve at the pleasure of international financial capital - and whoever controls it. We listen to Western consultants, we follow the path set for us by the World Bank and IMF, and we allow ex-bankers to become our Finance Ministers and Prime Ministers. We pretend to be free, even though we are not.

Let's look at some of the assumptions and mistakes we are making from one particular angle: money supply.

MOVING TOWARDS A SOLUTION

Traditional economics would suggest that 'banks don't create money out of thin air'. We are also told that if you have too much inflation, increasing interest rates will bring it down by reducing the supply of money. We are told that we should try to get more foreign capital to build infrastructure like roads and power plants.

All of the above is incorrect. Banks do create money out of thin air, interest rates are not the core control mechanism of inflation and we don't need foreign capital to build infrastructure.

This is proven by the successes of Japan, South Korea, Taiwan and China.

We should pay attention.

The money story of a nation has two parts: the local currency where supply is controlled by the State Bank, and foreign currency that you have to earn by selling more goods and services than you buy.

Using these two levers, and understanding their inter-

relationship, is the essential ingredient for a successful and fast-growth economy. It should be obvious that there is no limit to the supply of local currency: the state bank can decide to create it. The problem is that as you issue more local currency, the demand for goods rises. This rise is met by an increase in imports if the local productive capacity is not simultaneously enhanced. Those imports have to be paid for in dollars, which creates a balance of payments crisis.

Since we can't create dollars (or euros or yens), we have to earn them or borrow. The issue is not in creating more local currency (we can always do this instantly) - the challenge is making sure that as you create more currency, you can meet this new demand by increasing the supply of goods locally or by growing exports to match your enhanced dollar imports.

Pakistan's problem is simple: we keep creating more currency without enhancing our productive capacity. We have a chronic trade deficit because of this reason. To finance this deficit, we need to borrow more foreign currency. As we borrow more, we have to accommodate more demands from our lenders which leads to further deterioration in our balance of trade (they expect us to open up our economy to more trade and investment to their benefit). Trade is good for an economy; it allows for specialisation and scaling. The problem is the terms: if you are not deciding the terms, someone else is. They also ask us to devalue our currency which leads to an exponential increase in our payables - government revenue is in PKR and our foreign loans are in USD.

DOES DEBT CAUSE TRADE DEFICITS?

Pakistan's Public Sector Domestic Debt is PKR 42 trillion. That's roughly 45% of our GDP. Pakistan's Public Sector Foreign Debt is about PKR 25 trillion. Are these high or low?

On the face of it, it doesn't seem to be very high when you look at other rich or fast-growing economies: China is 77%, Vietnam is 37%, South Korea is 49%, Japan is 264% and so on. What's so uniquely bad about our public sector debt?

To answer the above question, you have to ask another critical question: as the government spends more money, how does it affect the balance of trade? Government borrowing does not directly or indirectly grow the exports of a country or reduce the imports. It does increase the money supply which increases imports. Its impact on our balance of trade is therefore, in general, negative.

Other countries that have a similar or higher level of public sector debt as Pakistan are able to sustain it. Why is that? It's because whilst their public sector debt may be higher than ours, their private sector debt is multiple times more than ours.

PAKISTAN'S PRIVATE SECTOR DEBT IS 9% OF GDP

Why is this a problem?

Here is a comparison with other fast growing or rich economies:

1. China - 194%
2. Singapore - 130%
3. Israel - 110%
4. Japan - 120%
5. South Korea - 176%
6. Norway - 118%
7. Switzerland - 167%
8. Pakistan - 9%

By setting up our economy in a way that Private Sector Debt (or liquidity available for enterprise) is only 9% of the GDP, we have starved our industry, agriculture and business of capital. Without capital, they are unable to trade and grow effectively.

Whilst these figures are worrying, they illustrate a nonavailability of capital for productive enterprises: the problem runs deeper.

How much of this private sector debt is used by:

1. Unilever Pakistan
2. Packages Limited (TetraPak)
3. Atlas Honda
4. Indus Motors (Toyota)
5. Etc.

All of these enterprises and more are seemingly Pakistani companies. But the truth is when you buy a Toyota Corolla from Indus Motors, a Honda Civic from Atlas, a MilkPak from Packages or a consumer product from Unilever, they sell you stuff where parts, ingredients and in some cases entire products are imported. And once they make money, the profits have to be sent back to their parent companies. They have a net negative impact on our balance of trade and we actually fund them.

