

**THE DOOR-STEP CONDITIONS FOR TRANSITION  
FROM LIMITED ACCESS ORDER TO OPEN ACCESS ORDER:  
EVIDENCE FROM PAKISTAN**



Researcher

**SADDAM HUSSEIN**

Supervised by

**DR KARIM KHAN**

**SCHOOL OF PUBLIC POLICY  
PAKISTAN INSTITUTE OF DEVELOPMENT ECONOMICS (PIDE),  
ISLAMABAD.  
2018**

**THE DOOR-STEP CONDITIONS FOR TRANSITION  
FROM LIMITED ACCESS ORDER TO OPEN ACCESS ORDER:  
EVIDENCE FROM PAKISTAN**

This dissertation is submitted to the PIDE School of Public Policy (PSPP), Pakistan Institute of Development Economics (PIDE), Islamabad in partial fulfillment of the requirement for the degree of Master of Philosophy in Public Policy.



By

**SADDAM HUSSEIN**

**SCHOOL OF PUBLIC POLICY  
PAKISTAN INSTITUTE OF DEVELOPMENT ECONOMICS (PIDE),  
ISLAMABAD.  
2018**



Pakistan Institute of Development Economics, Islamabad  
*PIDE School of Public Policy*



CERTIFICATE

**CERTIFICATE**

This is to certify that this thesis entitled: *“The Door-step Conditions for Transition from Limited Access Order to Open Access Order: Evidence from Pakistan”* submitted by Mr. Saddam Hussein is accepted in its present form by the School of Public Policy, Pakistan Institute of Development Economics (PIDE), Islamabad as satisfying the requirements for partial fulfillment of the degree in Master of Philosophy in Public Policy.

(Research Supervisor)

Supervisor:

Dr. Karim Khan  
Assistant Professor,  
Pakistan Institute of Development Economics,  
Islamabad.

External Examiner:

Dr. Aasim Sajjad Akhtar,  
Assistant Professor,  
Quaid-e-Azam University, (QAU)  
Islamabad.

Head,  
PIDE School of Public Policy:

Dr. Iftikhar Ahmad  
Assistant Professor,  
Pakistan Institute of Development Economics,  
Islamabad.

## **DECLARATION**

I hereby declare that this thesis is the result of my individual research and that it has not been submitted concurrently to any other university for any other degree.

**Saddam Hussein**

*To my family, without whom I would not have been the person I am today.*

*Their endless love and support propelled me towards my conviction in what I stand for.*

## **ACKNOWLEDGEMENT**

First and foremost, all praises and salutations due to ALLAH, the Almighty, the greatest of all, on whom ultimately, we depend for guidance and sustenance. His continuous grace and mercy was with me throughout my life and ever more during my hard times.

After that, I would like to mention the efforts and guidance of my research supervisor Dr. Karim Khan; his expert opinion and insightful comments pushed me towards this milestone more than anything else. His patience was exceptional throughout my research phase. It is due to him that I have developed great interest for institutional economics and public policy.

I shall express my gratitude by mentioning the faculty of PIDE School of Public Policy for guiding me through the coursework. It was the guidance of Dr. Idrees Khawaja and Dr. Iftikhar Ahmad who pushed me towards the success. Moreover, I would like to thank my teachers Dr. Abdul Jalil, Dr. Anwar Shah, Dr. Faiz Ur Rehman and Dr. Yasmin Abdul Wahab from School of Economics (SOE), Quaid-i-Azam University (QAU), Islamabad who enhanced my critical thinking and made me think out of the box.

These acknowledgments would not be complete without mentioning the prayers of my grandparents and close friends. I would like to thank in particular, my Uncle Hunar Gul, whose support and unabating guidance makes a significant share of my personality.

With regards to numerous questions about my future academic endeavors from family and friends, I shall answer in the words of Sir Winston Churchill: “Now, this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning”.

## Table of Contents

List of Tables .....	IV
List of Figures .....	V
<b>ABSTRACT</b> .....	VI
<b>CHAPTER 1</b> .....	1
<b>INTRODUCTION</b> .....	1
1.1 Introduction.....	1
1.2 Background.....	2
1.3 Problem Statement.....	3
1.4 Aim, Objectives and Research Questions .....	4
1.4.1 Aim of the Study .....	4
1.4.2 Objectives of the Study .....	4
1.4.3 Research Questions .....	4
1.4.4 Scope of the Study .....	5
1.4.5 Significance of the Study .....	5
<b>CHAPTER 2</b> .....	6
<b>LITERATURE REVIEW</b> .....	6
2.1 Introduction.....	6
2.2 Transition .....	7
2.3 Rule of Law for Elites.....	10
2.4 Consolidated Control over Military .....	12
2.5 Perpetually Lived Organizations.....	14
2.6 Conclusion .....	15
<b>CHAPTER 3</b> .....	17
<b>RESEARCH METHODOLOGY</b> .....	17
3.1 Conceptual Framework.....	17
3.2 Graphical Illustration of the Conceptual Framework.....	18
3.3 Selection of Research Method: Qualitative and Quantitative Study.....	19
3.4 Ethics and Confidentiality.....	21
<b>CHAPTER 4</b> .....	22

<b>RULE OF LAW FOR ELITES .....</b>	<b>22</b>
4.1 Introduction.....	22
4.2 Various Aspects of Rule of Law in Pakistan .....	25
4.3 Legislative Mechanisms.....	30
4.4 Detective Mechanisms .....	35
4.5 Enforcement Mechanisms.....	42
4.6 Rent-Seeking Mechanisms.....	48
4.7 Intra-Elite Arrangements .....	52
4.8 Conclusion .....	56
<b>CHAPTER 5.....</b>	<b>57</b>
<b>CONSOLIDATED CONTROL OVER MILITARY.....</b>	<b>57</b>
5.1 Introduction.....	57
5.2 Role of Military in Societies .....	59
5.3 Military, Politics and Privileged Groups.....	64
5.4 Dynamics of Pakistan’s Military Economics.....	71
5.5 Conclusion .....	77
<b>CHAPTER 6.....</b>	<b>79</b>
<b>PERPETUALLY LIVED ORGANIZATIONS.....</b>	<b>79</b>
6.1 Introduction.....	79
6.2 Organizations and their Role in Societies .....	80
6.3 Dynamics of Organizational Structure in Pakistan .....	83
6.3.1 Political Organizations .....	83
6.3.2 Economic Organizations .....	86
6.4 Organizational Failure in Pakistan.....	92
6.5 Perpetuity .....	94
6.6 Conclusion .....	97
<b>CHAPTER 7.....</b>	<b>98</b>
<b>THE DOOR-STEP CONDITIONS FOR TRANSITION IN PAKISTAN .....</b>	<b>98</b>
<b>CHAPTER 8.....</b>	<b>101</b>
<b>KEY FINDINGS AND RECOMMENDATIONS.....</b>	<b>101</b>
8.1.1 Rule of Law for Elites.....	101
8.1.2 Consolidated Control over Military .....	102
8.1.3 Perpetually Lived Organizations.....	103



<b>8.2 Policy Recommendations</b> .....	104
<b>References</b> .....	106
[ANNEX - A].....	113
[ANNEX - B].....	116

## **List of Tables**

Table 3.3.1	In-depth Interviews' Details
Table 3.3.2	Respondents' Criteria
Table 3.3.3	Perception Survey Details
Table 4.4.1	Monetary and Non-Monetary Costs of Litigation
Table 4.4.2	Income and Expenditures of a Household per annum (Rs.)
Table 4.4.3	Average Fee of Lawyers in Courts across Pakistan (Rs.)
Table 4.4.4	Non-monetary aspects of Litigation in Pakistan
Table 6.3.2.1	Pakistan's Positive Developments in Ease of Doing Business

## List of Figures

Figure 3.2.1	Graphical Illustration of the Conceptual Framework
Figure 4.3.1	Experts' Perception Survey – Legislative Mechanisms
Figure 4.4.1	Experts' Perception Survey - Detective Mechanisms
Figure 4.5.1	Experts' Perception Survey - Enforcement Mechanisms
Figure 5.3.1	Gallup Pakistan Survey
Figure 5.3.2 (a)	Experts' Perception Survey - Military, Politics and Privileged Groups
Figure 5.3.2 (b)	Experts' Perception Survey - Military, Politics and Privileged Groups
Figure 5.4.1 (a)	Expert's Perception Survey - Dynamics of Pakistan's Military Economics
Figure 5.4.1 (b)	Experts' Perception Survey - Dynamics of Pakistan's Military Economics
Figure 5.4.2	Pakistan's Military Spending
Figure 6.3.2.1 (a)	Experts' Perception Survey - Economic Organizations
Figure 6.3.2.1 (b)	Experts' Perception Survey - Economic Organizations
Figure 6.5.1	Experts' Perception Survey - Perpetuity

## ABSTRACT

Pakistan, despite experiencing much of economic and political adventurism still has not been able to break the ramshackle of the development enigma. The question that keeps surfacing is that why has nothing worked so far? The answer lies in the lack of understanding about the construction of its social order which is of prime importance. The human history can be categorized into three kinds of social orders. The first was *Foraging Order* which represents the characteristics of small social groups of early hunter-gatherer societies. Other two are *Limited Access Order (LAO)* and *Open Access Order (OAO)*. In limited access order, political or economic opportunities are limited to privileged class; entry of a common citizen is deliberately restricted by the dominant coalition. In open access order, political and economic opportunities are open for everyone and are not restricted to any particular class, at least hypothetically. Now, for transition to happen from limited access order to open access order, there are three pre-requisite conditions i.e. rule of law for elites, consolidated control over military and perpetually lived organizations. This study is fundamentally focused on exploring the existing social order of Pakistan. The study also intends to analyze the conditions of impersonality of intra-elite relationship, military's role in overall dominant coalition and constitutional and organizational perpetuity; as development conundrum and political economy of Pakistan cannot be sufficiently untwisted without understanding the dynamics of its social order. This research employed qualitative research technique and relied mostly on document analysis and in-depth interviews from experts with diverse backgrounds, along with experts' perception survey. The findings imply that Pakistan has a vast network of private and economic organization, but entry into this market is difficult and is often based on the political connections. Moreover, entry into political market for a common man is possible by the book, but it has been made very difficult in practical essence. It also infers that there are a large number of political organizations, however with the existence of a central authority. Government controls most of the organizations with violence capacity; nonetheless, exceptions are common. Hence, this study concludes that Pakistan falls in the category of limited access order. Further in limited access order, it can be classified as a mature limited access natural state.

# CHAPTER 1

## INTRODUCTION

### 1.1 Introduction

Much of the social science revolves around the idea of the development. Social scientists around the world have proposed and still proposing models and theories of development in order to improve societies. Still it is far from the potential level except for a very few islands of development; having said that these islands too are not close to what scholars actually idealize. Today, the basic ingredients of development are known i.e. well-defined property rights, effective judicial system, rule of law, institutional frameworks, market based economy and so on. If all the ingredients are known, then what's missing? Why are not all the countries developed? Why most of the world is still trapped in the vicious cycles of poverty, low productivity, stagnant economic growth etc.? The problem is that economics, political science, sociology, law and other social sciences are, though rich but static disciplines that explore very narrowly their own particular field. Now here, the liberty that can be taken under the subject of “public policy” is that we can take all of these together and can analyze how different fields interact with one another to shape the social order of different societies. Public policy takes into account all the interesting things that other fields just assumes, as *ceteris paribus*, in order to simplify their models. It can thus be concluded that evolution of social order and institutions is exceedingly context-specific. Every society evolves and moves towards transition in its own particular way and every development mantra works only under very specific circumstances providing conducive settings to catch up. To know these exclusive settings of societies, how each society work ought to be known. North (2009) pronounces that the manner in which societies work is the function of the way institutions work. For the purpose, societies devise institutional frameworks to govern their domains. To be specific, institutional framework comprises a set of rules of the game. These rules of the games may be informal or formal in nature. In order to understand the change or transition,

research such as this one, should go beyond broad generalizations to a specific understanding of the cultural heritage of the societies.

## **1.2 Background**

General perception across the world is that developing realms are sick and that they require the proper remedy i.e. policy reform. This standpoint misperceives the subject. The countries of the developing world are not sick, but they are somewhat successful in their own specific context as they are structured in such distinct ways and engineer such public policies that generate rents and privileges which principally solve the problem of violence in the society and provide for stability. Endeavors to create rule of law, market reforms and democracy go unsuccessful because they fail to take into consideration the very logic of a natural state. Transplanting the institutions from developed countries into developing countries cannot yield political and economic development on its own. Undeniably, if these institutions are enforced involuntarily onto societies by international or domestic gravity but do not follow the prevailing beliefs about the political, cultural, social and economic systems within a particular society, then novel institutions will probably work worse than the ones they displace. It is generally not comprehended that a society, especially in a developing country is based on the decades old or sometimes centuries old system of power, privileges and patronage network to control the violence or threat of violence. When that system is overthrown and institutions like free market economy and political competition is imbued; chaos and uncertainty is usually the outcome. The most recent examples in this regard can be of Iraq and Libya. The relatively stable existing systems of power and patronage were overthrown and democracy was introduced, which off course met failure. The point to understand here is that every society has its own rules of the game to control violence. Any change in those rules of the games should be endogenous, not exogenous. There are three essential features that impede the progression of development in this regard. It includes violence, absence of impersonality and dearth of perpetuity. These hinder any reform process. The crux is that developing countries need to provide the foundations for self-enforcing violence control mechanism, a perpetual state and factor of impersonality. Contemplation

of these matters is indispensable before natural states can cultivate democracy, rule of law and competitive economic and political markets.

### **1.3 Problem Statement**

Pakistan, despite experiencing much of the economic and political adventurism still has not been able to break the ramshackle of the development enigma. Though the initial decades of 1950s and 1960s witnessed relatively high economic growth and progress but as the maxim goes that no development is development if it's not sustainable; the growth came in leaps and bounds with the complementary menace of inequality. But the winds took a change in the 1970s, when the nationalization policy was adopted by Bhutto regime. Then Zia era ensued with privatization from 1980s till 1999. Throughout 2000, the era of economic liberalization ushered. But from the year 2013 determinations for robust privatization has dominated the economic stage. On the political front, hide and seek between the democratic and martial regimes have been witnessed with brief technocratic set ups as well. Moreover, the country is rich in diverse mineral resources, has a youth bulge which can be transformed from a liability to an asset with structural adjustments. The country enjoys access to warm waters throughout the year, is located at the crossroads of Asia and can act as bridge between the East and the West. But the question that keeps knocking is that why has nothing worked so far? The answer lies in the lack of understanding about the construction of the social order of Pakistan which is of prime importance. The interactions of agents in the society, whether economic or political are based on personal relationships grounded firmly in kinship. No matter what the system is, these kinship links and system of power and patronage will persist. Thus, this study calls for the study of agents, dominant coalition and arrangements within them, the degree of impersonality and perpetuity, as development conundrum and political economy of Pakistan cannot be sufficiently untwisted without understanding the dynamics of its social order.

## **1.4 Aim, Objectives and Research Questions**

The aim, objectives and research questions for this study are as below:

### **1.4.1 Aim of the Study**

The aim of the study is to explore the existing social order of Pakistan and to gauge if the three door-step conditions for transition i.e. rule of law for elites, consolidated control over military and perpetually lived organizations ripe enough to be knocking for transition from limited access order to open access order or otherwise.

### **1.4.2 Objectives of the Study**

The main objectives of the study are:

- To find out the intra-elite arrangements in Pakistan and also to what extent the impersonality factor has been incorporated in these arrangements so far
- To find out the role of military in Pakistan and the contributing factors
- To find out the level of constitutional and organizational perpetuity in Pakistan

### **1.4.3 Research Questions**

This study will try to answer the following questions:

- Have elite groups in Pakistan established impersonal intra elite arrangements? If yes, then up to what extent?
- What are the contributing factors that urged to incorporate impersonality factor in intra-elite arrangements or otherwise?
- Has military reasserted and bound itself strictly to its professional role in the wake of contemporary challenges and severity in war against terrorism and extremism?
- To what extent the constitutional and organizational perpetuity exists in Pakistan?
- How resounding is the ‘doing business’ environment in Pakistan?
- What are the impediments in Pakistani politics that hinders the competition?



#### **1.4.4 Scope of the Study**

This study is fundamentally focused on exploring the existing social organization of Pakistan. The study also intends to analyze the conditions of impersonality of intra-elite relationship, military's role in overall dominant coalition and constitutional and organizational perpetuity. It was also assessed keeping in view the stages of the aforementioned conditions, as how and when these can contribute towards a transition from limited access order to open access order or otherwise in Pakistan. Due to resource (time, travel etc.) limitations of this thesis, in-depth interviews from experts of the topic were heavily relied upon. The nature of the study is exploratory in nature.

#### **1.4.5 Significance of the Study**

The existing state of probing empirically into the factors and causes of development elucidates the difficulty of explaining intricate social phenomena with a few uni-dimensional variables. Thus, findings of this study are redounding to the benefit of the researchers and policy makers because this study is first of its kind - examining the social order of Pakistan with the novel framework devised by Douglas C. North, John Joseph Wallis and Barry R. Weingast in their book 'Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History' (2009). It is not just like any other political or economic model; it is profoundly a very contemporary approach to social science analysis with the augmented lens of economics, politics, anthropology, sociology and public policy. It takes into consideration the process of change over time. Hence, this study will be providing useful contextual insights for the researchers and also for those in policy making domain of Pakistan.

## CHAPTER 2

### LITERATURE REVIEW

#### 2.1 Introduction

One of the abysmal features of the human state of affairs is that violence has been an integral part in making the social order of any society since ever. Fukuyama (2014) remarks that unluckily, there is no authentic historical record of the early transitions from group to tribe, or from tribe to pristine state, and one can merely speculate about the dynamics stirring them. The transitions, obviously depended on technological change and economic incentives which were facilitated also by capital endowment, but these factors by themselves do not seem to be sufficient to bring these transitions about. For the reason that early societies too like we observe today, were often institutionally rigid in production methods and social organization. The archeological record proposes dynamic forces in this regard; it was mainly the military competition that brought about transition to happen. It was solitary the threat of violence that generated solid demands for formulating new rules of the game, hence new institutions to guarantee the groups' survival. In this milieu, all of the human history can be categorized into three kinds of social orders. The first was *Foraging Order* which represents the characteristics of small social groups of early hunter-gatherer societies. The principal concern of this study is with the two social orders that ascended over the preceding ten millennia. North et. Al (2009) classifies them as *Limited Access Order (LAO)* and *Open Access Order (OAO)*. Limited Access Order or a natural state is a type of setting in which political system manipulates the economic system. In simpler words, it can be said that limited access order means that political or economic opportunities are only limited to privileged class. Entry of a common citizen to avail these economic and political opportunities are deliberately restricted by the elite groups. This is basically a part of solution to control violence. Creation of rents is essential to sustain the order or the system. Limited Access Order is also called as Natural State. Natural State can further be classified into three

categories i.e. *fragile* natural state, *basic* natural state and *mature* natural state. Fragile natural state can only support the state machinery for sake of the state only. Basic natural state can back few organization but within the overall apparatus of the state. Mature natural state can support a wide-ranging organization within or outside the domain of state apparatus. Whereas, in Open Access Order; political, economic and other forms of competition help sustain the order. In this type of social order, political and economic opportunities are open for everyone and not restricted to any particular class, at least hypothetically. All societies have to solve the problem of violence, but they do so in different ways. In the way they do so, turns out to be very important for their performance over time. Thus, the limited access order solves the problem of violence by creating rents. The key here is that political system uses rents in limited access order to put limits on access to form organizations, rights to do certain kind of businesses as an effort to endure the order. In contrast to limited access order, there is an open access order. This is a very different form of social organization. It has the provision for all the people or citizens to form organizations. Open access order not only creates and sustains both political and economic competition, but also have a rich civil society; so there is a large array of different kinds of organizations. This dissertation intends to explain the concepts and relevance of transition and three door-step conditions in the following pages taking Pakistan as a case study.

## **2.2 Transition**

History depicts various reasons why and how transitions happen. Most of the social scientists define transition as a social change. There are many profound notions elucidating the social change. Evolutionary theory explains that over the course of time, the present is described as the improved as compared to the past. The progression of man's society designates upward trend of development. Changes in society lead to more and more perfect future and better-adapted social and cultural forms. Society and culture were both perceived to follow the general principles of biological growth. Charles Darwin (1859) elucidates the biological growth as the transformation of simpler organisms into complicated ones. There exist several other philosophies of improvement

in the next stage over the former. Similarly, C.H. Saint-Simon (1802) presented an evolutionary idea of social improvement describing increasing levels of advancement represented by sequential progression of organic societies. Comte (1853) further elaborated his three stages as the primitive, the intermediary and the scientific. He claimed that all human beings inevitably go through these stages in a uni-linear way. Spencer (1890) seconded the Comte's uni-directional approach of progression. He demonstrated that the trend of human civilization was from simple to complex. William Graham (1934) who was entitled as 'Social Darwinist' argued that human beings cannot sit down idle and plan how the things are going to play in future but in reality, nature follows its own pre-defined course. Marx and Engels (1950) also trailed the evolutionary approach to social development and dictated that societies go through fixed stages of development; each stage is by default implanted with the seeds of its own destruction and would inevitably be succeeded by higher stage on scale of evolution. These theories are entitled as uni-linear theories of social evolution. Evolutionary theory of social change was criticized based on various grounds, but primarily because of its over generalization about historical sequences, evolutionary rate of change and uniform stages of development. It was the theory of *functionalism* that came forward in reaction to *evolutionary* theory. It advocates that the society is composed of various types of social institutions, each of which performs its defined role in maintaining the balance in the society. The disequilibrium inside or outside the society is adjusted via these social institutions. Oswald Spengler (1918) and Arnold J. Toynbee (1956) introduced a variation in uni-linear theory and entitled it as cyclical theory of social change. They argue that societies are basically following a pre-defined circular course of progression at the end of which is again the initial point. Societies rise and fall just like a life cycle of human being i.e. birth-maturity-death.

Economic theory of social change also known as the Marxian theory of change also tends to explain the various dimensions of a society. Marx (1848) based his theory on the assumption that a society is composed of infrastructure; which constitute factors of production and super structure containing features of social system like legal, ideological, political and religious institutions. Both of them are interrelated in maintaining the optimal purity of an organized society. He believed that the change occurs through

contradiction of forces. Marx postulated that production system serves as the prerequisite trigger factor behind social change which Engels (1848) called as the law of development of the human history. Hegel (1964) explained that the evolution takes place on the basis of three stages - thesis, antithesis and synthesis. Marx borrowed the idea from Hegel and promoted social change in terms of philosophy of conflicts. Based on this change, development and progression takes place due to contradictions resulting into more unity. He explained that the basic conflicts in a capitalist economic system would lead to the birth of class consciousness. It would ultimately make people realize about their interests and to which group they belong. This realization will unite them to fight for their social and economic rights and the *proletariat* would overthrow the *bourgeoisie* and seize the factors of production. The critiques of Marx theory deny that economic factors influence the social change. Economic factors certainly have a powerful impact factor but it is not the only driving force behind the social change. Marx also did over simplify the class structure of society maintaining the fact that class struggle leads to social change. Thomas (1925) commented that it is easy to relate social changes with economic change but it is hard to interpret. Whereas, Coser (1956) stated that the emergence of conflicts among various dominant groups of the society ensures the progress. Conflict theorists stress that there is no society without conflicts. So, conflicts are somehow blessing in a disguise and are necessary condition for change. Conflicts between different power houses of a society would trigger the mechanism that would lead to economic change ultimately leading to social change. Weber (1922) took same approach but grounded his arguments on conflict of power unlike Marx who did on economic conflicts. Cohen (1968) however, rejected the contention that group conflicts are sufficient condition for social change. Societies with huge regional, ethnic and racial group divisions require degree of consensus for promoting economic development. Cohen argued that social change is as much the product of social change as the cause and there is a possibility that social conflicts may lead to dead ends rather than economic development.

### **2.3 Rule of Law for Elites**

Rule of law for elites in context of this study refer to impersonal intra-elite arrangements. Before grasping this concept, the concept of elites needs to be understood first. The idea of elites is grounded in the concept that each society holds a dominant coalition, the group that commands and disputes the most significant resources in that society. Lopez (2013) articulates the basic principle of the classical elitism as the impression of elite unavoidability. This very conception of classical elitism is what experts have always used to counter the political liberalism and Marxist narratives. Mosca (1969) and Michel (2010) believed that both democracy and socialism are practically impossible outcomes, as society is essentially governed by the elite. They opined that those who can replace the existing dominant coalition are another set of elites with new rules of the game been agreed upon, implying that majority is most often governed by a minority; referring to elites here. During last two decades, establishing the rule of law has been recognized as an essential pre-requisite condition for both economic and political development. Cooter (1997) and Carothers (1998) opines that the problem props up from the inability to acknowledge that the stability of specific institutional framework is intertwined with the power sharing formula among the elites of a society they govern. Therefore, abrupt changes in the system could lead to dangerous levels of violence as witnessed in Iraq, Syria and Arab spring. It ought to be a steady process. Gordon (2005) proposes two-step route in this regard. The first step in this regard is the creation of stable expectations. This means that individuals should be able to plan all the periods of their lives without anticipating any unforeseen intrusion from the state; implying that rules of the game ought not to be altered in the middle of the game. Second step is that transactions between agents should be anonymous. This means that the state should enforce the contracts following impersonal exchanges, rather than preferring specific group of people with respect to their class, status, position or kinship. Not conforming to this will make the game risky for the participating agents escalating trust deficit, leading to increased transaction costs, thus reducing social welfare.

Hussain (1999) in his study digs out the elite structure in Pakistan. He writes that elites have been on the driving seat since its inception. A minor group of elites in Pakistan managed to take over the state and rig its market for its own exclusive paybacks.

They control both sectors i.e. public and private. No matter which track the economy takes, either market is based on free market mechanism or state controlled, the perks will eventually land in the hands of those elites. Rent seeking classes in the shape of influential landlords were allowed to be exempted from paying taxes and leading industrialists were provided with set of opportunities that would enable them to multiply their gains manifold; import substitution policy is one of them. These landlords also reaped the benefits of the Green Revolution in form of better technologies and subsidies, while fate of poor farmers hardly saw any change. Now let's dig out the historical context in this regard.

The elite structure in Pakistan principally includes feudal, bureaucratic, military, industrial and religious elites. The origin of first three lies in the British colonization. The British created feudal class in the sub-continent as stronghold of support for their imperial rule. After independence in 1947, feudals emerged as the strongest group among elites and seized much of the political arena of the burgeoning nation. These landlords captured the main stage of politics till 1958. If there happened any alterations in the regime, it was just re-alliances amongst landed elites. Identically, bureaucracy was also inherited as colonial legacy. Khan (2012) envisages the British formulation of an efficient bureaucracy as driven by the necessity of tax collection. Hence, given their training and authoritative conduct, the bureaucracy in Pakistan had arisen as a well-organized interest group. At that time after liberation in 1947, bureaucracy and feudals or landed elite had strong linkages. This nexus between the two controlled the entire politics in the beginning decades. Bhav and Kingston (2010) assert that the military, also trained by British, was seldom involved in the politics after independence. The happenings of first war of 1947 with India, mounting Indian threat led to the commencement of the institutionalization of Pakistan's Army within the state apparatus. Khan (2012) further elaborate that augmented military assistance from United States in response to the cold war pacts signed by Pakistan and the occurrence of two succeeding wars with India (1965 and 1971) added to elevating the supremacy of military. The industrialist class precipitated as a by-product of import substitution, export promotion policies in the late 1950s and 1960s. Particularly, General Ayub Khan (1958-1969) consolidated these policies during his tenure. Though, it cannot be denied that due to these policies, manufacturing sector attained higher growth

rates, however it also bred a systematized interest group in the shape of industrial elite in the country. The fifth class of elites - the religious elite finds its roots in the policies of the ruling elites right after the independence. Later, during Zia's regime and the Afghan Jihad in 1980s, proper institutionalization of religious groups into state's apparatus instigated. They became a major stakeholder in Pakistani politics and had been a part of dominant coalition of the ruling elites often.

