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The State of Democracy in Pakistan

A Survey Mission Report

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EXECUTIVE SUMMARY

An NDI Assessment Mission visited Pakistan during the first half of June 2000 to assess the political situation and to explore prospects for restoration of democracy. The six-member delegation included three NDI staff, a member of parliament from South Africa, and scholars from Korea and the United States with expertise relevant to the assessment. The team conducted interviews with government officials, political party representatives, journalists, human rights groups, and others, in Islamabad, Lahore and Karachi.

The delegation received a wide range of opinions concerning the nature of the current military regime in Pakistan, the direction and effectiveness of its core priorities, and the prospects for a return to civilian government. On some issues there was a fair degree of consensus, on others quite divergent and irreconcilable views were presented. The delegation's assessment and recommendations necessarily reflect, therefore, a great amount of interpretation and internal dialogue, as well as information gathered through interviews. The current government operates under a Provisional Constitutional Order (PCO), declared in the wake of the October 12, 1999, overthrow and arrest of former Prime Minister Mian Nawaz Sharif, leader of the Pakistan Muslim League (PML).

Chief Executive General Pervez Musharraf did not declare martial law and has allowed civilian courts and the press to continue to operate and the constitution to remain in force. At the same time, he has made sweeping proposals for change, including a local government devolution program intended to transform grass-roots society. The government's popularity, quite high at the time of the takeover, has been eroding, especially as the government backtracks or fails to carry through on key initiatives.

The delegation concludes that regardless of its intentions, the current regime is likely to face major challenges to implementing its proposed programs. Moreover, there is considerable apprehension that the government's reform agenda, and other activities, may lead to the postponement of the return of an elected civilian government beyond the October 2002 deadline specified by the Supreme Court of Pakistan. The Court's March 2000 decision justified the military takeover on the basis of the "doctrine of necessity."

The local government devolution program is given special consideration here because it seems to be a priority of the current regime, as well as a tangible representation of the regime's declared intention to establish a new and sounder basis for democratic politics in Pakistan. The program is ambitious and to a degree, has support and encouragement locally, as well as from some external agencies. While there are some aspects to commend the program, it also has several serious weaknesses that suggest caution.

General Musharraf has promised to return the government to civilian rule by October 2002, after his government introduces needed reforms to stabilize the economy, root out

corruption, devolve power to the local level and de-politicize governmental institutions, among other things. Unfortunately, the military government has backtracked on a number of reforms, leaving many to wonder whether it will carry through on the painful reforms it has promised. Similarly, liberal and moderate voices in Pakistan are increasingly worried that the political vacuum, created by the military coup, is gradually being filled by the voices of extremist religious forces to the detriment of more moderate and democratic ones.

This report is primarily based on the information collected by the delegation during its visit to Pakistan. The authors want at the outset to acknowledge that this report is only a snapshot of a very complex situation, taken during a few days in June and as such may not explain or portray events or conditions in all their nuances. The members of the delegation hope, however, that the report can initiate a discussion among those inside and outside of Pakistan on ways to strengthen democratic institutions in Pakistan.

The report starts with a description of recent political developments, including an assessment of the current political situation and factors, that contributed to the military coup d'état. Description of the character of the current military régime includes an account of its stated agenda and priorities. The report summarizes the assessment methodology and findings of the NDI team, reviews the performance of the military regime, and considers prospects for an orderly democratic transition. Finally, the report presents recommendations and suggestions for long-term strengthening of democracy in Pakistan and discusses ways NDI and similar organizations might be of assistance.

NDI IN PAKISTAN

The National Democratic Institute for International Affairs (NDI) has been engaged in democratic development in Pakistan for more than a decade. This engagement has included election observation, conferences, and other work with groups and individuals seeking to improve democratic institutions, parties, and civil society in Pakistan. NDI has organized international observer delegations to each of the national and provincial elections since 1988 (1988, 1990, 1993, 1997) but has not had a presence in Pakistan since 1998.

The October 12, 1999, military coup and subsequent developments prompted NDI to assemble an international delegation of six individuals, to visit Pakistan, meet with a wide range of political participants and observers, and formulate an assessment of the country's present and future democratic prospects. The delegation included a member of parliament from South Africa, scholars from South Korea and the United States, and a senior NDI staff.

The delegation arrived in Pakistan during the first few days of June and held meetings between June 4 and 14 with several dozen government officials, political party leaders,

representatives of non-governmental organizations, journalists, and other knowledgeable observers.

The delegation's terms of reference called for a comprehensive review of the current political situation in Pakistan, an assessment of the prospects for orderly return to a democratic constitutional system, and recommendations to NDI concerning possible program options within the current context. Of particular interest was an assessment of the proposed "Devolution of Power and Responsibility" program announced by Chief Executive General Pervez Musharraf on March 23, 2000.

The delegation encountered a wide range of opinions on virtually every topic considered. Of necessity, the answers to the questions generated by the terms of reference must be more than simply an aggregative summary of the comments heard in interviews. The delegation members have therefore sought to place their assessment and recommendations within a shared framework of interpretation and to include in this report both their operative assumptions and their recognition of alternate perspectives.

UNDERSTANDING OF THE CURRENT SITUATION

Reasons for the coup

On October 12, 1999, a series of events occurred that resulted in the overthrow and arrest of Pakistani Prime Minister Mian Mohammad Nawaz Sharif. The generally accepted interpretation of that day's events holds that the immediate events leading up to the coup began when Nawaz Sharif attempted to fire Army Chief of Staff General Pervez Musharraf, whom he had elevated to that position just a year prior in a similar maneuver. Sharif announced the dismissal of General Musharraf as Army Chief of Staff and his replacement by Lt. Gen. Khawaja Ziauddin (a close family friend) while Musharraf was en route to Pakistan from Sri Lanka. The military had contingency plans in place and acted quickly to seize power and undo the dismissal. Musharraf's plane was denied landing rights at Karachi and ultimately landed with only seven minutes of fuel remaining, a basis for later charges of attempted murder against Nawaz and others involved in the airport incident.

One interpretation encountered by the NDI team provided a significantly different picture of the events of October 12. By this account, Sharif was handed a note at a public meeting, immediately left the event and returned to Karachi, where he announced the Ziauddin appointment. This interpretation suggests that the appointment of Ziauddin could be seen as a reaction to a coup already under way, rather than vice versa.

The coup ended Pakistan's longest period of civilian rule since independence: 11 years and two months. During that period, dating from the death of President Zia ul-Haq in August 1988, general elections were held four times (1988, 1990, 1993, 1997) with

power alternately vested in Benazir Bhutto and the Pakistan People's Party (1988-1990, 1993-1996) and Sharif (1990-1992, 1997-1999). Each government was terminated prematurely on the grounds of corruption and incompetence.

Developments following the 1997 elections and Sharif's return to power set the scene for the 1999 coup. Several factors were significant. First, economic conditions, worsened in 1998 when Indian and Pakistani nuclear weapons tests led to the imposition of international sanctions. Second, the negative outcome of armed conflict with India in 1999 undermined the credibility of the regime and deepened existing rifts between Sharif and the military. Finally, Nawaz obliged the military to perform civilian tasks, both increasing his dependence on them and weakening their professional identity. The events of October 1999 can thus be seen as the culmination of a long series of developments.

Although Sharif's strong parliamentary majority after the 1997 elections provided an opportunity to address many political, economic, and security challenges, it also provided him an invitation to concentrate power. Sharif acted quickly to strengthen his hand vis-à-vis President Farooq Leghari and the military. He enacted the 13th Amendment to the Constitution, repealing the 8th Amendment that had given to the president the power to dismiss elected assemblies. Then, he enacted the 14th Amendment, giving him the power to expel from the assembly any member of his party who disagreed with him, though the Supreme Court subsequently struck down this provision as too great an infringement on the freedom of speech. Sharif acquired the power to appoint service chiefs and eliminated the council of defense and national security that President Farooq Leghari had created in January 1997. He clashed with Chief Justice Sajjad Ali Shah and ultimately succeeded in having him removed from office. When Leghari resigned from the presidency in protest over such political manipulations, Mohammad Rafiq Tarar, a close associate of Nawaz Sharif, was chosen president by the electoral college on December 31, 1997.

In October 1998, Nawaz forced General Jehangir Karamat to resign as army chief in response to Karamat's calls for the creation of a National Security Council to deal with growing violence and the economic crisis. Lt. Gen. Pervez Musharraf was appointed by Sharif to succeed Karamat as chief of the army staff.

In late 1998, Sharif cracked down on Karachi's endemic violence with increased military involvement, including the establishment of military courts. In February 1999, Pakistani President Rafiq Tarar issued a decree permitting the establishment of military courts anywhere in the country. Ostensibly, the military was also assigned management of major social and economic administrative systems, including the massive Water and Power Development Authority (WAPDA) and the Punjab Province Education Department.

In April 1999, Benazir Bhutto was found guilty in absentia on charges of corruption committed while in office. She and her husband, Asif Ali Zardari, were sentenced to five

years in prison and a fine of \$8.6 million, plus disqualification from holding office in the future. Zardari, in jail in Karachi on murder charges, was hospitalized a month later under unclear circumstances. Police alleged a suicide attempt while Zardari and Pakistan People's Party (PPP) supporters claimed he had been tortured.

As Sharif tightened his grip on governmental institutions and overwhelmed his political opposition, he also began to silence dissent within the press. In 1998 his government raided newspaper offices, initiated arbitrary tax audits of journalists, impounded newsprint, and withheld governmental advertising from dissident publications. The most prominent target of repression in 1999 was Najam Sethi, editor of *The Friday Times*, a Lahore-based English weekly. Sethi spoke at the Indian International Center in New Delhi on April 30, 1999. Prior to his speaking engagement in New Delhi, his comments had been published in his newspaper and had even been warmly received in a presentation at the National Defense College in Pakistan. Evidently, Sethi's message was regarded by the government as too provocative when delivered to an Indian audience. Shortly after he returned home, he was beaten, seized and detained for several weeks by Pakistani police. Several other journalists were subjected to detention or harassment during the same period. Non-governmental organizations (NGOs) also came under governmental attack. On May 9, 1999, the Punjab government banned 1,940 NGOs, froze their bank accounts, and seized their assets.

Some Pakistanis interviewed by the delegation appear to accept the argument that the army was provoked to act by the high-handed and increasingly despotic behavior of Sharif. However, others argued that the military could have and should have abstained from intervention.

NATURE/CHARACTER OF THE REGIME

Two days after the coup, on October 14, General Musharraf announced a state of emergency, issued a Provisional Constitution Order (PCO), and named himself Chief Executive. He did not declare martial law, as had been done following the previous military interventions in 1958, 1969 and 1977. Except where specifically contravened by the PCO, the 1973 Constitution remains operative, as does the civilian court system. At the present time, the press is seemingly freer under Musharraf than it was under Sharif.

The current regime presents itself more as a reformist government than a caretaker one. Bringing about some fundamental changes in social, economic, and political environments seem to have higher priority than returning the reins of government to civilian hands. Indeed, some of the reforms are seen as prerequisites to restoration of civilian rule. Most notable of these are the accountability program to eliminate corrupt politicians from public life, and a sweeping program of devolution of power to local government, which is intended to transform grass-roots society.

On May 12, 2000, the Supreme Court of Pakistan validated the military takeover, citing the "doctrine of necessity" that had been utilized in earlier cases. However, it instructed the military rulers to hold elections within three years from the date of takeover, i.e., by October 12, 2002. General Musharraf has indicated his intention to comply with this time frame for return of power to civilian hands. The three-year limit is generally seen as having been arrived at through negotiation between the government and the courts and is regarded as a response, at least in part, to pressures from the United States and other external donor countries.

Despite the reformist image it has attempted to project, the Musharraf government has failed to carry through on some of its initiatives, and has even backed down on others in the face of public opposition. At one point, Gen. Musharraf proposed that blasphemy charges not be brought against citizens unless first reviewed by a local magistrate, but backed down in response to protests from fundamentalist groups. Display of weapons in public was banned and the government announced its intention to *deweaponize* the society, but this issue appears to have disappeared into a black hole. When the government sought to force traders to document their economic activity to counter tax evasion, the traders launched a nationwide strike that seriously undercut government attempts to revive the economy.

Some observers see the government's timidity as "softness" or think that the government pays excessive attention to public opinion. Others attribute the apparent fluctuations in policy to pressures within the military itself, and particularly to differences between more secular and more religious generals. It is ironic, that one of the reasons some people have been willing to grant the military temporary legitimacy is their belief that the military can make hard decisions – such as broadening the tax base or disarming the religious militias – more easily than a civilian government. If the current regime fails to carry through on these or other promises, its support base could quickly erode.

Like previous military governments in Pakistan, this one is not exclusively military in its personnel, but rather a mixture of military officers (both serving and retired), bureaucrats, and others. Among prominent government officials and advisers are Shaukat Aziz, former Vice President at Citibank, and Omer Asghar Khan, an NGO activist and son of prominent politician Mohammad Asghar Khan.

AGENDA/PRIORITIES OF THE REGIME

On October 17, 1999, General Musharraf laid out a seven-point list of the objectives of his government: (See Appendix A for a copy of General Musharraf's speech)

- (1) re-build national confidence and morale;
 - (2) strengthen the Federation, remove inter-provincial disharmony and restore national cohesion;
-

- (3) revive the economy and restore the confidence of investors;
- (4) ensure law and order and dispense speedy justice;
- (5) reconstruct and de-politicize state institutions;
- (6) devolve power to the grass-roots level; and
- (7) ensure swift and across-the-board accountability.

Devolution (point 6) and accountability (point 7) have been among the more prominent objectives of the government. The devolution program, designed to increase the participation of citizens from the ground up, has been entrusted to the National Reconstruction Bureau (NRB), a new body headed by retired General Tanwir Naqvi. The NRB has developed, with support and encouragement from UNDP and others, a plan for extensive local government reform. The plan was made public on March 23, 2000, and was under public review until August 14. Since that date, the military government has announced the first set of local elections will be held in December 2000.

Accountability (point 7) is an especially difficult issue. The problems of corruption are starkly apparent and effective ways of dealing with corruption must be found. However, accountability drives have in the past been seen as ways to punish political enemies, i.e. a form of abuse of power and therefore of corruption. In the case of military governments, accountability drives have been used as excuses to cancel elections and prolong military rule. In 1977, General Mohammad Zia ul-Haq canceled the fall elections based on the need to pursue accountability, most obviously to prosecute former Prime Minister Zulfikar Ali Bhutto on a variety of counts. After Bhutto was hanged in April 1979, Zia again scheduled elections for the following fall, but canceled them once more when he anticipated that the results would be unfavorable to him. During the 1990, 1993 and 1997 elections, corruption allegations were the principal factors leading to the dismissals of the prime ministers.

ASSESSMENT METHODOLOGY

In order to achieve as comprehensive and as accurate an assessment as possible, the organizers of the mission decided to visit three cities, Islamabad, Lahore and Karachi, and to meet representatives of rural areas around Lahore and Karachi. A day visit outside Karachi was also organized. NDI representatives also scheduled meetings with as broad a spectrum of people as possible, including representatives of the military regime, all the main political parties, different minority groups, representatives of business, trade unions and development organizations, lawyers, the media, academics, political analysts, human rights activists and other interest groups.

Terms of reference and briefing books were sent to the delegates before their travel to Pakistan to assist them in their preparation for the trip. A briefing meeting was held for the delegates upon their arrival on Sunday June 4 and followed by a series of short meetings throughout the trip to enable the delegates to discuss their findings and agree on

which would be presented in the final report. Because the terms of reference outlined a large number of questions that would only be answered after several meetings, the group agreed to ask at the very least the following questions to each of the people interviewed:

- Should there be a return to democracy?
- If yes, when do you think this might happen?
- What do you think the next steps of the government will be?
- What is your assessment of the devolution plan?
- How do you see the normalization process between the military government and the political parties taking place?
- How do you rate the performance to date of the current military government?
- Do you feel that the current military government has gained the public's trust?
- What do you think of the security and human rights situation in Pakistan and how would you assess the positions and actions of the extremist religious groups?

In addition to the general questions raised above, more specific questions were asked in each meeting depending on the background and role of the person interviewed.