Look at our power sector. Companies take loans in PKR, but our government pays them the tariff in USD - backed by sovereign guarantees.

Our economy is not failing because we don't have a competitive local export-driven private sector, our economy is failing because we have designed it exactly the way it is performing.

Quran 13:11: Indeed, Allāh will not change the condition of a people until they change what is in themselves.

MONEY IS THE DRIVING FORCE, AND WE KEEP IGNORING IT

The Japanese and Chinese experience show this clearly: credit creation is the driver of growth. Whilst banks create credit 'out of thin air', it's the nation's Central Bank which can and should provide guidance. In Pakistan's case, the State Bank is busy trying to be independent instead of serving its primary purpose:

managing liquidity to grow the economy.

The State Bank of Pakistan currently uses interest rate as a lever to manage money supply and devaluation as a response to inflation. This approach requires a revision. Inflation is dependent on two aspects (and none of them is the interest rate): directly managing the supply of money and enhancing the country's productive capacity.

The business case is simple: if new credit enhances the productive capacity of the economy more than demand for goods and services, it will lead to growth. If it does the opposite, the country will end up with a bigger trade deficit. Sometimes something obvious can be obscured by convoluted gymnastics of logic and words.

We want to fix the economy and we are listening to economists and bankers who want to distract us. Let's focus on the core issue: money.

THE 95 TRILLION QUESTION

Looking at other rich and fast-growing economies, we have to set a goal: Private Sector Debt (or liquidity available to enterprise) has to grow to 100% of GDP from the current 9%. That's almost 95 trillion rupees.

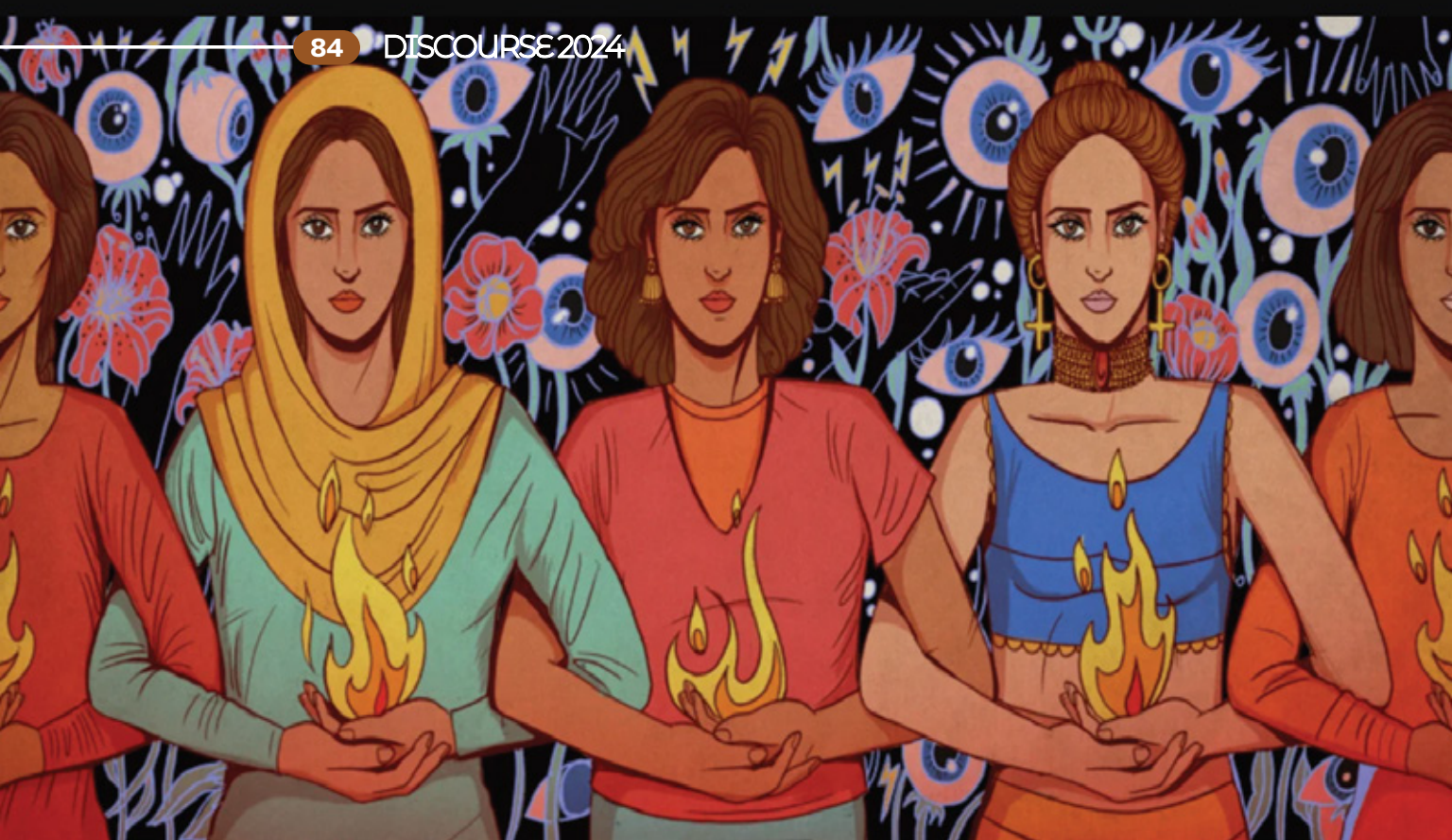
Unlocking this invisible asset effectively will lead to the 10%+ year-on-year growth experienced by East Asian economies and more recently China.