This study tried to access the organization and evolution of elites in Pakistan. It also gauged the progression of linkages between them; as if they have established impersonal intra elite arrangements yet or not, up to what extent and that when they are anticipated to be extended to masses.

## **2.4 Consolidated Control over Military**

Military has always been involved in politics, but this characteristic is more significant in developing countries. Badie et al (2011) believes, for most of the recorded human history, 'military' was seldom attached to 'rule', because military, clergy, economy and monarchy were for always merged together in pre-modern times. However, in 18<sup>th</sup> and 19<sup>th</sup> centuries, Europe saw split-up in the military and civilian powers. This led to the growth of professional and bureaucratic militaries in European states. With this, contemporary understanding of military rule or military regime emerged. Ondor (2010) considers the 'savior of the nation' feature of military making it commanding and often incontestable when it begins to exert practically unrestricted influence in government affairs. Even in developed countries, where military is under civilian authority, it still makes a substantial impact on government policies. Many theories have been presented to explore the background of military involvement in politics, but of all the existing theories, four remain apposite. First, the Socio-Economic Development Theory argues that concentration of military's association with politics has an inverse relation with socio-economic developmental status. According to Putnam (1967), socio-economic development causes great political understanding, bringing about mass political participation, urbanization, higher literacy levels and increased number of political actors, thus lessening the risk of military intervention and vice versa. Second, Political



Development Theory which is elucidated by Edeh and Ugwueze (2014); they maintain that stronger the civilian government, stronger will be the democratic values, political institutions and higher the degree of fundamental human rights in any society; hence making it very difficult for any military intervention to take place. Third, The Centrality of Military Theory states that more military resources will leave fewer resources for civil institutions to develop, resulting in weak civil structure of the state, therefore providing a vacuum for the military to intervene and fill in the gap. Acemoglu et al., (2010) is of the view that powerful military either require exceptional concessions to the military or raises the chance of military take-over. Fourth, Morrison and Stevenson (1972) explains The Conflict Theory as the greater the number and cultural diversity of the groups, the balance of power among elite groups of a certain society will always be unstable, consequently paving for the military to grab the power amid chaos and run the show with de-facto power rather than de-jure.

In case of Pakistan, theories of socio-economic and political development are very much applicable, but the Centrality of Military Theory is most relevant in this regard. The independence and the security developments afterwards put the Pakistani military onto a central stage of politics in the country. The period from 1947 to 1971 experienced the ruler type nature of military which intends to drive the state and its governance particularly after it grabbed power in 1958. A change was observed after 1972 when democracy was reinstated for few years. It was due to the waned image of military in the backdrop of defeat in the war against arch-rival India, surrender of ninety thousand soldiers and the loss of eastern wing (now Bangladesh) of the country. These settings compelled the military to pull itself to the background for a few years, at least till another military overthrow in 1977. One of the explanations for the persistent military domination links to the weak political parties and pursuance of their personal interests. Being part of the dominant coalition of the country, the political leadership and civil bureaucracy have always beheld the military as an essential tool for furthering their objectives. This practice generated a distinctive political role for the military. Siddiqa (2007) in her study reveals the acknowledgment of the military as political arbitrator, compounded with its prominent role as the custodian of the country's security, sovereignty and identity, supplements its worth in comparison to other elite classes and

domestic players. The supremacy of the defense establishment strengthens with its financial autonomy and particularly its capability to exploit national resources.

Recently, a thinking has emerged that military in Pakistan has reasserted itself in the wake of latest contemporary challenges and severity of war on terror and had stick to its professional role for past few years. In these few years, military also has repeatedly expressed its full support for democracy, elected government and also for democratic transition of power. The purpose of this study is to gauge the military's current working mechanism and apparently new rules of the game in the social order.

## **2.5 Perpetually Lived Organizations**

North et al. (2009) argues that rule of law for elites may generate some space for impersonal arrangements amongst the dominant coalition adherents, however till those arrangements can be entrenched in a matrix of more sophisticated organization in both public and private sectors, perpetuity does not develop. The capability to form and upkeep perpetuity has direct bearings for a society's capacity to fabricate social arrangements over the passage of time. Now, the question arises why is an organization so important in this whole scenario? For this, the concept of organization needs to be understood. An organization represents a cluster of relationships. These are involved in human coordination in such a way that well-being of all involved is increased. Active organizations indicate transformation of a society, where state interference becomes minimal and organization could pursue their goals freely. This, results in robust economic activity as transaction cost ought to be nominal in such scenario; moreover, universal values like freedom of speech and liberty are advocated and observed. But why number of organizations do not spur if so beneficial? It is because in limited access order, organizations are the tools elites use for rent creation and rent seeking. Lamoreaux and Wallis (2017) observe that the dominant coalition strictly control as who can form an organization and what should be its scope. Elites permit their allies and well-wishers to form organizations in order to strengthen their support and to employ links with powerful people which otherwise could resort to violence. But in open access order, elites institutionalize their exchanges anticipating greater benefits and extending it to masses.

This in turn experience vigorous outgrowth of organizations with the principles of impersonal exchanges, third party enforcements and credible commitment. This makes organizations strong and state assumes the role of arbitration and providing basic framework. All of this makes the occasion ripe for transition where there is political and economic competition and opportunities become open of everyone.

This study has focused on analyzing the degree of perpetuity of organizations in Pakistan and tried to dig out the bottlenecks in achieving constitutional and organizational perpetuity.

## **2.6 Conclusion**

It can be concluded that all societies must solve the problem of violence, but they do so in different ways. In the way they do so, turns out to be very important for their performance over time. In this connection, there are two different types of social orders that exist in present times. One is limited access order or a natural state; a type of setting in which political system manipulates the economic system. This is basically a part of solution to control violence. Creation of rents is essential to the sustain order in this system. The key here is that political system uses rents in limited access order to put limits on access to form organizations, rights to do certain kind of businesses, as an effort to sustain order. In contrast to limited access order, there is an open access order. This is a very different form of social organization. In this all the people or citizens have the ability to form organizations. Open access order not only creates and sustains both political and economic competition, but also have a rich civil society; so there is a large array of different kinds of organizations. Consequently, natural states sometimes move into a situation where transitioning towards open access order can be sustained. It requires three pre-requisite conditions called door-step conditions. First door-step condition is rule of law for elites. The idea is that elites move from system of privilege, where diverse groups with dissimilar types of power have diverse privileges to a system where all elites have same rights. Second door-step condition is creation of perpetual state. Means rules of the state i.e. the constitutional rules do not depend upon who is in power. Third and last door-step condition is consolidated political control over military.

This is a situation where access to violence is distributed across a society and is controlled through impersonal rules by government or a state.

The key in this framework is that it provides a new way of thinking about the problem of economic and political development. In fact, it redefines the problem of economic development as the transition from limited access order to open access order. Under this framework, Pakistan will be studied and it will be analyzed as how far it has achieved rule of law for elites, consolidated control over military and perpetuity and up to what degree, as to gauge Pakistan's chances towards transition from limited access order to open access order.

## **CHAPTER 3**

### **RESEARCH METHODOLOGY**

#### **3.1 Conceptual Framework**

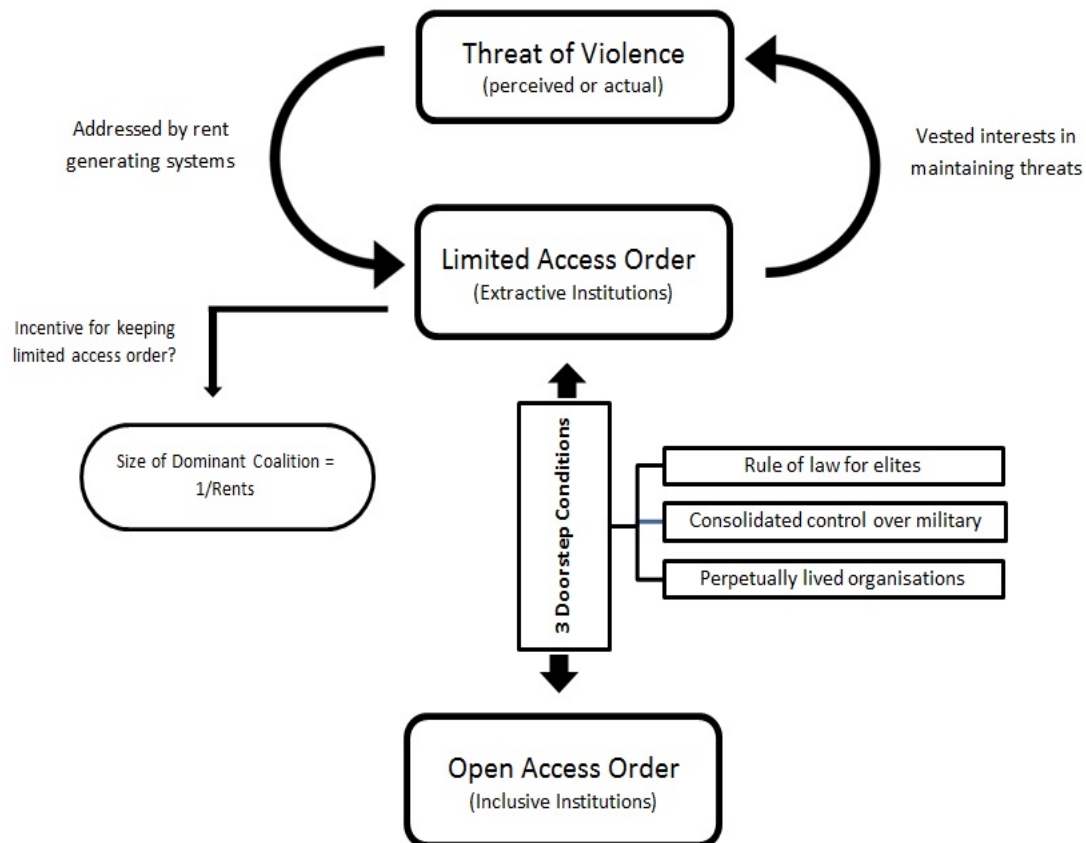
The conceptual framework employed for this study is the one devised by North et al. (2009) in their book *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*. The basic idea that is pitched in their research is that it is basically the violence or threat of violence that shape the social orders of the societies. Social order can actually be taken as sum of all the institutions and their enforcement mechanisms in a society. Considering this concept of institutions and their working mechanisms, societies across the globe can be classified into two types i.e limited access order and open access order. Most of the societies work under a very consolidated and organized structure of power, patronage, privileges and rent-seeking mechanisms. These societies are called limited access order. In these societies, exchanges based on personal connections are the vital part of the overall working machinery. Precisely, limited number of people are privileged to take advantage of the system via their political and economic power and also through personal connections with other members of the dominant coalition. King and Hickey (2015) discovered in their study that rents are what elites have devised in limited access order to continue to enjoy their privileges with control over violence at the same time. Whereas, the open access order is characterized by competition in economic market as well as political market. Now, how will the transition take place? For that three pre-requisite conditions have to be fulfilled. These conditions play a vital role in transition process but they may not be sufficient alone for transition. First is the rule of law for elites. Second requires strict political control over military. Third and last one calls for perpetually lived organizations. The question arises as why would elites give up their privileges and assist in transition to take place? Douglas North and others tells us that elites would do so in recognition to greater benefits in formalizing the rules of the game. Rule of law for elites would enable mutual

trust, dependency, certainty, smooth working irrespective of regime change within elites etc. and then it would be generalized subsequently to masses. It would also reduce the transaction cost; a major determinant for elites to grab the opportunity. This gradually leads to perpetually lived organizations. These two conditions formulate enough institutionalization that with the passage of time, the need to continue alliances with military faction for rent-creation and personal gains fades away. This is when transition can happen from limited access order to open access order.

### 3.2 Graphical Illustration of the Conceptual Framework

The graphical illustration is devised and adopted from the conceptual framework presented by North et al. (2009) in their book *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*.

**Figure 3.2.1: Graphical Illustration of the Conceptual Framework**



### 3.3 Selection of Research Method: Qualitative and Quantitative Study

The study requires a mixed method approach for analysis. The research methodology employed in this study is mainly descriptive, investigative and prognostic in nature. The methodologies and approaches of qualitative research and quantitative research are very different in nature. Bryman (2014) explains that the quantitative analysis deals with figures and computable information. Whereas, qualitative research is about understanding the insights, attitudes, personal experiences and behaviors of a respondent and to answer the “hows” and “whys”. Qualitative research probes into the discernments of respondents and attempts to link it with the facts and figures. So, large portion of this inquiry was focused on covering the qualitative aspect; however, the study mostly used both qualitative and quantitative tools of data collection from primary and secondary sources respectively. The primary modus operandi of the study was in-depth interviews. The study used purposive and snowball sampling techniques for in-depth interviews.

**Table 3.3.1: In-depth Interviews’ Details**

<b>Categories</b>	<b>Number of Interviews (Planned)</b>	<b>Number of Interviews (Actual)</b>
Academia	08	08
Law Experts	08	08
Military	08	08
Media	08	06
Bureaucracy	08	08
Politicians	08	06
Civil Society	12	12
<b>Total</b>	<b>60</b>	<b>56</b>

In-depth interviews are one-to-one interviews. This technique is extensively used to penetrate into the complexity of the subject by appraising the insights and experiences of the relevant people or experts. For this study at least 60 interviews were planned, and selection of the respondents was based on set criteria. Criteria for both i.e. in-depth interviews and perception survey were kept same.

**Table 3.3.2: Respondents' Criteria**

<b>Category</b>	<b>Respondents' Profiles</b>
<b>Academia</b>	PhD, University Faculty (Economics, Public Policy, Political Science, History)
<b>Media</b>	Senior Journalists/Anchors, Media persons (at least 15 years' experience)
<b>Politicians</b>	Member National Assembly (MNA), Member Provincial Assembly (MPA), Senator, Senior Party Leader
<b>Bureaucracy</b>	BPS 19 or above (BPS: Basic Pay Scale)
<b>Military</b>	Lieutenant Colonel or above (as Lieutenant Colonel is almost equivalent to BPS 19)
<b>Law Experts</b>	Supreme Court/High Court Judges, Senior Advocates/Lawyers (15 years' experience at least), Law faculty in universities (Associate professors and above)
<b>Civil Society</b>	Executives, Senior Management (15 years' experience at least), Worked in the fields of governance, politics, rule of law, democracy or policy oriented organizations

Besides in-depth interviews, separate perception survey was also conducted from the same respondents in addition to some more. The survey was based on likert scale and experts' perceptions were gauged asking simple questions based on indicators comprising all three door-step conditions that explain the transition from limited access order to open access order. Owing to the complexity and enormity of the topic, along with the limitations of the study; interviews were only conducted with the experts of the subject matter. However, to have a diverse analysis and to avoid unnecessarily monotonic response, seven interviews each were taken from the experts from different backgrounds which include bureaucracy, military, civil society, politics, media, law and academia.



**Table 3.3.3: Perception Survey Details**

<b>Categories</b>	<b>Number of Perception Survey (Delivered)</b>	<b>Number of Interviews (Received)</b>
Academia	20	15
Law Experts	20	16
Military	20	12
Media	20	12
Bureaucracy	20	18
Politicians	20	11
Civil Society	30	28
<b>Total</b>	<b>150</b>	<b>112</b>

Second part consisted of document analysis of secondary sources. Secondary sources comprised books, research papers/articles, and reports by the government organizations, working papers by policy research centers/think tanks, and relevant works of recognized columnists and analysts.

### **3.4 Ethics and Confidentiality**

Consent was established for in-depth interviews and perception survey. The respondent's privacy was and will be kept confidential throughout and after the study. It includes the name of the respondent, address of the respondent, contact and/or service position of the respondent. No personal details of any respondent will be disclosed with anyone whatsoever. The confidentiality will be ensured as per research ethics.

## **CHAPTER 4**

### **RULE OF LAW FOR ELITES**

#### **4.1 Introduction**

It was from the emergence of rule of law that the growth of the power and legitimacy of European states converged than any time in history before. The political development of Europe was incomparable, as evident from their historical context of a very early exit from the tribal society. Europe was equally exceptional in that the foundation of their idea of state was based less on the military power (as a traditional feature of the time), but more on their capability to dispense justice. Initially, the newly formed European states dispensed justice but not the law. Law was entrenched somewhere else, either in the church which drew its legitimacy from the religion or in the tribal customs. The European states in those times would legislate sporadically i.e. formulated new laws, but their legitimacy and authority hinged more on their capacity to fairly implement laws, not essentially of their own making (Fukuyama, 2011).

The difference between legislation and law is crucial to understand the concept of rule of law. The law can simply be defined as a body of abstract rules of justice that binds a society together. In the medieval societies, the law was considered to be fixed by an authority - higher than any legislator, either by divinity, the nature or by long-established norms. Legislation, on the contrary, refers to what is at present day termed as positive law. Positive law is defined as one of the primary functions of political power i.e. the capability of monarch, chief executive, legislative body or a chieftain to make and implement new laws based on the blend of power and authority (Hoffmann, 1988).

If the pre-existing body of law is held supreme over the new legislation taking place, only then we can say that rule of law does exist in a society. This implies that those who hold political power also feel bound by the law. This does not mean that the individuals holding legislative power cannot formulate new laws, but if they are to work

under the rule of law, then they must legislate according to already existing set of rules and not by their own free will.

The early understanding of the law as something fixed either by the divine authority, by some custom or by nature itself implied the law could not be subjected to any change by human agency; however it ought to be decoded to suit the contemporary circumstances. With the passage of time, the religious authority over law declined and the belief in natural law also lost its ground to some extent in modern times. Consequently, human race came to the understanding that law is something to be formulated by human beings, but only under the stringent set of procedural rules that assures that all adhere to a comprehensive social agreement over basic universal values (Fukuyama, 2011). The first checks and balances on the powers of executives were not imposed by free elections and democratic legislatures. Rather, they were the outcome of the societies believing that the rulers had to work under the law what so ever. Thus, rule of law and state-building cohabit in a continuous tension.

Legislation or law making is conceivably one of the most critical functions a contemporary state ought to perform. It means that the state must formulate rules of the game which all the agents within a society must adhere. These rules of the game define both the powers of the state and outline the limits to those powers; these also shape the behavior of all the agents living within a particular society and interaction amongst them. If one has to judge the degree of rule of law in any particular society, then the things to look for is to check the extent to which that society is instituted by formal rules and what proportion of the that society actually stick to these rules (Ashraf Ghani, 2009). The rule of law acts as a binding force between the state and the society. The notion of rule of law is the foundation stone of any contemporary democratic society. For the state to function effectively, it is imperious that there should exist rule of law and all the contracts between different agents of the society should base solely on the principles of law provided by legal framework in that society. The expression of ‘rule of law’ is derivative of a French phrase ‘La Principe de Legality’ (the principle of legality) which in essence means that the legitimacy of the government should be based on principles of law and not on powerful men or dominant coalition. In general, rule of law means that law is supreme and is above all. Not a single person in a particular society is above law of that society

and that everyone whether rich or poor should obey law. If we narrow down the concept of rule of law to the modern state functioning, it then infers that the authority of the government and all its concerned bodies can only be executed in line with the written laws, the laws which were legislated through an establish mechanism (Law Essays, 2013). At its core, the rule of law is envisioned to act as a shield against subjective arrangements of the government bodies. Rule of law aims at ensuring certainty in all the transactions across societies and limit the powers of those who govern.

Defining rule of law is most difficult task in context of this study, as every society has its own rules of the game and modus operandi to enforce those rules. However, rule of law can comprise of some universal values and principles which are almost same across the globe. The definition of World Justice Project's (WJP) is most suitable in this regard. The World Justice Project's conception of rule of law comprises four universal principles. It includes accountability, just laws, open government and accessible and impartial dispute resolution. Accountability means that all the agents of the society should be accountable under the law; whether private actors or government officials. Just laws refer to that laws ought to be clear, just, publicized, stable over time, applied impartially, protect core human rights along with fundamental rights and property. Open government here means that all the processes by which legislations or laws are legislated, administered and enforced should be fair, efficient and there should exist information symmetry about the laws and the process through which these are legislated. Accessible and impartial dispute resolution encompasses the notion that justice be delivered timely by the capable, moral, impartial and independent representatives who can be approached easily, and who have adequate resources and mirror the makeup of the communities they serve (World Justice Project).

Rule of law does not say anything about how laws are to be formulated, but it arrange for two basic aspects for the whole framework to govern societies i.e. all the agents in a society must abide by the law and that the laws should be formulated in such a way as to be able to shape the behaviors of the subjects in a way to bring uniformity and certainty in them.

Rule of law for elites is the first doorstep condition for transitioning from limited access order to open access order. It says that there should be rule of law if society has to progress, but to establish rule of law in a country which falls under the category of a natural state may take years or decades in doing so. For that first elites should treat themselves equally before the law within their own elite circle and by the time whole society will follow the rule of law in the process of evolution or spillover effect. Usually elites do not follow rule of law because it is not in their favor to do so, until a window of opportunity may come, where they may be interested to adhere to the law because that will be in their interest. Generally, elites employ the state apparatus and other informal mechanisms for their own advantage. In this connection, various aspects of rule of law in Pakistan, how elites employ legislative mechanism, detective mechanisms, enforcement mechanisms, rent-seeking mechanisms for their own advantage and intra-elite arrangements in Pakistan will be discussed in the following pages.

## **4.2 Various Aspects of Rule of Law in Pakistan**

In the contemporary times of ours, the usage of the term "rule of law" has become ever more prevalent. The conception of rule of law is presently one of the most imperative political philosophies. The origin of the refined idea of the rule of law can be traced back to the time of Aristotle. He was of the view that a king who rule, strictly following the law and does not considers himself above the law; is far more superior to the king who rule arbitrarily - that means rule by discretion and treating each case subjectively (Frank, 2007).

There exists no specific definition for the rule of law as its meaning may differ in different countries and legal traditions across the globe. Fundamentally, the enforcement of the rule of law in any country is meant to make sure that no citizen of that country will be subjugated to the subjective and abusive powers of the government or any of its officials, thus safeguarding the basic rights of its citizens according to a comprehensibly defined law. Without establishing the rule of law in its true spirit, the country's endeavors to shift from limited access order to open access will go unsuccessful.

Historically, every society has experienced the evolutionary process in all its dimensions. In medieval times, when societies used to live in tribes, there was a concept of old wise men. The old wise men ought to have certain characteristics i.e. experience and wisdom. Any dispute or conflict in the society would be taken to an old wise man or to the group of old wise men. These groups had different names in different cultures and in many countries this system still exists. What these old men would do is to take decision on the basis of experience, wisdom, customs and principles of equity. Whenever a dispute arose between parties and taken before the old wise man/men, he would listen to the dispute and after a detailed hearing from the parties involved, a law would be formulated at the moment. Now, the problem with the system of old wise men was that law would be formulated after an action has taken place, which in law is known as retrospective effect. But according to the modern human rights regimes, laws ought to be prospective in nature, which implies that laws have to be made first and then applied. Article 12 of the Constitution of Islamic Republic of Pakistan also provides protection against the retrospective law/punishment (The Constitution of the Islamic Republic of Pakistan).

In that type of settings in a society, many things would often mix up with each other. For example, the one (old wise man) who would do the trial, would also investigate it, and eventually adjudicate too on the basis of his experience and wisdom. Obviously, the customs and tradition would be of primary importance in such settings. Now, there are few things about the law which should be understood.

First of all, lawmaking should only be done by lawmakers, in other words parliament should have the supreme authority over legislation. Secondly, according to the modern concepts of rule of law, laws should be according to already established principles by the human rights regimes. So, this means that if there is a law anywhere in the world and it is not according to the principles of human rights regimes, but implemented very effectively cannot be included in the conception of rule of law. The international human rights regimes include but are not limited to Universal Declaration of Human Rights (UDHR, 1948), International Covenant on Civil and Political Rights (ICCPR, 1966) and International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966).

The principles devised by these international human rights regimes basically imply that simply to apply the law is not rule of law; firstly the law has to be accurate in its own essence. Let's suppose the example from Pakistan, applying Frontier Crime Regulation (FCR) effectually cannot be regarded as rule of law, because FCR in itself is inaccurate according to the covenants of contemporary human rights regimes. Formally ordained in 1901, Frontier Crimes Regulation (FCR) has its roots in specific laws that were imposed by the British Raj in the Pashtun-inhabited tribal belt in the north-west part of British India - now Pakistan. They were precisely formulated to counter the strong resistance of the tribal Pashtuns against the British rule. The central objective of the FCR was to safeguard the interests of the British Empire. If we analyze FCR, we would come to know that there is no provision of basic rights i.e. appeal (the right to request a change to a conviction in any court), Wakeel (the right to legal representation) and Daleel (the right to present reasoned evidence). One of the most horrible anomalies of the FCR is the collective punishment clause (No. 21). Under this black law, the political agent or his deputy, the assistant political agent, relishes powers that are not accountable. Therefore, FCR is by no way according to the principles laid by the human rights regimes; hence its effective implementation would not come under the definition of rule of law (Nichols, 2013).

Our society has been unfortunate in a way that it has predominantly been governed by kings and monarchs, later it was the British that came and left behind the legacy of modern system of law which we tried to adopt as it is within our society. This replication of British Law into Pakistani society was technically not sound as Pakistan is different and needed a modified legal system if not totally its own. Fast forwarding, coming to present day Pakistan, it is generally structure of feudalism that exists with the exception of North West part of the country and urban centers. Feudalism comprises a typical village or cluster of villages with a feudal lord and hundreds of poor tenants who are dependent on the feudal lord for sustenance and everyday basic necessities like food, shelter, security and even a burial place for their loved one. Thus, it becomes a patron client relationship; feudal elites require loyalty from the poor tenants and they work for them on their agricultural lands and other required jobs in return for basic necessities for

themselves and their families. In such scenario, an extra-legal or informal system of justice emerges where the peasants go to feudal or influential friends of chieftain to become arbitrator and sort of the dispute between the two parties. This type of informal system is prevalent across Pakistan, meaning that the system of Old Wise Men is still very much intact in Pakistan. Hence, imposing a contemporary concept of rule of law all of a sudden would not be fruitful; it may lead towards a collapse. It has to transform on its own, and the factors contributing to the change should be worked upon to speed up this transformation i.e. promoting education, eradicating poverty and land reforms are few of the most important factors which can affect this change process positively. Multiple attempts for land reforms have met failure in Pakistan, again due to the elite's opposition as they would be the losers if land reforms happen. Land reform is a very necessary condition if we have to move towards a democratic system and rule of law. The core of land reforms is that it actually compensates the historical injustices done to people in the past. In past, the king, the sultan or the feudal lord will grab the land or land would be merely his possession and he could do anything to it, even the king could order people to leave the land and those people would be sent into exile against their wishes and without proper mechanism - which is a violation of basic human rights, hence an impediment in establishing rule of law.

On the contrary, feudalism has penetrated so deep into the Pakistani society that the masses which are primarily poor, they themselves do not want rule of law to established in such a way to hold their feudal lords accountable. This is because the patron-client relationship established over decades is so strong that the poor people feel secure and deem it necessary for their sustenance. The point to understand here is that the patron, which is usually a feudal lord in most of the rural Pakistan, is considered to be the protective figure. The feudal lord provides for the shelter, food, burial, other functions and security of its peasants. The amount for these expenses may be minimal for the patron to pay, but it is huge for the poor peasant and he feels indebted to the feudal elite for the rest of his life. The poor peasant has only one option; to give his and his family's loyalty to the patron and be at the service of the patron whatever it may be. Thus, this way the feudal elites control the masses and manipulate any move against them and employ his loyal peasants as shield. Therefore, it is a process of evolution, which should



unfold step by step. First, poverty should be alleviated and then they should be educated and then land reform and eventually rule of law can be discussed and established in its true essence.