ASSESSMENT FINDINGS

The following findings are based on the comments and opinions of those interviewed in Pakistan by the delegation. The team has tried to provide as nuanced a view of the political, social and economic context as possible.

Legitimacy

As Pakistan's past history demonstrates, the military ultimately lacks the sort of legitimacy to rule that comes through a meaningful electoral process. Musharraf's toppling of Nawaz Sharif may have been *popular* in some circles in Pakistan because Sharif had squandered his own legitimacy, but the sort of legitimacy that popularity bestows is only temporary and transitory.

The Musharraf government has sought to bolster its legitimacy by producing results in several important policy areas: accountability, economic recovery, and reduction of security tensions. Like Zia and Ayub before him, Musharraf has looked to develop a local-government base that can be used as a counterweight against existing party leaders.

Several of his generals have stated their distrust of the political class. However, the longer the current regime leaves in doubt whether it will move toward the full restoration of civilian order, the more rapidly the legitimacy of the military government will erode.

The current government, according to many political leaders, also does not seem to recognize that major reforms enacted without popular consent may be seen as illegitimate, further undermining the regime. The Chief Executive (CE) and other government leaders, for instance, have suggested such fundamental reforms as restoring extraordinary powers to the President (like those that existed under the 8th Amendment) and the introduction of a system of proportional representation. It is not clear whether there is any dialogue with politicians on these or other reforms, but the latter's protests against each such "bright idea" suggest that the current governmental leaders have little regard for political dialogue.

Lastly, the inability of the government to push forward its announced set of reforms to reduce violence, strengthen human rights and promote greater moderation on a number of social issues, such as the blasphemy law and honor crimes, has been seen as a setback to the regime and a victory for religious extremists. Moderate and liberal individuals and politicians point to such failure as hastening the erosion of the regime's credibility and legitimacy.

Courts

General Musharraf's regime expressed clearly its thoughts on the subject of the Judiciary and the powers of the courts through the Provisional Constitutional Order (PCO) of October 14, 1999. (See Appendix B for a copy of the Provisional Constitutional Order No 1). Although Musharraf states that the Constitution should remain in force and the courts operative, he has been using the PCO to outlaw challenges to the regime, its powers and its actions. Unfortunately, such protection is likely to engender the same excesses committed by the previous government by eliminating any scrutiny of the regime in power. The PCO states:

(2).(1) Notwithstanding the abeyance of the provisions of the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, Pakistan shall, subject to this Order and any other Orders made by the Chief Executive, be governed, as nearly as may be, in accordance with the Constitution.

(2).(2) Subject as aforesaid, all courts in existence immediately before the commencement of this Order shall continue to function and to exercise their respective powers and jurisdiction: provided that the Supreme Court of High Courts and any other court shall not have the powers to make any order against the Chief Executive or any person exercising powers or jurisdiction under his authority."

With respect to the ability of the courts to challenge the military coup or the Chief Executive's powers, or any institution established by the Chief Executive, the PCO states:

(4).(2) No court, tribunal or other authority shall call or permit to be called in question the Proclamation of Emergency of 14th day of October 1999 or any Order made in pursuance of.

(4).(2) No judgment, decree, writ, order or process whatsoever shall be made or issued by any court or tribunal against the Chief Executive or any authority designated by the Chief Executive.

According to lawyers with whom the delegates met in Islamabad, Lahore and Karachi, the court system in Pakistan needs to be strengthened. The independence of the judiciary has been compromised in recent years due to the Executive's efforts to manipulate it. In this respect, the military seems to have weakened the courts further by having them pass a number of ordinances legitimizing the military take-over. Many had hoped that the appointment process would have been made more transparent and less politicized by this time. Some expressed the opinion that many judges were honest, but that their actions were compromised by the larger problems of the country.

Accountability Process

The military regime has put "accountability" at the heart of its governance program. Serious corruption claims against leaders of the PML and PPP which have brought down successive governments during the past ten years were cited by the military government when it established a National Accountability Bureau (NAB). During a press conference on November 1, 1999, Chief Executive General Musharaf announced that NAB would be tasked to "hold across the board accountability." The Bureau is a kind of special prosecution office, with powers of arrest, staffed by military officers and civilian functionaries. It reviews charges that are made against offices. Any citizen may file complaints with NAB through telephone, mail or e-mail. Speedy trial courts have also been set up, in consultation with the offices of the Chief Justice of Pakistan, to address the claims brought to NAB.

NAB follows on the defunct *Ehtissab* Commission, created in 1996 by the caretaker government to investigate corruption. It could not conduct its work effectively as it was always under the close control of the government after Nawaz Sharif's election. NAB is not seen, even by the military regime, as a mechanism to address long-term corruption problems in government. Although the NAB is nominally supposed to examine corruption at all levels and across sectors, it appears that it is being used as a way to press charges principally against the top leaders of each of the main parties.

The exemption from the NAB process of the military, lawyers and the press seems to contradict the initial objectives of NAB and cast a doubt on the motives of the military. Similarly, the ability of NAB to arrest individuals for 90 days without pressing charges has led to human rights abuses.

Political Parties

The perceived corruption, mismanagement, and abuse of power of both the Nawaz Sharif and the Benazir Bhutto governments have left many Pakistanis disenchanted with the main political parties. As a result, many accepted the military takeover and have hoped that the Musharraf regime would eradicate corruption and enact unpopular reforms needed to truly reform the system – none of which the main political parties would pass. The military regime has also shown disdain for the main parties and has marginalized them despite promises of engaging representatives from all parties. According to senior politicians from the parliamentary parties, the Musharraf regime seems as though it might be looking to create new political groups to replace the existing parties. Political leaders are very concerned by the political vacuum that has been created by their removal from power and the inability of the military government to make the difficult decisions it promised in October 1999 and to restore confidence in the economic and political systems.

Most mainstream politicians whom the delegation interviewed pointed to rising rates of violence and to the growing power of extremist religious parties. According to these politicians, extremist religious parties are taking advantage of the political vacuum to assert their agenda and force the military to backtrack on all reforms that they might consider too liberal or progressive.

I. Parliamentary Parties

Pakistan Muslim League - Nawaz Sharif Group (PML-N)

The PML, which secured 134 seats in the National Assembly during the 1997 general election, is currently divided between those who continue to support Sharif and hope that he will be able to survive politically following his trial on corruption and hijacking charges and those who are more skeptical and seem to be waiting for him to make a decision regarding his successor. The former group seems to be taking its orders from Kulsoom Nawaz, the former leader's wife, who remains as head of the party. The latter group is less supportive of having Kulsoom Nawaz lead the party and more inclined to support genuine political reforms within the PML to recapture the public's trust and support. Both factions, however, are confident that given a chance to compete in elections in the near future they would easily gain the electorate's support.

Many political observers predicted that if Nawaz Sharif did not agree to give the party an opportunity to select his successor the party would ultimately split along the lines of the two factions described above.

Pakistan People's Party (PPP)

The Pakistan People's Party, which suffered a strong defeat in 1997 and was only able to retain 18 seats in the National Assembly, seems to be in a wait-and-see mode. In the absence of PPP leader Benazir Bhutto, who is in exile, most of the party politicians we interviewed expressed their willingness to await the outcome of the military government's performance on the tough decisions it has promised. Many are concerned by the apparent rise in the power of religious extremist parties and by the slow pace of promised government reforms. Members of the party interviewed did not believe that the party would take any special measures to reform itself or introduce greater internal democracy. Such changes – although viewed as necessary by some – would first need the consent of the top leadership. Such consent is unlikely, however, since the leadership depends on patronage to maintain its popularity.

It is unclear if the PPP will be able again to become the leading party when general elections are called. Its longer-term popularity is paradoxically related to how long the military holds on to power. It has during recent decades, demonstrated much greater success in mobilizing popular opposition to government than in governing. The future of democracy in Pakistan is dependent upon political parties and civilian institutions to reform themselves and to develop effective governance capabilities.

Muttahida Qaumi Movement - Altaf Hussain (MQM-A)

Originally the Muhajir Qaumi Movement, the MQM is predominantly representative of the Muhajir, or refugee, population of urban Sindh Province, primarily the cities of Karachi and Hyderabad. The party is split into two major factions that are often at odds with one another. The larger of these, MQM(A), which secured 12 seats in the National Assembly during the 1997 election, is led by political exile Altaf Hussain. MQM(A) leaders, like those of the PPP, express concern with the current political vacuum and the rise of extremist religious parties. The party claims the latter are gaining ground every day and are a direct threat to democracy and the federal system. Representing the parliamentary party that had the third largest number of seats, the MQM leaders seem disenchanted by the current regime and observe that only extremist religious parties support the government directly, while others accept it tacitly. The MQM seems to have fewer leadership problems than other mainstream parties and overall a seemingly more democratic internal structure. The party is supportive of continued pressure by the international community to hold fresh elections within the timeframe outlined by the Supreme Court.

Awami National Party (ANP)

The ANP is a regional party based in the North West Frontier Province. Founded in 1986 when General Zia ul-Haq permitted the reestablishment of political parties, the ANP was political successor to Khan Abdul Wali Khan's National Awami Party (NAP), banned by Zulfikar Ali Bhutto in the early 1970s on conspiracy charges. During the 1997 elections, the ANP secured nine seats in the National Assembly and six seats in the Senate. On May 21, 2000, the ANP leadership sacked its president, Ajmal Khattak, and later retracted his party membership accusing him of "supporting and collaborating with the military dictatorship" of General Musharraf. According to newspaper sources these actions were in reaction to Khattak's declaration that accountability had to be linked to democracy's return to Pakistan and his open support of the military regime – both of which were in opposition to the platform of the party. He also suggested that a mechanism for national reconciliation other than the restoration of parliament be instituted.

The Awami National Party has declared opposition to the building of the *Kalabagh* dam as it would inundate several districts of the NWFP. In addition, the party was concerned about the drought that had hit millions of acres in NWFP and Sindh due to a continued monopoly by Punjab of water.

The party has repeatedly asked General Pervez Musharraf to restore democracy in Pakistan as early as possible.

II. Non-Parliamentary Parties

Jamaat-e-Islami (JI)

The Jamaat-e-Islami, a religious party with support in all four provinces, has traditionally demanded the eradication of corruption and the decentralization of power. In past elections, the JI won seats as part of the Islamic Democratic Alliance (IDA) in 1990 and under the Pakistan Islamic Front Alliance in 1993. In 1997, the JI boycotted the election, claiming that corrupt candidates from the PML-N and the PPP should be barred from the ballot. Despite its boycott of the elections, the Jamaat Islami party did not resort to unconstitutional means to stop people from voting. During our interviews, the leaders of the party seemed frustrated by the state of affairs yet hopeful that a civilian government would be restored shortly.

JI leaders are supportive of democratic processes, but are reluctant to criticize more extremist groups, the use of religious schools (*madrasas*) to train insurgents, or the alleged "Talibanization" of Pakistan. In effect, the JI is competing with more extremist groups for leadership of the Islamist political community. It cannot afford to alienate any of that community while it seeks to keep politics within bounds of civility. During our stay in Pakistan the party leadership volunteered to play a mediating role between the

military and the various trade unions that were striking against efforts by the government to restructure the economy.

Pakistan Tehreek-e-Insaaf Party (PTI)

The Pakistan Tehreek-e-Insaaf (PTI) party was formed in mid-1996 by former cricket star Imran Khan. The PTI fielded candidates for the National Assembly and provincial level government but did not succeed in securing any seats. Today the party is part of the Grand Democratic Alliance, created as an opposition front during the Sharif government. It is opposed to any efforts that would bring the PML into the alliance.

The party representatives do not believe that the military will be capable of completing its tenure because it does not have the experience to govern nor to bring about needed reforms. The party advocates creating a presidential system that it presumes would favor a sports hero like Imran Khan. The party opposes any system that necessitates high levels of campaign spending, on the ground that such spending forces many legislators to engage in corrupt practices. In principle, the party is supportive of the devolution plan, but doubtful of the military's ability to carry through such ambitious reforms.

Civil Society

The delegation met with a broad spectrum of civil society leaders including editors of the major newspapers, trade unions and other local and international nongovernmental development organizations. Although civil society spokespeople generally regard the military's actions as illegitimate, the delegation observed stark differences in opinion with regard to the likelihood of an early transition to democratic rule. Civic leaders were also divided in their interpretation of the motives of the military regime. In one camp, led by the Human Rights Commission of Pakistan (HRCP) and various labor organizations, there is a demand for an immediate return to civilian democratic governance. Pakistan's experience with previous coups leads these groups to question the present government's platform for reform. Moreover, they argue that any reforms that might be implemented by the current regime would be likely to be rejected by subsequent governments and therefore counterproductive.

Other organizations, such as the Aurat Foundation and Shirkat Gah, are more willing to give the military regime an opportunity to carry through its promised transformation of society. They see the coup as the inevitable result of poor democratic foundations and the army as the only institution powerful enough to enact basic political reforms.

Nongovernmental organizations (NGOs) often provide essential social services, where past and present governments have been ineffective and/or inefficient. The estimated number of NGOs and community-based organizations (CBOs) registered varies from 8,000 to 16,000 according to a recent UNDP report, considerably smaller than in other South Asian countries. A much smaller country like Nepal, for example, was estimated in 1998 to have close to 14,000 NGOs. Moreover, few organizations that can claim

grassroots membership or purpose. Past governments, especially that of Nawaz Sharif, have been antagonistic to Pakistan's NGO community. Although civil society groups seem to have more freedom and less government interference today, they remain overwhelmingly cautious, and continue to keep a low profile by working more in areas such as health and education, than in advocacy of democratic reforms.

NGO activists express concern over extremist Islamic groups. These groups, they perceive, threaten to ban international organizations and other local development organizations on the grounds that the latter are 'importing' western ideologies of development. Civil society representatives argued strongly that rising fundamentalism is an imminent threat to Pakistan's stability and eventual return to democratic governance. Recently, prominent human rights lawyer Hina Jilani and her sister Asma Jehangir received 'fatwas' (death warrants) by an extremist group for their stance on women's rights and their support of peace talks between India and Pakistan.

Human rights organizations seem to be able to confront and criticize the present government openly. Although Pakistan's civil society organizations are still in their nascent stages, they have made efforts to expand their networks through collaboration and cooperation. An NGO resource center, the Sindh Graduates Association, and several women's organizations illustrate positive developments that will play an important role in cultivating Pakistan's civil society.

Civil society, in general, is divided in its assessment of the current regime, although none seems to deem the coup as legitimate, even if it provides some relief from the excesses of the Sharif Government. Some groups believe that military intervention was inevitable and that the current regime offers greater stability and prospects for reform. Others argue that Pakistan's democratic development has constantly been interrupted by military intervention, condemn this coup, and demand an immediate return to civilian rule.

Mass Media

According to most journalists with whom we spoke, press freedom seems greater under the current regime than under Sharif. Journalists admitted, however, that self-censorship was taking place and that many journalists avoided writing on certain issues. The government also continues to have a great influence on the press through the purchase of advertising (rewarding those supportive of the government's positions) and through tight control of newsprint paper quotas.

On the positive side, political party and civic leaders have been able to criticize the military government openly. Newspapers carry daily articles commenting on or criticizing the devolution plan and other reform efforts. The papers have also carried stories from prominent leaders of PML who have been deposed, such as Minister of Foreign Affairs Sartaj Aziz.

Despite current press freedoms, newspapers reach only a small percentage of the Pakistani public. Radio and television, the most accessible forms of information, remain under state control. Efforts during the Sharif government to liberalize the electronic media did not go very far. The government in Pakistan still tightly controls broadcast media, although there is discussion of allowing independent television networks to be created. Many doubt that such networks will be allowed to broadcast news, however.

Some Indian television programming reaches into Pakistan, enabling people to get more than one point of view. The two state-controlled networks do not necessarily constitute open dialogue and do not address the host of social issues usually debated on televised programs in more open societies.