There is nothing stopping us except us.

The author is an entrepreneur, part-time philosopher and venture builder. Having spent most of his life in Pakistan, he is now exploring European history and hiking in Portugal.



ARTS & CULTURE



REFLECTIONS OF SOCIETY: The Role of Pakistani Television in Perpetuating Patriarchal Norms

Sara J. Rathore

How has television been revolutionised in Pakistan over the past decade? What are some qualms to have with the current Pakistani drama industry and how it romanticises on-screen abuse and toxicity, in the context of crimes against women in Pakistan?

The television is finally switched on to the latest 8:00 PM special in accordance with what has received rave reviews lately. The entire family is sitting in front of the TV to tune into the shenanigans on-screen. Just a family, like theirs, going through the experiences and nuances of being Pakistani, with a sprinkle of some family-friendly

romance. A smattering of thinly veiled advertisements and product placements (we are a consumerist nation, of course) and loud, boisterous humour, paired with the usual mother-in-law and daughter-in-law dichotomy or domestic arguments. Of course, arguments and irritation are a part of the domestic sphere, but where are the laughs, the bonding, the drama of truly existing in a Pakistani household? These are often lost to the trajectories of violence and borderline macabre trajectories we see on screen. A little mumble, “Do they have to show this much violence and depression on screen?” from a concerned mother. But the question arises – why is the

norm on screen a show of violence, brutality, betrayal and families being torn apart? Why is it never focused on the little titbits, from the daily experience of an average Pakistani trying to get through their day, or family bonding in coming together, arguing, yet finding solace in one another?

The Pakistani television industry has grown of late, going from merely entertaining the masses at home to capturing an international audience – not only diaspora Pakistanis, but South Asians as well. The light-hearted, romance dramas in particular have found in them an audience that surpasses expectations. However, one cannot help but look at the TV screen and sigh at the regurgitated plots. Pakistan is a heterogenous country, so it's no wonder it has such a diverse set of backgrounds that span across cultures, ethnicities and communities. From the cosmopolitan to the rural, we barely see representation for the myriad. Where are the single mother households on screen? Where is representation for the dysfunctional family dynamics that break the mould of the nuclear family that is represented as the norm? Hardly any script writers have taken up the challenge of creating characters that are human and not an ode to suffering. One must imagine Sisyphus happy, but not if your plotline is a regurgitated retelling of a damsel in distress that requires rescuing from a saviour.

A major qualm to have with these kinds of storylines is how they are regurgitating the same sentiment to cash in on the insecurities of Pakistani women. The usual 'he said, she said, they said, divorce and intrigue' storylines rife with misogyny to cater to the majority women viewer-base that is already victimised in an inherently patriarchal society. By otherising the woman, she has to view the pieces of her autonomy be grabbed and thrown away over and over, even on television: this is termed 'entertainment' for the masses. Men mock it, terming it soulless and awful when it is the truth many women live through and watch just to feel for a moment, that what they're going through is real. It is disconcerting how often humour to laugh at, romance to swoon over, and positive themes most broadly speaking are simply shunned aside, simply to revert to the same old tropes: on screen violence and intrigue that plagues every plotline to pit women against each other and create the angel/monster dichotomy. The truth is not every woman is an angel or a monster, women are humans and should be represented on screen as such. It is also important to understand that families are dysfunctional but romanticising abusive relationships under the guise of entertainment is not the key to a more inclusive entertainment landscape, rather showing the dysfunctional elements and trying to heal them is. Romance does not always have to be a cautionary tale – Pakistani women should be allowed to indulge in love and romance too, without a constant sword hanging over their necks to caution them about the 'consequences'.¹ We talk about living in a society where romance is so taboo, but we create those taboos for individuals ourselves.