Presently, media is playing a crucial role with reference to rule of law. Media, by default has assumed the role of watch dog in this regard, It is the media which is creating awareness about the rule of law, its importance, international best practices and that what is going on around the world with respect to rule of law. The major problem in Pakistan about rule of law was information asymmetry. The leaders in past would deliver great speeches and make big promises and would show exemplary moral conduct in front of people, but would do otherwise afterwards. This was because nobody was watching them or no one was following them. They could do anything as they willed. The times have changed. The vibrant media of Pakistan is keeping a strict check on the leaders, office bearers and every level of public administration. It is often argued that media is also not neutral; each media house has its own agenda and objectives and often affiliated to a political party or particular interest group. Having said that, it is by default the compulsion of media to compete rigorously for rating. Thus, media houses can give a different angle of the news or can tailor the news according to their own agenda but to suppress any news is not in their interest at all. So, media is creating information symmetry and now the leaders and governance machinery is increasingly responsive to the issues of the people - the ones highlighted in media. In fact, media has become a platform for a common man to raise their voice and articulate their views on issues connected to them. If by any means media is deliberately suppressing any news, the social media fills that gap. Media operates under a code of conduct and it has to follow some rules, but social media is an open platform with the rules flexible to the extent that suffice the needs of a common citizen. Any person can now make the video of any leaders or office bearer of a rich man insulting a poor waiter and post it on social media portals. Afterwards, it is open for public to comment and share views. Often it transforms into a mini-movement only meant for that issue and people act as a pressure group to ensure accountability. Through social media, concerned bodies related to any matter also get notified indirectly and then they have the means to hold people accountable by the legal way. The expansion of middle class in Pakistan is another positive development.

According to some estimates, Pakistan has the biggest chunk of urbanized middle class in South Asia. However, the transactions still are based on identity rules. If expansion of urbanized middle class is complemented with impersonal exchanges, it can be a big leap forward for the development in Pakistan. All of this setting is paving way towards the establishment of rule of law.

### **4.3 Legislative Mechanisms**

Elites employ various legislative mechanisms or tools to control their exclusive control over state resources along with their distribution. The taxation policies and expenditure patterns that would favor the dominant coalition; almost virtual emancipation of agriculture income from the tax brackets, or the capital gains on property, or the hefty outlay on urban infrastructure which would benefit the car-owning elite faction rather than focusing on the development of an well-organized mass transit system are the few illustrations as to understand how the structure is deliberated to favor the fortunate ones - the elites.

Few other demonstrations of the disfigurement functioned by exclusive control of authority and state resources are controlling the state-owned banking apparatus and procuring heavy loans by employing this apparatus, write-off of the same consequently, seizure of possessions mainly land and property owing to poor implementation of property rights, acquiring state-owned land via political benefaction or by means of finagling the rules, together with calculations of land worth a fraction of the market price. Exploiting the state policies and subjectivity, import/export tariffs for a short period of time through the budget to create benefits for political cronies or kith and kin belonging to the dominant coalition or to the structure of elitist governance (Gul, 2017).

The most notable imbroglio in this context is the land reform. Acquisition of excessive land is apparently the root of most of the menaces which may include poverty, illiteracy, feudalism etc. Land reform goes against the wishes of the elites, especially the feudal and political elites – both overlap often. That is why despite several attempts, land reform could not be materialized. The history of Pakistan's land reform is an extended and rather unsettled one. The British had almost no interest in this regard as they

depended on the support of group of feudal elites. Though, there happened to have few restricted developments in late 1930s and early 1940s, all key land reforms happened after independence in 1947. Almost instantaneously the different provincial legislatures voted for numerous statutes whereby the feudalism was obliterated and tenants safeguarded. The main land reforms, nevertheless, materialized in three stages: the first in Ayub Khan's martial law regime in the year 1959; the second and third happened during Zulfikar Ali Bhutto's rule in the 1970s. Throughout this time, land reforms remained controversial. It was claimed by the adversaries that the land reforms were against the Islamic principles and that these reforms encroached upon the right to own the property, use it and enjoy it as the protected by the Constitution of Islamic Republic of Pakistan (Gazdar, 2009). The matter was brought to the Supreme Court in 1990. In the proceedings of the case, both the regulations of 1972 land reforms were articulated to be not parallel with the Islamic principles of property ownership and that these are not according to the Constitution of the state too. Eventually, the Supreme Court of Pakistan approved the above arguments and undid almost all the key reforms happened up till that time. The outcome of this is that the status of land reform in Pakistan is again at the same level as it was in 1947; this implies that feudal elites once gain have the upper hand and can use this as their resource for legitimizing power in their respective regions and subjugating the residents on their lands. Now the situation is that to imitate and implement land reforms again, an amendment will be required in the constitution, which is certainly not in the best interest of feudal elites and will never materialize in near future because the parliament at present is representative of dominant coalition and feudal elites makes part of that coalition (Land Reforms in Pakistan, 2010).

The other most important mechanism in this regard is tax regime of Pakistan. The tax regime of Pakistan is very well structured in service of elites. The poor are exposed to heavy and punitive indirect taxation while the elites are relishing handsome incentives and remunerations, as well as acquisition of high-valued state-owned plots at paramount locations and at meager prices. Nearly half of the legislators in the parliament of Pakistan and also in the provincial assemblies do not pay taxes, whereas 12 per cent do not even have National Tax Numbers (NTN). Seven million Pakistanis are considered to be qualified to pay income tax but it is astonishing to know that only 0.3 per cent of the

Pakistani population pays income tax and files a tax return. This makes Pakistan to be one of the lowest ratios of income tax filers across the globe. Above and beyond vertical equity, there exists the concern for horizontal equity where the equivalent levels of income, however not from the same sources, are taxed in a different way owing to the unbiased and subjective tax policy that discriminates to the make space for the benefit of particular segments of the society. Within the direct income tax that is collected, 75 per cent comes from the business sector, and the remaining 25 per cent comes from individuals. Even if we consider the taxes collected within businesses, only 21 per cent of the registered enterprises pay these taxes, while the most of them are non-tax-payers (Sherani, 2015). With the exception of a few, those who are sitting at the top of the income pyramid ever more avoid paying their outstanding share of taxes; the consequence of which in an extra tax load falling unevenly on those resting at the foot of the pyramid who do pay the whole burden of tax via indirect taxation. A number of initiatives which may include publication of directories comprising names of all tax filers, digitization of the apparatus, Federal Board of Revenue and the establishment of a Tax Reforms Commission do specify certain changes intended to improve the revenue collection; hitherto, tax shirking by the dominant coalition remains the biggest imbroglio. The mounting interconnection between the political elites and the Federal Board of Revenue (FBR) where the latter is gradually failing day by day executing its autonomous and impartial role, immensely backing this tax avoidance. Imposition of direct tax on the income of elites is pre-requisite if the state institutions are to reinstate their moral authority to tax the segments of the society that forms the bottom layers of the income pyramid in the society.

Among legislative mechanisms that favor elites, Charter of Democracy (CoD) and National Reconciliation Order (NRO) are must to mention. In 2006, Nawaz Sharif and Benazir Bhutto, who had until then been strong adversaries of each other, decided to join hands in a movement called the ‘Alliance for Restoration of Democracy’ which was aimed at thwarting General Musharraf’s military dictatorship. Their collusion was motivated by President Musharraf’s incessant pursuance of corruption cases against Benazir Bhutto and Asif Ali Zardari and the imprisonment of Nawaz Sharif in 1999 by General Musharraf due to charges of hijacking. While being exiled from Pakistan, both

parties' chairpersons signed an agreement in London in May 2006 which was called 'Charter of Democracy' and which later became the basis for their coalition government after the 2008 elections (Charter of Democracy, 2006). In the civilian government formed in 2008, Pakistan Peoples Party (PPP) formed the government while Pakistan Muslim League - Nawaz (PML-N) played the role of a 'friendly' opposition. As a consequence, there was no belligerent opposition to keep a check on PPP's unrestrained corruption that ensued.

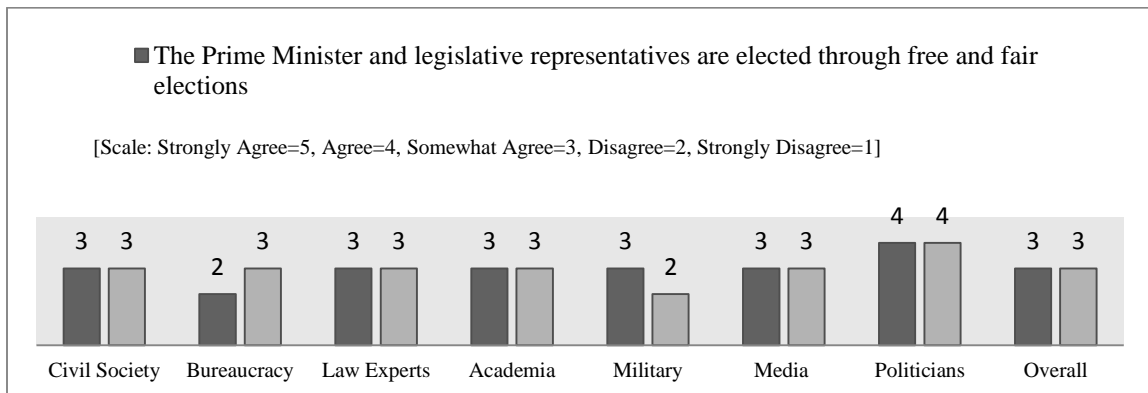
Interestingly, in 2007, Benazir Bhutto, who had colluded with Nawaz Sharif's party against the military dictator earlier, signed a very controversial document, called the National Reconciliation Ordinance (NRO), with the same dictator. The document was termed as controversial because it granted amnesty to the politicians, their political workers and most importantly large number of bureaucrats, who had been either accused or put on trial for killings, rent-seeking, corruption, embezzlement, money laundering, and terrorism between the period of January 1986 and October 1999. This was the period between two martial laws in the country and one during which Benazir Bhutto, Asif Ali Zardari and Nawaz Sharif had been charged with cases of profound corruption. The National Reconciliation Order (NRO) is a worth-mentioning move as it shows the convergence of elitist interests and thus reaching a point of agreement within themselves. It was October 05, 2007, when former President of Pakistan General Pervez Musharraf issued this controversial ordinance (National Reconciliation Ordinance, 2007). Musharraf stated that this move was aimed at building a reconciliatory environment in the political domain of Pakistan, while sweeping all the cases under the carpet, which he considered as politically motivated. However, it seemed to be the desperate attempt to co-opt the political adversaries and legitimizing his own rule. The Supreme Court of Pakistan suspended this ordinance, but on February 27, 2008 the newly in Chief Justice of Pakistan Justice Abdul Hameed Dogar revived the National Reconciliation Order. This clearly shows how elites are using legislative mechanisms to serve their personal interests. In signing the NRO, General Musharraf established what economists term as a "moral hazard" i.e., he made a mockery of accountability and rule of law in Pakistan by making them the very instruments of the power game and deal-making. Two years later in 2009, the NRO was annulled when the house-arrested Chief Justice was reinstated and

all the corruption cases against nearly 6000 politicians reopened (Perlez, 2009). Any progress in the prosecution of those cases has been slow due to an inefficient and weak judiciary where several other high profile cases remain backlogged without reaching any resolution (Gul, 2017).

If we analyze the Constitution of Islamic Republic of Pakistan, one can find many lacunas that elites in the Parliament have deliberately incorporated for their own very interests. For example, Article 63-A of the Constitution of Islamic Republic of Pakistan bars and disqualifies the member of the parliament if he goes against the party line during any major development in the parliament. It states that the member of the Parliament would be disqualified if he/she resigns from the party or joins another party, votes against the party line or abstains from voting during the election of the leader of the house in National Assembly or Provincial Assemblies; vote of confidence or no-confidence vote call; money bill or any bill regarding amendments in the constitution or adding some clause to the constitution. The move was basically initiated to serve the purpose for stopping the concept and happening of horse trading in the parliament. On the contrary, if we analyze this article in the Constitution of Islamic Republic of Pakistan, it basically consolidates the power of the few in the parliament. It also negates the spirit of democratic practices. This article implies that any debate in the parliament of Pakistan on any major issue will just be among few political parties, rather than a robust debate among 342 members if we are talking about National Assembly and 104 members if we are talking about the Senate of Pakistan. This makes easier for the leadership of political parties to strike a deal as only few party heads will be involved and they would be guiding their members about the party line to take in the parliament. There is a healthy and robust debate in the parliaments around the world because all the members hold different perspectives and they debate and debate for many exhausting days and eventually the outcome they get is exceedingly refined form of law/constitutional amendment. Another article, Article 91 of the Constitution of Islamic Republic of Pakistan clearly mentions that there shall be no limit on the terms of office of the Prime Minister or Chief Minister. This article again perpetuates the very dominant network of elites. This clause of constitution hinders the provision of opportunity for other to lead the country. When there is no limit on the terms of offices of Prime Minister or Chief

Minister, then there is quite a possibility that the personalities may become more influential than the institutions themselves. In this type of setting, people do not respect the office or institution much, rather they try to please the personalities in such offices and establish personal linkages for the rent-seeking and corruption purposes. Especially in the country like Pakistan, where there is already a monopoly over politics and leadership of political parties, provision of such laws only consolidates such political monopoly. It is very obvious that electoral process in Pakistan is

**Figure 4.3.1: Experts' Perception Survey – Legislative Mechanisms**



not satisfactorily transparent and that many of the election laws are either not fair or not implemented effectively. This results in a parliament which is not representative of the people; rather it is the representative of elites. Therefore, elites do legislation, formulate mechanisms and create such state apparatuses that eventually favor them.

#### 4.4 Detective Mechanisms

A society is composed of agents who are dependent on one another in their routine chores. Human species is unique in a sense that it gauges actions among themselves based on morality and ethics. Here the problem arises as who would decide what is moral and what is not. This indicates the need for two mechanisms in this milieu i.e. detective mechanism and enforcement mechanism. Firstly, there ought to be an authority that can formulate rules, so that based on those rules behaviors could be judged - referring to

legislature. The need for second - detective mechanism, arises whenever a dispute surfaces between any two agents in the society; calling for an authority i.e. judiciary to judge whose behavior was according to the rules and regulation and whose was not. The enforcement authority which is police in Pakistan is responsible for implementing the final judgment by the judiciary once the decree is issued. There exists a propensity for any agent to counter a dispute with another agent in the society; therefore, every agent in the society has the right to be provided access to justice so that he can resolve his dispute and get rid of the uncertainty factor for his future transactions. This is why access to justice has been the corner stone of the fundamental human rights in all the developed societies across the world.

The constitution of Pakistan is no different from others in a sense that it indemnifies access to justice to all its residents without any discrimination of any kind. Precisely, two articles are of special mention i.e. Article 4 and Article 10-A of the Constitution of Islamic Republic of Pakistan which offers unblemished details on the subject of how to make sure the provision of justice to its inhabitants. Keeping in view the articles of Constitution of Pakistan, it can be deduced that justice must be inexpensive and swift to every citizen of Pakistan. Nevertheless, the institutional mechanisms and the organizational configuration of Pakistan's judicial system is such that it necessitates several formalities disguised as the proper procedures or codes of conduct for getting fair trial and justice. The litigants have to pay for different costs which include lawyers' fee, court fee, cost of documentation etc. Therefore, it can be inferred that access to justice and institutional framework for justice is not according to what is mentioned in the Constitution of Pakistan. This notion is in line with the neo-classical school of thought in economics, under that framework justice is like a commodity and an individual has to buy it as a commodity having all the features of normal good. This would mean that it is responsive to supply and demand and price plays the key role in the whole framework. Now in a market situation willingness to pay is reflected through demand and willingness to accept is translated into supply. If there is a perfect competition in a market, then the price mechanism will be at its best. In a perfectly competitive market, those willing to pay a higher price will crowd out those willing to pay a lower price. Similarly, in the supply side, having low willingness to accept will exclude those having high willingness



to accept. This whole mechanism generates an equilibrium position between the consumer who is willing to pay a higher price and the supplier having low willingness to accept. So, outcome is considered to be optimal - a situation in which goods flow towards those who requires it most and also pays a competitive price for it (Shah, 2007). Resultantly, the supplier's surplus is relished by those who were willing to pay a higher price but in actual pay bit lower than that and those willingness to accept was low, but actually get more than that.

The market for justice operates on the same pattern having two sides a conventional market has i.e. a demand side - litigants who are pursuing justice and are ready to pay a price for it and the supply side - lawyers who are eager to produce justice, but with some particular price. Consequently, an equilibrium price is reached with an outcome such that only those can access and seek justice who can afford and are willing to pay the specific price. All the other litigants who are in demand pool and want to seek justice, but cannot pay the price are barred from access to justice. The point to note here is that all this hold true if there exist perfect competition. Whereas, in justice market no perfect competition exists as there is information asymmetry in terms of due process of justice at the consumers end, hence by taking this as an advantage lawyers enjoy a monopoly kind of situation in the justice market. Sometimes, the justice market can also become like a tourist model market, where those seeking justice visit one lawyer and then there seem to be no incentive for him to see another lawyer, because there is information asymmetry and also it will add to the transaction cost. This setting put lawyers at advantageous position while bargaining, asking for much higher price creating more exclusion. Thus, an equilibrium point is attained at which only those people can have accessibility to justice who can afford to pay a higher price. All the others who are in the demand pool for justice but are unable to arrange for the (higher) equilibrium price are barred from having access to justice.

In Pakistan genuinely, the inclusion of lawyers in whole process of justice system without proper checks and balances, is itself an impediment in the way of demand side's accessibility to justice. If we look at the whole picture, there are generally two parties that demand justice whenever and wherever a dispute arises. Hence, technically they would need a third party to facilitate in solving their dispute without being party to it. Thus, in

principle the third party which happens to be lawyers in the case of Pakistan, should not have any kind of monetary incentives attached to the case they are facilitating. Nonetheless, in Pakistan, attaching monetary benefits with the case proceedings is a big hurdle in access to justice, because the longer the case lingers on the greater the monetary value a lawyer gets. Similarly, if the severity of the case is more, the demand for justice would be more inelastic and lawyers would have an advantage asking much higher fee. The compulsions or constraints of the common man make the justice market more favorable for the lawyers, eventually making justice accessibility costly.

Recently, a study has been conducted on justice system of Pakistan taking Islamabad as a case study by Dr. Anwar Shah, Assistant Professor, Quaid-i-Azam University (QAU), Islamabad. This study is particularly important because of Islamabad, as it is the capital of the country; hence it can serve as a benchmark and would give us a very clear picture of the justice system in rest of the country. With that a lot of information on justice system across the country serves the purpose of this study.

The findings of the study, first of all offers an outline of the different sorts of costs related to different level of courts in Islamabad. Table 4.4.1 shows the monetary and non-monetary cost per case in a court. It is obvious from the Table 4.4.1 that a litigant would have to wait for almost four years on average while settling a case in the Civil or Magisterial court. Moreover, throughout these four years period, the litigant ought to appear 36 times on average before the court for the purpose of hearing. This is also worth mentioning that out of 36 times, on average 16 times the litigants face rescheduling without hearing. Additionally, after waiting for almost four years, the litigants ought to wait extra four years on average for the thorough disposition of the case. In all this, the litigants has to bear the cost of almost Rs.51,000 for the fee of lawyer/legal expert only. When other types of costs are added which may include cost of conveyance, accommodation and meals, then the price of justice gets much greater than before.

**Table 4.4.1: Monetary and Non-monetary Costs of Litigation**

Type of Court	Average fee charged by lawyer (Rs.)	Other costs per case (Rs.)	Average duration of a case (in years)	Average number of hearings per case	Average number of postponement of hearings per case	Total life of a case from start to end (in years)
Civil/ Magisterial Courts	50,955	47,244	3.3	36	15	6.4
District Court/Court of Session	63,054	56,625	2.7	26	11	5.9
High Court	1,06,049	1,26,405	1.9	9	6	7.4
Supreme Court	2,36,903	2,67,885	1.5	3	6	7.9
Tribunals/Services Court	70,358	54,793	2.1	16	5	2.9

The affordability of a Pakistani citizen for accessing the justice is calculated from their average income. For this, data of Household Integrated Economic Survey (HIES 2015-16) is used. Table 4.4.2 shows the monthly average income and also the expenses of average Pakistani household. From the data, it can be deduced that overall monthly average income of a household is about Rs. 35,000. Similarly, the monthly average income of a rural household is around Rs. 30,000, and the monthly average income of urban household is about Rs. 45,000. Whereas, monthly average expenditure of a Pakistani household is about Rs. 32,000. For rural household, the average monthly expenses are worth Rs. 27,414 while for urban household, it is Rs. 41,529. Based on the given data, average income of a Pakistani household per annum is approximately Rs. 4,30,000. Likewise, the average earnings of a household in rural and urban areas of Pakistan is Rs. 3,61,321 and Rs. 5,43,396, respectively. Whereas the average expenses are around Rs. 3,30,000 per annum for a rural household and approximately Rs. 4,98,000 per annum for an urban household. 91.04 % of the rural and 91.70 % of urban household earnings in Pakistan is spent on daily expenses.

**Table 4.4.2: Income and Expenditures of a Household per annum (Rs.)**

	Total	Rural	Urban
Average Income	35,662	30,110	45,283
Average Expenditures	32,578	27,414	41,529

Thus, the savings of a household per annum makes up to Rs. 37,008. In case a household, regardless of the fact that the background of the person rural or urban, faces a

legal matter in Civil Court, that person is not even able to manage to pay for the fee of a lawyer in this court which amounts to Rs.50,954.

**Table 4.4.3: Average Fee of Lawyers in Courts across Pakistan (Rs.)**

Types of Lawyers/Courts	Senior	Junior	Part Time	Full Time	Famous
Civil/ Magisterial Courts	56,562	36,000	41,805	54,032	1,23,882
District Court/Court of Session	65,916	55,368	49,264	67,476	2,93,058
High Court	1,23,358	54,121	84,852	1,13,403	8,81,666
Supreme Court	2,60,150	1,00,000	2,50,000	2,34,384	8,02,857
Tribunals/Services Court	73,205	44,375	72,857	69,483	2,60,000

Table 4.4.3 shows that this is just the average fee of a lawyer in the Civil Courts. Hence, it can be said that accessibility to justice is very challenging if not unmanageable in civil courts for a common Pakistani citizen. This indicates that on average a common Pakistani citizen has either to borrow or drop off some of their possessions for contesting a case in civil courts. It is noteworthy to mention that the calculation is centered on the supposition that a household faces legal matter once in the whole year. Therefore, the estimation about exclusion will become worse by relaxing the supposition.

The delay in the court proceedings is another dilemma which indirectly favors elite or rich ones. It takes years to reach a conclusion of the case, that too with lacunas. The prolonging of the cases usually favors elite, as the poor are compelled to give up the case against rich or elite groups because they can no longer afford the lawyer's fee and other costs. Consequently, the poor or lower middle class give up the case, give unconditional apology or reach a settlement outside the court, which is often against their wishes but the high transactions cost leaves a common citizen with no other option but to agree to what the bigger party in the case has to offer.

If we analyze the other costs which fall under the category of transaction costs, we would come to a conclusion that elite class in general could manage with other costs in such a way that these costs would not affect their routines lives. There would be a slight impact if it does. The only costs which could be associated with elites or rich class

seems to be of reputation and mental stress. Otherwise, higher income class has lawyers or team of lawyers who could handle their legal affairs very effectively. Owing to their high income, they could easily allocate a portion of their income for legal affairs. Whereas, the poor segment of the society of middle class

**Table 4.4.4: Non-monetary aspects of Litigation in Pakistan**

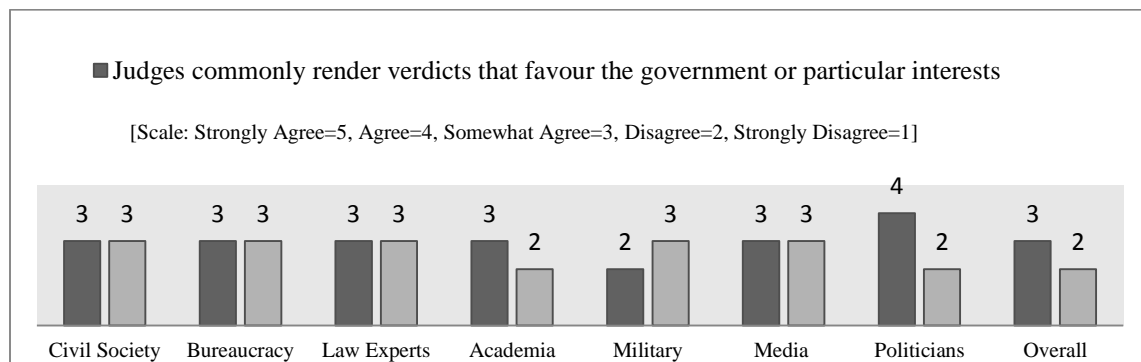
<b>Some other non-monetary aspects of litigation in Pakistan</b>
The clients could not get marriages
The clients could not pay attention to their education properly
The clients could not perform their job properly
The education of younger siblings of the clients get disturbed
The clients remain away from their families
The clients could not look after their children properly
The family members of the clients fell ill due to stress
The clients could not attend the funeral (Janaza) of a close relative
The clients could not celebrate festivals with their families
The reputation of the clients get badly affected and brings negative social consequences

could not allocate a portion of their income for legal affairs. They have to do trade-off in their budget allocations. They might have to spend less on food to leave money for lawyer fee, or may take loan from somewhere, adding to their mental stress and social problems. Thus, other transaction costs associated with seeking justice in Pakistan implicitly favors higher income class.

Now, in this type of setting, a common citizen is constrained to opt for extra-legal justice system, also called as informal system. The advantage of the informal system is that it can provide a speedy dispensation of the case with minimum transaction cost, but the informal system does not offer any strong support for common citizens too. With the exception of few areas and urban centers, most of Pakistan is in one form or another based on the structure of feudalism. There the feudal elites and influential men dispense justice. These influential men often favor the people close to them, in the backdrop of power and patronage system. Moreover, one cannot appeal against the decision and often with the guilty (if in actual), whole family of the guilty is socially boycotted which is against the basic human right principles.

Therefore, it would not be incorrect to see the common people of Pakistan as acquitted sufferers of a malevolent judicial system running from above largely for the advantage of the elite groups. With few exceptions where judiciary had taken a pro-active role and made courageous decisions upholding rule of law, elites had most often been successful in co-opting the judiciary and would make them decide major cases in their favor. Few times when judges upheld the rule of law and did not allied with the elites and in fact decided against them, those

**Figure 4.4.1: Experts' Perception Survey - Detective Mechanisms**



decrees too could not be implemented on the ground because whole of the state machinery would be supporting those powerful elites. It would also not be wrong to say that justice system in Pakistan is an extension by dominant coalition to do politics by other means when and where needed (Lieven, 2011). Moreover, the state of justice system is not only politically responsive, but it is employed frequently as an effective weapon. A large number of fake cases are brought purposefully by politicians for image assassination and damaging the repute of the rivals and also to use it as a bargaining tool in striking deals with their adversaries.

## 4.5 Enforcement Mechanisms

Enforcement mechanism refers to the channel where decision or decrees issued by the detective mechanisms i.e. judiciary ought to implement effectively. In modern times, police is the institution appropriate for enforcement. A well-known Roman political

philosopher Marcus Tullius Cicero (106-43 BC) once said, “the safety of the people shall be the highest law.” The states that thrived, developed and advanced have given the top priority to public order and security. Though, the states that have fused good order with the principles of the rule of law have outclassed in upholding human rights, democracy and justice.