Economic Environment

Pakistan enjoyed a 5.4 percent growth rate in Gross Domestic Product (GDP) during 1997-1998, up from 3.1 percent the previous year, a level considered by many economists too low to cope with the increase in population and debt financing needs of the country. Unfortunately, the economy did not perform as well the following year (1998-1999) due to a number of internal and external factors. The reduction in foreign aid and impositions of sanctions on Pakistan due to nuclear testing in May 1998 had severe repercussions on the economy of the country. With real annual growth rate back down to 3.1 percent, the Sharif government had a major crisis on its hands. Despite several efforts to remedy this situation, the government came under attack for mismanagement and corruption. The military coup gave hopes to some that the military would restore confidence in the economy by rooting out corruption, stabilizing the currency and paying off the national debt.

The government of Pakistan's economic report for 1999-2000 claimed that real GDP grew by 4.5 percent as against 3.2 percent for the previous year. According to government sources, this growth was accompanied by a 5.5 percent increase in agricultural output due to bumper crops of cotton, wheat and rice crops. According to ministerial sources, manufacturing output is down significantly from previous years.

The annual Economic Report noted a sharp decline in inflation from 11.6 percent to 8.2 percent during 1998-1999, Pakistan's lowest inflation rate in the 1990s. This trend has continued, according to government sources, with inflation down to 3.4 percent in 1999-2000. While exports declined by 12 percent in 1998-1999, they grew almost by 10 percent in 1999-2000 due in large part to increased agricultural exports. Imports are also slightly on the rise. The government of Pakistan predicts that by the end of 1999-2000 the deficit will be of 2.4 percent of GDP compared with 4.1 percent of GDP the previous year.

i. Debt relief

Pakistan has suffered a tremendous increase in external and internal debt in the past two decades. Economic studies suggest that the level of national indebtedness is unsustainable. Successive governments have had to dedicate very large portions of their revenues to servicing the debt. Growth debt servicing has outpaced growth in GDP, slowing down the economy and squeezing the economy of any surplus (See Social Development in Pakistan, Annual Review 1999, 11). The country has been constantly on the verge of defaulting for the past year. The military government is looking at ways to reschedule its debts and find relief from the World Bank and the International Monetary Fund. Some political and economic analysts interviewed during the trip argued that the West and industrialized nations should tie economic support to the return of civilian rule.

ii. Tax collection

Tax evasion has plagued the Pakistani system for many years. Taxes are paid by only about one percent of the people, primarily the salaried middle class. The military regime has made one of its top priorities the documentation of the economy to increase the government's tax base. These efforts would in part help alleviate the imminent problem of debt financing and restore confidence in the economy and the ability of the government to combat corruption.

A nationwide effort to document business economic activities was launched by the military government and sparked major controversy in mid-2000. Businesses and individuals were required to report their economic activities and pay taxes accordingly. As part of this effort, the military government allowed a grace period for those who in recent years had failed to pay taxes. A nationwide media campaign encouraged defaulters to pay their due share of taxes.

Traders and other businesses went on strike in protest against the way the documentation exercise was being conducted. They criticized tax collectors and the police for intimidating business owners.

During the delegation's stay in Islamabad, several businessmen were beaten up or arrested for refusing to comply with the authorities conducting the documentation exercise. It was also reported by the national news that a prominent businessman committed suicide in a government office (or was killed by officials according to an unofficial alternate view) over these issues.

By all accounts these protests have had an adverse impact on the economy. Economists commenting on the process seem to agree that documentation of the economy is needed and that no civilian government could undertake such an unpopular and politically costly program. As a result, many are willing to give the military the necessary time to finish this task. However, the military government's performance on this issue, as well as in

other matters, demonstrates some of the dilemmas of operating in something of a political vacuum. The military rulers are able to declare needed political reforms, but appear unable to mobilize public support for them or to impose them by force in the face of public opposition. As such instances of timidity even in the face of opposition multiply, the military government's credibility erodes with proponents of reform. On the other hand, imposition of the documentation program by force without simultaneously addressing issues of bureaucratic and police corruption would appear tyrannical to many.

The Devolution Plan

On March 23, General Musharraf announced that district government elections would be held on a non-party basis in two stages, with the process starting on Dec 15, 2000, and ending in July 2001. The timetable called for the establishment of district governments with full financial powers by August 14, 2001. Musharraf clarified that the district governments would remain within the provincial framework and that their relationship with the national government would be through the provincial governments. The present administrative divisions would cease to exist after the district governments were set up. He also announced that the voting age would be lowered from 21 to 18. In response to a question, he indicated that elections to the provincial and national assemblies would not be held until the suspended parliament completed its constitutional tenure of five years. However, for the new assemblies to start functioning as soon as the tenure of the current suspended houses ended in February 2002, elections would have to be held by early January that year. The date for elections would need to be announced by early November 2001.

The National Reconstruction Bureau (NRB), a unit created by the government and headed by a former General Tanwir Naqvi, has drafted a master plan for the devolution effort proposed by the government. The NRB has been assisted in its work by United Nations Development Programme (UNDP) local government experts.

The government released the devolution plan in English first and was in the process of translating the document into Urdu, during the visit of the delegation in early June, which suggests that it may not have been prepared by the Pakistanis. The NRB decided to seek comments from the general public and political leaders on the devolution plan before proceeding with implementation. A revised version of the plan was approved on August 4 and 5 during a joint meeting of the Federal Cabinet, the National Security Council, and the Governors of the four provinces. (see Appendix C for a copy of the Local Government (Final Plan 2000)).

Preliminary Assessment

The information on the devolution plan collected during the interviews led the team to question seriously the ability of the government to implement such reforms successfully. While many people saw a serious need for devolution of power and for an increase in

representation of women at the local level, they pointed out several serious shortcomings of the current plan:

- ❑ **The plan is too complex.** There are too many governmental tiers and not enough clarity on the responsibilities of each tier.
- ❑ **The plan might be too expensive to implement and sustain in the long run.** Special funds will be needed for the elections, and for the training of candidates and the training of the bureaucracy in the new system.
- ❑ **There has not been enough political and public buy-in for the system to work.**
- ❑ **The plan does not address the fundamental problems of decentralization of power at the national level and the need to strengthen the provinces.**
- ❑ **The program is inconsistent.** For instance, quotas for women at the lowest level are relatively generous, but are reduced at higher levels, where more women are likely to have education and social background to participate.
- ❑ **There is serious lack of political support.** Politicians note that Generals Ayub and Zia utilized earlier 'non-party' local government schemes to establish their own political support bases in opposition to existing party leaders.

Another comment which was made by select individuals, and which is worth mentioning in this report, is that a devolution plan may exacerbate ethnic rivalries within the country if not coupled by reforms at the federal and provincial levels. Given that the devolution plan does not address the rising grievances of the regions and ethnic minorities, it is possible that the local elections will fuel discontent and further weaken the federal system.

The devolution plan has received strong UNDP endorsement and encouragement. The UNDP has sought to create a support group of international donors called "friends of elections" to assist the military government with implementation of the devolution plan. Other institutions such as the Asia Foundation have also been working with the government, holding public forums for citizens interested in commenting on the devolution plan and discussing with government officials ways to improve it.

The NDI team's assessment is mixed. On the one hand, the team sees a value in devolution of power in Pakistan and the increase in women's participation in local politics. On the other hand, the team sees the daunting task facing the government and the lack of experience, time and resources to implement such a complex plan. If the plan

cannot be implemented by 2002, for whatever reason, it may well be used as an excuse to prolong military rule, perhaps indefinitely.

External Security Environment

Pakistan's external security environment continues to be characterized by events in Kashmir, and more recently, by Taliban-controlled Afghanistan. Both issues capture the concerns of many Pakistanis with regard to rising fundamentalism and the importation of extremist ideology, as well as the continued drain on the economy.

Pakistan and India have fought wars over the disputed territory of Kashmir in 1948-49, 1965 and 1971. Since 1989, there has been an undeclared, ongoing war in Kashmir. Tensions heightened significantly after the nuclear tests in 1998 and again after the 1999 Kargil debacle. Many believe a full-fledged war with India was just narrowly avoided. The Pakistani army is widely acknowledged to have provided training, weapons, and financial support to militia forces in Kashmir. The army is believed to support *madrasas*, or religious schools, where many militia members are recruited. The rhetoric of '*jihad*,' coupled with India's aggression, perpetuates the conflict's intensity.

Relations with India remain strained. The Indian government does not regard the current military government as legitimate and as a result, Chief Executive General Musharraf's several attempts to renew discussions over Kashmir have been continually rebuffed. Based on the delegation's observations, although most Pakistanis believe tensions with India would not escalate to a war, many acknowledge that India and Pakistan could potentially engage in an arms race that would further deplete Pakistan's economy. According to the Minister of Interior, defense spending, that is among the highest per capita in the world, would not be reduced in the coming year. In sum, as long as relations with India remain strained, and perpetuate the "Cold War mentality", the government will not likely be able to divert significant resources towards servicing the national debt and enhancing social services.

Pakistan is one of the few countries that recognizes the Taliban government of Afghanistan and maintains diplomatic ties. The Taliban is tightly linked to militia members in Kashmir and many of the *madrasas* in Pakistan. Western pressures to control terrorism stemming from the subcontinent have caused Musharraf to somewhat distance himself from Afghanistan. Members of the Pakistan government argued that Western coverage and fear of Osama Bin Laden have escalated a relatively unknown person to hero status. The delegation also noted a prevalent fear among many of those interviewed concerning the eventual 'Talibinization' of Pakistan.

Public opinion is mixed with respect to international pressure – particularly from the United States, the Commonwealth, the European Union and other donors – for the return of civilian rule. The military maintains that instrumental reforms and socio-political cleansing are necessary before Pakistan can return to civilian rule. Due to Pakistan's

poor economic situation, the military and some members of civil society continue to believe that international assistance is imperative to ensure the success of the reforms and to counter rising fundamentalism.

Internal Security Environment

Many observers have suggested that the deteriorating internal security environment is the direct outcome of the current political situation. The most common perception is that the current political vacuum carries a great threat of being filled by armed religious groups. Nobody disputes the existence of armed religious-based militias and virtually everyone who mentioned this phenomenon saw the militias as a serious threat to civil order in Pakistan. However, major differences exist on how best to avoid this threat. Some see prolonged military rule as most likely to encourage such problems, while others see the military as the only way of controlling and defusing the situation.

These differences of perspective reflect significant ambiguities in perceptions concerning the character and composition of the military in general and of the current military regime in particular. General Musharraf has sought to project himself and his government as more secular and tolerant than, for instance, General Zia ul-Haq, the previous military dictator (1977-1988). His initial attempt to strike the blasphemy provisions from the constitution – by which people may be imprisoned or executed for statements intended to defame Islam – is pointed to as evidence of his liberalism, but his subsequent backing down from that position is seen as his vulnerability to pressure from the religious groups and from more fundamentalist elements within the army.

PERFORMANCE OF THE REGIME

So far, the military regime has sought to bolster its legitimacy by seeking to demonstrate that it is capable of meeting the goals that it has set for itself. According to this standard, after several months in power, the military government receives mixed reviews on its performance. The following analysis summarizes the NDI delegation's attempt, based on information collected, to evaluate the performance of the military government in accordance with its own declared objectives.

(1) Re-build national confidence and morale

Although the military takeover was not widely opposed in Pakistan, national confidence and morale appear to be consistently declining. The inability of the regime to follow through on a number of its reforms is gradually eroding the public's trust. The failed effort to reduce the supply of weapons in circulation in the country contributes to this frustration. Similarly, the government's failure to control extremist voices and at times to succumb to their demands, calls the regime's motives and capabilities alike into question. In addition, while the accountability process is seen as instrumental to the recovery of

Pakistan's economy, many have come to doubt the sincerity of the Musharraf government, as the reforms exclude the military, lawyers and the press.

Despite a good year for the agricultural sector and the stabilizing of the currency, public confidence continues to decline due to the worsening economic situation as foreign and domestic investment remain low. Tensions among the provinces and sectarian violence have been on the rise. Unfortunately, the government has not been able so far to rectify the situation. Punjabi dominance within the army further exacerbates Punjabi tensions with the minority provinces. Despite the military government's mixed performance, it appears that Pakistanis are willing to let military rule continue, in the hope that they may complete needed reforms.

(2) *Strengthen the Federation, remove inter-provincial disharmony and restore national cohesion*

The military regime's efforts to strengthen the federation, reduce inter-provincial disharmony and restore national cohesion seems to have taken a back seat relative to other issues. Nonetheless, the Kalabagh Dam issue seems to have been met by violent opposition from the three minority provinces. Similarly, the devolution plan is seen as a way for the military government to circumvent traditional political forces and weaken the provincial assemblies. By devolving power to the district level, the new devolution plan is seen as threatening to make the Mayors and Chairman Union Council members much more powerful than members of the provincial legislative assembly.

While in Sindh, the delegation encountered strong expressions of regional discontent. Sindhis feel exploited as they contribute a larger share of their revenues to the federal budget than any other province, but feel they do not receive their fair share of services from the federal government.

(3) *Revive the economy and restore confidence of the investors*

The military government seems to have succeeded in stabilizing the currency and maintaining a rather healthy growth rate. Its effort to collect taxes and document the economy have had mixed results so far.

Although the economy received a boost due to good agricultural production during the first year of the military regime, investors remained timid, according to leading business and economic analysts. It was unclear at the time of the delegation's visit how things might unfold in ensuing months. The government's survival appeared likely to depend in large part on its ability to persuade the IMF and the World Bank to assist Pakistan in financing its debt.

(4) *Ensure law and order and dispense speedy justice*

Lawyers and politicians interviewed by the delegation complained repeatedly of corruption in the courts. Some also asserted that the independence of the Supreme Court had yet again been compromised and that the provisions under the Provisional Constitutional Order were not fair.

Many doubted the integrity of tax collectors. Reports of intimidation and bribery have been common. Although many people support the government's objective of documenting the economy, some fear that the tax collectors will not conduct their duties fairly. Some are also concerned by harsh treatment received by the business community from tax collectors.

The Pakistani government has attempted to remove corrupt government officials from office and to eliminate redundant jobs. Such cuts are intended to reduce the governmental payroll by several thousand jobs, but are not expected by many to solve the problems of cronyism and waste.

Finally, the failure of the government to fulfill its promise to *deweaponize* the country raises serious questions concerning its ability to ensure law and order.

(5) *Reconstruct and de-politicize State institutions*

The government has not presented a clear plan to de-politicize state institutions, but seems committed to strengthen the election commission by making it autonomous. The political marginalization of all main political parties will reduce their influence in governmental institutions, but that will accomplish very little if the military itself exploits such institutions for its own ends. Accountability, for instance, has been a weapon that the party in power has used to beat down the opposition. If the accountability process under the current National Accountability Bureau is similarly used just to punish perceived political enemies, that state institution can hardly be regarded as depoliticized.

(6) *Devolve power to the grass-roots level*

The devolution plan seems like a genuine effort by the military regime to devolve political power to the local level. The inclusion of quotas for women at different levels of local government is encouraging and should be supported. The ambitiousness of the plan raises serious concerns, however. The attempt to transform the society without the involvement of civilian political leaders, except through a limited consultation effort, and the potential impact on the role of the provinces within the federal system are also concerns. Many observers perceive that the military government, like previous martial law regimes, is utilizing devolution to build a political basis throughout the country that would entrench military interests and help lay the groundwork for General Musharraf to become the next president of Pakistan.

(7) *Ensure swift and across-the-board accountability*

One of the most troubling aspects of the accountability process introduced by the military and enforced by the regime's National Accountability Bureau, is that it excludes from the process the military, lawyers and journalists. Such favoritism is not well received among the people even among those who advocate prosecution of the leadership of both parties on allegations of corruption and mismanagement. Another harsh critique of the accountability exercise is that the military government has granted itself ninety days during which it can arrest any citizen without pressing charges.

PROSPECTS FOR ORDERLY DEMOCRATIC TRANSITION

Consideration of when and how Pakistan might return to civilian government need to begin with the declared policies and intentions of the current regime. The delegation identified three general scenarios that would describe the possible sequence of events in Pakistan.

i. The 3-year scenario

The official scenario for restoration of civilian government, mandated by the Supreme Court, calls for the military government to hold general elections by October 2002, i.e., three years after the coup. The government has indicated its intention to comply with this timetable. Indeed, Pakistanis generally assume that the timetable was established by negotiation between the government and the Supreme Court.