We need to think about the implications of what we are putting out as entertainment for the masses and the generational impact it will have as we continue to perpetuate cycles of violence through the medium of television.

Not only that, a recent storyline that has graced screens is one that sees the abuser woo the victim and 'change' over time after having crossed all boundaries, making her viscerally uncomfortable and indulging in harassment by every legal metric. But of course, he 'changes' for the better. This is represented to young adolescent women as a fairytale romance, something they should even strive for. What is often forgotten is that women are not rehabs for men without morality and boundaries, they are living, breathing human beings that cannot be reduced to their ability to 'change' bad men into 'good' ones. Young women are being taught not only to live in constant fear, but also to romanticise the glaring red flags of patriarchy that they should be told to stay away from, all in the name of entertainment.

This pattern has existed in the media for some time now under the guise of representing 'masculinity'. Women are not taught to be self-sufficient, or embark on a successful career, or break the bounds of what holds them back; they are merely shown to suffer, suffer and suffer more. There is no respite – you go through the motions of living in a patriarchal society on the daily, and then you go through the motions of reliving the experience on the television screen as it brings back rave reviews. A slap is fine if it is done for love, and if an apology follows. So is yelling, or using a patronising tone. When women are, from the very start, told they that must forgive the actions of abuse – how do we ever expect them to be conscious of what abuse is? It is merely an act to forgive, just like it is represented on the TV screen.

We must have a more conscious outlook toward the media that we consume; this is especially necessary in a society that is already brimming with patriarchal sentiments. We must be more cautious of what is put out on television to further elude one from ever achieving equality of the genders. Women have proven in every arena of life that they are equally as good as their counterparts. Then why must the torture of women be a source of entertainment for us? There are many shows currently on air that break this mould, and have gained much success. We must strive to carry this sentiment forward and indulge in storytelling that creates an impact.

The author is a writer and poetess from Lahore. She is getting her Bachelors in English Literature from Kinnaird College for Women University (2022-26), and interns as an RJ on Radio Kinnaird 97.6 FM. She is currently a Staff Writer at The Friday Times (TFT), as well as an independent art journalist.



STATUESQUE MELODIES: THE TALE OF 'THE GOLDEN MAN' AND URBAN BEGGARS

Aadil Riaz

Street performance, commonly referred to as busking, entails the act of publicly engaging in performances or entertainment within a shared environment with the primary intention of generating voluntary donations from people who happen to be around. Street performers, also referred to as buskers, are individuals who engage in the practice of performing acts in public spaces. Street performance has a rich historical lineage, characterised by the presence of itinerant minstrels, troubadours, mountebanks, comedians, and showmen who engaged in public performances inside street fairs as a means of livelihood. (Ho & Au, 2021)

The origins of busking are murky because street performances have been a part of the culture of virtually every human society. However, ancient Roman agricultural festivals were the first documented performances by buskers, as detailed in the book, *The Buskers: A History of Street Entertainment* (Cohen & Greenwood, 1981). Despite the existence of empirical evidence supporting the overall positive impact of street performance on public spaces, the legitimacy of this form of artistic expression continues to face scrutiny. A significant concern has arisen around the conflation between busking and begging, and because of this, there has been a negative perspective that has been developed by the public equating busking with begging.

TYPES OF BUSKING:

Multiple types of busking exist, with the most prevalent ones being circle shows, walk-by acts, and spotlight artists.