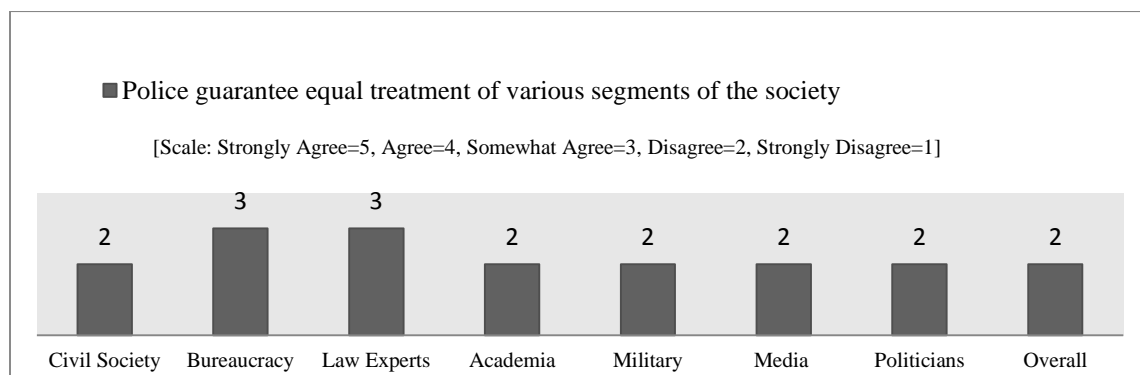
In any debate on the prospective for a stable and developed future for Pakistan, it is not possible to evade addressing the subject of policing. For seventy years, since the inception of Pakistan on the map of the world, the Police organization and its and bodies have been subjected to harsh criticism, ad-hoc reforms, accusations of corruption and most importantly the political meddling. This has damaged the goodwill and trust between the Police and general public. Succeeding governments, whether it be a civilian or military, have dented the law and abused the state apparatus which led to bad governance and futile service delivery.

The origins of modern police system can be traced back to the London Metropolitan Act of 1829, which established the segregation of powers i.e. between the executive branch of the government and independent judicature. Nevertheless, the objectives of the British Colonialism compelled the British Raj to employ a different model of administration in the sub-continent. The British administration was focused on revenue collection and maintaining law and order, both came at the expense of justice. The local Police and revenue collectors in sub-continent at that time were so tyrannical and corrupt that the British were compelled to formulate a commission in 1855 (branded as the Torture Commission) to restructure the administration of justice in Indian sub-continent for brining fruitful reforms. Through the Commission's proposals and the ensuing discussion in the British Parliament, the government decided that the arbitrary nature of the administration of justice at the local level required being restricted through a structure of rule of law and separation of powers. But, the urge for reforms underwent a grave obstruction in the face of 1857 War of Independence, which was brutally suppressed. Afterwards, the Indian Subcontinent came under direct clutches of British rule and brought about the introduction of the Irish Constabulary Model of police system, concentrated primarily on quashing opposition (PIDAT, 2015). After 1861, the Police operated as a militarist wing of the ruling elite. As such, it was alleged as a force that

ruled over the population brutally, rather than providing a service according to the needs of the community. The British Raj had planned to take on this military prototype of policing as convenient but transitory step. But it soon established into the most preferred system of governance by the ruling elites, without making any difference to the preferences of elites before or after 1947.

Patron-Client relationship and politicization are primarily responsible for the existing state of Pakistan’s police. Elites have always used the police as a tool of subjugation against the opponents. Owing to this reason equal treatment of all the subjects by Police within a particular territory is out of question. Furthermore, political elite also employed police to supplement

**Figure 4.5.1: Experts’ Perception Survey - Enforcement Mechanisms**



their political objectives which ultimately politicized the police as a whole. Former Inspector General Dr. Shoaib Suddle criticized about the illogical and quirky mismanagement of the police by the executives at each and every level of the state machinery. He opined that the recruitment, training, promotions and postings in the police department were ever more done without any regard to meritocracy (Suddle, 2015). Rather all these were done on the basis of subservience to the elite groups, mainly political and feudal elites. This sort of trend was predominantly significant during 1990s. Muhammad Shoaib Suddle further maintains that the last decade of 20th century observed complete breakdown of the existing machinery of law and order in Pakistan. The chief reason he pointed out was the increasing and uncontrolled meddling in vital



facets of police administration by the political and feudal elites. Political affiliations would serve as the foundation for nominations. Consequently, the standards of police kept deteriorating whereas the public distrust for the police kept ever increasing.

In the regime of Pervez Musharraf, under the Police Act 2002, the police was finally placed under the oversight bodies comprised of both the elected and nominated members, at all the three levels i.e. district, provincial and national level. With that, a complementary check was placed on the police through the formation of independent prosecution service. This move by Musharraf was welcomed by many in and outside the police, having confidence that it would transform police into an effective institution serving the public in the best of its interest. To assist the extensive contact with the public, citizen liaison committees were put in place as well. Offices of police complaints and safety commissions were serving the purpose of ensuring public accountability. Autonomy in investigation as well as administration was also supposed to assure neutral functioning. The police department itself was overhauled along functional lines into several specialized wings and divisions ranging from intelligence, investigation, watch and ward, and guard duties to improve efficiency. The posting of officers to the specialized wings was to ensue according to qualification and experience. To address Police accountability, independent Police Complaints Authorities (PCAs) were to be set up at the national level and throughout all the four provinces. In a wake to make the Police operationally independent, the terms of the heads of Federal Police as well as Provincial Police Departments were fixed at 3 years (this idea was basically extracted from the military model). In this backdrop, the political and feudal elites feared that they would not be able to use police for their personal interests in the near future if the system introduced by Musharraf gets consolidated over time. Consequently, under their pressure, Musharraf made a series of amendments in the Police Act in 2004, undercutting the basic objective of the reform. Supervisory bodies' role was significantly bated and political interference reintroduced (Grare, 2010). Appointments, evaluations and transfers no longer required the approval of oversight bodies and thus ultimately depended on the nexus of feudal lords and politicians. Police officers again were left with no other option but to do bidding of the political masters in their station regions. The fate of police officers once again got attached to the interests and goodwill of feudal and political elite.

By the end of 2008, The National Police Safety Commissions introduced by Musharraf's government, stopped holding the meetings because of its impractical role and just became a ceremonial body. One would ask why Musharraf did undo his own reforms; this was due to the fact that in late years of Musharraf regime, he lost public and political support. This reversal of police reform due the pressure of political and feudal elites was basically meant to co-opt the elite factions eventually consolidating and legitimizing Musharraf's rule.

Now, after the 18th amendment the provinces assumed many new responsibilities, one of those include choosing a policing system for their own provinces according to the local needs of each region. However, the Federal Government in Islamabad secures the right to provide an overall framework to ensure uniformity of law and policy across the country in a bid to guarantee akin laws and policy frames within the territorial dominions of every province. Though, one-point agenda on which all experts – inside or outside the police department seem to agree, even for the time being at least is that Police Order 2002 is a reality and need of the time. It caters the needs of Pakistan's police apparatus.

The Government of Punjab province has done a good job and brought about some important modifications in the Police Order 2002 in September 2013, grounded in public interest for restructuring investigative practices and hiring sub-inspectors in place of Assistant Sub-Inspectors (ASI) using a much transparent channel of the Public Service Commission. However, the Punjab government should formulate the Provincial Public Safety Commission as a supervisory body. The Government of Khyber Pakhtunkhwa did not cast aside the Police Order 2002 and is still in the course of discussion in bringing about certain expedient changes that would be applicable in the local perspective. It is noteworthy that Government of Khyber Pakhtunkhwa is the only provincial government that still has a Provincial Public Safety Commissions notified and currently they are in the process of institutionalizing it as a Police oversight institution with a greater degree of effectiveness. Still, provincial governments of Punjab and the Khyber Pakhtunkhwa had better also make autonomous Police Complaints Authorities as an efficacious exogenous accountability tool to weed out corruption, and misappropriation of authoritative powers so prevalent in the Police services of Pakistan. The Sindh Province should reinstitute the Police Order of 2002 that it revoked in July 2011. Correspondingly, the Balochistan

Province also ought to annul the Police Act of 2011, which is an exact replica of the 1861 Act and should earnestly ponder over implementing the Police Order 2002. Public complaints recompense system should now be at the top priority and it requires to be restructured as done effectually by the Khyber Pakhtunkhwa Police. With that the urban centers like Islamabad, Lahore, Peshawar, Quetta and Karachi need to be kick-started with a metropolitan model of policing.

Police exists for efficient and effective detection and prevention of crime, and conservation of public order. It has a commitment and obligation to function according to the Constitution (of Islamic Republic of Pakistan), law, and democratic aspirations of the general public, and functioning like this of the Police necessitates it to be service-oriented, professional and accountable to the community it serves. Police is not a force, but a public service. For that reason, to accomplish the requirements of the rule of law, it is binding on the governments and state authorities to make sure that Police is a-political, autonomous in its functioning, exceedingly accountable, and absolutely professional community service (Abbas, 2011). The National Highways and Motorways Police is often projected as an accomplishment saga that may perhaps and ought to be cloned in other wings too. Highest-level commitment, efficacious leadership, competitive salaries, an encouraging work environment, proper incentive mechanisms with checks and balances and an insistence on equality before the law are some of the features of this department. Yet, most important attribute of this department is that it is devoid of any political interference.

The crux of the analysis can be summed up as Police department in Pakistan has generally been employed as a repressive tool of the state machinery. Over and over again, a nexus cultivates between submissive and corrupt police officers and elites, primarily political and feudal elites, who does not have any concern for public apprehensions, real democratic practices and most importantly the rule of law. Ruler's hold over Police apparatus through relocations, placements, hierarchal elevations, inquiries and other organizational and functioning matters quashes the police discipline. In this equation of politics and police, the genuine victims are the unfortunate folks of this nation for whom good governance, meritocracy, objectivity, neutrality, honesty, competence and resolution of convictions by their Police services still remains an intangible dream

(PILDAT, 2016). Robust, efficient and effective Police would ultimately mean a resilient state and a democratic society where rule of law rather than the law of the ruler would prevail.

#### **4.6 Rent-Seeking Mechanisms**

The expression of rent-seeking has its origin during the times when the feudalism emerged in its mature manifestation. In that kind of setting, a landowner would get the rents of the land due to his ownership over that land and not by the virtue of his hard work or any other input in this regard. Later on, the expression of rent-seeking also encompassed the rents by the virtue of monopoly - these rents are gained due to certain monopoly, which otherwise would not be possible if there were competition in the market. Individuals can also be identified to be seeking for rents whilst they are attempting to acquire benefits for themselves via political domain (Haque, 2007). They typically do so by means of getting a subsidy for a commodity they produce or for being in a particular class of people, through getting a tariff on a commodity they produce, or by means of getting a special regulation that hampers their competition.

Rent-seeking is basically associated with power. It means that rent-seeking may be perpetuated via a nexus of power with diverse privileged groups. This sort of symbiotic linkages could be very visible in Pakistan's system or social order, in which numerous elite factions have entered into an unholy coalition for rent-seeking.

Burgeoning corruption and nepotism in Pakistan's bureaucracy, which in general is comprised of kith and kins of those who either are in power or have connections to power corridors ensure the subjugation of a common person and employ state machinery for their personal interest maximization. The nature of government over past few decades in Pakistan can rightly be labeled as a nexus of bureaucracy, politics and white-collar crime, dominated by a club of predacious elite factions, who espouse only their own interests employing their influential positions in the state machinery (Gul, 2017).

There is no disagreement over the deep penetration of rent seeking mechanisms in Pakistan, since its inception in 1947. In Pakistani society, rent-seeking can be observed in

diverse arrangements and manifestations. Like every society across the world, here too exist a dominant faction within the society which comprises different groups of elites i.e. feudal elites, industrial elites, bureaucratic elites, religious elites and others. This dominant faction of the society is very well known for their rent-seeking activities in which they are deeply immersed one way or the other. They are the actual beneficiaries of the whole social order - commonly known as system, which is constructed on the basis of rents and privileges. That is why even the most ambitious of initiatives to reform the overall system and overhaul the institutional structures fail to provide desired consequences, owing to the well-ingrained interests that these reforms are speculated to harm. The rent-seekers, who have accumulated gigantic opulence, stimulate and direct the state machinery in such a way that promotes rent-seeking mechanisms.

Rent seeking has turned out to be so entangled in Pakistan's economy and organizations that the state has nearly lost its authority to efficaciously put into effect the social contract. It does not carry out primary functions effectively like regulation and maintaining law and order, effectual dispensation of justice and effective service delivery. The state cannot collect due taxes owing to the fact that rent-seekers have accrued strength and authority up to the extent whereby they bend the laws in their favor. Every so often, it isn't always individuals who bask in rent-seeking activities but interest groups and organizations as a whole are engrossed in rent-seeking, that together protect their pursuits. For instance, a few services groups within the Pakistani bureaucracy will not let reforms succeed with the intention to keep their dominance in the state machinery intact and their fortunes forever green. At times, the rent-seekers in organizations join hands to abridge the organizational accountability futile.

The configuration of rent-seeking in Pakistan is established on four major components. First includes regulations, immunities, subsidizations, and licensing. Second encompasses those privileges one acquires or is entitled to by the virtue of being part of some particular interest group or class. Third comprises the excess of land in the hands of a minority class - the landed elites, commonly known as feudal elites, which has not essentially been procured by any struggle or by blood and sweat. Fourth category is of the distinctive privileges to the private housing authorities or other housing schemes owned or controlled by the elements in state machinery.

Pakistan has had an extensive structure of subsidizations, rebates and export vouchers etc. since its inception in the year 1947, where few segments of economy got special treatment by the organs of the state. The influential business interest groups effectually lobbied for exceptional and the kind of tax treatment that would be beneficial to the business community, irrespective of the fact that this approach may be harmful for the economy at aggregate level and for the state itself. The subsidies dispersed to large State-Owned Enterprises (SOEs) like Pakistan International Airlines (PIA) and Pakistan Railways are principally a drain on the national resources.

Statutory Regulatory Orders (SROs) is another tool used by rent-seekers in Pakistan, where giant industries get absolved from custom duties and taxes through an SRO. A legislative tool like this one serves as a cradle for rent-seeking opportunities, not only for a specific sector or industry but more importantly for those who are directly or indirectly involved some way in the issuance of such SROs.

Another component of rent-seeking system in Pakistan is connected to the perks and privileges bestowed upon the Civil Services of Pakistan, predominantly a few groups within it. Large residential houses at the level of districts and divisional headquarters, to be found in the high-class zones of the big urban centers are an immense source of rent-seeking. This kind of rent-seeking not only generates distortions across the housing market but also a clear manifestation of discrimination amongst diverse cadres and service groups. Hypothetically, two government employees might be employed on the similar pay scale and entitled to the equivalent perks and privileges which may include housing and conveyance. Nonetheless in practice, one employee may be receiving house rent not enough to have a decent living in the open market of housing, while the other relishes himself with a government-owned accommodation straddling over a large portion of land. The market price of such an accommodation is usually many times higher than the house rent permissible to the other government employee. Appointing favorite ones for foreign trainings and postings and transfers through kith and skins or powerful friends is also the dilemma of civil services' rent seeking mechanisms (Nadeem Ul Haque, 2007).

Tax regime is also an effective rent-seeking mechanism in the context of Pakistan

(Ahmad E. , 2010). The ratio of indirect taxes is very high accounting for 88.79% of the total revenue collection, while direct taxes account only for 11.21%. This explicitly shows that the elite class or high-income class is so protected by their shared interests. Most economists would argue that indirect tax is a more efficient tax than income tax, but acknowledging that, in the absence of compensation for lower income people, increase in indirect taxes can be viewed as unfair. Moreover, excessive indirect taxes affect the economy in three ways: by discouraging consumer spending, by decreasing business revenues and by lowering the amount of tax revenue that can be collected when economic activity decreases. Hypothetically, indirect tax would only tax goods or services when consumed while leaving savings alone. Further, it would raise less revenue than an income tax if the two rates were the same. Income tax, however, does tax savings because revenues are raised not only from labor (wages or salaries), but also from capital (interest, dividends, capital gains). Also, higher indirect taxes affect poor segment of the society (by hurting their purchasing power) which makes a significant portion of our population. While on the other hand, higher indirect and lower income taxes show the lacunas in our system of tax collection and interests and influence of affluent faction to keep income taxes lower as compared to indirect taxes (Ehtisham Ahmad, 2012). It also shows the lack of organization and systematic collection, monitoring and checks and balances, thus imposition of indirect taxes is an easy tool for Pakistani authorities to generate sufficient revenue to get the things going, without disturbing the interests of rich class/high income class.

Though, there have been many attempts for rent-seeking, but each time elitist agenda prevailed eventually. Tax Reforms fail in Pakistan because they are planned to fail. Elites rig political coalitions, and leverage their infiltration into the political power structures to control state's extractive system, so as to maintain the economic status quo. Why elites want to keep state's extractive system in a given state of incapacitation because a functional tax system would cost them a portion of their riches on an on-going basis. Now, there are few not-worthy points that need to be mentioned about Tax reforms. One, tax reforms in Pakistan have always been elitist initiatives in that they are sponsored by elites to shake up tax administration and tax policy to their perverse gains. Two, members of tax reform commissions are carefully selected and broadly reflect

relative power wielded by each elite group. Three, assistance and cooperation of the International Financial Institutions (IFIs) is sought and played up to lend the reform ploys semblance of legitimacy. Four, tax reform commission reports apparently read balanced, theory-laden, and in consonance with dominant international trends, in effect, they are deftly crafted to camouflage elitist agenda. Five, it is at implementation stage that elites' juggernaut is unleashed with vengeance, as only those reform recommendations are implemented that promote elitist interests. Six, non-professional Chairmen under-grid elitist designs to rig and weaken polity's extractive arm, first by selectively implementing recommendations, then by failing to stock-take a given reform process's implementation and outcomes, and instead, by proposing to launch yet another one.

Why is rent-seeking considered so unfair? It is depraved as it decreases the economic and institutional efficiency by impeding competition. Plethora of literature on rent-seeking also pronounces that it kills innovation. Murphy and his fellows in the study titled 'Why is rent-seeking so costly to growth?' write that public rent-seeking assaults innovation, since innovators require state supplied goods, which would include permits, licenses and others, much more than the conventional producers would ever require. Innovators have no conventional lobbies and are usually not a part of the dominant faction. In contrast the conventional producers, innovators are every so often credit-constrained and cannot as simply find the money to pay bribe (Murphy et al, 1993). Therefore the argument is that rent-seeking inhibits economic growth and dampens the formation of new businesses.

#### **4.7 Intra-Elite Arrangements**

Elites operate within themselves by agreeing to political settlements, which in essence means the founding of a mutual understanding within the circles of dominant faction in a way that the best interests of all the elite groups are obliged by a specific way of organizing the distribution of political power. A political settlement hence formulates the liaison between the institutions i.e. formal and informal, the sharing of power in the society. The duo needs to be well-matched, since if influential groups are not receiving an adequate share in distribution of privileges from the institutional machinery of the state or



society, they would attempt to alter it, and the combination essentially should have a least level of economic and political performance to be stable in the long run. This way the fundamental politics can make room for some pockets of effective governance to exist even in circumstances of general failure.

There are different actors in any state or in the whole social order. Every actor or groups of actors (interest groups) have their own interests which they have to protect. Actors or groups of actors cannot work in isolation; they are either dependent or interdependent. It is practically not possible that any actor or group of actors or any organization for that matter work in isolation according their own carved rules of the game. Sooner or later, at some time or at some stage, there arises a need to engage with several actors or stakeholders. So, usually, actors or groups operate in isolation and work to achieve their own goals, and when they have to engage then they work to achieve those goals of theirs which are aligned with the goals of network - horizontal web of actors, groups and organizations. Let us understand this phenomenon by an example. Suppose, an officer in the government sector has to launch his project, for that he is dependent on Planning Commission which has to technically approve the project, he is dependent on Finance which has to release funds for the project, he is dependent on contractors who have to take the construction's responsibility and he is dependent on several other actors regarding architecture, material procurement etc. Therefore, that officer is interdependent on all the actors involved, but meanwhile the officer is achieving his own goal, which all other actors too are achieving their own particular goals. Now, the goals of all the actors involved converge on that project. Thus, if common goals aligned with the individual goals of all the actors then there will be an agreement within them and the project will be running smoothly. On the contrary, suppose there is a land mafia which does not want the project to materialize, due to their own specific interests in that piece of land where project has to be implemented, then this will create divergence of interests and land mafia will do anything possible to create hurdles in the way of the project. The land mafia will either try to stop it or will employ delaying tactics or will use any of the resources available to impede the project implementation.

Now in this case where different actors or groups of actors have to engage, they will engage with others but with the intention to maximize one's own personal gain out

of it. But it is to be known that even in maximizing individual interests, the point at which the negotiations will break is most often the win win situation, because all actors are rational.

Usually, cooperation ceases to happen when there is stagnation between bargaining parties. As we can see in Pakistan's Panama Case, stagnation was quite visible. The opposition, primarily Pakistan Tehreek-e-Insaf (PTI) wanted the sitting Prime Minister to resign over Panama allegation, and Pakistan Muslim League Nawaz (PML-N) - the ruling party was not willing to give in by any chance. Thus, there was stagnation between opposition and the government precisely between Pakistan Tehreek - e- Insaaf (PTI) and PML-N respectively. In that situation, a need to search for mediators arises. Both the parties used their links and had many meetings to break the ice and strike a deal with some understanding, but that did not materialize too. After that what parties in bargain usually do, is that they find a third-party agency for decision and enforcement. Third party is a very broad term; it can be any agency; the state, the court, the clergy or may be a dominant elite faction etc. Now the point worth noting here is that, third party agency enforcement is always chosen on the basis that they have a soft corner for both the parties, both parties can influence it somehow or both parties feel safe to some extent with this third-party agency. General perception or the fabricated perception is that military was about to play the role of third party agency between PML-N and PTI which seems to be a baseless argument for the two reasons. First, the military very explicitly articulated this time that it would not interfere in the domain of politics and it is for the political parties and their leadership to settle the issues within themselves, however the military said that it supports state institutions and democracy. Secondly, as mentioned above military was apparently not be the third-party agency because for that both parties had to agree, which apparently was not the case. Therefore, what seems at the face value is that after a deadlock between PML-N and PTI in particular and other political parties in general, it was decided within the circles of political elite to follow the course of rule law. This means that all elite factions implicitly decided that they would now treat each other equally and would go for the rule of law and face each other in the courts and courts should decide matters between them, as they are not able to strike deals within themselves as before, due to deadlock. Now the question arises that why would political

elite choose to opt for rule of law and face judiciary, as apparently judiciary – the Supreme Court of Pakistan was chosen to be the third-party enforcement agency in this case. Judiciary seemed to be the best option because judiciary operates within a very limited and constrained setting and cannot go beyond the record and proofs. Amidst the case proceedings, a Pandora box opened and it led to many cases and linkages. In one such case, sitting Prime Minister Mian Muhammad Nawaz Sharif was convicted. This was something very unusual in Pakistan's history. Not only he was convicted, but also asked to step down as he is no more entitled to be the Prime Minister of Pakistan according to the Constitution of Islamic Republic of Pakistan. This was unprecedented case in Pakistan and unexpected one too. This created uproar within the supporters of PML-N and the sitting Ministers showed their resentment against the Supreme Court decree. The clash between sitting government and the Supreme Court of Pakistan was feared, but quite unexpectedly Mian Muhammad Nawaz Sharif - the Head of PML-N and the then Prime Minister stepped down and left the Prime Minister's office. The religious parties like Jamaat-e-Islami, instead of showing street power and use religion card also took part in the whole Supreme Court episode and they too were part of the court proceedings against the sitting Prime Minister. It was anticipated that PML-N would be out on streets with its supporters to fight back against the decree, but advisors within PML-N must have suggested otherwise. Thus, a new Prime Minister was nominated and stability remained. PML-N started power shows in different cities as a campaign for the coming elections and tried to legitimize itself by playing victim card. Now, technically speaking, this is not an illegitimate thing to do. They are at least operating within the framework of rule of law. The military amid all this chaos, uncertainty, speculations and emotions remained calm and time and again reiterated that it stands with the democratic process and will stay out politics and will only play its constitutional role. It is also argued by some circles that the Supreme Court and National Accountability Bureau (NAB) has only targeted the PML-N, but NAB's opening up the cases of many people within PML-N, PPP, many former military personnel, former and present bureaucrats make this argument bit weaker. This seems to be the window of opportunity towards rule of law for elites in specific and rule of law in general. At present, the desired results may not be achieved and also these happening ought not to be seen with much optimism, but it

seems that at least that the process has begun and will evolve and refine over the years to come with incremental changes.

## **4.8 Conclusion**

Pakistani elites despite having diverse backgrounds in many aspects are bound together as a conscious class of their own, owing to their shared interests and threats. Historically, they have employed state apparatus in different forms to protect their interests and privileges. These apparatuses include legislative mechanisms, detective mechanisms, enforcement mechanisms, and rent seeking mechanisms. They have well maintained their informal arrangements and had been successful in chalking a way out whenever there was a dispute among them. However, times have changed. More groups have entered into this conscious class and in parallel civil society, media and particularly social media are acting as effective as watch-dogs. This made it very difficult for the elites to sustain the informal arrangements between them by power and patronage system or give and take mechanisms. Moreover, informal arrangements between the elite groups and striking deals mechanism are also getting exhausted with the passage of time. The life-line of the privileged class is to make themselves legitimate in the eyes of the people, otherwise they would lose the power and control over them eventually. All these factors paved the way for allowing a third-party enforcement agency which happens to be judiciary, to mediate amongst them. The reason for permitting justice system to be the third-party enforcement agency is that justice system has very limited scope and constrained environment, as justice system cannot go beyond what is in black and white. Thus, elite groups consider it as safe playing. Yet, this may be the beginning of rule of law in Pakistan. All what is needed is an incremental evolution or a window of opportunity for the consolidation of the rule of law.

## **CHAPTER 5**

### **CONSOLIDATED CONTROL OVER MILITARY**

#### **5.1 Introduction**

Consolidated control over military seems to be the most problematic doorstep condition for a limited access order state to accomplish. The concept itself is very difficult to define and comprehend. Though, consolidated control over military can simply be defined as cutting off the close linkages among politics, economics and the groups having monopoly over using violence i.e. military.

The conception of consolidated control over military cannot be perceived without understanding the theories of single-actor state. The notion of solitary commander in chief having the power to govern the entire military faculty within a society seems to possess absolute control. Looking back into the history, a single leader had been acknowledged to be available to administer societies, city states or countries. Those single leaders would either be kings, dictators, warlords or sultans and the problem was to adequately restrict them to their own very domain of authority, so that those leaders would not be able to abuse their power of absolute control. Times have changed, in modern era most of the states are not governed by a single actor practically, rather these are governed by dominant coalitions i.e. alliance of powerful elite groups. Then there are cases where one group or faction in the alliance has efficacious monopoly over use of violence. More exceptional condition of such a case is that when the groups in the alliance are contented and agree with having only one faction among the group to have the monopoly over the use of violence. This kind of situation emerges particularly due the fact that one group having monopoly over violence usage paves way for specialization; implying that other groups in the dominant coalition would have

considerable monopoly over economy and politics respectively. Understanding how all the groups of dominant coalition willingly agree to give in control of military necessitates a profound understanding of the entire coalition and their rules of the game.