What is the likelihood that General Musharraf will carry through with this scenario? Several considerations cast doubt on his ability, or even his intention, to do so: the marginalization of political parties, the ambitiousness and complexity of the devolution plan, and the failure to carry through with other promises, to mention only the most obvious factors.

Many speculate that Musharraf is to assume the position of President and move to the sort of semi-civilian "duopoly" that existed from 1985 to 1988. During our interviews many also pointed out Musharraf's fascination for the Turkish leader Kamal Ataturk and suggested that he might contemplate adopting a Turkish style constitution that would give the military a much more permanent and prominent role in politics.

ii. The longer-term scenario

If the military does not go back to the barracks in three years, they would open the possibility of a longer time frame, possibly much longer. Such a scenario would follow in the steps of Generals Ayub and Zia. Ayub came to power in late 1958 and created a new "Basic Democracy" Constitution based on a local government system that no doubt

serves as a model for General Musharraf's devolution plan. Ayub became civilian president in 1962 and ultimately was forced to resign in 1969 after fighting a war with India and suffering health problems. Zia seized power in July 1977 and promised to return power to civilian leaders "within 90 days." A year later he assumed the title of president and held it until his assassination in August 1988. If past practice provides any guidance, it would not be unreasonable to expect a longer-term scenario to last 10 or 11 years.

According to people close to Musharraf, an unfinished reform agenda might "compel" the generals to remain at the helm. Despite its potentially serious repercussions on the economy of the country, external relations, and regional and religious tensions, this appears to be the most likely of the three scenarios.

iii. The shorter-term scenario

Finally, some observers suggested to the NDI delegation that the military might exit before the three-year limit granted by the Supreme Court. According to this argument, the military will soon realize the magnitude of the task they have decided to undertake and acknowledge the fact that they are ill equipped to bring about such radical change without permanent damage to the military's integrity and reputation.

A variant of the early exit scenario is the suggestion that a return to civilian rule might be brokered by politicians who have close ties to the military. This argument seems to assume a higher regard among the generals for politicians than would appear to be currently the case.

These shorter-term scenarios appear to be wishful thinking on the part of hopeful politicians more than an objective assessment of probabilities. This would appear to be the least likely of the three general scenarios.

REQUISITE COMPONENTS OF DEMOCRACY IN PAKISTAN

Regardless of when and how civilian government is restored in Pakistan, what are the possibilities of establishing a viable democratic system? Many observers, Pakistanis and others, would argue that it is meaningless to speak of "restoring democracy" in Pakistan because neither military nor civilian governments have been democratic. This is in fact a key argument offered by the current government in support of its devolution plan: a grass-roots transformation of political culture will be necessary for a viable democracy to emerge in Pakistan. In considering the prospects for democracy in Pakistan, it is therefore important to look not only at the possibilities of restoring civilian rule, but also at requisite components of democratic development, including devolving power at the local level.

Institutions

Establishing public trust should be an essential part of any government. The record of civilian government in Pakistan in the 1990s was one of increasingly blatant corruption, abuse of authority, and misuse of political institutions. Representative institutions, such as parliament and the provincial legislatures, have never fully developed in Pakistan. The bureaucracy and the courts, once highly developed and effective institutions, have been weakened by decades of political manipulation by both military and civilian officials. Eradicating corruption, reducing the size of bureaucracies, and making government more transparent, accountable and responsive will all contribute to greater public confidence.

Checks and Balances

One frequent explanation for military intervention in Pakistan is that the military is the only institution capable of checking the excesses of civilian leaders like Z. A. Bhutto, Benazir Bhutto, and Nawaz Sharif. Few of the checks and balances that operate in functioning democratic systems – representative institutions, the courts, parties, federalism, the press – operate effectively in Pakistan. The devolution process alone will not be sustainable in the long run without a functioning political system at the national level. Development of effective checks and balances is essential, especially at the national level. Such checks and balances might grow in part out of separation of powers, but they would need to be based on a nationwide recognition that unchecked political power is an invitation to continued instability. Clarification of civil-military relations would also help to strengthen checks and balances.

Accountability and Ethics

Accountability is an important feature of responsible government, but accountability in Pakistan tends to be a mechanism to punish political enemies. The current accountability process should be across the board and without exceptions. It should also be designed to outlast the regime in power. Here again the need for checks and balances among various institutions is critical. Strengthening the Ombudsman's role, empowering the parliament to scrutinize the work of the executive, introducing a freedom of information act and loosening the control of political leaders over party members may contribute to enhancing accountability and ethics. Numerous other reforms have been suggested by international lending agencies such as the World Bank and the Asian Development Bank that are also worth investigating.

Political Parties

Political party reforms are, according to most political analysts, critical to the success of any democratization process. Political parties need to be encouraged to hold internal elections regularly and introduce greater transparency, such as internal financial audits.

Recent changes to the laws governing Members of Parliament's relationship to their party need to be reviewed.

Elections

Pakistan conducted nationwide elections with increasing levels of success during the 1990s. Prolonged military rule, further deterioration of political parties, and arbitrary interference may undo some of this progress, but the experience of the past decade has at least provided some experience in the conduct and monitoring of elections. Further efforts to institutionalize the election commission and update voter roles would be beneficial, but the most crucial step for improving electoral processes would be a return to civilian rule at the earliest practicable opportunity.

Political Culture and Civil Society

Most people interviewed by the delegation expressed their concern about the education system in Pakistan. With a population that, according to some estimates, is over 70 percent illiterate, the government faces a great challenge. In the long run, experience with elections and other democratic processes is the surest way to build a responsible citizenry. In this sense, the transformational goals of the current devolution plan are on target, but it remains to be seen whether they can be met by a military regime that is itself neither representative nor accountable to the public.

Trade Unions and NGOs

Members of trade unions, academics and the press stressed the need to restore to all groups the right to organize and assemble. Political parties and some trade unions continue to be barred from demonstrating, rallying or organizing other public events.

Press/Media

Pakistan's press has become freer and more professional over the years, but it is still hampered in providing "watchdog" functions in Pakistan. Liberalizing the electronic media should be a priority of political reform. Such a step would reduce the grip of future governments on public information and make available needed information on a variety of social, development and political issues. Liberalizing the media would also strengthen investigative journalism and help reduce corruption as well as government inefficiencies, by imposing greater accountability from all levels of government and elected officials. Liberalizing and depoliticizing the quota of paper acquisition for printing presses would also help foster a freer press.

CONSIDERATIONS FOR INVOLVEMENT IN DEMOCRATIC DEVELOPMENT

The assessment delegation was asked to provide guidelines to groups such as NDI with respect to possible programming within the context of Pakistan's present political situation. Although the members of the delegation recognize that the current ambiguities and uncertainties leave room for differences of opinion, they agreed on the following recommendations.

I. Maintain distance and independence of judgment

Given the volatility of the political situation and the nature of the Pakistani government, the delegation decided that it would be most appropriate for NDI and others to maintain distance and independence of judgment in deciding when, where and how to be involved in Pakistan. It is unclear that the regime will be capable of accomplishing its set objectives or of returning power to civilians within the timeframe outlined by the Supreme Court. Even the appearance of an endorsement of the military regime's political agenda, including the devolution plan, would entail risks under the present circumstances. Any group intending to work in Pakistan should assess its involvement based on the evolving political situation and specific opportunities that might arise.

II. Consider each possible project on its merits

Because of the constraints outlined above and uncertainties with respect to how the political situation will unfold in Pakistan, the assessment team recommends that groups intending to assist in the democratic transition assess each possible project on its merits. This would mean that they would consider any opportunity to work in Pakistan without *a priori* ruling out any options. The determination of the merits of each project would ultimately depend on the existing political conditions at the time, the political space available for the groups to conduct such a program, the impact of the program, and its cost. Determination of such criteria would obviously rely primarily on each group's on-the-ground findings and feedback from partners in Pakistan.

III. Support efforts that lead to rapid and credible return to civilian government

Programs conducted by organizations such as NDI in Pakistan should be geared towards helping support efforts that lead to a rapid and credible return to civilian rule. If military rule is to end by October 2002, a lot more attention will need to be paid to processes of orderly transition than appears to have taken place so far. Meaningful dialogue between the military rulers and civilian leaders should be a high priority.

IV. *Recognize and respond to weaknesses of prospective civilian order*

The other side of the coin of rapid return to civilian rule is the need to strengthen democratic institutions. The only way that Pakistan is likely to establish a viable democratic system in the long run is to strengthen its representative institutions, political parties, and other features of democratic rule. As noted earlier, there are many weaknesses in Pakistan's civilian institutions. Efforts by groups such as NDI to assist with institutional, party, or civil society development during the current period could be an investment in the success and sustainability of the civilian democratic system, whenever and however it might emerge.

V. *Give serious consideration to human rights consequences of any programming*

Any democratic system is based on respect for human rights and individual rights. As such, NDI and other groups should monitor regularly the impact of any Pakistani programming on such basic rights. Over the last several years, an active NGO community has developed in Pakistan, including such key organizations as the Human Rights Commission of Pakistan. Prolonged military rule is likely not only to sap political parties and representative institutions, but also to jeopardize such human rights organizations.

POTENTIAL DEMOCRATIC DEVELOPMENT PROGRAM AREAS

Given these recommendations and the earlier discussion of systemic weaknesses, the following are worth noting as suggestions:

Civil Society Programs

Support to human rights organizations and other organizations has already been mentioned. If local elections are held in accordance with the government's devolution plan, domestic election monitoring groups in Pakistan may need assistance. Programs that enhance political education and participation but that are not being seen as supporting elections may be appropriate. Civic groups would greatly benefit from learning how to reach out more effectively to the grassroots and to develop necessary skills: to mobilize public opinion; lobby government and elected officials; communicate with media; and develop mass-based organizations. Such efforts would also enable these organizations to press for reforms that might ultimately empower the classes that are currently left behind.

Media Programs

The press is an important link between civil society and government. Issues of press responsibility, investigative journalism, protection of journalists against governmental

coercion, and other press freedom concerns might all be appropriate subjects for democracy programming. The role of broadcast media in a democratic system would also be an important topic for consideration.

Political Party Programs

Political parties in Pakistan are in a critical phase. The public is disenchanted with political leaders and traditional political parties. Citizens have rejected the wasteful, inefficient and corrupt practices of the last two governments and desire much more from the political elite.

Internal party democracy is essential for the long-term viability of Pakistan's political system. Party building programs could greatly help parties to identify and develop the reforms and skills needed to regain the public trust and to play vital roles in future democratic government. Programs might focus on development of polling capacities, mobilization of public support, internal democratic processes, party roles in policy development, or other relevant themes.

Election Programs

After decades of holding elections only rarely, Pakistan's electoral experience during the 1988-1999 period was highly valuable. Building on that experience, there are many potential projects that might enhance the independence and capabilities of Pakistan's Federal Election Commission. Election monitoring groups and voter education programs also constitute potential programming opportunities.

Institutional Programs

Many of the institutional weaknesses noted earlier might be appropriate focal areas of democracy programs in Pakistan, but two are especially worthy of consideration. First, enhancement of the capabilities and roles of Parliament and the legislative assemblies once an elected foundation is established should be an important emphasis, both to make these legislative bodies more effective policy-making and deliberative institutions and to check arbitrary executive power. Second, programs to combat corruption, by strengthening the courts and the ombudsman office or by other means, should be given serious consideration. Accountability needs to become an integral component of normal governmental operation rather than a political weapon.

Civil Military Relations

Civil military relations have been an endemic problem in Pakistan for over three decades. The delegation recommends that special attention be given to civil military relations, following the restoration of civilian rule or as soon as the political climate permits it. The spheres of influence of the military and the civilians have to be openly discussed among policy makers and clearly re-defined. The mechanisms of communication between civilians and military also ought to be clarified and enhanced.

CONCLUDING COMMENTS

Pakistan's political history over the past half-century has been a recurring cycle of weak civilian governments and extended periods of military rule. The present cycle of military rule, which began October 12, 1999, has some unique features, including a court-mandated commitment to relinquish power to civilian hands by October 2002. An orderly democratic transition is by no means assured, however. The present government's scenario of devolution and social transformation is problematic in several respects. In this situation, the democracy assessment team recommends that NDI pursue a strategy of cautious engagement, avoiding actions that might encourage prolonging military rule, but remaining open to opportunities to assist Pakistanis to realize more fully their dreams of a viable democratic government.

Appendix A

**Text of Speech by Chief Executive
General Pervez Musharraf
Delivered on October 17, 1999**

Text of speech by Chief Executive of Pakistan, CJCS and COAS General Pervez Musharraf, NI (M). T Bt delivered on Oct 17, 1999

Bismillah -Ar-Rehman-Ar-Rahim

My dear countrymen, Asalam O Alaikum:

Pakistan today stands at the crossroads of its destiny- a destiny which is in our hands to make or break. Filly-two years ago, we started with a beacon of hope and today that beacon is no more and we stand in darkness. There is despondency, and hopelessness surrounding us with no light visible anywhere around. The slide down has been gradual but has rapidly accelerated in the last many years.

Today, we have reached a stage where our economy has crumbled, our credibility is lost, state institutions lie demolished; provincial disharmony has caused cracks in the federation, and people who were once brothers are now at each other's throat.

In sum, we have lost our honour, our dignity, our respect in the comity of nations. Is this the democracy our Quaid-e-Azam had envisaged? Is this the way to enter the new millennium?

Let us not be despondent. I am an optimist I have faith in the destiny of this nation; belief in its people and conviction in its future. We were not a poor nation as generally perceived. In fact we are rich. We have fertile land that can produce three crops a year. We have abundant water to irrigate these lands and generate surplus power. We have gas, coal and vast untapped mineral resources - and above all a dynamic and industrious people. All these await mobilization. We have only to awaken, join hands and grasp our destiny. For Allah helps those who help themselves.

My fellow Pakistanis, as you are aware I took over in extremely unusual circumstances - not of my making. It is unbelievable and indeed unfortunate that, the few at the helm of affairs in the last government were intriguing to destroy the last institution of stability left in Pakistan by creating dissention in the ranks of the armed forces of Pakistan. And who would believe that the Chief of Army Staff, having represented Pakistan in Sri Lanka, upon his return was denied landing in his own country and instead circumstances were created which would have forced our plane either to land in India or crash.

Providence ultimately intervened. Praise be to Allah that the plane landed safely when barely seven minute of fuel was left. I salute my soldiers and men for acting courageously in the supreme interest of the nation. Most of all I salute our people who stood solidly with their armed forces at that critical hour. Quite clearly, what Pakistan has experienced in the recent years has been hardly a label of democracy not the essence of it. Our people were never emancipated from the yoke of despotism. I shall not allow the people to be taken back to the era of sham democracy but to a true one. And I promise you I will Inshallah.

My dear countrymen. The choice before us on 12th October was between saving the body (that is the nation) at the cost of losing a limb (which is the Constitution) or saving the limb and losing the whole body. The Constitution is but a part of the nation therefore I chose to save the nation and yet took care not to sacrifice the Constitution. The Constitution has only been temporarily held in abeyance. This is NOT MARTIAL LAW, only another path towards democracy. The armed forces have no intention to stay in charge any longer than is absolutely necessary to pave the way for true democracy to flourish in Pakistan.

Ever since 12th October I have deliberated, carried out consultations and crystallized my views about the future course to be adopted. I wish to share these with you today. My dear countrymen, our aims and objectives shall be:

Rebuild national confidence and morale. Strengthen federation, remove inter provincial disharmony and restore national cohesion. Revive economy and restore investor confidence. Ensure law and order and dispense speedy justice. Depoliticise state institutions. Devolution of power to the grass roots level. Ensure swift and across the board accountability. Good governance is the pre-requisite to achieve these objectives. In the past, our governments have ruled the people. It 'is time now for the governments to serve the people. The government I plan to institute shall comprise: Firstly- The President. On my request, President Rafique Tarar has very kindly agreed to stay.

Second- A National Security Council headed by the Chief Executive with six members. These members will be Chief of Naval Staff, Chief of Air Staff, a specialist each in Legal, Finance, Foreign Policy and national affairs. A think-tank of experts shall be formed as an adjunct to the National Security Council, to provide institutionalized advice and input.