- Circle shows. Busking typically occurs in crowded areas with lots of people walking by, including tourist destinations, major city squares, metro stations, etc. The presence of a distinct beginning and end for the duration of the performance distinguishes circular shows. Furthermore, it is worth noting that this particular presentation is commonly accompanied by the integration of street theatre, puppetry, comedic performances, juggling acts, and musical elements. (Angla-daTort et al., 2019) Circle displays are widely regarded as the most financially lucrative kind of street performances.
- Walk-by acts. Busking typically involves musical performances, living statues or any other act which has no clear beginning or end. Moreover, it is observed that the individuals passing by only allocate a brief period to observe or witness the performance (Broad, 2014c). The profitability of walk-by acts is comparatively lower relative to circle shows.
- Spotlight performance. Buskers showcase their acts to the occupants of vehicles at a crosswalk during a traffic light. The potential activities encompassed within this category may consist of juggling, performing magic tricks, and engaging in a modest form of dance. The duration of the show should be brief and concise in order to accommodate the limited timeframe during which the traffic light is in the 'red' phase. This category of performance enjoys greater popularity in Latin America compared to other regions. (Del Rosario De, 2022)

Figure 1 | Comparison between Beggar & Buskers



DIFFERENTIATING BUSKING AND BEGGING

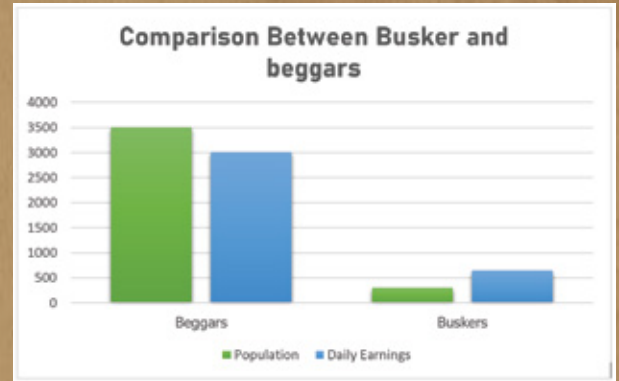
Although there is ample evidence supporting the benefits of street performance, its validity continues to be a subject of controversy. A significant concern lies in the lack of clarity about the differences between busking and begging. The act of begging refers to the action of requesting alms or seeking assistance as a charitable gesture. Street performance has artistic qualities. According to Fisher (1996), the term ‘public art’ encompasses all types of artistic expression that are displayed in public spaces (p. 43). According to Riggle (2010), street art may be characterised as a kind of art that is primarily transient in nature, often inexpensive to produce, accessible to the public at no cost, and lacking a specific owner or authority figure to manage it (p. 249).

People who attend street performances build a brief imagined community with the help of street performers (Gruzd et al. 2011; McNeill 2002). Street performance art is a kind of art that demonstrates the place or the country culture through its creative ways. Moreover, street performance has the capacity to contribute to the development and growth of urban areas. In contemporary times, urban areas endeavour to cultivate innovation and creativity as a means of promoting their respective identities. This promotional strategy is mostly executed through the cultivation of cultural, artistic, and creative industries, which in turn facilitate the emergence of novel urban spaces and businesses. The ultimate objective of these endeavours is to foster economic growth within these cities. (Krätke, 2011)

Mirjat et al. (2017) examined the phenomenon of begging and highlighted its dual nature as both an unorthodox social evil and a socio-economic component inside societies worldwide. The issue at hand is a pervasive global problem.

The research conducted in the Hyderabad division of Sindh reveals that poverty, unemployment, criminality, and educational background are factors that exhibit a positive correlation with the act of begging.

Figure 2 | Comparison between Beggar & Buskers



ANALYSIS OF EARNINGS

During our investigation of street performers, also known as buskers, in several areas of Islamabad, including F7 and Lake View Park, we saw a notable discrepancy in their income when compared to that of beggars. Despite their creative contributions, buskers receive significantly lower income. Their few numbers also impede their capacity to express their worries to authorities. We saw a clear distinction between buskers who are engaged and safeguarded by the management of Lake View Park, and buskers who operate independently. The latter group frequently encounters heightened attention and menaces from law enforcement, exacerbating their difficulties.