Now the question need to be answered is that exactly what is that necessitates to have a political control over military? First of all, this should be kept in mind that nominal segregation between civilian and military domains does not account for civilian supremacy or political control over military. For civilian political control over the military few conditions have to be met. First, absence of an active support from military is usually essential to hold or acquire control of the institutions falling under the realm of civilian political government. Second, military officers (in uniform) ought not be serving in civilian institutions. Third, military as an organization should not relish the proprietorship of noteworthy economic assets which it can procure without consent of civilian authorities. Fifth condition is that only civilian political leadership should have the right to select the top leadership of military (Desch, 1999). The most studied connection between the political factions and military is through the lens of fiscal resources. Increasing the size of military's pie often result in substantial benefits to the military, but at the expense of diminishing social well-being in the rest of the society. Here most crucial institutions or factions in dominant coalition for establishing consolidated control over military are those that are responsible for apportioning the sum of fiscus to the military. The core of the limited access order state is linking control of military resources to economic resources and activities. It is frequently observed, that control over economics, military and political resources are entrenched in the same organizations which have strong linkages throughout the dominant coalition via complex but solid network mechanism. If, though elite groups develop more prevailing organizations that specialize in economics, politics and others, at that time an intra-elite arrangement can be conceived, such as alienation with consent, can offer a way for allocating resources to military that would come under the control of non-military elite faction in the governing dominant coalition.

The conundrum of military overlapping the political arena and its study is the one that has been central in the field military sociology since 1957, the year when the book on the subject naming *The Soldier and the State* by Samuel P. Huntington was published. In

the book, Huntington reasoned that there existed means and ways to make sure that the military remain a-political. He also argued that it was highly necessary that the stringent segregation of civilian and military was maintained (Huntington, 1957) .

## **5.2 Role of Military in Societies**

From the ancient pivots of civilizations in sub-continent, Persia, Central Asia, Egypt, Arabian Peninsula, Byzantine and China, to the classical Roman and Hellenic empires, the feudal realms, medieval gentries and lately progressive authoritarianisms of modern Europe, it was primarily the sword that dominated the spirit. Throughout the known human recorded history across the globe, the rulers were the military men and the societies were systematized around a patronage complex of military, though modus operandi of the social structures and patronage networks varied considerably from one society to another (Major, 1996).

Preserving control over military apparatuses was very difficult task for the ruler in such settings. The arbitrary power of the ruler would aggravate the insecurity of military faction and would lead to rebellions. The atomized and indifferent nature of the societies administered arbitrarily as the personal empire of the man in power meant that any rebellion that became successful, would be endorsed by the people and hence legitimate. In the backdrop of such circumstances, the ruler would take an active interest in the matters linked to military. The ruler would hire the services of surveillance body deeply spying into the affairs of the state entities and particularly those in military barracks having a temptation for power, resulting in merciless killings of those opting defiance and gratifying and co-opting faithful and effective servants. In a setting dominated by unpredictability, violence and conspiracy, survival for both master and his affiliates required prodigious moral precision and exceptional animal cunning. The moment the ruler would lose the capability or will to control and surprise his subjects, the empire and its whole machinery would split into inconsequential rival estates. The apparatus of military was the first to experience this fragmentation and hence gave rise to the modern concept of professional standing armies; these would be large in numbers, unlike before which would be limited in numbers, primarily guarding and securing interests of the ruler

of the time (Niaz, 2010).

At the height of Roman Empire around 180 AD, Rome was an absolute monarchy comprising some forty five provinces, extended from Scotland in the north to Mesopotamia and Sahara in the south. The population of Rome at that time was about fifty to seventy million, while military had about three hundred thousand men in its ranks. In 180 AD, with the death of the Roman Emperor Marcus Aurelius the chain of wise and benevolent rulers ended. Afterwards, since the reign of Octavian Augustus, the Roman emperors had to manage a fragile act of balancing the senate and soldiers by electing the sovereign by the consensus of both factions (Gibbon, 1963). After Emperor Marcus Aurelius the Roman Empire was administered through seventy emperors, each raised and supported by the whim of military elites of Italy and Rome. Each consent of appointment would follow by extravagant donations to the military, particularly the elite Praetorian Guard, which were based in Rome. Shaken by civil wars during which the military commanders and provincial governors embarked on drives to conquer Rome and assert themselves or their civilian allies as new sovereigns of the Roman Empire. Rome observed economic and social devastation during those times. Chaos, social and economic deprivation, internal strife, expropriation by those still having some sort of power, over a period of a century reduced the population of Rome by half. Consequently, a military savior restored the order to the remaining of the Roman Empire left throughout all those times. Though, size of the military stood at five hundred thousand men, showing significant growth and endurance by the military apparatus making it still the most dominant faction in the Roman society of that time.

An analogous pattern was observed in the Ottoman Empire too. During the time of Ottoman predominance (1300-1600) the slave soldiers of the ruling sultan, known as janissaries, were no more than twenty thousand in number. It was in late 1600s that the succession of effective sultans failed, followed by the upsurge of janissaries which in 1826 rose to the numbers of one hundred and fifteen thousand. Once the guardians of the ruling sultans and the harbingers of Ottoman expansion, the famous janissaries get transformed into an organized mafia dominated by internal ferocity and conspiracy, lived contentedly in the cities, intimidated the imperial subjects, and assassinated the sultans having capabilities and vision for wide-spread reforms. It was brutal and shrewd Sultan



Mahmud III who butchered janissaries threatening his rule, aiding the Ottoman Empire to make it to the early twentieth century. After that, once again the military got out of control and made sultan captive after the Young Turk Revolution in 1908.

In the Timurid regime of Indian sub-continent, royal affiliates were called mansabdars. Each mansabdar would be assigned a number which specified how many troops he could maintain under his supervision. Surprisingly mansabdars were not differentiated into civil and military administration separately; rather the emperor would assign a mansabdar any portfolio he deemed fit. Mansabdars of that time by the virtue of their coercive power through the troops they governed, accrued immense wealth. In late 16th century, a thousand and seven hundred mansabdars of Mughal Emperor Jalal-ud-din Muhammad Akbar received almost 80 percent of the annual revenues with top 25 mansabdars getting 30 percent of the whole. Later in the mid-17th century, the numbers of mansabdars swelled to almost fourteen thousand and five hundred (Eraly, 2007). These were involved in exploitation of the masses through heavy taxation and land grabbing endorsed by the royal court. Another case in this context is the Sikh Kingdom established by Ranjit Singh. His army consisted some eighty thousand men during his reign from 1799 to 1839, and more than 40 percent of the kingdom's revenue would go to the military.

In Europe, Napoleon may be considered as giving military a privileged position in France, but in actual he was very well aware of the importance of civil institutions and made clear distinction on many important occasions. It seems that he was very clear about the positive spill-over effects of the civilian supremacy and the risk of moral hazards attached the strong military or military regimes. Two examples are often quoted by the famous Prussian philosopher Carl von Clausewitz in this regard. First one is related to General Cervoni when he gave orders to arrest and imprison anyone in the Fort St Jean in Marseilles, if found carrying arms, but on March 1807 Napoleon rebuked him. Napoleon gave a noteworthy statement, saying that a general has no civil function except specifically if assigned to him. He further said that when a general has no mission, he can't exercise any influence on the police, on the municipality or on any of the courts. He regarded General Cervoni's behavior as sheer madness. In the year 1808, Napoleon made another remarkable statement, saying that there exist only two forces in this world: the

sword and the spirit. He further explained that by spirit he meant the religious and civil institutions, and that in the long run spirit always triumphs over the sword (Cronin, 1994). Virtually, whole of the Europe continued to be under the military or pseudo-military one party rule up until the waves of liberalization in 1970s and 1980s.

The role of British in reforming the rules of the game for civil-military relations is very important in the context of sub-continent. Firstly, the military ceased to be the private possession of the British monarch, rather it was transformed into an institution backed by the British Law. Secondly, military was detached from the politics paving way for apolitical and more professional role. Thirdly, military gradually ceased to be the administrative tool in the subcontinent, except for those areas which were volatile and those having geographical importance. It is imperative to mention that most of such areas fall in the present-day Pakistan (Yong, 2005). Fourthly, the size of the military diminished over time till 1947, in the sub-continent. Lastly, the British exited sub-continent leaving behind a network of institutions having meritocracy and democratic norms. Power was handed over to the representatives of the masses, sitting in constituent assemblies. One can have a long list of how British policies badly affected the sub-continent region, from economy to the overall social structure, but on the other hand they also had a part in introducing modern democratic institutions in British India (Rizvi H. A., 1986). One of which was the segregation of military and political pitches.

In modern history, there are many examples where military has a dominant role in overall statecraft including Turkey, Indonesia, Egypt, South Korea and Taiwan. In Turkey, military seems to have been inherited from its Ottoman legacy. In 1923, when Mustafa Kemal Ataturk rose to power and found modern Turkey, military emerged to be the guardian of the Kemalist secular ideals of Turkey. With that, Kemalists brought a counter-narrative of nationalism to the narrative of fundamentalist Islam, which Kemalist believed have damaged the outlook of Turkish nation (Karaosmanoglu, 2000). From that point on, military assumed the role of guardian of the Turkish nationalistic ideology and the nation itself. Interesting thing here is that, Turkey also managed to establish a strong state and set on the track of widespread economic development. This may have caused to diminish the role of military with the passage of time (Kirisci, 2009). In recent years, after the Justice and Development Party (AKP) took the reins of power under the

leadership of Erdogan, Turkish state is again opening to Islamist ideals. This undoubtedly precipitated a conflict with the military which considers itself as the guardian of Kemalist's secular ideals, but Justice and Development Party managed it very well to subdue the military under civilian control, apparently because the former has support of the masses.

Indonesia is another example where military emerged as a revolutionary force in 1940s, paving way for the independence of Indonesia in 1949, after fierce fighting with their Dutch colonizers. Initially, military gave space to the civilian leadership to run the country and bring stability but they failed in doing so. In 1957, Sukarno, the charismatic leader and also the founding father of the modern Indonesia proclaimed martial law. Sukarno's regime adopted the *dwifungsi* doctrine, meaning dual function doctrine, giving military a legitimate role in all the state affairs even up to the village level affairs (Crouch, 1978). Years passed on, army rule ended by deposing President Suharto in May 1998 and the then army chief General Wiranto did not reiterate military rule. Afterwards a democratic system emerged, free and fair elections were held and new Parliament was elected with Abdurrehman Wahid as the country's President. Wahid reduced the role of military in politics with constitution backing and ended the military's obsession with security doctrine and sorted out many conflicts Indonesia faced at that time (Ricklefs, 2001). Since then, Indonesia is on the track for economic development. In 2007, Indonesia was declared as fully 'free' by the Freedom House.

Egypt, presents a very different model altogether. Egypt has been at the crossroads of many civilizations and invasions; hence the military nature of the state is quite obvious. The striking point in this regard is that Egypt always had a system where president was the strongest and most of the time the president will run the one man show. However, military was the strongest of institutions and most honored. Military and its intelligence network would assist fully in consolidating president's control over the country, ostensibly military would enjoy the privileges in return for the services they provide to the president. Recently, Egypt apparently had a puppet government in 2013, having interim government under Adly Mansour while army ran the show (Cook, 2012). In 2014, fresh election was held with retired General Abdul al-Sisi victorious. Sisi gave unprecedented powers to the military, some calling it as almost a dictatorship.

South Korea and Taiwan depict remarkable stories of their trajectories. Both were security states facing direct confrontation and vulnerabilities. Both South Korea and Taiwan put military and security as pivot of the state affairs, but they opted for development path. In the bottom line, both countries needed foreign exchange to procure defense equipment for their security. This compelled them to have export oriented policies, earning them foreign exchange, providing employment, reducing poverty and raising living standards along with safeguarding their security interests (Paul T. V., 2014). This might be the reason South Korea and Taiwan realized that they do not need security doctrine, rather they need development dogma, turning both away from the security based states to democratic states in 1990s.

### **5.3 Military, Politics and Privileged Groups**

Pakistan can be represented as a country where the military has attained the capability, has will and adequate experience to substantively influence the fundamental political institutions and process. In the backdrop of feeble and incongruent political forces, the military's character has a stout impression on the developments of any political change. In 1947, the military in Pakistan inherited the convention of civilian supremacy and was confined to barracks. It was detached from active politics, was committed to its professional role and supported the civilian authorities in the areas of maintaining law and order and national calamities. Hence, it can be deduced that military's role augmented gradually over time.

With the inception of Pakistan and India on the map of the world, came the division of resources between the two nascent states. The British armed forces were also segregated. The entire strength of this military was about 460,000 which included 12,000 officers and defense officials. Pakistan got one-third of this share i.e. 150,000 of whom 90,000 were already deployed in its own land. As the recruitment areas of British military historically concentrated in Punjab, contributing six-tenth of personnel of the British Indian armed forces as recorded in 1927, the newly established Pakistan's military was well-positioned to replenish and increase its numerical strength (Cloughley, 2006). The critical deficiency was in the officer corps; only half the numbers were available out of

total four thousand officers required. Retaining British officers for long was never an option. Liaqat Ali Khan, besides premiership also took the defense portfolio as the Chair of Defense Committee of the Cabinet (DCC). He rigorously spearheaded the program that pursued complete nationalization of the military by January 1951. Temporarily 500 British officers were retained. The pace of recruitment was amplified and fast-tracked promotions were ensued. This paved way for the major and colonel level officers to rise to very senior command positions in just few years' time. This all was done apparently without any significant damage to efficiency - that presumably meant to ensure the national security (Khan F. M., 1963). Policy domain predominantly remained under civilian authorities in early years. Military for the first time in the history of Pakistan emerged as the major stakeholder in decision making process, especially in the areas of defense and security in late 1950s. Finally, the military flexed its muscle in 1958 when Field Marshal General Mohammad Ayub Khan who remained Chief of Army Staff (COAS) from 1951 to 1958, toppled the wobbling civilian government. General Ayub Khan reigned till 1962 under martial law. Afterwards, by co-opting a faction of civilian elite, General Ayub was able to introduce a new presidential constitution, apparently to put on his martial law civilian attire. He, at first emerged as a modernist leader. He was allergic to both leftist and rightist political parties. Ayub Khan later co-opted the industrial elite, who in fact emerged from his economic policies that eventually protected the interest of few families – known as 22 families. These 22 families exercised monopoly over the financial and economic domains of the country. They owned 66% of the total industrial possessions and 87% of the banking assets; thus, in a sense controlling the lifeline of Pakistan (White, 1974). These 22 families supported Ayub Khan for their own interests and due to the shared interests of the dominant faction they all were part of. Ayub Khan, being modernist brought many reforms which were not compatible with the ideologies of rightist political parties or Islamist groups, hence confronted agitation. This compelled him to forge an informal alliance with the religious elites and factions and reintroduced Islamic injunctions into the constitution. This paved way for lingering onto his rule for few more years. In March 1969, Ayub Khan gave in to the mass agitation against him and resigned eventually. General Yahya Khan, who held the position of Chief of Army Staff (COAS) from 1966 to 1971 replaced Ayub Khan annihilating the

constitution presented by Ayub Khan and re-imposed martial law. It was December 1971, in the milieu of laying down of arms by Pakistani troops in East Pakistan (now People's Republic of Bangladesh) that General Yahya Khan was compelled to transfer power to the civilian political leader - Zulfikar Ali Bhutto.

Zulfikar Ali Bhutto for the time being was successful in proclaiming the supremacy of the civilian government. He relished mass support in the early years of his period in office, whereas the repute of military deteriorated histrionically due to the East Pakistan fiasco. The morale in the barracks was also on low. Though, Zulfikar Ali Bhutto's avowal of civilian supremacy did not last long for many reasons; three being primary in this regard. First, his efforts to fuse all the authority in his own persona, rather than consolidating democratic practices and inclusive intuitions weakened his widespread support. Second, to displace Bhutto in the later phases of anti-Bhutto shakeup, leaders of the opposition pronounced it loud by their actions and through back-door channels that they would not contest a military coup to oust Bhutto. Third, by the year 1977, the army had recovered from the debacle of 1971 and reinstated their positive and robust position (Lodhi, 2011). The military regained their lost political ingenuity, when it found that Bhutto has been shunned and could no longer linger on without the backing from military. This ambience enabled General Zia ul Haq (COAS 1976-1988) in July 1977 to stage a coup for the third time in the country and rule till 1985 under martial law administration. During all this time, General Zia moulded the political system and cautiously held party-less elections to safeguard the endurance of his rule after the cessation of the martial law. Initially, Zia used religion as the only but sufficient tool to justify his take over. He articulated to work for an Islamic state in its true essence, in an attempt to legitimize himself and his rule in the eyes of the people. Zia co-opted religious parties and groups under the aegis of an extensive power and patronage system, as the foundation for consolidating his rule. Zia islamization program for political reasons attained most of its objectives in terms of creating a sole source for the strength of his regime, though it drastically changed the social fabric of the society. Zia and his allied religious circles gave new interpretations of Islam, democracy and governance, which again aimed at projecting Zia and his regime as genuine, reasonable and legitimate (Shah J. , 2012). General Zia ul Haq's rule concluded when his plane crashed in August 1988.

Afterwards, the army permitted the constitutional course to become operational, helping in holding the general elections and transference of power to an elected leader - Benazir Bhutto. Though, military still keenly observed every activity of the elected government and commented on its performance time to time. Eventually, the differences between civilian elected government and military precipitated again, over unsatisfactory performance on the part of civilian administration. The military soon afterwards allied with the then president and dismissed the sitting prime minister along with the cabinet in the month of August in year 1990. After a brief period civilian government, General Pervez Musharraf attempted coup on 12 October 1999 and ousted the then elected Prime Minister Muhammad Nawaz Sharif. Nawaz Sharif and the military had a rift over Kargil issue. The military opines that it was at an advantageous position in the Kargil conflict and could have smoothly come out as victorious, but the then Prime Minister Nawaz Sharif compelled military to retreat, apparently under international pressure. The split deteriorated civil-military relations very badly. The mistrust grew so strong that Nawaz Sharif fearing a coup dismissed his own appointed Military Chief General Pervez Musharraf. Senior management in the military rejected his dismissal. General Musharraf was not in the country at the time of his dismissal. On his way back he took a commercial flight to Pakistan. Sharif directed the airport management to prevent the landing of the flight having General Musharraf on board. This compelled the plane to circle in sky over the city of Karachi. In a military coup at the moment, senior military generals overthrew Sharif's administration and took control of the concerned airport too. The airplane landed, however with just few minutes of fuel left. Prime Minister Nawaz Sharif was put under house arrest and exiled later. This coup by General Musharraf was condemned internationally, but supported by the masses in Pakistan who were fed up with civilian administration's incompetence and corruption. General Musharraf was seen by the masses as modern and liberal person. He also permitted media to flourish in the country in a bid to justify his vision and moral right to rule for its attainment. Musharraf was seen as the Kamal Atatürk of Pakistan due to his modernization policies (Khan S. , 2015). Owing to this, he drew considerable support from the educated and upper class of the society. After few years of his rule, eye brows were raised again, considering him too to be the power grabber and holding to power by unfair means. Witnessing growing

opposition of the political parties, he shook hands with few political parties. These people mainly constituted feudal and political elite. Employing political means by the help of these elites, he managed to get himself re-elected as the President of Pakistan. Times changed, his political affiliates were replaced by the Pakistan People's Party (staunch opponents of Pervez Musharraf) in Elections 2007. Hence, General Pervez Musharraf resigned from the office of president on 18 August 2008 under the pressure of impeachment.

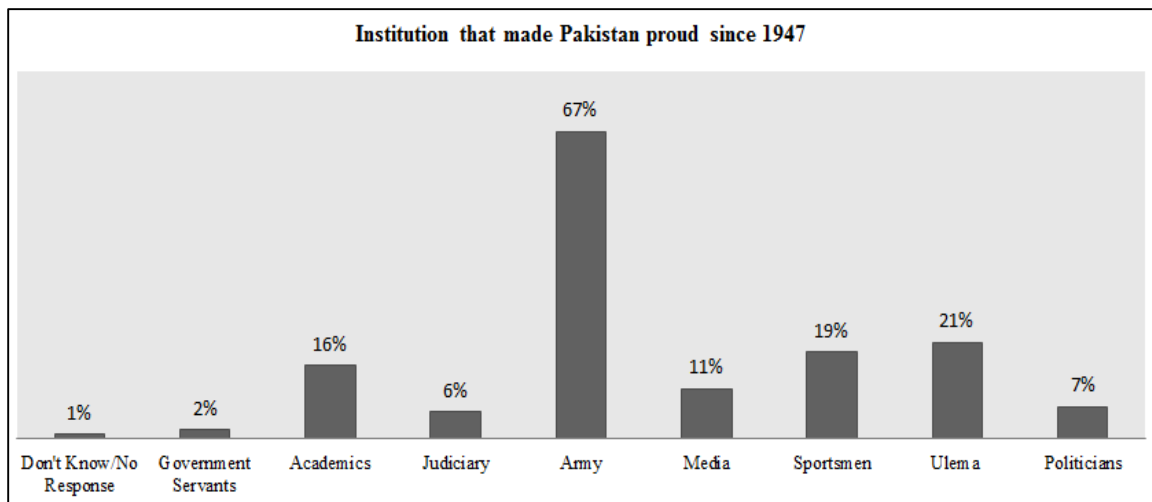
On November 29, 2007 General Ashfaq Pervez Kayani become Pakistan's Chief of Army Staff (COAS). Hardly after a month of assuming office, General Ashfaq Pervez Kayani in January 2008 passed a dictum that ordered army officers to sever contacts with politicians. Moreover, on February 13, it was publicly announced that General Kayani has instructed that all the army officers be withdrawn from the civil departments of the Government of Pakistan. This move of General Kayani served the purpose of antidote of the policies of his predecessor General Pervez Musharraf regarding meddling in the civilian domain. The critics who had long been demanding that the domains of military and politics should not interfere welcomed this initiative by General Kayani. The media in Pakistan and abroad reported that military officers are to be withdrawn from twenty three wide-ranging civilian departments under the directive from Chief of Army Staff. In an another audacious move, General Kayani before Election 2008 confirmed that military will stay out of political arena and also that it will support the new government. He further articulated that military fully supports the democratic process and that it is devoted to play its constitutional role. It is important to mention here that General Elections 2008 were won by Pakistan's Peoples Party (PPP) which was a hardline adversary of President (Retired General) Pervez Musharraf. After getting three years extension, he finally retired on November 29, 2013. The next Chief of Army Staff General Raheel Sharif proved to be very different from his predecessors. He remained very active in his professional arena, but was committed to democratic norms. During his time, Pakistan witnessed many episodes where the situation seemed chaotic and probable power vacuum was expected, and the people and the civilian power corridors anticipated some kind of military intervention, but General Raheel refrained from any misadventure or intervention and was very cautious about the military's image as an institution. He



often expressed his support for democracy in public. General Raheel Sharif also did not take any extension in service and retired on time, setting a solid tradition for his successors. It would not be wrong to say that General Raheel reclaimed the glorious image of Pakistan army, dented by self-serving dictators in the past. The present Chief of Army Staff General Qamar Javed Bajwa, following the tradition laid by his predecessor is also very active in his respective institutional domain along with showing robust commitment to stand with democracy, institutions and will of the people. He is more open to acknowledge constitutional civilian supremacy and military's constitutional role.

Recently in 2016, Gallup Pakistan conducted national representative survey asking the question as which institution has made Pakistan proud since 1947 till date. The respondents were given options and they were permitted to give multiple responses. 67% of the sample responded in favor of Army. This imply that majority of the people in Pakistan Still have confidence in Army and rate it's performance the best as compared to other institutions. The military as an institution seems to be more responsive to the

**Figure 5.3.1: Gallup Pakistan Survey**



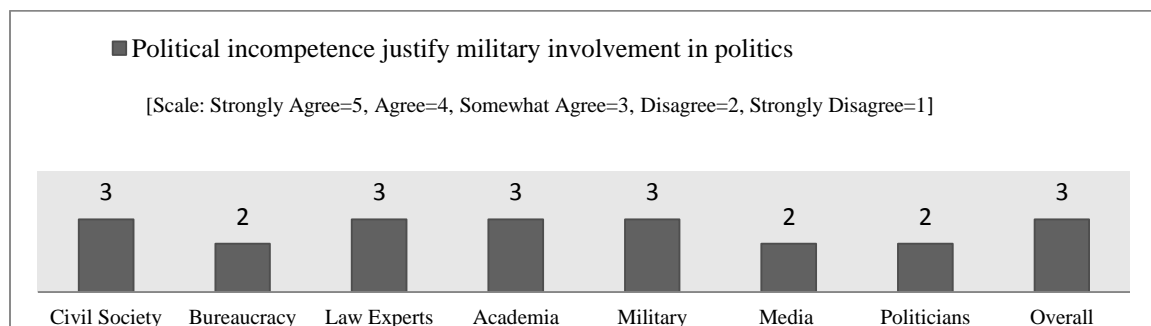
*Source: Gallup Pakistan, the Pakistani affiliate of Gallup International Association*

people's feeling than any other institution in Pakistan and is legitimizing itself in the eyes of people by sticking to their constitutional role. The military for past few years is

refraining from any political intervention that would disturb stability. Apparently, military has re-asserted its professional role in the wake of contemporary challenges like extremism and terrorism, and have decided to work for the development of Pakistan within their respective realm, as part of the whole system.

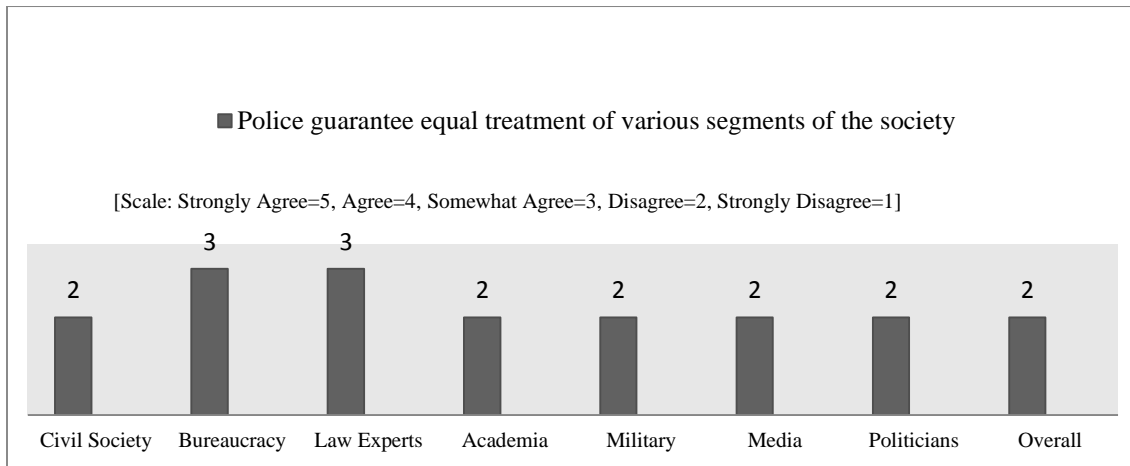
In conversation with experts, most of the respondents responded positively on the point that incompetence of political elite compels the military to involve in the politics. Respondents were of the view that sometimes the circumstances compel a person or an organization to take the action, even if that person or organization does not want to. Often times we don't really have an option in particular circumstances. The corrupt and incompetent political elite create a vacuum of visionary leadership, which obviously someone has to fill. One cannot let the state affairs go as it is,

**Figure 5.3.2 (a): Experts' Perception Survey - Military, Politics and Privileged Groups**



without any clear direction. Everybody is linked to politics for that matter and military is a major stakeholder in this regard. Having said that, military may have had a steering wheel of national destiny, specifically under military regimes in the past, but that is not a reality anymore. Military does have a say in foreign policy and security domain but it could not influence the government in every matter. This seems to be an excuse by the incompetent politicians that military intervene in political matter and influence election process and intimidate voters. The reason why there is a debate about the role of military in state affairs is that military dictators too eventually get involved in politics,

**Figure 5.3.2(b): Experts' Perception Survey - Military, Politics and Privileged Groups**



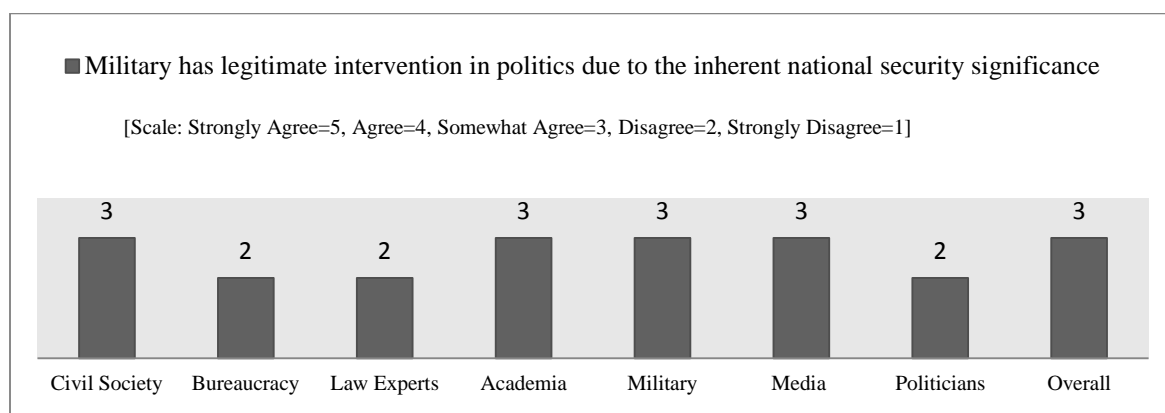
power grab and corruption in the past. Though they came for good, but as soon as they got power in past, they got themselves entrenched into the same system which tempts towards power, corruption and patronage. If military dictators did well in the past, people would be praising them. Therefore, for a common man it's not about military regime or civilian government; it's about deliverance.