Third- A Cabinet of Ministers who will work under the guidance of the National Security Council. Four- The Provinces to be headed by a Governor, functioning through a small provincial cabinet. All these appointments shall be made purely on the basis of professional competence, merit and repute. Revival of Economy is critical. Our economy is in deep trouble and revolutionary steps are needed to put it back on track. The Pakistani people were subjected to betrayal of trust. Their hard-earned money was frozen or taxed in violation of State commitment. We need to restore this trust. To revitalize our economy in addition to measures like recovery of the looted national wealth - a task that will be ruthlessly be pursued, I am identifying policy guidelines. Some of which are:

Rebuilding of investors' confidence through stability and consistency in economic policies, and economic security. The

objective is to encourage the local investors, overseas Pakistanis and foreign investors. Increase domestic savings. Carry out Pragmatic tax reforms. Turn around the state enterprises towards profitability. Boost agriculture and revive industry. Strict austerity measures. Next aspect is accountability. Lack of accountability has resulted in corruption of horrendous proportion, threatening the very basis of our society. The term 'Ehtesab' has been abused to an extent that it has lost its meaning. There is thus a need to re-establish faith in the process of accountability.

The process of accountability is being directed especially towards those guilty of plundering and looting the national wealth and tax evaders. It is also directed towards loan defaulters and those who have had their loans re-scheduled or condoned. The process of accountability will be transparent for the public to see. My advice to the guilty is to return voluntarily national wealth, bank loans and pay their taxes before the hand of law forces them to do so with penalty. As a last chance I urge all defaulters to come forth and settle their debts within a period of four weeks, after which their names will be published and the law will take its due course. They owe this to Pakistan and I expect their spirit of patriotism to guide them,

Cementing the Federation is very vital. This will be achieved through devolution of power, from the centre to the provinces and from the provincial to the local government as actually enshrined in the constitution, Media forms an integral part of statehood in this era of information. I have great regard and respect for the media; I trust it to play a positive and constructive role. I am a firm believer in the freedom of the press and am even considering liberalising the policy on the establishment of private television and radio channels.

And now a few words on exploitation of religion. Islam teaches tolerance not hatred, universal brotherhood and not enmity, peace and not violence, progress and not bigotry. I have great respect for the Ulema and expect them to come forth and present Islam in its true light. I urge them to curb elements which are exploiting religion for vested interests and bringing bad name to our faith. I would like to reassure our minorities that they enjoy full rights and protection as equal citizens in the letter and spirit of true Islam.

I wish to reassure the International community that there is no change in our foreign policy. We will continue to honour international obligations and commitments as in the past. It will remain our constant endeavour to promote peace and stability in our region. We would like to maintain our abiding policy of friendship and co-operation with all countries. The strengthening of brotherly ties with the Islamic countries will be a central pillar of our foreign policy. We shall continue our efforts to achieve a just and peaceful solution in Afghanistan. We wish to see a truly representative government in Kabul. We will maintain and further reinforce our traditional and time tested friendship and co-operation with China. We attach the highest importance to our friendly relations with all major powers, especially the United States.

Here I would like to mention two key areas of our external relations; International security and disarmament and our relations with India. Pakistan has always been alive to international non-proliferation concerns. Last year, we were compelled to respond to India's nuclear tests in order to restore strategic balance in the interest of our national security and regional peace and stability. In the new nuclear environment in South Asia, we believe that both Pakistan and India have to exercise utmost restraint and responsibility. We owe it to our people and also to the world. I wish to assure the world community that while preserving its vital security interests Pakistan will continue to pursue a policy of nuclear and missile restraint and sensitivity to global non- proliferation and disarmament objectives.

As for relations with India, let me at the out-set congratulate Mr. Atal Bihari Vajpayee on assumption of office as the Prime Minister of India. I welcome his offer for friendly relations and

positively reciprocate. At the turn of the century, South Asia stands at a crucial juncture of its history, 20th Century saw our transition to independence but the region has unfortunately remained mired in conflicts and economic deprivation.

Together Pakistan and India can change this scenario. For this objective both must sincerely work towards resolving their problems especially the core issue of Jammu and Kashmir. The people of Kashmir have made great sacrifices for the achievement of their rights promised to them by the United Nations. We shall continue our unflinching moral, political and diplomatic support to our Kashmiri brethren in their struggle to achieve their right of self-determination.

India must honour the UN resolutions and its own commitment to the people of Kashmir. It must also end its repression of the Kashmiri people and respect their fundamental human rights. Pakistan would welcome unconditional, equitable and result-oriented dialogue with India. While, our armed forces are fully equipped and ready to defend our national sovereignty and territorial integrity, it is our desire that the situation on our borders with India and on the Line of Control should remain clam and peaceful. I take this opportunity to announce a unilateral military de-escalation on our international borders with India and initiate the return of all our forces moved to the borders in the recent past. I hope this step would serve as a meaningful confidence building measure.

My dear countrymen, to conclude my address let me say that; we have hit rock bottom. We have no choice but to rise, and rise e will Inshallah. Our actions shall Inshallah speak louder than words. Therefore, my countrymen let us RISE To THE OCCASION AND SEIZE THE OPPORTUNITY. Before I close I would like to give you a personal commitment. I hereby undertake to declare my tax returns and assets to be documented and open for public scrutiny. And now I would like to share a prayer that I wrote for myself:

O ALLAH

I PROMISE MY NATION SINCERITY, HONESTY, INTEGRITY AND UNFLINCHING LOYALTY.

GIVE ME:

- THE VISION TO SEE AND PERCEIVE THE TRUTH FROM THE FALSE.
- THE WISDOM TO COMPREHEND THE PROBLEM AND FIND ITS SOLUTION.
- THE COURAGE TO DO JUSTICE AND THE STRENGTH TO DO THE RIGHT. MAY ALLAH BE WITH US ALL:

AAMEEN.

PAKISTAN PAINDABAD.

Appendix B

**Provisional Constitutional Order
October 14, 1999**

SHORT ORDER

IRSHAD HASAN KHAN, CHIEF JUSTICE -- For detailed reasons to be recorded later, we intend to dispose of the above petitions under Article 184 (3) of the Constitution, directed against the Army takeover of 12th October, 1999, the Proclamation of Emergency dated 14th October, 1999, the Provisional Constitution Order No. 1 of 1999 and the Oath of Office (Judges) Order No. 1 of 2000, in the following terms --

Independence of Judiciary

Stability in the system, success of the Government, democracy, good governance, economic stability, prosperity of the people, tranquility, peace and maintenance of law and order depend to a considerable degree on the interpretation of Constitution and legislative instruments by the Superior Courts. It is, therefore, of utmost importance that the judiciary is independent and no restraints are placed on its performance and operation. It claims and has always claimed that it has the right to interpret the Constitution or any legislative instrument and to say as to what a particular provision of the Constitution or a legislative instrument means or does not mean, even if that particular provision is a provision seeking to oust the jurisdiction of this Court. Under the mandate of the Constitution, the Courts exercise their jurisdiction as conferred upon them by the Constitution or the law. Therefore, so long as the Superior Courts exist, they shall continue to exercise powers and functions within the domain of their jurisdiction and shall also continue to exercise power of judicial review in respect of any law or provision of law, which comes for examination before the Superior Courts to ensure that all persons are able to live securely under the rule of law; to promote, within the proper limits of judicial functions, the observance and the attainment of human and Fundamental Rights; and to administer justice impartially among persons and between the persons and the State, which is a *sine qua non* for the maintenance of independence of judiciary and encouragement of public confidence in the judicial system.

Taking of Oath under PCO No. I of 1999

Fresh oath under Oath of Office (Judges) Order No. I of 2000, does not in any way preclude the Judges of this Court from examining the questions raised in the above petitions, which have to be decided in accordance with their conscience and law so as to resolve the grave crises and avoid disaster by preventing imposition of Martial Law for which the Constitution does not provide any remedy.

New oath of office was taken by the Judges of this Court under PCO No. 1 of 1999 read with Oath of Office (Judges) Order No. I of 2000 with a view to reiterating the well established principle that the first and the foremost duty of the Judges of the Superior Courts is to save the judicial organ of the State. This was exactly what was done. By virtue of PCO No. 1 of 1999, the Constitution has not lost its effect in its entirety although its observance as a whole has been interrupted for a transitional period. The activity launched by the Armed Forces through an extra constitutional measure, involves the violation of "some of the rights" protected by the Constitution, which still holds the field but some of its provisions have been held in abeyance. A duty is cast upon the Superior Judiciary to offer some recompense for those rights which were purportedly violated in view of the promulgation of PCO No. 1 of 1999. This could be achieved only by taking the Oath and not by declining to do so and thereby becoming a party to the closure of the Courts, which would not have solved any problem whatsoever but would

have resulted in chaos, anarchy and disruption of peaceful life. Independence of judiciary does not mean that Judges should quit their jobs and become instrumental in the closure of the Courts. Indeed, the latter course would have been the most detestable thing to happen. Independence of judiciary means that the contentious matters, of whatever magnitude they may be, should be decided/resolved by the Judges of the Superior Courts according to their conscience. This Court, while performing its role as "the beneficial expression of a laudable political realism", had three options open to it in relation to the situation arising out of the military take-over on Twelfth Day of October, 1999: *firstly*, it could tender resignation *en bloc*, which most certainly could be equated with sanctifying (a) chaos/anarchy and (b) denial of access to justice to every citizen of Pakistan wherever he may be; *secondly*, a complete surrender to the present regime by dismissing these petitions for lack of jurisdiction in view of the purported ouster of its jurisdiction under PCO No. I of 1999; and *thirdly*, acceptance of the situation as it is, in an attempt to save what "institutional values remained to be saved". This Court, after conscious deliberations and in an endeavour to defend and preserve the national independence, the security and stability of Pakistan, sovereignty and honour of the country and to safeguard the interest of the community as a whole, decided to maintain and uphold the independence of judiciary, which, in its turn, would protect the State fabric and guarantee human rights/Fundamental Rights. It took the Oath under PCO No. 1 of 1999 so as to secure the enforcement of law, extend help to the law enforcing agencies for maintenance of public order and with a view to restoring democratic institutions, achieving their stability and guaranteeing constitutional rights to the people of Pakistan.

Oath of Office prescribed under Articles 178 and 194 of the Constitution for the Judges of the Superior Courts contains a specific provision that a Judge shall abide by the Code of Conduct issued by the Supreme Judicial Council. Same is the position with regard to the provisions regarding Oath of Office (Judges) Order No. 1 of 2000. The precise provisions in the Oath of Office (Judges) Order, 2000 are that a Judge, to whom oath is administered, shall abide by the provisions of Proclamation of Emergency of Fourteenth day of October, 1999 PCO No. 1 of 1999, as amended, and the Code of Conduct issued by the Supreme Judicial Council. But there is specific omission of words, "to preserve and defend the Constitution". Adherence to the Code of Conduct has not been subjected to any pre-conditions and there can be no deviation from it by a Judge who takes oath either under the Constitution or PCO No. 1 of 1999 or Oath of Office (Judges) Order No. I of 2000. One of the requirements of the Code of Conduct is that the oath of a Judge implies complete submission to the Constitution, and under the Constitution to the law. Subject to these governing obligations, his function of interpretation and application of the Constitution and the law is to be discharged for the maintenance of the Rule of Law over the whole range of human activities within the nation. Thus the new Oath merely indicates that the Superior Judiciary, like the rest of the country had accepted the fact that on 12th of October, 1999, a radical transformation took place.

Maintainability of Petitions

Notwithstanding anything contained in the Proclamation of Emergency of the Fourteenth day of October, 1999, the Provisional Constitution Order No. I of 1999, as amended and the Oath of Office (Judges) Order No. 1 of 2000, all of which purportedly restrained this Court from calling in question or permitting to call in question the validity of any of the provisions thereof, this Court, in the exercise of its inherent powers of judicial review has the right to examine the validity of the aforesaid instruments. Additionally, submission of the Federation in response to the Court's notice concerning its own legitimacy also

suggests that this Court has an inherent authority, arising from the submission of both the parties to its jurisdiction, notwithstanding the preliminary objection raised in the written statement as to the maintainability of the above petitions. In the exercise of its right to interpret the law, this Court has to decide the precise nature of the ouster clause in the above instruments and the extent to which the jurisdiction of the Courts has been ousted, in conformity with the well-established principles that the provisions seeking to oust the jurisdiction of the Superior Courts are to be construed strictly with a pronounced leaning against ouster. The Constitution Petitions filed by the petitioners under Article 184 (3) of the Constitution are, therefore, maintainable.

Intervention by Armed Forces

National Assembly is the highest representative body, which reflects the will and aspirations of the people of Pakistan. Similar is the status of a Provincial Assembly in a Province. Senate, being a symbol of unity of the federating units has its own utility for the country as a whole. It is, therefore, of utmost importance that the impugned suspension of the above democratic institutions is examined with great care and caution, otherwise it would adversely affect the democratic processes in the country, which may cause instability, impair the economic growth and resultantly prove detrimental to the general well-being of the people. However, where the representatives of the people, who are responsible for running the affairs of the State are themselves accused of massive corruption and corrupt practices and in the public as well as private sectors are benefiting there from and resist establishing good governance; where a large number of references have been filed against the former Prime Minister, Ministers, Parliamentarians and members of the Provincial Assemblies for their disqualification on account of corruption and corrupt practices; where there is a general perception that corruption is being practised by diversified strata including politicians, parliamentarians, public officials and ordinary citizens and that a number of parliamentarians and members of the Provincial Assemblies mis-declared their assets before Election Commission and Tax Authorities; where there was no political and economic stability and bank loan defaults were rampant and that as per report of Governor, State Bank of Pakistan Rs. 356 billion are payable by the bank defaulters up to 12-10-1999, having no accountability and transparency; where economic stability in Pakistan was highly precarious and there was an overall economic slowdown as GDP growth during the past three years had hardly kept pace with the growth of population; where Pakistan has a debt burden, which equals the country's entire national income; where all the institutions of the State were being systematically destroyed and the economy was in a state of collapse due to self-serving policies of the previous government, which had threatened the existence, security, economic life, financial stability and credit of Pakistan; where a situation had arisen under, which the democratic institutions were not functioning in accordance with the provisions of the Constitution, inasmuch as, the Senate and the National and Provincial Assemblies were closely associated with the former Prime Minister and there was no real democracy because the country was, by and large, under one man rule; where an attempt was made to politicize the Army, destabilize it and create dissension within its ranks and where the judiciary was ridiculed; leaving no stone unturned to disparage and malign it by making derogatory and contemptuous speeches by some of the members of the previous ruling party inside and outside the Parliament and no reference was made to the Chief Election Commissioner for their disqualification as members of the Parliament under Article 63 (2) of the Constitution; where the disparaging remarks against the judiciary crossed all limits with the rendering of judgment by this Court in the case of *Sh. Liaquat Hussain v. Federation of Pakistan* (PLD 1999 SC 504), declaring the establishment of Military

Courts as *ultra vires* of the Constitution, which resulted into a slanderous campaign against the judiciary launched by the former Prime Minister, registering his helplessness in the face of the Judiciary not allowing him the establishment of Military Courts as a mode of speedy justice; where the image of the judiciary was tarnished under a well conceived design; where the telephones of the Judges of the Superior Courts and other personalities were tapped in spite of the law laid down by this Court in the case of *Mohdarma Benazir Bhutto v. President of Pakistan* (PLD 1998 SC 388), that tapping of telephones and eaves dropping was immoral, illegal and unconstitutional; where storming of the Supreme Court was resorted to allegedly by some of the leaders and activists of the Pakistan Muslim League which ultimately led to the issuance of contempt notices against them/contemners by the Full Bench of this Court in a pending appeal; where Mian Nawaz Sharif's constitutional and moral authority stood completely eroded and where situation was somewhat similar and analogous to the situation that was prevalent in July, 1977, the extra-constitutional step of taking over the affairs of the country by the Armed Forces for a transitional period to prevent any further destabilization, to create corruption-free atmosphere at national level through transparent accountability and revive the economy before restoration of democratic institutions under the Constitution, is validated, in that Constitution offered no solution to the present crisis.