Table 1 | Author’s Survey on Buskers

Author’s Survey on Buskers				
Sr no.	RESPONDENT	AMOUNT EARNED DAILY	LOCATION	COLOUR
1	RESPONDENT 'A'	600	F7 MARKAZ	GOLDEN
2	RESPONDENT 'B'	700	F7 MARKAZ	SILVER
3	RESPONDENT 'C'	600	LAKE VIEW PARK	SILVER
4	RESPONDENT 'D'	650	LAKE VIEW PARK	GOLDEN
5	RESPONDENT 'E'	500	F6	GOLDEN
6	RESPONDENT 'F'	550	E8	GOLDEN
7	RESPONDENT 'G'	700	F11	SILVER

THE CASE OF THE GOLDEN MAN

Muhammad Ehsaan is the actual name of Islamabad's famous 'Golden Man'. The individual is located in a highly populated area of Islamabad, close to the renowned Jinnah Super Market. His appearance bears resemblance that of a golden statue, owing to the application of metallic gold paint that envelops his entire body. Living statues are a regular sight in numerous European towns, although they remain relatively rare in Asian cities. However, it is noteworthy that the 'Golden Man' asserts himself as Pakistan's first street performer of this nature. (Correspondent, 2022)

In a filmed video conversation, according to Golden Man, the existence of talent in Pakistan is thought to hold no significance. This has led him to contemplate permanently leaving his chosen occupation, a lot of which has to do with the maltreatment he has endured from city dwellers. He claimed that he has experienced physical assault at the hands of individuals often referred to as 'thugs' in public settings. Subsequently, when visiting the local police station to formally report the incident, the individual was subjected to more physical aggression at the hands of law enforcement personnel. Moreover, the Golden Man of Islamabad has recently encountered a potential threat in the form of Steel Man, an individual with a similar performing style who has made attempts to operate within the same neighbourhood. (DailyTimes.Pk & Jamil, 2022)

The case of the Golden Man of Islamabad, a street artist, exemplifies a notable illustration. Despite the distinct nature of his performance and the commendation bestowed upon him by the former Deputy Commissioner of Islamabad, the individual in question encountered instances of harassment from both law enforcement personnel and other members of society. This implies a lack of adequate provisions and recognition of rights for street performers within the country. (Correspondent, 2022)

In contrast, Pakistan has a significant population of individuals involved in the act of begging, with estimates ranging from 2 million to 25 million. (Nation, 2021) The existence of a considerable number of individuals involved in begging, some of whom may not be genuinely facing financial hardship, might provide notable challenges for street artists.

WAY FORWARD WITH BUSKINGS:

The impact of buskers have is crucial to the society as a whole, specifically in their ability to foster a certain 'branding' of the cityscape with their vibrant performances, which function to enhance the diversity of the urban life, bring joy, provoke thought, and enable a sense of community. By supporting them, we can create a more inclusive and culturally rich environment.

Awareness about the positive impacts of buskers can be built by:

1. **Busking Festivals.** Facilitate the arrangement of busking festivals, providing a platform for street performers to exhibit their artistic abilities. This platform not only serves as a means for buskers to display their talents, but also plays a significant role in the promotion of local culture and arts.
2. **Collaboration with Local Businesses.** Engage in partnerships with nearby businesses to establish dedicated venues for buskers to showcase their performances. This has the potential to foster a dynamic urban ambiance and enhance the appeal of businesses, thereby drawing a larger client base.
3. **Supporting Buskers.** Collaborate with municipal authorities in order to establish regulatory measures related to busking activities, whilst simultaneously offering assistance and resources to the buskers themselves. This may encompass the allocation of defined performance areas, and potentially even the provision of financial support.

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REFERENCES:

- Del Rosario De, M. M. M. (2022, May 9). Busking: analysis of its regulation and business models in Europe. <https://riunet.upv.es/handle/10251/151769>
- DAWN.COM. (2021, October 29). Understanding beggars. DAWN.COM. <https://www.dawn.com/news/1654706>
- Ho, R., & Au, W. T. (2021). Differentiating busking from begging: A psychological approach. *Plos one*, 16(12), e0260781. <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0260781>
- Correspondent, S. J. (2022, February 12). Watch video: Meet the 'Golden Man of Islamabad' - Pakistan's first living statue. Pakistan – Gulf News. <https://gulf-news.com/world/asia/pakistan/watch-video-meet-the-golden-man-of-islamabad---pakistans-first-living-statue-1.85646731>
- DailyTimes.Pk, & Jamil, Y. (2022, April 29). Golden man of Islamabad allegedly tortured and beaten by policemen. Daily Times. <https://daily-times.com.pk/927900/golden-man-of-islamabad-allegedly-tortured-and-beaten-by-policemen/>
- Cohen, D., & Greenwood, B. (1981). *The buskers: A history of street entertainment.* David & Cohen

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