#### **5.4 Dynamics of Pakistan's Military Economics**

This section deals with the understanding of the association between military spending and economic growth and the linked dynamics. In economic literature, mainly three schools of thoughts exist on subject topic: one is of the view that military spending stimulates economic growth; second opines that it actually hinders it; and the third one holds the view that no significant relation exists between military spending and economic growth (Mirza, Jaspal, & Malik, 2015). Military spending of Pakistan, being crucial, owing to prevailing threat sensitivity, has always been regarded as a burden on the state economy. Military spending is always articulated to be vital for Pakistan due to the state's border issues with neighboring states, ethnic and sectarian tensions within, and the war on terror. The most significant factor in this regard is long-standing rivalry with India. Pakistan and India share colonial legacy, culture and intuitional settings, but the power dynamics are driven by antagonism, mistrust, clash and confrontation.

Uncertainty, fear and distrust of ‘other’ linger to keep South Asia as the nuclear flash point. Since 1947, the defense policy of Pakistan - and henceforth the military spending has persisted to be India-centric (Cohen, 2002). The distrust combined with the threat sensitivity and security impasse has sparked incessant arms race in sub-continent and Pakistan, due to endogenous factors, was engulfed into hardware myopia necessitating traditional military characterizations and tactics for ensuring national

**Figure 5.4.1 (a): Expert’s Perception Survey - Dynamics of Pakistan’s Military Economics**



security. Therefore, defense budgets and general military spending for the development of military industrial complexes have amplified over time. Since the start of 21st century, the military spending of India has massively exceeded that of Pakistan’s owing to latter’s economic dilapidation. The effects of military spending on economic growth stand debatable, particularly in a developing country like Pakistan with long-drawn-out tactical and military nuisance concerns, because of the ongoing tension between national socio-economic necessities on one hand, and defense and foreign policy duress on the other. It has been recognized all the way through Pakistan’s history that the primary responsibility of every single government is to develop its military capability in order to make certain its national survival, autonomy and augment its national interest. However, the inquisitive query remains that how much military spending is sufficient?

The discussion on the positive or negative impacts of the military spending and its connection to the economic growth as well economic development demands an autopsy

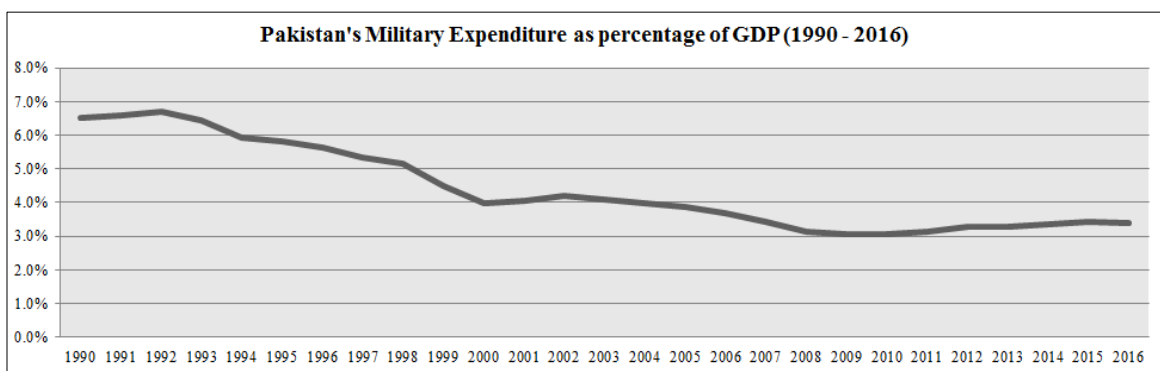
into the principal enticements and motivations for huge military spending. One of the key questions arises here is that whether it is the military spending that encourages economic growth, or it is the economic growth that leads to the higher military disbursements in order to consolidate its position militarily, after being proven it in the economic domain. Emile Benoit carried out a study on 44 Less Developed Countries (LDCs) in diverse corresponding time periods and he concluded that actually economic growth was the effect of higher military spending rather than its cause (Benoit, 1978). However, he also opined that opposite is also quite possible i.e. higher rates of economic growth may compel a certain country to invest more in its defense or security apparatus to strengthen its position from the military standpoint too.

In Pakistan, it was during the time of General Zia ul Haq that the higher ranks of the military emerged as one of the most privileged classes. The regime of General Zia was quite munificent to its contemporaries across the board. The pie of defense budget observed a swift upsurge in Zia regime. The army personnel, specifically of the higher ranks, received numerous material benefits during this time period, which includes employment opportunities after retirement in civilian domain, absorption in Fauji Foundation (a welfare turned industrial organization for the welfare of ex-military servicemen), appointments in projects in the Gulf States, allocation of agrarian land, loans on easy and flexible terms, and plots after retirement in military cantonments and urban centers across the country. Many officers sold the residential plots on competitive market prices, which they themselves acquired through subsidized rates, hence earning big margins of profits unfairly. The most noteworthy benefit Zia regime made available for the military officers was their appointments in senior posts in the civilian organizations, paving way for what the Finer - a famous historian and political scientist, explained as the military colonization of other institutions. 10 percent quota was introduced for the induction of military personnel on regular basis into the Central Superior Services (CSS) - the elite group in its own and also the backbone of civil bureaucracy in the country (Finer, 1962).

If we analyze the trends in Pakistan's military spending since 1990, it can be observed that an upsurge was witnessed in initial years of 1990s. The military spending jumped from 2722 million dollar in 1988 to 3666 million dollar in 1995 - a 34.68 per cent

increase. The point to be noted here is that during this time Pakistan's economy was in bad shape, for two major reasons. First is bad governance. Second is economic and military sanctions enacted on Pakistan by international world owing to its nuclear program endeavor. Brown's amendment in 1990 eased these sanctions, ensuing Pakistan economic relief. Later, in 2001, defense spending was brought down by 22.48 per cent, amounting to 2842 million dollar. However, this decrease in spending does not compromised Pakistan's minimum required defense capability. In the wake of September 11 and following global war against terrorism, Pakistan became American ally and also one of the frontrunner states in fighting this war. These circumstances benefitted Pakistan in terms of wavering most of the sanctions against it, hence boosting its economy along with inflow of coalition support fund. Similarly military spending also climbed up sharply by an upsurge of 168.86 per cent in 2013, totaling 7641 million dollar. The volume of this spending hits the figure of 10063 million dollar in the wake of contemporary challenges and ongoing operations against terrorism. It can be said that after accomplishing the threshold in nuclear venture and founding reliable nuclear deterrence, Pakistan chose to lessen its defense spending to curtail its economic dents. Analyzing the military spending as a percentage of GDP will demonstrate that it plunged down from 6.4 per cent in 1988 to 3.8 per cent in 2000. Pakistan did reasonably well from 2001 to 2006 from an economic standpoint. Afterwards, it faced political and economic crunches, owing to bad governance. With that, military spending as a percentage of GDP also persistently took a downward dip to

**Figure 5.4.2: Pakistan's Military Spending**

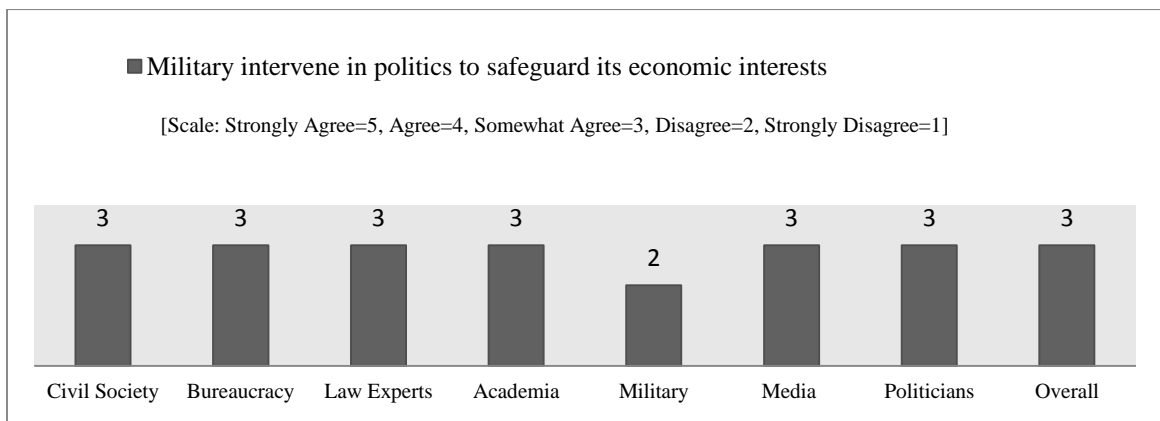


Source: Stockholm International Peace Research Institute

2.8 per cent in the year 2010 from 4 per cent in 2001. Though, it sprung back to 3.3 per cent in 2013 (SIPRI, 2013).

During in-depth interviews with experts, most of the respondents opined that the notion of Pakistan’s military feeling of compulsion to interfere in politics to safeguard its business empire seems to be blown out of proportion. Also, there is nothing wrong if retired military personnel carry out healthy economic activity. The economic activity that military carries out is also linked to military’s distrust of civilian government. Military apparently wants to generate its own sustainable revenue to take care of its staff and retired personal to keep up the morale as an institution. Else, its fate would also be like Indian military which invests heavily on the hardware but spends very little on its human resource. This is why videos of Indian soldiers complaining about low quality of food and other issues are circling on the internet and social media. One can very well imagine the low morale within the Indian military. Whereas, Pakistan’s military has very well taken care of all its human resource i.e. active or retired through different initiatives, and generate their own revenue and then spends it on the military. Therefore, in this sense military is safeguarding its economic interests. With that, respective authorities may check if they are doing all their economic activity in a transparent manner and not doing any corruption, then its fine, respondents added. One thing, which is important to mention here is that active

**Figure 5.4.1 (b): Experts’ Perception Survey - Dynamics of Pakistan’s Military Economics**



military personnel's participation in economic activity is not appropriate due to conflict of interest. Thus, active military persons must not serve in civilian institutions. Besides that, it must be understood that Pakistan have an inherent security problem, this creates a compulsion or one may say creates a space for the military to carry out certain tasks which others cannot. Let say for example, it is very hard to convince private contractors to work in the vicinity of Line of Control (LOC), Pak-Afghan Border, harsh mountains of Gilgit-Baltistan and Azad Jammu and Kashmir (AJK), there comes the military to rescue. Frontier Works Organization (FWO) and National Logistics Cell (NLC) are the ones that carry out these tasks because they are more disciplined, they are used to such environment and have proper machinery and training. Whereas, private contractors seeing it as risky and not so profitable just withdraw projects in such areas or at least feel hesitant. Besides, almost all the economic ventures of Pakistan's military are operating legitimately under the civilian Ministry of Defense and pay taxes, except for a few meant for welfare purposes. Moreover, in-depth interviews of the respondents from military background highlighted that most of the defense budget is consumed in non-developmental expenditure. First of all it should be kept in mind that defense budget is divided into three parts amongst army, navy and air force. Secondly, the major chunk of the defense budget is allocated for salaries, as Pakistan Army is the largest employer in the country. This was negated by another respondent who said that salaries and pensions of the military does not come under defense budget, rather it actually falls under the category of civilian accounts for the reasons unknown. He also highlighted that military now also gets funds for CPEC security under a separate head. Third, increase in annual defense budget should also be analyzed vis a vis inflation. Fourth, the food ration for sepoy/jawans/soldiers (not officers) are free, so arranging free ration for the soldiers is costly. Fifth, the mobility of military vehicles across the country has a huge cost in terms of fuel consumption. Sixthly, utility bills' (electricity bill, gas bill, water bill) payment of the military infrastructure across the country accounts for a significant portion of the defense budget. Then there is a gigantic expense of the military hospitals operating in the whole country. These hospitals serve the soldiers and civilians and are rendering an effective service to the nation. They treat soldiers physically as well as psychologically.



Some treatments take years and some treatments require sophisticated equipment, adding up to the cost. A minimal amount is left for purchasing new military equipment. The retired military personnel and the families of handicapped soldiers or martyred soldiers did not get anything from this budget. For them, funds are raised from army led welfare ventures trusts and their needs are taken care off. However, one of the respondents was of the opinion that the security paradigm ought to be changed. After attaining nuclear capability, the military strength in terms of personnel should have been reduced to 1/4th. Pakistan should focus more on innovation and technology as in the all developed countries. Developed countries have minimal number of personal but technology and equipment makes their one soldier equivalent to many soldiers of any developing country. This will be kind of one-time investment to purchase that technology and equipment or procurement of machinery build our own. The non-development expenditures could be reduced considerably this way.

Pakistan is spending almost 3 per cent of its GDP on defense; the point to ponder is that rest of 97 per cent could be made use of more optimally by decreasing the waste of resources, investing in human capital and ensuring accountability across the board.

## **5.5 Conclusion**

The role of military in Pakistan has always been subjected to debate; whether it is their interference in politics of their economic ventures. This study has tried to answer these questions to a reasonable extent. Firstly, the economic aspect of military seems to bit exaggerated in terms of spending. Politicians often blame military spending for poor socio-economic outlook of the society. Over the past several years, military spending accounts for about three per cent of Pakistan's Gross Domestic Product (GDP) which means that about 97 per cent of the GDP is at the disposal of civilian administration. Thus, it can be deduced that poor socio-economic outlook is not primarily due to the military spending but bad governance by the political elite, who could not manage the state resources properly. Rather it should be said that they do not want to manage. Mismatched priorities speak volumes for civilian bad governance. For example government of Punjab is spending 162 billion rupees on Orange Line Metro Train

project. For the same amount, Government of Punjab could have established 41 quality hospitals equivalent to the size and standard of Shaukat Khanum Memorial Cancer Hospital (keep in mind that Punjab province consists of 36 districts in total). Or Punjab province could have built 10,000 quality school of primary level (Saleem, 2016). One can see the difference in priorities. One project caters to the need of only 250,000 residents of Lahore city, while other two options with same amount of money cater to the needs of whole of the Punjab province in general. Therefore, it is very clear that 97 per cent of the GDP or 80 per cent of the budget can be used very effectively without having the lame excuse of higher military spending by politicians.

Secondly, Pakistan's military may have the steering wheel of country's destiny in the past, but this could not be true anymore. In past, military dictators supposedly came for good but they too get tempted towards same power and patronage system. However, the need of the time is to let the civilian institutions continue the process of evolution. Military interventions, even for the good does not give a sustainable solution. Furthermore, if a military dictator does not turn out to be a benevolent one; it is more difficult to hold him accountable as he has the monopoly over using violence, giving him an edge over corrupt politicians. Even the benevolent military dictatorship may grease the economy wheel and cater to the needs of the people by carrot and stick approach, but it would not be sustainable and the institutions would not evolve.

Pakistan has a very distinctive security paradigm; to sideline military completely from the decision-making process does not seem to a practical approach. Pakistan's military has serious apprehensions about national security requirements due to the corrupt politicians and lack of visionary leadership. Hence, the practical approach would be to give them reasonable and legitimate role in the decision making regarding foreign policy, defense and security domains. This power sharing formula may address the apprehensions of the military once and for all. This may also stop the back-door channels of influence by military to influence the decisions of the civilian administration. Pakistan's military and its leadership in recent years have continuously articulated their support for democracy and have refrained from any misadventure, despite many occasions of chaos and instability. It's time for the civilian leadership to deliver and prove their competencies.

## **CHAPTER 6**

### **PERPETUALLY LIVED ORGANIZATIONS**

#### **6.1 Introduction**

The most contemporary idea of our times is governance. Governance in essence means management or regulation. The conceptions and characterizations of regulation have evolved significantly in the past fifty years or so. Conceptual frontiers have stretched out, shifting from technical and narrow classified connotations that speak precisely of state intervention in the economy, to the comprehensive delineations of regulation that include regulations by non-governmental entities i.e. different types of organizations, and also supra-national and trans-national regulations. This was followed by a move that witnessed a shift in language from government to governance. Ever more, organizations are being integrated into regulatory decision making processes (Grabosky, 1995). Conventional perception of state regulations has been superseded by the idea of network of regulatory stimulus - that would be the domain of organizations in this regard. Thus, a society can be described as an intricate system of communications integrated through a horizontal network of interlocked sub-systems - known as organizations. This implies that societies are disintegrated into sub-system based on the functionality factor. These organizations can be both formal and informal. Over the time, these sub-systems evolve through modernization and some similar sub-systems make more concentrated web of like organizations and are more strongly interconnected than the organizations that have a different function (Knodt, 1995). Consequently, mega sub-systems emerge, such as an economic system, a political system, traditions, values etc. Together these mega sub-systems make a complete social order of a society.

Through the existence of organizations in contemporary times, societies are capable to cope with an exceedingly high degree of convolution. On the contrary, organizations deal with the glitches in a very distinct mode. These operate

individualistically and ideally do not intersect into each other's domain, following their operational code which outlines what they are permitted to do and from what they are refrained from doing. Organizations have an exceedingly significant role in our times, thus perpetuity of organizations is ever more important for the sustainable survival of the social order. Perpetually lived organizations imply that an organization does not depend on a personality or few people; organization should acquire an identity of its own with its own rules of the game - the rules and the commitments it had locked into would not change with the change in management.

## **6.2 Organizations and their Role in Societies**

The key feature of the contemporary society is that it is dominated by diverse and impersonal organizations. From educational sector to health sector to business and so on; these organizations are considered as formal organizations. An organization has been usually described as a large social group that is consciously and logically fashioned to attain explicit objectives. Usually, formal organizations are exceedingly bureaucratized. The terminology of bureaucracy here means what Max Weber (1992) had called "an ideal type" of formal organization. In the sociological convention, ideal does not necessarily imply as the best; it just refers to a broad-spectrum prototype that describes most of the features, or a sample that could illustrate maximum examples of the subject under discussion.

Sociologist Amitai Etzioni (1975) hypothesized that basically there are three types of formal organizations. First, normative organizations, which are also known as voluntary organizations, are founded on mutual interests. As evident, the name itself suggests, joining such organizations is voluntary and usually done for the reason that individuals find association with such organizations rewarding in an elusive way. Compliance to the organization is preserved through moral control. Some environmental preservation society or a golf club can be the probable examples of normative organizations. Second type includes coercive organizations. These are the organizations to which one must be compelled, or intimidated, to join. These might comprise jail, the military, or a rehabilitation center. Compliance is sustained through power and pressure.

Goffman (1961) is of the view that most coercive organizations can be rightly regarded as total institutions. A total institution is the one in which the insiders live a well-ordered and measured life separately from the rest of society and the phenomenon of total re-socialization happens within (Goffman, 1961). Third type of organizations is utilitarian organizations, which, as evident from the name of it, are joined by the individuals because of the need or the necessity for a particular tangible reward. University or a workplace would come under this type of category - the university is joined in pursuit of a degree, the workplace is joined in order to earn and make a living. Compliance in these types of organizations is conserved through incentive mechanism (Etzioni, 1975).

Organizations have few fundamental characteristics which include a proper chain of command, a clear division of labor, well defined rules and impersonality. Chain of command refers to the facet of an organization that places one person or office in charge of another and that person ought to report to his line manager or supervisor. Let suppose, if a person is an employee at some XYZ organization, his shift manager would assign him some tasks. The shift manager would answer to the store manager, the store manager would supposedly report to the regional manager, and so on in a hierarchy of authority up to the Chief Executive of that particular organization, who is then required to answer to the board members, the board in turn responds to the shareholders. Thus, there is a clear hierarchy of authority that empowers the organization to make and act in accordance with the decisions. A clear division of labor means that within an organization, every single employee has a dedicated job to execute. For example, a professor in a university teaches, but he does not attempt to take part in altering the fee structure of the university. The existence of unequivocal rules refers to the framework in which rules and regulations are chalked out, transcribed, and standardized. There is an uninterrupted design of formal functions bound by these rules. Organizations also have the element of impersonality, which takes individual's sentiments and interests out of professional domain. Every single office or position is independent of the other groups of individuals or cluster of offices, and clienteles and employees are given an equal treatment, at least theoretically. This feature nurtured, to a degree, out of an aspiration to eliminate the prospective for prejudice, favoritism, nepotism, clandestine deals, and other kinds of unreasonable behavior, at the same time protecting clients and others served by the organization.

Impersonality is an endeavor by big formal organizations to attain efficiency and effectiveness by playing the game with well-defined rules for all the agents, so that transaction cost can be minimized by not dealing with each agent separately with separate exclusive rules. Lastly, organizations are, at least in theory, meritocracies, which mean that recruitment and promotion are established on verified and documented talents, rather than on preferential treatment or arbitrary choice.

Civil society organizations have been broadly acknowledged as an exceedingly significant part of any contemporary society. Its strength can most probably have a constructive influence on the state machinery and the market. Civil society is thus realized as an all the time more vital representative for stimulating good governance like accountability, responsiveness, effectiveness, openness and transparency. Civil society can enhance good governance by policy examination, advocacy, regulation, keenly observing the performance of the government and the conduct and behavior of public office holders. Civil society can also contribute to good governance by building social capital and empowering the people to ascertain and express their ideals, views, values and democratic practices, can mobilize specific communities, predominantly the weak and marginalized segments of the society, to partake more effusively in politics and public affairs. Lastly, civil society organizations can do development work to improve the wellbeing of the people (Bahmani, 2016).

Not for profit organizations are another kind of formal organizations that contribute to the development of a society. First, nonprofit organizations permit for the quest of unmarketable activities. There are several activities that the societies have agreed upon have intrinsic social worth even though having no probable monetary gain. Feeding poor hungry people, let say, is not anything that would entice the profit making investors, but it is a deed which the society collectively would like to inspire. Thus, society arrange for distinct incentives for such endeavors. Second, nonprofit organizations are decent arenas for endeavors or movements that may not be supported by the majority of the people in a certain society. That implies that nonprofit organizations permit groups that hold to minority positions - which may include different political rights, religious freedom, or those social causes voiced by marginal groups in the society. Though, any society as a whole may not consider the individual efforts as worthy in itself, it may give

due weightage to the right of individuals when they group together in an organized manner and advocate for their position on a certain issue (Werker & Ahmed, 2007). The market failure theory enunciates that due to some reasons there may be no incentive for the free market to deliver public goods. Most probably this could be owing to the predicament which is commonly known as the free-rider problem. The free-rider quandary refers to a position where a person can enjoy the benefit of a certain good, mostly because of positive externality of that good without even paying for it in the first place. With that, it is very difficult for a person who is actually paying for the good to enforce it on everybody to pay for what they are taking benefit from without paying. Provision of clean air is a common example in this regard. The free market would have no direct pecuniary incentive for the provision of clean air because a person from the free market would be interested to provide only those with clean air who could pay, but the reality is that he could not restrict the provision of clean air only to those who pay for this service. Hence, he could not expect any return on his investment. Market failure may also happen when the consumers are different than the purchasers (Keech, Munger, & Simon, 2012). Two very common examples in this case can be of nursing homes and disaster relief. In these kinds of settings, those who pay for the goods and services are different than the people who are at the receiving end. People in disaster regions are normally not paying the Red Cross for the health facilities, shelter and other services they receive. All of this creates a space for not for profit organizations to work in this regard, for the betterment of the society.

### **6.3 Dynamics of Organizational Structure in Pakistan**

There can be different types of organizations, but this study will focus only on two types of organizations relevant to this study i.e. political organizations and economic organization in Pakistan.

#### **6.3.1 Political Organizations**

Before the British colonization of the sub-continent, virtually all realms and empires in

South Asia were authoritarian or oligarchic in nature; the dominant coalition – the elites treated the state as a private domain, to be subjugated for self-glorification. Political order at that time was protraction of martial power and military was the principal support of the rule, as well as the cause of contests to the leaders and a supplier of prospective substitutions should the ruling oligarch, or despots, dwindle. Most of the regimes had a nexus of spiritual or sociopolitical associates that were supported in give-and-take mechanism for dissemination of the divine nature of the head of state. There were no reasonable rules of the game for mode of succession and most often succession would lead to assassinations, coup d'états, and conflicts of succession, with the victor settling scores with the defeated. Every single leader pursued survival instincts through the formation of a tailored web of managers and military officers, who would be reliant on their chief for position and progression – access that could be subjectively annulled at any time, with terrible consequences for the subject. The political order that was formulated in the course of the British rule in sub-continent was, in many essential respects, dissimilar from former realms. A judicial division was chalked out between public office and public property on one side, and private affluence and possessions on the other. The army was subservient to the civilian government and dominant faction within colonial polity. Soldiers ceased to be private employers of the rulers and became subordinate employees of a state.

Following partition and independence, Pakistan was almost immediately locked in a path that saw it backslide – in the practical sagacity – to the pre-British standards of political order and governance. It has several key elements in the background. First, in comparison to its size, Pakistan confronted a far bigger disturbance than India on account of partition. Challenged with an inner and outer siege, Pakistani leadership at that time prioritized nation-building with specific importance on administrative perpetuity and centralizing state apparatus and growth of military capabilities. Second, the Muslim modernists, who had led the scuffle for Pakistan, had used religious symbols and oratory throughout their movement. These elevated hopes, competently misused by religious fundamentalists, and who then continued to generate a prodigious deal of bafflement during the constitution-making course. Third, the Muslim League was not able to switch from a national movement to a steady governing political party with a well sketched



policy; away from a wish to stay in office; little else gave an impression to bind its frontrunners and squads together. Fourth, the death of Jinnah in September 1948, and then the assassination of Liaqat Ali Khan in October 1951, removed both political leaders of national stature in swift sequence, creating a precarious leaderships void (Ahmad M. , 1980).

In democratic societies, political parties play a significant part in enunciating voters' aspirations. Upon gaining people's support and electoral trust, political parties serve as a bridge between the people and the state. Nevertheless, Pakistan's elitist political picture depicts an entirely different image. At present, there are over two hundred political parties in Pakistan, relishing religious and nationalist philosophy (Inayatullah, 1993). Though, the land of Pakistan gives an impression to be fertile for progression of political parties, but due to numerous aspects, a handful of political parties would really fit into any stringent classification of an appropriate political organization.