In the Commonwealth Finance Ministers Meeting, held on 21-23 September, 1999, commenting on the Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption, it was *inter alia*, observed that; "Good governance is not a luxury but a basic requirement for development. Corruption, which undermines development, is generally an outcome and a symptom of poor governance. It has reached global proportions and needs to be attacked directly and explicitly."... "The Commonwealth should firmly commit itself to the policy of "zero tolerance" of all types of corruption. This policy must permeate national political cultures, governance, legal systems and administration. Where corruption is ingrained and pervasive, especially at the highest political levels, its eradication may require a sustained effort over a protracted period of time. However, the policy of "zero tolerance" should be adopted from the outset, demonstrating a serious commitment to pursue the fight against corruption. The Commonwealth should remain firm in its determination that the high standards and goals enunciated in the 1991 Harare Declaration are upheld and enhanced. Creating an environment, which is corruption-free will require vigorous actions at the national and international levels, and within the Commonwealth itself. These actions should encompass the prevention of corruption, the enforcement of laws against it and the mobilization of public support for anti-corruption strategies."

Probably, the situation could have been avoided if Article 58 (2) (b) of the Constitution had been in the field, which maintained parliamentary form of government and had provided checks and balances between the powers of the President and the Prime Minister to let the system run without any let or hindrance to forestall the situation in which Martial Law can be imposed. With the repeal of Article 58 (2) (b) of the Constitution, there was no remedy provided in the Constitution to meet the situation like the present one with which the country was confronted, therefore, constitutional deviation made by the Chief of the Army Staff, General Pervez Musharraf for the welfare of the people rather than abrogating the Constitution or imposing Martial Law by means of an extra-constitutional measure is validated for a transitional period on ground of State necessity and on the principle that it is in public interest to accord legal recognition to the present regime with a view to achieving his declared objectives and that it is in the interest of the community that order be preserved. Legal recognition/legitimacy can be

accorded to the present regime also on the principle that the government should be by the consent of the governed, whether voters or not. Here there is an implied consent of the governed i.e. the people of Pakistan in general including politicians/parliamentarians, etc. to the army take-over, in that no protests worth the name or agitations have been launched against the army take-over and/or its continuance. The Court can take judicial notice of the fact that the people of Pakistan have generally welcomed the army take-over due to their avowed intention to initiate the process of across the board and transparent accountability against those, alleged of corruption in every walk of life, of abuse of national wealth and of not taking appropriate measures for stabilizing the economy and democratic institutions. Another principle, which is attracted is that since an extra-constitutional action has been taken by General Pervez Musharraf wielding effective political power, it is open to the Court to steer a middle course so as to ensure that the frame-work of the preexisting Order survives but the constitutional deviation there from be justified on the principle of necessity, rendering lawful what would otherwise be unlawful. However, prolonged involvement of the Army in civil affairs runs a grave risk of politicizing it, which would not be in national interest, therefore, civilian rule in the country must be restored within the shortest possible time after achieving the declared objectives, which necessitated the military take-over and Proclamation of Emergency as spelt out from the speeches of the Chief Executive dated 13th and 17th of October, 1999. The acceptance of the above principles do not imply abdication from judicial review in the transient suspension of the previous legal order.

We accordingly hold as under --

1. On 12th October, 1999 a situation arose for which the Constitution provided no solution and the intervention by the Armed Forces through an extra-constitutional measure became inevitable, which is hereby validated on the basis of the doctrine of State necessity and the principle of *salus populi suprema lex* as embodied in *Begum Nusrat Bhutto's* case. The doctrine of State necessity is recognised not only in Islam and other religions of the world but also accepted by the eminent international jurists including *Hugo Grotius, Chitry and De Smith* and some Superior Courts from foreign jurisdiction to fill a political vacuum and bridge the gap.
2. Sufficient corroborative and confirmatory material has been produced by the Federal Government in support of the intervention by the Armed Forces through extra-constitutional measure. The material consisting of newspaper clippings, writings, etc. in support of the impugned intervention is relevant and has been taken into consideration as admissible material on the basis of which a person of ordinary prudence would conclude that the matters and events narrated therein did occur. The findings recorded herein are confined to the controversies involved in these cases alone.
3. All past and closed transactions, as well as such executive actions as were required for the orderly running of the State and all acts, which tended to advance or promote the good of the people, are also validated.
4. That the 1973 Constitution still remains the supreme law of the land subject to the condition that certain parts thereof have been held in abeyance on account of State necessity;

5. That the Superior Courts continue to function under the Constitution. The mere fact that the Judges of the Superior Courts have taken a new oath under the Oath of Office (Judges) Order No. 1 of 2000, does not in any manner derogate from this position, as the Courts had been originally established under the 1973 Constitution, and have continued in their functions in spite of the Proclamation of Emergency and PCO No. 1 of 1999 and other legislative instruments issued by the Chief Executive from time to time;

6. (i) That General Pervez Musharraf, Chairman, Joint Chiefs of Staff Committee and Chief of Army Staff through Proclamation of Emergency dated the 14th October, 1999, followed by PCO I of 1999, whereby he has been described as Chief Executive, having validly assumed power by means of an extra-constitutional step, in the interest of the State and for the welfare of the people, is entitled to perform all such acts and promulgate all legislative measures as enumerated hereinafter, namely --

(a) All acts or legislative measures which are in accordance with, or could have been made under the 1973 Constitution, including the power to amend it;

(b) All acts which tend to advance or promote the good of the people;

(c) All acts required to be done for the ordinary orderly running of the State; and

(d) All such measures as would establish or lead to the establishment of the declared objectives of the Chief Executive.

(ii) That constitutional amendments by the Chief Executive can be resorted to only if the Constitution fails to provide a solution for attainment of his declared objectives and further that the power to amend the Constitution by virtue of clause 6 sub-clause (i) (a) *ibid* is controlled by sub-clauses (b) (c) and (d) in the same clause.

(iii) That no amendment shall be made in the salient features of the Constitution *i.e.* independence of judiciary, federalism, parliamentary form of government blended with Islamic provisions.

(iv) That Fundamental Rights provided in Part II, Chapter I of the Constitution shall continue to hold the field but the State will be authorized to make any law or take any executive action in deviation of Articles 15, 16, 17, 18, 19 and 24 as contemplated by Article 233 (1) of the Constitution, keeping in view the language of Articles 10, 23 and 25 thereof.

(v) That these acts, or any of them, may be performed or carried out by means of orders issued by the Chief Executive or through Ordinances on his advice.

- (vi) That the Superior Courts continue to have the power of judicial review to judge the validity of any act or action of the Armed Forces, if challenged, in the light of the principles underlying the law of State necessity as stated above. Their powers under Article 199 of the Constitution thus remain available to their full extent, and may be exercised as heretofore, notwithstanding anything to the contrary contained in any legislative instrument enacted by the Chief Executive and/or any order issued by the Chief Executive or by any person or authority acting on his behalf.
 - (vii) That the courts are not merely to determine whether there exists any nexus between the orders made, proceedings taken and acts done by the Chief Executive or by any authority or person acting on his behalf, and his declared objectives as spelt out from his speeches dated 13th and 17th October, 1999, on the touchstone of State necessity but such orders made, proceedings taken and acts done including the legislative measures, shall also be subject to judicial review by the Superior Courts.
6. That the previous Proclamation of Emergency of 28th May, 1998 was issued under Article 232 (1) of the Constitution whereas the present Emergency of 14th October, 1999 was proclaimed by way of an extra-constitutional step as a follow up of the Army take-over which also stands validated notwithstanding the continuance of the previous Emergency which still holds the field.
 7. That the validity of the National Accountability Bureau Ordinance, 1999 will be examined separately in appropriate proceedings at appropriate stage.
 8. That the cases of learned former Chief Justice and Judges of the Supreme Court, who had not taken oath under the Oath of Office (Judges) Order, 2000 (Order I of 2000), and those Judges of the Lahore High Court, High Court of Sindh and Peshawar High Court, who were not given oath, cannot be reopened being hit by the doctrine of past and closed transaction.
 9. That the Government shall accelerate the process of accountability in a coherent and transparent manner justly, fairly, equitably and in accordance with law.
 10. That the Judges of the Superior Courts are also subject to accountability in accordance with the methodology laid down in Article 209 of the Constitution.
 11. General Pervez Musharraf, Chief of the Army Staff and Chairman Joint Chiefs of Staff Committee is a holder of Constitutional post. His purported arbitrary removal in violation of the principle of *audi altram partem* was *ab initio* void and of no legal effect.

12. That this order will not affect the trials conducted and convictions recorded including proceedings for accountability pursuant to various orders made and orders/laws promulgated by the Chief Executive or any person exercising powers or jurisdiction under his authority and the pending trials/proceedings may continue subject to this order.
13. This is not a case where old legal order has been completely suppressed or destroyed, but merely a case of constitutional deviation for a transitional period so as to enable the Chief Executive to achieve his declared objectives.
14. That the current electoral rolls are outdated. Fresh elections cannot be held without updating the electoral rolls. The learned Attorney General states that as per report of the Chief Election Commissioner this process will take two years. Obviously, after preparation of the electoral rolls some time is required for delimitation of constituencies and disposal of objections, etc.
15. That we take judicial notice of the fact that ex-Senator Mr. Sarraj Aziz moved a Constitution Petition No. 15 of 1996, seeking a *mandamus* to the concerned authorities for preparation of fresh electoral rolls as, according to Mr. Khalid Anwar, through whom, the above petition was filed, the position to the contrary was tantamount to perpetuating disenfranchisement of millions of people of Pakistan in violation of Articles 17 and 19 of the Constitution. Even MQM also resorted to a similar Constitution Petition bearing No. 53 of 1996 seeking the same relief. However, for reasons, best known to the petitioners in both the petitions, the same were not pursued any further.
16. That having regard to all the relevant factors involved in the case including the one detailed in paragraphs 14 and 15 above three years period is allowed to the Chief Executive with effect from the date of the Army take-over *i.e.* 12th October, 1999 for achieving his declared objectives.
17. That the Chief Executive shall appoint a date, not later than 90-days before the expiry of the aforesaid period of three years, for holding of a general election to the National Assembly and the Provincial Assemblies and the Senate of Pakistan.
18. That this Court has jurisdiction to review/re-examine the continuation of the Proclamation of Emergency dated 12th October, 1999 at any stage if the circumstances so warrant as held by this Court in the case of Sardar Farooq Ahmed Khan Leghari v. Federation of Pakistan (PLD 1999 SC 57).

Sd/-

Mr. Justice Irshad Hasan Khan, C.J.

Mr. Justice Muhammad Bashir Jehangiri

Mr. Justice Sh. Ijaz Nisar

Mr. Justice Abdur Rehman Khan

Mr. Justice Sh. Riaz Ahmad

Mr. Justice Muhammad Arif

Mr Justice Munir A. Sheikh

Mr. Justice Rashid Aziz Khan

Mn Justice Nazim Hussain Siddiqui

Mr. Justice Iftikhar Muhammad Chaudhry

Mr. Justice Qazi Muhammad Farooq

Mr. Justice Rana Bhagwandas

*Announced at Islamabad
This 12 day of May 2000.*

Appendix C

**Local Government Final Plan
Approved on August 5, 2000**

Local Government (Final Plan 2000)

LOCAL GOVERNMENT PLAN 2000

1. In the existing system of governance at the local level, the province governs the districts and tehsils directly through the bureaucracy at the division, district and tehsil levels. And the local government for towns and cities exist separately from those of the rural areas. The provincial bureaucratic set-ups are the designated 'controlling authorities' of the local governments, and tend to undermine and over-ride them, which breeds a colonial relationship of 'ruler' and 'subject'. The separate local government structures engender rural-urban antagonism, while the administration's role as 'controlling authorities' accentuates the rural-urban divide.
2. The two structural and systemic disjoints mentioned above, coupled with the absence of horizontal integration and the consequent inadequacy of functional co-ordination between the line departments at the division, district, and tehsil levels, lead to inefficiency and corruption, and are the root causes of the crisis of governance at the grass root level. This crisis appears to have been addressed through over-concentration of authority, particularly in the office of the Deputy Commissioner, which besides creating the potential for abuse of authority, diffuses operational focus and results in the expedient handling of routine functions through crisis management.
3. The proposed Local Government Plan integrates the rural with the urban local governments on the one hand, and the bureaucracy with the local governments on the other, into one coherent structure in which the district administration and police are answerable to the elected chief executive of the district. Citizen monitoring by elected representatives, the civil society's involvement with development, and a system of effective checks and balances, completes the hard core of the political structure and system of the Local Government.
4. The Local Government design is based on five fundamentals: devolution of political power, decentralisation of administrative authority, deconcentration of management functions, diffusion of the power-authority nexus, and distribution of resources to the district level. It is designed to ensure that the genuine interests of the people are served and their rights safeguarded. The new system will create an enabling environment in which the people can start participating in community welfare and be the masters of their own destiny.
5. The administrative set-up will be rationalised by defining lines of responsibility clearly, and providing protection against political interference and transfers on non-professional grounds. To ensure coherent development and adequate provision of services, the administration and the police will work under the elected head of the district. However, to safeguard against abuse of authority, effective checks and balances are an integral part of the Local Government Plan.
6. Financial resources will be distributed to local governments through formula-based provincial fiscal transfers and decentralisation of specified taxation powers. Prescribed lists of taxes will be finalised within the framework(s) of provincial fiscal transfers to districts. This will enable the Local Government to effect credible development and service delivery.
7. Local governments will be formed at three levels: District, Tehsil, and Union. Each will comprise its Nazim and Naib Nazim, its elected body, and its administrative structures. To involve people more actively in community development, grass root organisations like the Village Councils and Citizen Community Boards have been introduced. The scheme provides for monitoring the functioning of government and delivery of services by the citizens and their representatives at all levels.
8. The local government system is designed basically to suit the needs of districts that have no large cities in them. Such districts form the large majority of districts of the country. The Local Government Plan envisages that large cities like Karachi, Lahore, Faisalabad, Gujranwala, Multan, Hyderabad, Peshawar, Sukkur, Quetta, Rawalpindi and Bahawalpur will be declared city districts in a phased manner, starting with Karachi, Lahore, Peshawar, Quetta and Islamabad. The peculiarities of these large urban centres will call for variations in the administrative, municipal and police structures.
9. To address the crucial issue of public peace and security, the law enforcement system has been reconstituted from the Thana upwards, through the district, the province, and up to the federal level. The new

system is designed to serve as an honest arm of the judicial and government structures that may ensure the liberty of the law-abiding citizens and threaten every violator of law without distinction.

10. Delivery of justice at the doorstep is an essential element of good governance. The proposed Local Government Plan therefore included recommendations for changes in judicial structures and systems at the district level and below which were approved by the National Security Council in March 2000. Those recommendations are being conveyed to the Chief Justice of Pakistan for consideration as part of the overall reform of the judiciary.
11. Local Governments will function clearly within the provincial framework. Sustainable development and credible improvement in the delivery of services, through devolution of power and responsibility and decentralisation of authority, to the districts, will greatly enhance the image and effectiveness of provincial governments at the grass root. This will strengthen the provinces and the country as a whole.
12. This document contains the core of the local government system that has finally emerged from the revision of the proposed plan announced on 23rd March 2000. Based on this plan, a new model law has been developed by the National Reconstruction Bureau, which after adaptation will be promulgated by provincial governments as provincial ordinances by 30th September 2000. The National Reconstruction Bureau will publish a detailed booklet entitled LOCAL GOVERNMENT SYSTEM 2000 by the end of this year, which in addition to the final plan contained in this document will include design philosophy and further details about administration and local government systems.

Developed & Managed by
Pakistan Information Networks for National Reconstruction Bureau,
Government of Pakistan

Local Government (Final Plan 2000)

THE DISTRICT

General

13. The District government will include the Zila Nazim and Naib Zila Nazim, the Zila Council, and the District administration. The Naib Zila Nazim will be the speaker of the Council and the Zila Nazim will not be its member.
14. The Zila Nazim will be the executive head of the district and the administration and the police will be responsible to him. This will make state functionaries and service providers accountable to the elected representatives of the people.
15. In order to improve the effectiveness and efficiency of the district government, official oversight of the administration will be dovetailed with monitoring through specialised committees of the Zila Council and the citizens. Result-oriented performance evaluation and incentives system based on official oversight and citizen monitoring will be introduced.
16. To improve critical information gathering and to aid official oversight and legislative monitoring, information systems will be created and subsequently automated. In addition the right of information expressed in regulations on open access and the free flow of information in public offices will contribute to transparency.
17. Through the creation of new offices like literacy and information technology in the districts, the foundations for the entry of Pakistan into the information age of the new millennium are to be established.