Political parties in Pakistan have continued to be underdeveloped. The causes comprise very low level of progression of Pakistani society, authoritarian political culture, and disproportion of power between the powerful state and weak political institutions. Subsequently, political parties have been unsuccessful to contribute substantively towards democratizing the Pakistani state and society. At the moment, it seems like most of the political parties are transitioning through a critical phase of their evolution. Let us now examine the dynamics of political parties in Pakistan. All key political parties are blamed for democratic mismanagements. Their front-runners retain themselves as leaders for whole life-span of theirs. Successors are trained to take over their ancestor's cloak of responsibility to head the party. Important positions within the political party are most often distributed at a particular price to picks of influential people inside that party. With the exceptions of a few, political parties in Pakistan have not ever held intra-party elections. Over and over again, elite faction - most commonly the political, feudal and industrial elite have pursued and secured vital positions in most of the political parties on the basis of nominations. The front-runners of the major political parties are chosen by their so-called Central Boards of party or party working committees, which again include non-elected designated associates. At the lowest tier of hierarchical pyramid in the party, the leaders of the different ranks and/or Central

Executive Committee name the office holders. As a result, dominant persons with an intra-party influence and top tier get themselves chosen to key positions in the party. Social and business minions with political motivations use similar maneuvers. The leaders of the country's largest political parties time and again call out cry hoarse over the essential need to do away with military dictatorship; however they themselves carry on the dictatorial practices such as of nominations within their own political parties. Such paradoxes impede the thriving of normative democratic values and culture.

Almost all the political parties in Pakistan, with the exception of few right-wing religious parties, are least concerned in any form of political training or education of the common people. Most often, their only medium of communication is the banality of the self-appointed leaders dispersed via the media or public gatherings. During late 1960s, a tradition of study circles existed. With that also the drill of position papers by the party leaders and followers, and dedicated newsletters were also very much in practice. Nonetheless, gradually over the time all these good practices just died out.

Political parties in Pakistan are to great extent established on patronage networks, hence poor service delivery. So, there is always a trade-off between patronage and quality of service delivery. There are three main aspects in a political party or party system in general, to have vital effects on this tradeoff: the degree of disintegration of the party system; the internal cohesion and the degree of polarization. Party fragmentation escalates the informational demands on voters as there are several other candidates and thus a lot of more messages that voters have to weigh, in the course of general election. When political parties are exceedingly factionalized they do not arrange for their fellows stable career projections, and candidates have a reasonably more incentive to concentrate on targeted goods so as to fabricate individual standing that they can transfer across different party lines. Lastly, in highly differentiated party systems, the delivery of public goods offers less political paybacks as diverse ethnic groups have diverse preferences over, and often cannot settle on the public goods to be delivered.

### **6.3.2 Economic Organizations**

Generally, there can be four perspectives about the economic institutions. First is the

Political Coase Theorem. The main theme of this theorem is that agents of the society will bargain to internalize all the potential externalities; this way the societies will opt for the economic institutions which are generally efficient. In short, it can be deduced that this view is based on the social cost and benefit analysis which lead to the creation of institutions accordingly (Acemoglu, 2003). The other view is of the ideological view. It states that economic institutions differ due to the difference in ideologies. An incidental institution is the third view; it is of the opinion that historical accidents or incidents at the critical junctures of the history of any society create a window of opportunity that determines the economic institutions in that particular society. Apparently those kinds of institutions are long lasting and have significant consequences. Social conflict view is another thought in this regard. According to this view, there are different factions in the society. The choice of institutions will depend upon one of those factions, rather the most powerful group among them called dominant coalition (Acemoglu, 2004). This dominant coalition can also be termed as an elite faction - representing elites. In a certain society, different groups are at conflict with each other. That bloc of society having absolute power will choose the economic institution as these will be in their favor. Now there comes a problem of inefficiencies. Let's say, there is a situation in which a person or group of people having unhindered political power and the investments has to be done by the citizens under the political elite. The citizens will make investments only if they are being promised for the returns and profits. In this case, economic institutions are needed which can safeguard the investments of the citizens. How often would this happen? Generally, it does not happen so often, because to have such economic institutions is at the disposal of the political elite, and that political elite will only formulate such economic institutions which will favor them. Political losers also play an important role in determining the institutions. They strive for the type of institutions that will not reduce their rents, because reduction in rents will also erode their political status which they would never want to happen. This may be a good reason why some countries do not opt for better institutions even if they can. In parallel to this, comes the economic losers, it opines that different economic institutions bring about different distributions of income. This will make some better off and some worse off in the society. Therefore, the section of the society which will get worse off will be incentivized to block such institutional

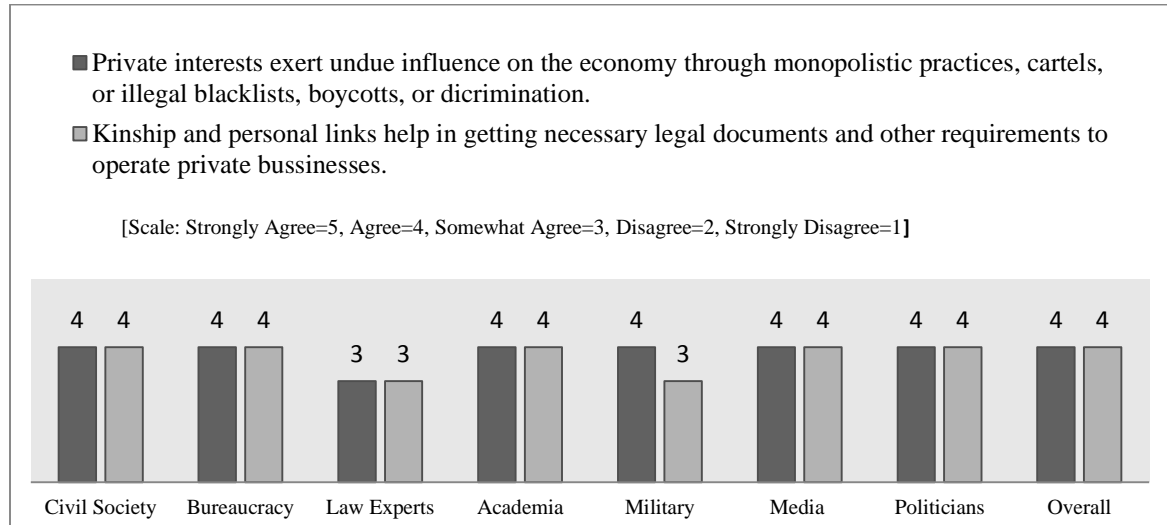
changes or otherwise will work for the improvement of the organizations as to reduce disparity in general and safeguard their own interests in particular. The bottom line is that, institutional transformations that do not threaten the power of anyone are more likely to succeed. As a result, such institutional modifications that do not reinforce strong resistance groups or threaten the political state of affairs are more likely to be adopted. Keeping in view such circumstances, there will always be a trade-off between efficiency and distribution of power in the society.

In Pakistan's case, Political Coase Theorem and Social Conflict view can be applied, but with little modification. Not all the agents in the society, but only elites group seems to be bargaining amongst themselves since 1947. Almost all the elite groups in Pakistan would bargain to internalize the potential externalities; eventually they opt for the economic institutions which are generally efficient from the perspective of elites. This implies that the resulting economic institutions will be beneficial for them while hypothetically excluding all the other agents of the society that do not fall under the category of either elites or dominant coalition. While analyzing under the Social Conflict view, it can be inferred that not all the agents but different elite groups are in conflict with each other, and those economic institutions prevail which are preferred by the most dominant of all the elite factions. If we look at the history of Pakistan, we would come to know that initially, it was the industrial elites that were most dominant; hence most of the policies at that time were of kind that somehow benefitted those industrialists. Then military elite gained influence, hence military was at the center of any policy or initiative. Later, during Zia regime, religious faction got prominence and such organization and institutions flourished that benefitted religious groups and organizations and so on.

Elites in Pakistan have since always managed to capture the state machinery and rig the market for their own select-benefit. Elite factions broadly are controlling both sectors of the economic sphere i.e. public sector as well as private sector. It does not really matter as what is the general framework of the economy; be it the free market economy or state controlled market mechanism, the rewards will always be going into the pockets of elites controlling the very structure of the economy. Underlying the accomplishment of the elites in terms of economic gains in Pakistan was due to the use of

influence over political means to gain clout within economic arena. This clout was gained

**Figure 6.3.2.1(a): Experts' Perception Survey - Economic Organizations**



either via direct seizure of the state-owned resources or, indirectly, by embezzling or evading disbursing what was payable to the state. Thus, the elites in Pakistan have vested interest to oppose any new market liberalization that may daunt their privileges (Hussain, 2000).

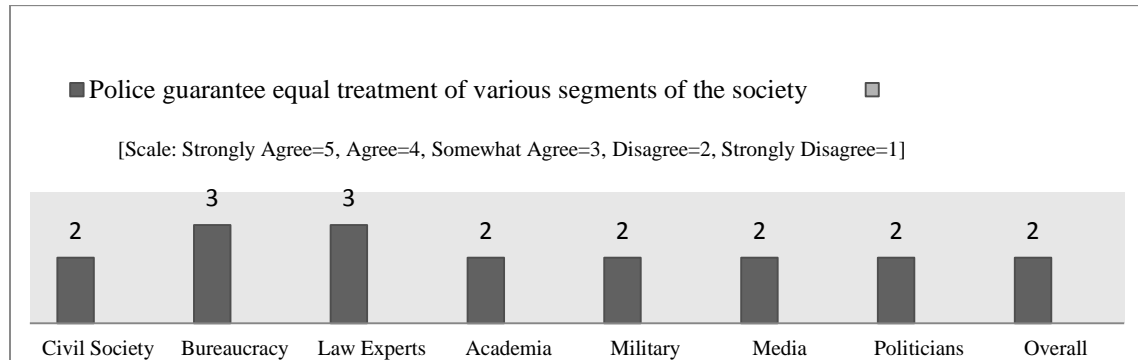
This implicitly give way to the non-friendly business environment to persist, hence hindering new entries into the business sphere, resultantly lesser organizations involved in economic activity and the elites continue to enjoy the monopolies oligarchies and bargained competitions, eventually accumulating wealth inducing their influences in the favor of the status quo.

According to the World Bank's Ease of Doing Business Report 2018, Pakistan now ranks a poor 147th among 190 economies worldwide, slipping down by three positions in comparison to last year, blemishing the pro-business environment further.

This year Pakistan lost 16 points on paying taxes' indicator, ranking at 172, according to the same report. Pakistan ranked 156th last year. One of the explanations behind the gloomy performance was the upsurge in general tax rates that rose to 33.8% of aggregate profits. Though, the sitting government decreased the overall corporate tax rate

to 30%, it applied Super Tax on large corporations that beefed up tax contribution. Owing

**Figure 6.3.2.1(b): Experts' Perception Survey - Economic Organizations**



to multiplicity of taxes, individuals and corporations make 47 tax transactions per year which consume 311.5 hours. Pakistan also went 23 places down on the performance of getting credit for doing business. It stood at 105th rank this year as in contrast to 82nd rank last year (World Bank, 2018).

In the categories of starting a business and property registration, Pakistan glided down one place, currently ranking at 142nd and 170th, respectively. Twelve types of procedures are required and roughly 18 days to complete the procedure.

Likewise, for registration of a property around 155 days are needed. It is pertinent to note that the country enhanced its spot by three marks; however it still lingered on at 167th on the table of getting electricity connection. Nearly six types of processes have to be completed by an applicant to get a connection. With that, improvement on the subject of reliability of power supply and transparency in electricity tariffs remained poor.

Dealing with construction permits' indicator climbed up by nine marks and ranked 141th. Fifteen types of procedures are needed making up to 252 days for an investor to get a permit for construction purposes. The ranking is at 156 in the category of enforcing contracts - one spot above last year's ranking. In the same way, Pakistan upgraded by three places to grab 82nd notch on the index of resolving insolvency.

Many of these mentioned poor performances impede the economic activity due to higher transactions cost and thus limiting new organizations to enter into the market. This

paves way for an extra-legal market. General perception about the extralegal business in the developing countries is that they do so as to evade taxation. The reality is however very different. Hernando de Soto Polar – a renowned economist from Peru is known for his brilliant work on the informal economy. After his comprehensive study across many developing countries, he is of the opinion that the cost of doing business legally is so high that people are compelled to avoid it. The cumbersome procedures and red-tapism raises the transaction cost to an extent that operating extra-legally sounds more tempting and easy.

So, it may be assumed that there exists a large number of organizations in Pakistan too that are involved in economic activity, but go unnoticed because of non-registration. Further, Hernando also opines that lack of proper documentation and property rights also hinders the multiple usage of a possession for economic activity. This synchronizes with the case of Pakistan (Soto, 2002). For example, in any developed country, a house one lives in can also be kept as a mortgage for loan – to start a business. On the contrary in Pakistan, with the exception of few mega cities, banks will be reluctant to give loan on the basis of house mortgage, owing to lot of disputes over ownership of house, ownership of land on which house is built, whether the construction of house is legal or not etc. Therefore, proper documentation and enforcing property rights has the potential for increased economic activity with lot of new organizations entering into the market eventually.

Another aspect of the organizational perpetuity is that Pakistan has not yet attained financial democracy. Historically, the key businesses are held by few families. Many of them have been transformed into corporations, yet the governance structure is still as such which give the family members or close friends the driving seat positions. This practically disregards small shareholders and their input does not get incorporated in the decision making within that particular corporation.

Having all the lacunas, Pakistan has taken some steps towards making business environment conducive and friendly for the investors and organizations that are involved in economic activity. Following are the summary of reform that Pakistan materialized in past few years. Thus, it can be said that incremental change is happening at this stage in

Pakistan. The need of the time is to consolidate these incremental changes and do not let them take a reverse path. Otherwise, the transition towards open access order will become a distant possibility.

**Table 6.3.2.1: Pakistan’s Positive Developments in Ease of Doing Business**

<b>Pakistan: Positive Developments in Ease of Doing Business</b>		
<b>Year</b>	<b>Category</b>	<b>Development</b>
2018	Starting a Business	Pakistan made starting a business easier by replacing the need to obtain a digital signature for company incorporation with a less costly personal identification number
2018	Registering Property	Pakistan improved the transparency of the land registration process by publishing online the fee schedule and the list of documents necessary to complete any property registration
2018	Protecting Minority Investors	Pakistan increased minority investor protections by making it easier to sue directors in case of prejudicial transactions with interested parties
2018	Trading across Borders	Pakistan made importing and exporting easier by developing a new container terminal and enhancing its customs platform for electronic document submission
2017	Registering Property	Pakistan improved the quality of land administration by digitizing ownership and land records
2017	Getting Credit	Pakistan improved access to credit information guaranteeing by law borrowers’ rights to inspect their own data. The credit bureau also expanded its borrower coverage
2017	Trading across Borders	Pakistan made exporting and importing easier by enhancing its electronic "Web Based One Customs Platform"
2015	Trading across Borders	Pakistan made trading across borders easier by introducing a fully automated, computerized system (the Web-Based One Customs system) for the submission and processing of export and import documents
2011	Registering Property	Pakistan made property transfer more affordable by reducing the stamp duty rate
2011	Trading across Borders	Pakistan reduced the time to export by improving electronic communication between the Karachi Port authorities and the private terminals, which have also boosted efficiency by introducing new equipment
2010	Starting a Business	Pakistan made starting a business easier by introducing an electronic registration system, allowing online registration for sales tax and eliminating the requirement to make the declaration of compliance on a stamped paper
2008	Getting Credit	Pakistan’s private credit bureau began distributing positive as well as negative credit information, and its public credit registry eliminated the minimum threshold for loans included in its database

*Source: Ease of Doing Business, World Bank Group*

The World Bank also, despite the entire gloomy situation, has shown optimism in future for Pakistan due to its initiation of reforms and steps has been in this regard for past few years consistently.

## **6.4 Organizational Failure in Pakistan**

Elite capture is the most potent cause for the organizational failure in Pakistan. This study



will discuss organizational failure in two aspects i.e. organizational failure of political parties and corporations or the organizations involved in economic activity.

All the political parties have similar kind of lacunas that impede the progression of politics for the people. First is the dearth of intra-party democracy. Second is that the political elite or feudal elite are primarily interested to grab the power and exercise authority. Politics for the welfare of the people seems to be their least concern. They have also miserably failed to produce the leadership which could replace the existing leaders in the future. This might be a deliberate strategy. Most of political parties are dynastic in nature. The leadership is passed on to the heirs of the leader. Third, political parties do not have long term vision for the country. They rely on short term strategies and projects which could complete before the next election; so that the leaders can showcase these and retain or increase their vote bank for coming election, irrespective of the fact that these short term projects may not be sustainable and a burden on public finances. Fourth, corruption is wide-spread within political parties. The more someone goes up the ladder of the politics, the more chances and scope for corruption. On the contrary, more the power sharing the smaller the pie of corruption's affluences; thus, those in power make it very difficult for the common people to enter into politics particularly for higher positions. Those already in power formulate such rules that limit the access to do politics and keep the dominant coalition smaller with agreeable shares within themselves. Fifth, all political parties present excellent manifestoes catering to the needs of every segment and every problem in the society, but never prioritize them. Political parties while presenting their manifestoes during election campaigns make big promises and pledge to deliver and address many issues, but the road-map, strategy and how finances would be arranged for are never expressed. This shows lack of maturity of political parties in Pakistan. Lastly, lack of understanding between the political parties and vision seems to be a big hurdle in the progression of political evolution in Pakistan. Parties seldom trust each other and are involved in image assassination etc. They also rarely had consensus on the issues of national concern.

Pakistan has managed to retain democracy somehow regardless of how feeble it may be, but it has not yet achieved financial democracy yet. Lack of financial democracy is the biggest bottleneck on the way to grant access to more people to enter into economic

market and also for the purpose of attaining perpetuity. In the business world, there is a practice called financial democracy. In political democracy, there is a concept of one person one vote. Financial democracy stands on the foundation of one share one vote. Decision making power is granted according to the risk taken. Risk taken is measured by the number of shares a person holds. This builds on the principle that someone who has taken greater risk for the corporation in terms of shares should have greater say in its decision making. In Pakistan, like some countries there is a collective voting system in corporate world for electing board of directors. Collective voting is the system where shareholders can split their votes if they have more shares and can vote for more than one candidate. This gives minority a chance to elect the directors when they combine their votes and vote collectively. This makes minority representation possible in decision making, but in developing countries like Pakistan, this approach fails practically. Secondly, only extreme decisions are subject to super majority, rest of decisions including many significant ones that affect the shareholders are subject to simple majority only. This ultimately results in consolidating all powers with internal or controlling shareholders. Most of the time, these internal and controlling shareholders are from the same family and their friends. So, technically most of the companies or organizations in Pakistan may not be family owned, but they certainly can be regarded as family controlled corporations. Furthermore, less business-friendly environment, high cost of registration, red-tapism in getting electricity connection, multiple taxes, numerous documentation needed for petty process, prolonged time durations for legal processes etc. impede entry into market, hence letting the few control the market and own the rules of the games and also the power to change those rules when and wherever they want. This is why perpetuity has not yet been materialized in its true essence.

## **6.5 Perpetuity**

Perpetuity of laws and constitution is a must for any state to function soundly. The basic underpinning of the perpetuity factor is that ground rules should be stable over the course of time. It should also be acknowledged that with the passage of time, there will always be need for formulating new rules or amending the existing rules in the wake of novel

issues and challenges. Keeping this in view, there should be a provision for making changes in the existing laws or constitution, but the benchmark of pre-requisites for doing such changes must be very high, so that it may not become a tool in the hands of elites to twist the laws in their favor, whenever and wherever they deem fit.

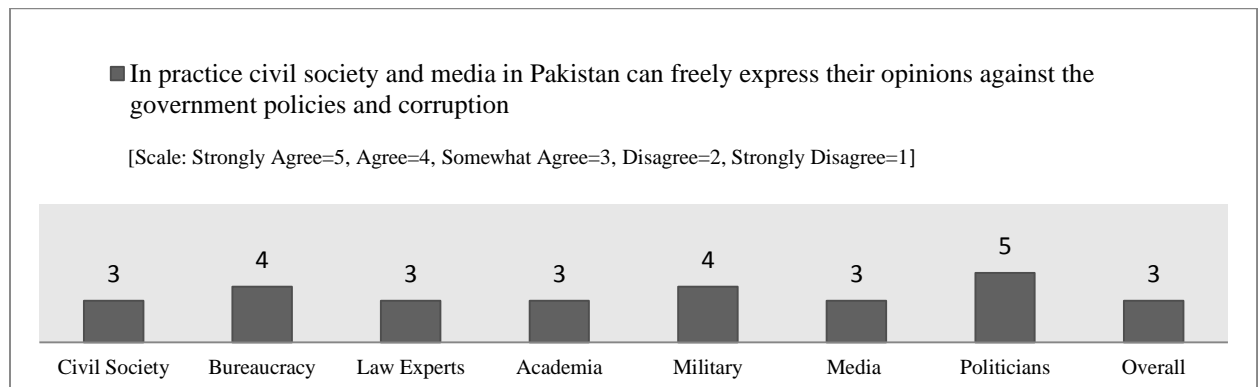
Perpetuity in Pakistan does not exist because institutions have always been hijacked by elites. There is almost no accountability, or selective accountability which favors dominant faction of the time. Most of the institutions are not working transparently; rather they are working under network of power and patronage system. Working towards attaining perpetuity, the state need to implement the written laws strictly in whatever form they are. When the written laws would be implemented strictly, then it will be hard to change them or legislators will be answerable to the voters before changing them. For now, leaders change the laws for one person and rest of the society does not even bother to worry, because non-implementation of laws hardly makes any difference. But if implemented fully, all segments of the society will feel the effect of the changing of laws. Therefore, perpetuity will precipitate on its own.

Perpetuity also does not exist because there are rent seekers. Party members cannot take a position against their own party due to dynastic politics. Members usually do what their leaders direct them to do, because they know they will never make it to the top. So, they just safeguard their minimum possible interests and engage in rent-seeking. There are also some lacunas in the existing rules of the game; for instance Article 63-A of Pakistan's constitution bars the member of the parliament going against his/her party line during any significant development in the parliament. It states that the member of the parliament would be disqualified if he/she resigns from his/her own political party or joins another political party, votes against the party line or refrains from voting during the election of the leader of the house; call for vote of confidence or no-confidence, money bill or any bill regarding amendments in the constitution or adding some new clauses to the constitution. This provision in the law was created to stop the horse trading in the parliament, but implicit analysis would tell us that basically it preserve the control of the few in the parliament. It also refutes the essence of democratic norms. This article implies that any debate in the parliament of Pakistan on any major issue will just be among few political parties, rather than a robust debate among 342 members if we are talking about

National Assembly and 104 members if we are talking about the Senate of Pakistan. Whereas, internationally in the developed countries, all the members in the parliament negotiate irrespective of the party line; every member has his own individual perspective. Every member is accountable to his very own constituency. That is why for an amendment in law or bringing about new law, general consensus is required after healthy and exhausting debates among all parliamentarians, and thus it is difficult to change laws there so often.

In recent times, voices are being raised to ensure perpetuity, both organizational and constitutional perpetuity. These voices are raised by media and civil society organizations; both are playing the role of watch-dogs. These two channels have contributed significantly to improve the perpetuity factor; hence leadership and people are increasingly inclined or compelled to follow the course of law. Civil society and media, though very vibrant, still are influenced by different elite factions. Both need to become more independent and work without any influence for sustainable development. Institutions should have the status of supremacy; institution here

**Figure 6.5.1: Experts' Perception Survey - Perpetuity**



means 'rules of the game'. Rules of the game should be adhered to, not the personalities or state or organizations. When rules of the game are followed, there arises the need to give these rules due significance to keep them stable over time, so that everyone gets a level playing field.

## **6.6 Conclusion**

Only a perpetually lived state can guarantee perpetually lived organizations within it. Unfortunately, Pakistan is not been able to attain perpetuity to the level it should have been as yet. Every new government tends to change the rules of the game (constitution in this case) for their own advantage. This gives rise to the problem of credible commitments. The rules of the game should not be changed in the middle of the game, because every agent of the society in every phase of time period should have the level playing field. In the absence of perpetuity, there would be apprehensions about the social contract a state have with its citizens. The said situation creates unpredictability and instability over time, thus compelling agents of the society not to carry out any healthy economic or political activity as they could not calculate their pay-offs. Nonetheless, Pakistan took a lot of initiatives in the recent years in the economic market to make the environment more business friendly and incorporate the factor of impersonality; still effective implementation needs serious attention. In the political market, there seems to an urge by political organizations to incorporate impersonality as that the requirement of evolving contemporary politics. Some signs have been witnessed in this regard. Civil society and media are also acting as effective pressure groups. However, a lot has to be done to attain perpetuity in political organizations.

## **CHAPTER 7**

### **THE DOOR-STEP CONDITIONS FOR TRANSITION IN PAKISTAN**

Generally, the three door-step conditions for transition from limited access order to open access order intersect one another in order to experience transition. All the mentioned three door-step conditions are essential to institute widespread impersonal transactions. Though, historically the order of these conditions in the progression of a transition is not found to be an important aspect in this regard.

The elite groups in every limited access order form a dominant coalition which is bound together by shared interests as well as threats; so is the case with the dominant coalition in Pakistan. The unceasing dealings within elite groups give rise to the prospect of standardizing conduct through rules and proper procedures, governing unambiguous association among elites. Resolving disputes amongst elites is the central feature of nourishing intra-elite relationships. All states falling under the category of limited access order realize this by ascertaining ways for settlement and arbitration functions. In some of the natural states, these functions of arbitration become formalized into either the apparatus of government or justice system. In Pakistan, elite groups, out of shared interests have always been settling their disputes informally by give and take mechanism or by some kind of informal mediation. Recently, elites have an ever increasing inclination towards following the course of law. This change is due to coinciding of two factors. First, elites apparently feel exhausted by informal settlement of disputes; which adds to the transaction cost and also brings in the factor of unpredictability of future events. Hence, the privileged groups seem to feel the need of formalization of arrangements within themselves; through justice system, adhering to the rule of law. Secondly, vibrant positive role of media, particularly social media and civil society are compelling these privileged groups to follow the rule of law; their compulsion is merely grounded in their legitimization in the eyes of the people. Media, social media and civil society are acting as effective watch-dogs in this regard and contributing towards more

transparency, awareness and accountability. This means that all elite factions implicitly decided that they would now treat each other equally and would go for the rule of law and that justice system should decide matters between them, as they are not able to strike deals within themselves as before, due to increasing deadlocks or stagnation within themselves on different issues. Now the question arises that why would elites choose to opt for rule of law - apparently the justice system in Pakistan's case. It seemed to be the best option because justice system operates within very limited and constrained settings and cannot go beyond what is in black and white. The privileged class of Pakistan thought that they are playing the game safe by allowing judiciary to be the third-party enforcement agency, but this move had some immediate side effects for the ruling party. A sitting Prime Minister was de-seated and he was also de-seated from the position of party head. Government felt the heat, but so far all parties playing the game cautiously and following the course of law, as they supposedly think it's the safest approach to play the game; else the faction with more de-facto power would be at advantageous position. However, the notion that elites in Pakistan have started treating each other equally and also upholding the rule of law is at embryonic stages. Either a window of opportunity is required to perpetuate these arrangements or incremental evolution will lead to the consolidation of rule of law.

The absence of consolidated civilian supremacy is a common phenomenon in most of the natural states. Though, it appears that Pakistan's military in the recent years have reasserted its stringently professional protagonist in the wake of contemporary challenges of terrorism and extremism, and also to reclaim their affirmative image in the eyes of people. Bearing in mind the distinctive nature of Pakistan's military and the challenges it is encountering, it might be given a reasonable legitimate role in decision-making regarding foreign policy, defense and security areas. This power sharing formula may address the concerns of military and then civilian government can concentrate more on the well-being of people. Rules of the games must be well defined in this regard; lines should be clearly drawn, so that every institution works in its own domain.

The existence of perpetually lived organizations is the basic essence of an open access order. In open access order every agent of the society has an equal chance to enter into the economic or political market. Nonetheless, the rules of the game which govern

the political and economic organizations in the Pakistan are as such which exclude the masses and limit their access to enter into both markets. It is obvious that elites control both these spheres and enjoy the perks of being part of the privileged class. Thus, this privileged class would not formulate such rules of the game which lessen their share of the pie. Rules of the political organization are systematically framed as such to consolidate the hold of dominant coalition. Except the few parties, there is no concept of intra-party elections. A very few parties that conduct intra-party elections, they too are subject to transparency concerns. A member of the party is not allowed to articulate his own individual perspective, differ from the party line, vote against the party line or change the party. Nevertheless, in recent years, due to the positive role of civil society and media, political organization and their leadership is evolving towards incorporating more and more democratic practices in order to legitimize themselves in the eyes of people. On the other hand, economic organizations also restrict new entries. Impediments like cumbersome registrations process, red-tapism, corruption, complicated taxation and filing returns etc. make it very difficult for a common man to enter into economic market due to added high transaction cost. This usually results in the creation of extra-legal market, but the people there cannot reap the benefits of legal market. The circumstances leave the space of legal market for elites; who can get the above mentioned things done through identity rules or power and patronage system. However, despite the grim situation, Pakistan has taken many initiatives in past few years to make the environment business friendly. The need of time is to perpetuate those initiatives and implement these in real essence, so that people have free entry to the economic market, resulting in more organization and hence more competition. With more political and economic organizations, there will be more stakeholders and more competition. Hence, changing rules of the game so often would be very difficult as now impact would not just be on few but a large cross-section of the society. The scenario will ensure the rules of the game to be stable over time – hence consolidating perpetuity.



## **CHAPTER 8**

### **KEY FINDINGS AND RECOMMENDATIONS**

This study concludes that Pakistan falls in the category of limited access order. Further in limited access order, it can be classified as a mature natural state. This implies that Pakistan has a vast network of private and economic organization, but entry into this market is difficult and is often based on the political connections. It also infers that there are a large number of political organizations, however with the existence of a central authority. Government controls most of the organizations with violence capacity, nonetheless exceptions are common. The details of key findings are as below:

#### **8.1.1 Rule of Law for Elites**

Elites are at the pinnacle of economic, military, and political institutions - more as types and functions than as individuals. Their positions are interchangeable across domains, and they share an institutionally - developed near-uniform worldview. They share a class consciousness, regardless of their ostensible party affiliations or ascribed ideological labeling. Elites' over-arching interest-convergence breeds an inner discipline that binds them together, which, in turn, also helps promote a uniform worldview. Pakistani elites reflect class consciousness to a reasonable extent, but neither have they shared any similarities of origin, nor are they driven by a lust for power to control and shape the world according to any higher ideal worldview. Elites in Pakistan also do not want to dominate the world in the sense of its being a manifestation of a-priori human faculty of acquisitiveness; instead, they are driven by mundane and lowly group-centric economic ambitions. They use legislative, detective and enforcement mechanisms of the state or the social order to ensure their interests remain protected. In order to pursue their economic interests, they do not form any permanent alliances, nor enter into any ideological battlegrounds. They quickly shuffle and change their positions from moment to moment and on

issue to issue looking to optimize their economic gains ruthlessly - at all costs, and at all times. Pakistani elite groups had an inclination for setting intra-elite arrangements based on the identity rules due to diversity in many aspects which may include ethnicity, geography, religion, sect and ideologies. Increasingly, these arrangements based on identity rules are getting exhausted as media and particularly social media and civil society are acting as effective watch-dogs. Now, gradually with time, elites tend to follow rule of law to legitimize themselves in the eyes of people. Rule of law will either be established in its real essence either by incremental evolution as evident or through a window of opportunity.

### **8.1.2 Consolidated Control over Military**

Pakistan's military is apparently one of most misunderstood militaries in the world. It has a very distinct context in terms of security paradigm. Plus, the corrupt political elite and lack of visionary leadership adds to the burden. Time and again military was allowed to fill the space left as a vacuum due to bad governance and corruption. Military could not have ignored such chaos and instability within the country, especially when enemies at the border are looking for a window of opportunity to make use of. Military should stay out of politics chant is hypothetically correct, but practically speaking everybody is related to politics. One cannot let the state affairs go as it is without any control over it. The concern for a common man is not about the military rule or civilian rule. For a common man, abiding the social contract by the state is important, by whatever means possible. The dent on the military's image is apparently not due to their interference in politics. It is mainly because military dictators (as they say) came for good at first, but they too got tempted towards the very system of power and patronage. It seems that Pakistan's military in the recent years have reasserted their strictly professional role in wake of the contemporary challenges of terrorism and extremism, and also to reclaim their positive image in the eyes of people. Considering the distinct nature of military in Pakistan and the challenges it faces, it may be given a legitimate role in decision-making regarding foreign policy, defense and security areas. This power sharing formula may address the apprehensions of military and then civilian government can focus more on the

well-being of people. Rules of the games must be well defined in this regard; lines should be clearly drawn, so that every institution works in its own domain.

### **8.1.3 Perpetually Lived Organizations**

Perpetually lived organizations can only emerge if the perpetually lived state is already in existence. Unfortunately, Pakistan has not yet attained the juncture of perpetually lived state. There are many lacunae in the constitution and parliamentary practices which allows the privileged class to have control over rules of the game. Parliament in practical sense does not count all its members, but few political parties (with the exception of few) controlled by their dynastic heads. These party heads decide the fate of the rules and procedures of governing the state. Historically, every new regime had been changing the rules of the game in its own favor. This leads to the issue of credible commitments by the state and the viability of social contract of the state with its people. Rules of the game must not be changed in the middle of the game, so that everybody gets a level playing field, but Pakistan's story tells us otherwise. However, recently, with the positive role of media and civil society functioning as the watch-dogs, Pakistan has witnessed bit of a resistance in changing the rules of the game for an individual or singular party or a particular group. Media and civil society has been educating people and spreading awareness about the issue. Experts see it as a beginning, towards the attainment of a perpetual state. Pakistan has an extensive network of organizations; but the problem is with the identity rules. At present, most of the transactions are done on the basis of identity rules, or at least we can say that it makes the transactions much smoother when approached through identity rules. In the economic market of Pakistan, things are changing at a faster rate than in political domain. Lots of initiatives have been taken in recent years to make environment business friendly and transactions to be impersonal in nature (mainly through digitization initiatives). There are also vested interests and different pressure groups are pressing for economic reforms and other reforms needed in this regard. However, in political domain, the process has just begun and a lot has to be done to pave way for ensuring impersonality.

## 8.2 Policy Recommendations

This study taking into consideration the document analysis, in-depth interviews and key findings of this dissertation, makes following probable policy recommendations:

- Well-balanced tax regime having higher ratio of direct taxes (including agriculture tax) and comparatively lower ratio of indirect taxes should be designed, as a general practice in developed countries. Higher ratio of indirect taxes affect poor segment of the society negatively. While on the other hand, high ratio of indirect taxes and low ratio of direct taxes shows the lacunas in our system of tax collection and interests and influence of affluent faction to keep direct taxes lower as compared indirect taxes. This may prove to be one of the factors in further expansion of middle class, reducing inequality and challenging status quo.
- Article 63-A of the constitution of Islamic Republic of Pakistan may be revisited as it compromises the freedom of individual parliamentarian to carry out his/her functions as a representative of the people in the real essence. Another amendment may be made or a mechanism may be devised to address the issue of horse-trading without compromising the freedom of a parliamentarian. This may assist in weakening dynastic politics in the long run
- A concrete piece of legislation should be enacted and mechanism be devised to make it binding on all political parties to hold regular intra-party elections in a transparent manner.
- Revisit the election financing rules and mechanisms to ensure equal opportunity of entry for all the segments of the society into the political market of the country.
- Article 91 of the Constitution Republic of Pakistan may be revoked. There should be a limit on terms of office of the Prime Minister and Chief Minister, to uphold the supremacy of institutions against individual personalities – a key towards perpetually lived political organizations.
- Reforms in justice system are need of the time. It is identified in this study, that the high transaction cost in seeking justice excludes people from having access to

justice. Henceforth, it is responsibility of state to formulate or amend the rules for the minimization of the transaction cost in this regard. Pakistan National Assembly passed an act named “Cost of Litigation Act 2017” to minimize the cost of litigation, which is significant but is valid only in Islamabad. It should be implemented across the country. With that, the state should also devise a mechanism to provide legal assistance to those who cannot afford. This can be done on the principle of risk pooling; implying that a minimal tax may be imposed in this regard, which would provide the resources for legal assistance for the excluded ones by the state.

- Police Order 2002 or a refined form should be implemented in all provinces. Almost all experts agree that Police Order 2002 is a reality and need of the time. It caters the needs of Pakistan’s police apparatus and would pave way for it to evolve into an apolitical department.
- Registration process of new organizations/businesses and other related processes ought to be digitized to bring in the factor of impersonality. Also, robust work and implementation is required to show improvement in all the indicators of ‘Ease of Doing Business’ - a move towards equal opportunity of entry into the economic market with information symmetry and stable expectations.

## References

- Abbas, H. (2011). *Reforming Pakistan's Police and Law Enforcement Infrastructure*. Islamabad: United States Institute of Peace.
- Acemoglu, D. (2003). Why not a political Coase theorem? Social conflict, commitment, and politics. *Journal of Comparative Economics*.
- Acemoglu, D. (2004). Institutions as a Fundamental Cause of Long-Run Growth. *NBER Working Paper Series*.
- Ahmad, E. (2010). *The Political-Economy of Tax Reforms in Pakistan: The Ongoing Saga of the GST*. London School of Economics and University of Bonn.
- Ahmad, M. (1980). *Contemporary Pakistan: Politics, Economy, and Society*. Durham: North Carolina Academic Press.
- Armytage, R. (2015). The Social Lives of the Elite: Friendship and Power in Pakistan. *The Asia Pacific Journal of Anthropology*.
- Ashraf Ghani, C. L. (2009). *Fixing Failed States: A Framework for Rebuilding a Fractured World*. New York: Oxford University Press.
- Bahmani, J. (2016). The Role of Civil Society in Development. *J Civil Legal Sci*.
- Bank, W. (2018). *Doing Business 2018*. A World Bank Group Flagship Report.
- Benoit, E. (1978). Growth and Defense in Developing Countries. *Economic Development and Cultural Change*.
- Bermeo, N. (1990). Rethinking Regime Change. *Comparative Politics, JSTOR*.
- Calvert, R. (1995). Explaining Social Order: Internalization, External Enforcement, or Equilibrium?
- Charter of Democracy.(2006). Islamabad: Daily DAWN.
- Cloughley, B. (2006). *History of the Pakistan Army: Wars and Insurrections*. Karachi: Oxford University Press.
- Cohen, S. P. (2002). India, Pakistan and Kashmir. *The Journal of Strategic Studies*.
- Cook, S. A. (2012). *The Struggle for Egypt: From Nasser to Tahrir Square* . New York: Oxford University Press.
- Cronin, V. (1994). *Napoleon*. London: HarperCollins Publishers.

- Crouch, H. A. (1978). *The Army and Politics in Indonesia*. Ithaca: Cornell University Press.
- Daron Acemoglu, D. T. (2010). A Theory of Military Dictatorships. *American Economic Journal*.
- Daron Acemoglu, R. (2006). *Economic Origins of Dictatorships and Democracy*. Cambridge University Press.
- Daron Acemoglu, S. J. (2005). Institutions as the Fundamental Cause of Long-Run Growth. *Handbook of Economic Growth*.
- Dawood, M. (2014). The Causes of Military Interventions in Politics: A Case Study of Pakistan and Bangladesh. *European Scientific Journal*.
- Desch, M. C. (1999). *Civilian Control of the Military: The Changing Security Environment*. Baltimore: Johns Hopkins University Press.
- Douglas C. North, J. J. (2009). *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*. New York: Cambridge University Press.
- Edeh, H. C. (2014). Military and Politics: Understanding the Theoretical Underpinnings of Military Incursion in Third World Politics. *Mediterranean Journal of Social Sciences*.
- Ehtisham Ahmad, M. B. (2012). Pakistan: Design of Tax Reforms and Financing of Social Programs - Rent Seeking and Informality . *Center for Development Research, University of Bonn, Germany*.
- Engels, K. M. (1848). *The Communist Manifesto*. London.
- Eraly, A. (2007). *The Mughal World: India's Tainted Paradise*. London: Weidenfield & Nicolson.
- Etzioni, A. (1975). *A Comparative Analysis of Complex Organisations: On Power, Involvement and their Correlates*. New York: Free Press.
- Finer, S. E. (1962). *The Man on Horseback: The Role of the Military in Politics*. London: Pall Mall Press.
- Frank, J. (2007). Aristotle on Constitutionalism and the Rule of Law. *Theoretical Inquiries in Law*.
- Fukuyama, F. (2011). *The Origins of Political Order*. London: Profile Books.
- Fukuyama, F. (2011). *The Origins of Political Order*. London: Profile Books Ltd.
- Fukuyama, F. (2015). *Political Order and Political Decay*. New York: Farrar, Staus and Giroux.

- Gazdar, H. (2009). *An Essay on the History of Land and Reform in Pakistan. Panos South Asia.*
- Gibbon, E. (1963). *The Decline and Fall of the Roman Empire.* New York: Dell Publishing Company.
- Goffman, E. (1961). *Encounters: Two Studies in the Sociology of Interaction.* Indianapolis: Bobbs-Merrill.
- Gordon, S. C. (2005). *The Rule of Law, Anonymity, and Elite Incentives .*
- Grabosky, P. N. (1995). Using Non-Governmental Resources to Foster Regulatory Compliance. *Governance: An International Journal of Policy and Administration.*
- Grare, F. (2010). *Political Dimensions of Police Reform in Pakistan.* CARNEGIE Endowment for International Peace.
- Gul, I. (2017). Pakistan's elite capture and the state of insecurity. In *Routledge Handbook of Contemporary Pakistan.* Routledge.
- Haque, N. U. (2007). Entrepreneurship in Pakistan. *PIDE Working Papers, PIDE.*
- Hegel, G. W. (1999). *Hegel's Political Writings 1964.* London: Clarendon Press.
- Heiduk, D. F. (2009). From Guradians to Democrats - Attempts to Explain Change and Continuity of the 'Militray Mind' in Indonesia, Thailand and the Philipines.
- Hoffmann, S. (1988). *Political Thought and Political Thinkers.* Chicago: University of Chicago Press.
- Huntington, S. P. (1957). *The Soldier and the State .* Cambridge: Harvard University Press.
- Husain, I. (1999). *Pakistan: The Economy of an Elitist State.* Karachi : Oxford University Press.
- Hussain, I. (2000). *Pakistan: The Economy of an Elitist State.* Karachi: Oxford University Press.
- ICCPR. (1966). *International Covenant on Civil and Political Rights.* United Nations.
- ICESCR. (1966). *International Covenant on Economic, Social and Cultural Rights.* United Nations.
- Inayatullah. (1993). *Pakistan's Politics: A Personal View.* Lahore: Ferozsons.
- Index, W. R. (2006). *Factors of the Rule of Law.* World Justice Project.
- J., A. D. (2006). Economic Origins of Dictatorship and Democracy. *Cambridge University Press.*



- Jahanzaib Khan, H. A. (2013). Feudalism is a Major Obstacle in the Way of Social Mobility in Pakistan. *J.R.S.P.*
- Karaosmanoglu, A. L. (2000). The Evolution of the National Security Culture and the Military in Turkey. *Journal of International Affairs* .
- Karaosmanoglu, A. L. (2000). The Evolution of the National Security Culture and the Military in Turkey. *Journal of International Affairs*.
- Keech, W. R., Munger, M. C., & Simon, C. (2012). Market Failure and Government Failure. *Public Choice World Congress*.
- Khan, F. M. (1963). *The Story of the Pakistan Army*. Karachi: Oxford University Press.
- Khan, K. (2013). Distributive Consideration in Institutional Change: The Case of Zia's Islamization Policy in Pakistan. *The Pakistan Development Review*, Pakistan Institute of Development Economics.
- Khan, K. (2015). Endogenous Institutional Change and Privileged Groups. *The Pakistan Development Review*, Pakistan Institute of Development Economics.
- Khan, S. (2015). The Militray and Praetorian Regimes in Pakistan: Political Usurpers or Protectors of an Incipient Democracy?
- Kingston, A. B. (2010). Military coups and the consequences of durable de facto power: the case of Pakistan. *Journal of Economic Literature*.
- Kirisci, K. (2009). The Transformation of Turkish Foreign Policy: The Rise of Trading State. *New Perspectives on Turkey*.
- Kitschelt, H. (1992). Political Regime Change: Structure and Process-Driven Explanations? *American Political Science Association, JSTOR*.
- Knodt, E. (1995). *Social Systems*. California: Stanford University Press.
- Land Reforms in Pakistan. (2010). *Daily DAWN*.
- Libman, A. (2005). Institutional Competition and Evolution of Perception of Norms. *JEL*.
- Lieven, A. (2011). *Pakistan: A Hard Country*. London: Penguin Books.
- Lieven, A. (2011). *Pakistan: A Hard Country*. London: Penguin Books.
- Lodhi, M. (2011). *Pakistan: Beyond the Crises State*. Karachi: Oxford University Press.
- Lopez, M. (2013). Elite Theory. *Sociopedia.isa*.
- Major, A. J. (1996). *Return to Emipre: The Punjab under the Sikhs and British in the mid-Nineteenth Century*. Karachi: Oxford University Press.
- Mirza, D. M., Jaspal, D. Z., & Malik, D. A. (2015). Military Spending and Economic Growth in Pakistan. *Margalla Papers*.

- Mosca. (1969). *From Socialism to Fascism: The Relation Between Theory and Practice*.
- Mosca, G. (1969). *Theories of Society: Foundations of Modern Social Theory*.
- Murphy, K. M., Shleifer, A., & Vishny, R. W. (1993). Why is Rent-Seeking so Costly to Growth? *AEA Papers*.
- Nadeem Ul Haque, I. K. (2007). *Public Service Through the Eyes of Civil Servants. PIDE Series on Governance and Institutions*.
- National Reconciliation Ordinance.(2007). Islamabad: Associated Press of Pakistan.
- Niaz, I. (2010). *The Culture of Power and Governance of Pakistan (1947-2008)*. Karachi: Oxford University Press.
- Nichols, R. (2013). *The Frontier Crimes Regulation: A History in Documents*. Karachi: Oxford University Press.
- North, D. C. (1990). *Institutions, Institutional Change and Economic Performances*. New York: Cambridge University Press.
- Novotna, T. (2011). Dilemmas of transition: Three Institution-Building Lessons from Central and Eastern Europe.
- Olsen, J. G. (1984). The New Institutionalism: Organizational Factors in Political Life. *American Political Science Association, JSTOR*.
- Overhaus, M. (2011). *Violence and Post-Conflict Transitions*.
- Pakistan, N. A. (2010). *The Constitution of Islamic Republic of Pakistan*. Islamabad: National Assembly of Pakistan.
- Paul, T. (2014). *The Warrior State: Pakistan in the Contemporary World*. Karachi: Oxford University Press.
- Paul, T. V. (2014). *The Warrior State: Pakistan in the Contemporary World*. Karachi: Oxford University Press.
- Perlez, J. (2009). Pakistan Strikes Down Amnesty for Politicians. *The New York Times, Asia Pacific*.
- PIDAT. (2015). *Police, Politics, and the People of Pakistan*. Islamabad: Pakistan Institute of Legislative Development And Transparency.
- PILDAT. (2016). *Reforms in Police System of Pakistan*. Islamabad: Pakistan Institute of Legislative Development And Transparency.
- Political Dimensions of Police Reform in Pakistan.(2010).
- Polterovich, V. M. (2011). Institutional Traps and Transition. *SSRN Electronic Journal*.

- Ricklefs, M. C. (2001). *A History of Modern Indonesia*. Stanford University Press: Palo Alto.
- Rizvi, F. (2015). Circulation of Elites in West and in Pakistan: Historical Perspectives. *JPUHS*.
- Rizvi, H. A. (1986). *The Military and Politics in Pakistan*. Lahore: Progressive Publishers.
- Robinson, D. A. (2012). *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. London : Profile Books.
- Robinson, J. A. (2010). Elites and Institutional Persistence.
- Robinson, P. T. (1994). Understanding the Relationship between Regime Change and the Culture of Politics. *Cambridge University Press, JSTOR*.
- Roland, G. (2001). The Political Economy of Transition.
- Rustow, D. A. (1970). Transitions to Democracy; Toward a Dynamic Model. *Comparitive Politics, JSTOR*.
- Shah, A. (2007). Can we expect Inclusiveness within the Institutional Framework of Exclusiveness? An Empirical Analysis of the Court Cases in Islamabad. *Higher Education Commission, Islamabad*.
- Shah, J. (2012). Zia-Ul-Haque and the Proliferation of Religion in Pakistan . *International Journal of Business and Social Science*.
- Shah, K. K. (2012). Dictatorships, Patronage and Public good Provison. *Journal of Economic Literature*.
- Shah, K. K. (n.d.). Dictatorships, Patronage and Public Good Provision. *JEL*.
- Sherani, S. (2015). Pakistan's Taxation Crises. *Daily DAWN*.
- Siddiq, A. (2007 ). *Military Inc.: Inside Pakistan's Military Economy*. Pluto Press.
- SIPRI. (2013). *Stockholm International Peace Research Institute Report* . Stockholm.
- Suddle, S. (2015). *Police Sytem of Pakistan*. Islamabad: Pakistan Institute of Legislative Development And Transparency.
- Tolbert, P. S. (2010). Robert Michels and the Iron Law of Oligarchy. *Encyclopedia of Social and Political Movements*. Oxford: Wiley-Blackwell.
- UDHR. (1948). *Universal Declaration of Human Rights*. United Nations.
- Weber, M. (1922). *Economy and Society*. Los Angeles: University of California Press.
- Weber, M. (1922). *Economy and Society*. Los Angeles : University of California Press.
- Wegerich, K. (2001). Institutional Change: A Theoretical Approach.

- Weingast, B. R. (2008). Why Developing Countries Prove So Resistant to the Rule of Law.
- Werker, E. D., & Ahmed, F. Z. (2007). What Do Non-Governmental Organizations Do? . *Journal of Economic Perspectives*.
- White, L. J. (1974). *Industrial Concentration and Economic Power in Pakistan*. Princeton University Press: Princeton.
- Yong, T. T. (2005). *The Garrison State: Military, Government and Society in Colonial Punjab, 1849-1947* . SAGE Publications.
- Ziring, L. (1997). *Pakistan in the Twentieth Century: A political History*. Karachi: Oxford University Press.

[ANNEX - A]

**THE DOOR-STEP CONDITIONS FOR TRANSITION  
FROM LIMITED ACCESS ORDER TO OPEN ACCESS ORDER: EVIDENCE  
FROM PAKISTAN**

**INTERVIEW GUIDE**

<b>RESPONDENT'S INFORMATION</b>	<b>INTERVIEWER INFORMATION</b>
<b>Name:</b> _____	Date of interview (DD/MM/YY): _____
<b>Organization/institution:</b> _____	Interview timing: _____
<b>Designation:</b> _____	<b>Data collection method:</b>
	1. Audio Recording
<b>Interview Location:</b> _____	2. Field Notes
	3. Both

**SCHOOL OF PUBLIC POLICY  
PAKISTAN INSTITUTE OF DEVELOPMENT ECONOMICS  
ISLAMABAD, PAKISTAN**

Dear Sir, Ma'am, I am conducting a study on "The door-step conditions for transition from limited access order to open access order: Evidence from Pakistan". This study aims to explore the existing social order of Pakistan and to gauge if the three door-step conditions for transition i.e. rule of law for elites, consolidated control over military and perpetually lived organizations ripe enough to be knocking for transition from limited access order to open access order or otherwise. So, hereby, I require your cooperation to spare sometime for a personal interview with me in connection with my research project.

**QUESTIONS:**

1. How do you view the evolution of elitist structure in Pakistan?
  - Has it changed?
  - If yes, then what were the factors that made change happen?
2. How would you explain the present elitist structure in the Pakistan?
3. What is the nature of intra-elite relationship/arrangements?
  - Do they treat each other on basis of equality and impersonality?
  - If not, then which elite group is dominant and what enables them to be so?
    - What are the sources of legitimacy of that group?
4. What is your view about the perception that military has reasserted its strictly professional role?
  - If yes, then what were the contributing factors in this regard?
5. What is your opinion about military's role in the future?

6. What is the state of constitutional and organizational perpetuity in Pakistan?
  - Why Pakistan could not attain perpetuity yet?
7. How important is the role of kinship in Pakistani society and its impact on organizational perpetuity?
8. What factors hinder political and economic competition?
9. What recommendation would you give for attaining perfect competition in political and economic markets, political/civil supremacy and rule of law?

[ANNEX - B]

## QUESTIONNAIRE (Experts' Perception Survey)

---

—————

As part of my MPhil - Public Policy research thesis at Pakistan Institute of Development Economics (PIDE), Islamabad, I am conducting a survey on the topic *“The Door-step Conditions for Transition from Limited Access Order to Open Access Order: Evidence from Pakistan”*. I would appreciate if you could fill the questionnaire with your responses. Any information obtained in connection with this study that can be identified with you will remain confidential/anonymous.

---

Name: \_\_\_\_\_

Gender: Male  Female

Contact: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

Please choose your category:

- 1. Academia
- 2. Bureaucracy
- 3. Military
- 4. Media
- 5. Law Experts
- 6. Civil Society
- 7. Politicians

Please answer all the questions carefully using the following scale.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>Strongly Agree</b>	<b>Agree</b>	<b>Somewhat Agree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>



Please tick ( ✓ ) the relevant box for the option you choose.

<b>A. Rule of Law [for elites]</b>		<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1.	The Prime Minister and legislative representatives are elected through free and fair elections					
2.	Voters are able to vote for the candidate or party of their choice without any pressure or intimidation					
3.	There are independent and effective auditing and investigative bodies that function without any political influence.					
4.	Judges commonly render verdicts that favor the government or particular interests					
5.	The judicial decisions that run counter to the interests of powerful actors are effectively enforced					
6.	Police guarantee equal treatment of various segments of the society					

<b>B. Consolidated Control over Military</b>		<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1.	Military intimidates political figures and voters in order to influence in their political choices (current scenario)					
2.	The elected government and executives determine policies without and influence from military					
3.	Military intervene in politics to safeguard its economic interests					
4.	Military has legitimate intervention in politics due to the inherent national security significance					
5.	Political incompetence justify military involvement in politics					

<b>C. Perpetually Lived Organizations</b>		<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1.	Registration and other legal requirements for non-governmental organizations particularly onerous and intended to prevent them from functioning effectively					
2.	People are legally allowed to establish and operate private businesses with reasonable minimum of registration, licensing and other					

	requirements					
3.	Kinship and personal links help in getting necessary legal documents and other requirements to operate private businesses.					
4.	Private interests exert undue influence on the economy through monopolistic practices, cartels, or illegal blacklists, boycotts, or discrimination.					
5.	In practice civil society and media in Pakistan can freely express their opinions against the government policies and corruption					

**Thank you for your time**