Elections

18. Election of Members of Zila Council: Directly elected Union Nazims will be members of the Zila Council also. Each union will therefore have one representative in the Zila Council. The number of general seats in the Zila Council will vary depending on the number of unions in the district. In addition to the general seats, the Zila Council will have thirty three percent seats reserved for women, five percent for workers/peasants, and five percent for minorities. All the Union Councillors of the district will be the Electoral College for these reserved seats.
19. In a district where the population of the minorities is in excess of 10% of the total population, reserved seats for minority communities shall be allocated in the manner prescribed by the provincial government. There will be direct elections for these seats for which only the minorities will be eligible to vote, and the whole of the district will be the constituency.
20. Elections of the Zila Nazim and Naib Zila Nazim: The Union Councillors of the district will elect the Zila Nazim and Naib Zila Nazim as joint candidates. The Zila Nazim and Naib Zila Nazim will have academic qualification of at least matriculation/secondary school certificate, or equivalent.
21. If the office of the Zila Nazim falls vacant for any reason, the Zila Council will elect an officiating Zila Nazim to fill the post until such time that by-elections are held and another Nazim takes over. The person so elected will serve for the remaining part of the term only. Recall of either the Zila Nazim or the Naib Zila Nazim will not automatically result in the removal of the other.
22. Recall of Zila Nazim:
 - a. Internal: A motion for the recall of the Zila Nazim may be moved by any member of the Zila Council and seconded by another. A simple majority in the Zila Council will be needed for the motion to be carried. In case, the motion fails in the Zila Council, then the member who moved and the one who seconded the motion will lose their seats in the Zila Council as well as their positions of Nazim of their union councils. If the motion carries in the Zila Council it will be voted upon by all the Union Councillors of the district and will require a two-thirds majority for final approval.
 - b. External: The Zila Nazim may be removed from office by the Chief Minister of the province on a motion, stating the grounds for removal, to be approved by a simple majority of the total membership of the Provincial Assembly and subject to confirmation by the governor in his discretion. The governor may, however, send the motion back to the Provincial Assembly for reconsideration before according approval or otherwise.
 - c. For either external or internal recall, the following conditions will prevail:
 - i. No motion for the removal of Zila Nazim may be tabled during the first six months of his assumption of office.
 - ii. A motion for recall may not be tabled more than once a year.
 - iii. The recall process will include providing an opportunity to the Zila Nazim to present his defence in person.

- iv. To obviate divisive politics, the Naib Zila Nazim will not be entitled to succeed the Nazim temporarily or take part in the by-election for that office.

Political Structures and Systems

23. Zila Nazim: The Zila Nazim will provide political leadership for the development of the district and will be in a position to influence policies that could improve both the current quality of life and the future development prospects of a district. In collaboration with the Tehsil Nazims, the Zila Nazim will create a development vision for the district integrating the roles and resources of the administration, private sector, civil society organisations, and local level institutions. This vision will be realised through development plans and budget that the Zila Nazim will submit to the Zila Council for approval.
24. Naib Zila Nazim: The Naib Zila Nazim will be the speaker of the Zila Council and provide liaison between the Council and the Zila Nazim. The Naib Zila Nazim will deputise for the Zila Nazim in his temporary absence.

Zila Council

25. The Zila Council will have the following fundamental functions:
 - a. Legislative: Levying of taxes as per list of district taxes given in the Local Government Ordinance 2000; raising or lowering existing taxes; and making by-laws, rules and procedures applicable to local governments.

However, on a motion by the provincial government, the provincial assembly may, by resolution stating the grounds thereof, passed by a simple majority of the total members of the provincial assembly, set aside a resolution of the Zila Council or an order of the Zila Nazim, if considered to be against the public interest. That resolution will be subject to confirmation by the governor in his discretion. The governor may however send the motion back to the provincial assembly for reconsideration before according approval or otherwise.

Provided that the said resolution of the provincial assembly shall not be applicable regarding budgetary and planning matters and matters pertaining to transfer of officers.

- b. Monitoring: The Zila Council will monitor the district administration through a specialised committee system, which will entail constituting as many Monitoring Committees as the number of Offices in the district administration. In addition, there will be an Ethics Committee, a Justice Committee, and a Sports Committee.
- c. Approval of budget and development plans: The Zila Council will approve district annual development plans and budget presented by the district administration under the direction of the Zila Nazim.

District Administration

26. The Zila Nazim will be the executive head of the district; and the administration and the police will be answerable to him.
27. The district administration will be co-ordinated by a District Co-ordination Officer who will be a Civil Servant (BS 20). The administration will consist of upto 12 groups of district offices each headed by the Executive District Officer. District Officers will head sub-offices at the District Headquarters, while Deputy District Officers will be in charge of specific functions located at Tehsils. The Executive District Officers will primarily be co-ordinating the work of the sub-offices. There will also be an internal audit office under the Zila Nazim.
28. Revenue and Magistracy will be separate offices in the district.
29. The Division as an administrative tier will cease to exist.
30. Provincial Authorities/Agencies performing municipal/development functions will come under the control of the respective local governments.
31. In his interaction with the provincial government the DCO will not by-pass the Zila Nazim.
32. The provincial government will post the District Co-ordination Officer, District Police Officer and district officers to the district.
33. The normal tenure of a posting of any officer will be three years.
34. The Zila Nazim will have the authority to transfer the DCO prematurely but only after giving him a formal warning. In such an eventuality the Zila Nazim will state his reasons for the transfer in writing to the Chief Secretary, who will be obliged to transfer the DCO within a week.
35. The Zila Nazim in consultation with the DCO may prematurely transfer any officer of the district but only after giving him a formal warning. In such an eventuality the Zila Nazim will state his reasons for the transfer in writing. In case of a difference of opinion between him and the DCO, the Zila Nazim will prevail.
36. If a DCO or any district officer has been prematurely transferred from two districts, he will be proceeded against under the Efficiency and Discipline Rules.
37. The reporting relationships of the officers in the district will be as given below:

- a. The Zila Nazim being the head of administration will initiate the performance evaluation report of the District Co-ordination Officer (DCO). The technical reporting officer of DCO will be the Chief Secretary, and the counter-signing authority the Chief Minister.
 - b. The District Co-ordination Officer will initiate the performance evaluation report of the Executive District Officer (EDO) and the counter-signing authority will be the Zila Nazim.
 - c. The Executive District Officer will initiate the performance evaluation report of the District Officer. The technical reporting officer will be the head of the concerned department and the counter-signing authority the DCO.
 - d. The District Officer will initiate the performance evaluation report of the Deputy District Officer (DDO) and the counter-signing authority will be the EDO.
38. Depending on the particular conditions the district administration may be re-organised/re-grouped into the following Offices and Sub-Offices. However, the NRB will work out details of the administrative structure of the district and study the magisterial powers and functions of all district officers with special reference to the retention of the office of Magistracy:
- a. District Co-ordination Office: Co-ordination, Human Resource Management, and Civil Defence.
 - b. Finance and Planning: Finance & Budget, Planning & Development, and Accounts.
 - c. Works and Services: Housing, Urban & Rural Development, Water Supply and Sanitation, Building & Roads, Energy & Industrial Promotion, and Transport.
 - d. Agriculture: Agriculture (Extension), Livestock, Irrigation & Drainage, Fisheries, and Forests.
 - e. Health: Public Health, Environment, Basic and Rural Health Units, Child & Woman Health, and Population Welfare. The Medical Superintendent(s) of hospitals will also function under this Office.
 - f. Education: Boys Schools, Girls Schools, Technical Education, Colleges, and Sports (Edu.).
 - g. Literacy: Literacy campaigns, Continuing Education, and Vocational Education.
 - h. Community Development: Local Government Institutional Development, Community Organisation, Labour, Social Welfare & Special Education, Sports & Culture, Registration, and Co-operatives.
 - i. Information Technology: Information Technology Development, Information Technology Promotion, and Database.
 - j. Revenue: Land Revenue & Estate, and Excise & Taxation..
 - k. Law: Litigation, Legal, and Legislation.
 - l. Magistracy:
39. To facilitate the process of re-grouping of Offices and Sub-Offices at the district level, rules of business for the district government and necessary amendments in the laws, rules and regulations will be prepared and included in the new manuals.

Functions of the Administration

40. The District Administration will perform the following functions:
- a. Prepare plans and budget for submission to the Zila Nazim, and upon approval by him and passage by the Zila Council, carry out their implementation.
 - b. Formulate district rules and regulations for approval by the Zila Council.
 - c. Apply federal and provincial laws, rules, and regulations in areas covered by the administration.
 - d. Undertake executive oversight of the execution of district policies.
 - e. Provide information and co-operate with the legislative monitoring of the Zila Council, Tehsil and Union Monitoring Committees and Citizen Community Boards.
 - f. Use the information collected through the information and evaluation system from all levels of monitoring.

DISTRICT OMBUDSMAN

41. In order to strengthen the capacity of the local government to redress citizens' grievances related to district offices, the institution of District Ombudsman (Zila Mohtasib) will be established. The Ombudsman will be selected and appointed by the Zila Council.
42. The Ombudsman will investigate and redress matters involving mal-administration either suo moto or on a complaint from any citizen.

DISTRICT JUDICIARY

43. The Local Government Proposed Plan published in May 2000 included recommendations for changes in judicial structures and systems at the district level and below which were approved by the National Security Council. These recommendations are being conveyed to the Chief Justice of Pakistan for consideration as part of the overall reform of the judiciary.

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Local Government (Final Plan 2000)

THE TEHSIL

General

44. The Tehsil government will include the Tehsil Nazim, the Naib Tehsil Nazim, the Tehsil Council, and the Tehsil administration. Tehsil governments will be established in all existing tehsils except in cases of districts that comprise only one Tehsil.
45. Currently the rural and urban areas are separate political entities, divided into Union and Zila Councils for the rural areas, and Town Committees, Municipal and Metropolitan Corporations for the urban areas, with separate 'controlling authorities' to whom provincial governments have delegated their authority. This institutionalises the rural-urban divide. In addition, the 'controlling authorities' are apt to delay, and in effect impede the expansion of municipal limits of towns, thus condoning unplanned and illegal growth of towns. This gives rise to the perpetual phenomenon of ruralisation of urban areas across the country.
46. The integrated Tehsil Government will mitigate the prevailing rural-urban frictions by providing opportunities for representation in proportion to the population and taxation in proportion to the services and thus effectively address the rural-urban divide.

Elections

47. The Tehsil Council will be a directly elected body comprising Naib Union Nazims of all the unions of the Tehsil. Under this arrangement, all the union of a Tehsil will get representation at the Tehsil level. As the Union Nazim and Naib Union Nazim will be elected on a joint ticket, both will be operating in harmony in the interest of their union at all the three levels of the local government i.e. the union, the tehsil, and the district.
48. The number of general seats in a Tehsil Council will be the same as the number of unions in that Tehsil. In addition, thirty three percent of the general seats will be reserved for women, five percent for workers/peasants, and five percent for minorities. The Electoral College for elections to the reserved seats will be the Union Councillors of the Tehsil.
49. In a tehsil where the population of the minorities is more than 10% of the total population, reserved seats for minority communities shall be allocated in the manner prescribed by the provincial government. There will be direct elections for these seats for which only the minorities will be eligible to vote and the whole tehsil will be the constituency.
50. The Tehsil Nazim and Naib Tehsil Nazim will be elected as joint candidates with the Union Councillors of the whole Tehsil serving as the Electoral College. The Tehsil Nazim will be the executive head of the Tehsil Government, while the Naib Tehsil Nazim will act as the convener of the Tehsil Council. The Tehsil Nazim and Naib Tehsil Nazim will have academic qualification of at least matriculation/secondary school certificate, or equivalent.
51. Recall of the Tehsil Nazim:
 - a. Internal: The Tehsil Council may recall the Tehsil Nazim by a simple majority on a motion to be tabled by a Tehsil Councillor and to be seconded by another. In case the motion fails to muster the required support in the Tehsil Council, the mover and seconder of the motion shall lose their seats in the Tehsil Council and also their Union Council seats. If the motion is carried, the Union Councillors of that Tehsil will vote upon it. The recall will take effect subject to confirmation by two-thirds of the total number of union councillors in the Tehsil.
 - b. External: The Zila Nazim may initiate the motion for recall of the Tehsil Nazim. The motion will require passage by a two-thirds majority of the total membership of the Zila Council.
 - c. For either external or internal recall, the following conditions will prevail:
 - i. No motion for the removal of Tehsil Nazim may be tabled during the first six months of his assumption of office.
 - ii. A motion for recall may not be tabled more than once a year.
 - iii. The recall process will include providing an opportunity to the Tehsil Nazim to present his defence in person.
 - d. To obviate divisive politics, the Naib Tehsil Nazim will not be entitled to succeed the Nazim even temporarily or take part in the bye-election for that office.
52. The Tehsil Council will consist of a number of committees for non-intrusive monitoring of the performance of the Tehsil administration and Tehsil level offices of the district government, in addition to a Justice Committee and a Public Safety Committee.

Administration

53. The Tehsil Nazim will head the Tehsil Government. Under the Nazim there will be a Tehsil Municipal Officer (TMO) who will be the co-ordination officer of the Tehsil administration. There will be four Tehsil Officers (TOs) reporting to the TMO, one each for (i) Finance, Budget and Accounts (ii) Municipal Standards and Co-ordination (iii) Land Use Control (iv) Rural-Urban Planning.
54. The municipal functionaries of the existing urban areas will come under the charge of the Municipal Officer who will be under the executive control of the Nazim through the Tehsil Municipal Officer. The number and status of the municipal functionaries may vary depending on the requirements.
55. The existing Local Council Service will thus be decentralised to the Tehsil level.
56. The Tehsil administration, under the direction of the Tehsil Nazim, will prepare the Tehsil budget, which will be passed by the Tehsil Council.
57. The tehsil municipal administration will receive revenue from two main sources: The first source will be budget allocations by the district government for functions specific to the tehsil administration. In addition, the Tehsil government may levy taxes from a specified list.

Functions

58. The primary function of the Tehsil government will be the provision and co-ordination of municipal services to both urban and rural areas across the whole Tehsil, thus for the first time ever, recognising the village as a municipal entity. The Tehsil government will perform macro municipal functions and provide support in basic municipal functions in the villages in all the Unions in the Tehsil, as and where necessary. The Union Councils will perform the basic municipal functions, either singly, or through joint committees as and when necessary especially in the areas currently defined as towns.
59. The second function of the Tehsil Government will be development through land use control and master planning for every town and village across the Tehsil, so that the Tehsil as a whole can develop in a coherent and integrated manner. This will reverse the process of 'ruralisation of urban areas' to 'urbanisation of rural areas' and thus set the Tehsil on the path of growing into a well-planned city, leading ultimately to the conversion of the Tehsil into a city district.
60. The third function of the Tehsil government will be to monitor the work of the Tehsil administration and district government officials located in the Tehsil.

Local Government (Final Plan 2000)

THE UNION

General

61. The Union government will comprise the Union Nazim, the Naib Union Nazim, the Union Council, and the Union administration. Union Councils are being extended to urban areas for equal local representation throughout the district. Thus, the population of Unions in urban areas will match the population of unions in rural areas in the district. This measure will equalise the level of local representation available to urban and rural areas. One third of the union councillors in a union will be women. Electoral conflicts will be mitigated through multi-member election wards in both urban and rural unions.
62. Every union may have up to three secretaries (Secretary Union Committees, Secretary Municipal Functions, and Secretary Community Development) under the executive control of the Union Nazim. The Union Council will ensure that the municipal needs of villages, which for the first time are being recognised as municipal entities, are met adequately, either by developing local capacity or through liaison with the Tehsil Officer Municipal Standards and Co-ordination.
63. The Union Council will be organised into committees for monitoring specific functions of the district offices and service providers. This will ensure the protection of citizens' rights and improvement in delivery of services; and promote citizen participation in these matters. An additional opportunity for citizen participation will be provided through public hearings of these committees. The assignment of specific responsibilities to members of the Union Council in the committee system will ensure citizen evaluation of their performance.
64. The monitoring committees of the Union Council, or the citizens themselves, may facilitate the creation of Citizen Community Boards in both urban and rural areas. These Boards will be the primary means of the involvement of civil society in developmental activities and the monitoring of state functioning and provision of services.

Elections

65. The Union Council electoral system is designed to reduce divisive politics and create an environment for the growth of co-operative politics at the grass-root. In rural unions, members will be elected by direct vote, from a single or multi-member ward basis. Small villages may be grouped together to form one single member ward, whereas large villages will serve as multi-member wards. In no case will a village or a revenue estate be divided to create wards within it. In urban unions, there will be at least two or at most four multi-member wards. In creating these multi-member wards care will be exercised to ensure that census blocks are not broken and that, as far as possible, they do not cut across the boundaries of existing wards. Candidates receiving the highest number of votes, till the designated number of seats for that multi-member ward is filled, will stand elected.
66. The total number of seats in a Union Council will be twenty-one. It will comprise twelve general seats, of which four will be reserved for women. There will be six seats for workers and peasants, of which two will be reserved for women. In this manner out of eighteen Union Councillors six will be women. The remaining three seats will be those of the Union Nazim, the Naib Union Nazim, and one reserved seat for minorities. Women's seats, even if left uncontested and vacant, will not be open to men and will remain vacant until filled through by-elections to be held every year.
67. In a union where the population of the minorities is in excess of 10% of the total population, reserved seats for minority communities shall be allocated in the manner prescribed by the provincial government.
68. Each union as a whole will elect a Union Nazim and a Naib Union Nazim as joint candidates by direct ballot. To avoid divisive politics in the Union Council the system of direct election has been preferred over the indirect. The directly elected Union Nazim and Naib Union Nazim will also become members of the Zila Council and Tehsil Council respectively.
69. This arrangement will ensure a directly elected Zila Council as well as Tehsil Council, in both of which each union will be duly represented. The vertical integration across all the three tiers of Local Government will improve communication and co-ordination. The Union Nazim and the Naib Union Nazim will not be entitled to serve on any of the monitoring committees of the Union Council. The Union Nazim and Naib Union Nazim will have to have minimum academic qualifications of secondary school/matriculation or equivalent.
70. Recall of Union Nazim:
 - a. Internal: In case a Union Nazim is believed to be working against the interest of the people, a motion for recall of the Union Nazim may be moved. A motion for recall of the Union Nazim may be tabled by one Union Councillor and seconded by another. For the motion to succeed it will require two-thirds

- majority of the Union Council members. In case the motion fails, the Councillors who tabled and seconded the motion will be required to vacate their seats.
- b. External: The Tehsil Nazim may initiate the motion for the recall of a Union Nazim by moving it in the Tehsil Council where it will require a two-thirds majority to be carried. If passed, the motion will then go the Zila Council for ratification by a simple majority.
 - c. For either external or internal recall, the following conditions will prevail:
 - i. No motion for the removal of Tehsil Nazim may be tabled during the first six months of his assumption of office.
 - ii. A motion for recall may not be tabled more than once a year.
 - iii. The recall process will include providing an opportunity to the Tehsil Nazim to present his defence in person.
 - d. To obviate the possibility of intrigue, the Naib Tehsil Nazim will not be entitled to succeed the Nazim temporarily or take part in the bye-election for that office.

Functions

71. The Union Councils will carry out their functions through the Union government and the Monitoring Committees. At a minimum, there will be Monitoring Committees for municipal services, finance, public safety, health, education, literacy, works and services, and justice.
72. All Union Councils will undertake local level development projects and monitoring citizens' rights, security, and services. Provision of monitoring reports to the tehsil and district level administration as well as the Zila Council, Tehsil Councils, and their Committees will constitute a major function. They will work closely with Village Councils in the rural areas and Citizen Community Boards in both urban and rural areas. This co-ordination will entail promoting direct citizen involvement in developmental activities, including support for their micro-projects.
73. The Union Council will be able to taxes from a specified list.
74. Another function of the Union Council will be the presentation of annual development plans along with local inputs that can be used in support of those projects. These plans will form the part of recommendations to the Tehsil and District levels of administration and will be given due priority when budgets are allocated and implementation envisaged at those levels.
75. The Union Council may perform the functions related to conciliation of disputes in civil, criminal and family matters. The justice committee of the union council will assist in convening the court, facilitate the functioning of the conciliation courts, assist in provision of witnesses, facilitate post trial actions, and conduct appraisal of the system.
76. The Union Councils may create a local security system to be called Union Guards for which they will bear all expenses for provision of livery and equipment and payment of honoraria. The Union Council will recruit the guards with the approval of district police officer. Once established, the Union Guards will have to be registered at the local police station. They will be recruited and paid under arrangements of the Union Councils. The Public Safety Committee of the Union Council will act as a liaison between the guard system and police station of that area.

Local Government (Final Plan 2000)

THE VILLAGE COUNCIL

General

77. The Village is the ideal associative unit for participation, while the union is the ideal unit for delivery of services because of economies of scale. The Village Council will facilitate citizen participation to solve their problems. To fulfil this role, the Village Council will act as the most direct interface between the Citizen Community Boards and local public officials. The Village Councils will undertake their functions in close co-ordination with the monitoring committees and citizen community boards on local matters and micro-development projects.

Elections

78. The Zila Council will determine the strength of each Village Council. Tehsil Nazims will arrange to hold elections for each village council within three months of assumption of office. The Zila Nazim will ensure the provision of logistic support and completion of elections within the prescribed time. Elections will be through secret ballot and the candidate who secures the highest number of votes will become the chairman. The term of office of the Village Council will end when the term of office of the Union Council ends.

Functions

79. The Village Council will be the primary political body for changing the attitude of the population from a reactive to a proactive mindset. It will facilitate citizen participation in identifying and prioritising their problems on the one hand, and finding solutions and organising and managing the solving of these problems on the other.
80. The Village Council will be responsible for assessing finances required for projects and mobilising contributions of the people, promoting civic education and community learning, organising recreational and youth activities, and promoting gender and women's issues.
81. The Village Council will also facilitate the creation and functioning of Citizen Community Boards.

CITIZEN COMMUNITY BOARDS

82. The institution of Citizen Community Boards has been created to enable the proactive elements of society to participate in community work and development related activities in both rural and urban areas.
83. A local elected body, or its relevant committee may facilitate the creation of Citizen Community Boards, or the citizens themselves may create them. The existing Community Based Organisations may continue their work. CCBs will mobilise communities and raise funds to solve local problems. The role of CCBs will be recognised through registration in the district. CCBs may keep their door open to new entrants to obviate negative competition and promote synergy.
84. As voluntary organisations the Citizen Community Boards will organise themselves, determine their own form of functioning, and choose their own leaders through the mechanisms they see fit. Different communities will find different answers to these issues. The Citizen Community Boards will represent a powerful enabling environment for citizen participation. It is up to the citizens of each community to take advantage of that opportunity.
85. Citizen Community Boards may be organised for hospitals, basic health units, schools, colleges, thanas, infrastructure, or for other services such as transport, irrigation etc. These entities will need official recognition through registration for their Citizen Monitoring. When they mobilise local resources for local development micro-projects they may also receive cost sharing support from the government.
86. Citizen monitoring will permit the end-users to inform both elected representatives and the officials of the administration on the status of service delivery indicators and the level of citizen satisfaction, in addition to complaints about specific cases. For their citizen monitoring function, the Citizen Community Boards will work in close co-ordination with the monitoring committees of the Union Councils. Their information will be consolidated for the use of Union, Tehsil, Thana, and District officials. Tehsil Council and Zila Council will also receive this information that they can consolidate to get an overview of the situation on a given theme at their respective levels.

Local Government (Final Plan 2000)

THE CITY DISTRICT

Lack of Adequate Urbanisation:

87. The city reaches its maximum expression when the opportunities it offers are delivered in a well planned, unpolluted, and aesthetically appealing environment. The cities of Pakistan are far from this ideal. Most neighbourhoods and commercial districts in our cities resemble run down towns. Even in the largest cities, it is only in the posh areas that one discovers urban characteristics. There are a number of reasons for this situation. First, there is physical urban expansion due to rapid population growth and the movement of rural population to urban areas. Second, there is urbanisation in rural areas through peri-urban growth enveloping cities and ribbon urbanisation along roads. Third, tehsil towns also grow to the point that they constitute virtual cities.
88. The traditional approach to urbanisation has concentrated attention, resources, and services in the urban centres to the neglect of adjacent rural areas. The tremendous growth in the population of cities like Karachi, Lahore, Rawalpindi, Peshawar, Quetta, Multan, Bahawalpur, Faisalabad, Hyderabad, Sukkur, Gujranwala etc. have created pressure for manifold increases in infra-structural facilities and delivery of services. This required heavy investment, but the municipal institutions have had neither the capacity nor the resources to service ever-growing civic needs. Functions like urban development, master planning, land use and management are assigned to provincially controlled development, water and sanitation, and solid waste management authorities, that work in parallel and often at cross purposes with each other. Corruption has been a factor due to the misuse of authority to the advantage of some developers /contractors /influential beneficiaries through allotment of plots and permits, the non-appliance of land use rules, and the encroachment by developers of public areas. The existing structures and systems of municipal governance have outlived their capacity to service the needs of the inhabitants of medium and large sized cities.
89. In the Local Government Plan the city district is not an option. It is an imperative. It is necessary to bridge the urban-rural divide and contribute to organised urbanisation rather than the chaotic situation that currently prevails.

Evolution of Tehsils and the Designation of City Districts:

90. Many of what today are Tehsils will evolve into cities in the coming years. That evolution will be facilitated by the elimination of municipal boundaries. This will permit effective master planning with strong land use provisions throughout the tehsil, as well as more balanced development of infrastructure. When significant urban expansion occurs, the tehsil will be designated a city district.
91. The borders of the Tehsil will demarcate the new city district. The city district will be divided into towns composed of whole unions. To restrict the number of general seats of the Zila Council to about 100, the demographic size of these urban unions will be larger than their erstwhile rural counterparts. This is possible without sacrificing the quality of representation and participation because of the relative ease of communications and transportation in an urban setting.
92. After the exclusion of the tehsil that is designated a city district, the remaining tehsils may continue to bear the original name of the district and maintain the district headquarters in the urban area. Alternatively they could designate one of the tehsil centres as their new district headquarters retaining the original name or adopting a different name for the district.
93. There are several indicators of when an existing city or newly urbanised Tehsil should become a city district. The first is a political indicator and corresponds to population. When in a district with a large city the number of unions based on the median size population of the rural unions becomes excessively large then there is a need to separate the city as a city district. The second indicator is more economic. It consists of when commercial, industrial, financial, and governmental activities overwhelmingly form the economic base to the virtual exclusion of agriculture or other primary activities. The third indicator, related to both population and economic activity, is administrative. It consists of when the administrative structures and systems designed for normal tehsil and district government are insufficient to meet the demands of a growing city.
94. When one or more of these indicators are present the formation of a city district becomes imperative. When deciding to form city districts, provinces would do well to anticipate the need proactively, rather than reactively create city districts after breakdowns of urban governance have already occurred. A powerful check and balance in this regard will be the pressure of the citizens of the potential city districts who stand to benefit from the formation of the city district through greater capacity for urban planning, finance, administration, public investment, service delivery, and law and order.

Declaring Existing Cities as City Districts:

95. In some cases the evolution from town to city took place decades ago, and they have experienced years of municipal life. In these cases there can be no doubt whatsoever about the imperative of a city district government. It is not a matter of choice but rather one of compulsion. To not create city districts in what by all lights are cities would deprive them of the optimal combination of political and administrative mechanisms to confront urban problems and deliver municipal services. All of the provincial municipal corporations will in any case come under the control of the local governments whether or not they are declared city districts, in order to ensure a unified, synergistic, and economical management of a city's municipal resources.

City District Administration:

96. Whereas in a district, macro-municipal functions are primarily handled by Tehsils, in the case of city districts, important macro-municipal services will be managed centrally by a city district government with additional authority, capacities, and resources. The nature of infrastructure and population density in urban areas necessitate city-wide planning to achieve economies of scale, the rationalisation of investments, or the benefits of modern technologies, among other reasons. Integrated management with a holistic perspective will be applied to the most significant services, including:
- Water supply and sanitation.
 - Sewerage and waste disposal.
 - Land use, master planning and building control management.
 - Public transport.
 - Urban development, housing and public works.
 - River and riverine management.
 - City expressways, roads and streets management.
97. The principal functions of the town municipal administration will be the monitoring of the performance of the city government within the town and the delivery of city-wide municipal services that have a town dimension, as well as the direct delivery of their own town services. The union will do likewise in relation to both the district and the town.
98. Potential cash flows from municipal services will allow the city districts to utilise financial market mechanisms to underwrite some development projects. Partnerships with the private sector might also lead to additional forms of financing. The city districts will not only have more capacity to take advantage of different financial mechanisms, but also more autonomy to do so.
99. The city district requires a large law and order effort in that the urban setting is subject to sudden law and order developments. White-collar crime is largely an urban phenomenon. Organised crime tends to concentrate in the greater relative anonymity of the urban setting. Traffic congestion is most acute in cities. City police forces will be created to meet these challenges. They will be independent, modern, agile, and designed for the requirements of each city.

Cantonments:

100. Presently there are 41 cantonments in the country. These can generally be divided into those that have geographically become parts of cities like Karachi, Lahore and Peshawar; large garrisons like Kharian, Malir, Pano Aqil and Gujranwala; and small garrisons like Bannu and Kohat. Local government already exists in the cantonments in the form of cantonment boards. However, the issue of integrating cantonments into the proposed local government system will be reviewed as the district governments start functioning.

Local Government (Final Plan 2000)

THE POLICE

DISTRICT POLICE:

101. Law and order will remain a provincial subject. The province will be responsible for raising, organising, equipping, training and maintaining the police for the district in all respects. The province will provide a police force to the district to suit the law enforcement needs of the district. It is to be manned by locals, as far as practicable, except officers of the rank of Assistant Superintendent of Police and above.
102. The district police will be responsible exclusively for maintenance of law and order. Prosecution shall not form part of its functions. The investigation function shall be performed by a separate chain of command accountable to the District Police Officer. The head of investigation shall be responsible to the provincial police chief through the Deputy Inspector General of police Crimes Branch. The investigation staff will have a uniform distinct from that of the law and order police. This will obviate any possibility of the investigation staff being utilised for the performance of routine police duties and will thereby improve the quality of investigations.
103. The district police will be subject to monitoring of performance and results by the Citizen Community Boards and the Union, Thana and Tehsil Public Safety Committees. However, no police official besides the DPO shall be directly answerable to any elected representative, board, or committee.
104. While the province will maintain all police facilities, the district may augment such facilities in kind, for greater efficiency of the police.
105. The Police Stations will be restructured such that ASPs head Police Stations. However, DSPs may also head Police Stations as an interim measure. The restructuring of Police Stations will start from the City Districts but will eventually cover all Police Stations in the country. The restructuring of the Police Stations should be completed in three years.
106. The restructuring will aim at provision of proper equipment, training, accommodation, and remuneration.
107. A District Public Safety Commission (DPSC) will be established at the district which will have eight, ten or twelve members, half of whom will be elected by vote from the Zila Council, and the other half will be independent members appointed by the provincial Chief Minister on the recommendation of a Selection Panel consisting of:
 - o District & Sessions Judge
 - o A non-elected nominee of the Zila Nazim
 - o A non-elected nominee of the provincial Chief Minister
 - a. The Selection Panel for independent members will forward to the Chief Minister a list containing twice the number of appointments to be made.
 - b. As far as possible one-third each of the elected and independent members will be women.
 - c. The District Public Safety Commission will select its own Chairman on a rotation basis every quarter.
108. The provincial police chief will select and appoint the District Police Officer (DPO) who will be responsible to the Zila Nazim regarding law and order.
109. The Zila Nazim will initiate the performance evaluation report of the DPO. The provincial police chief shall be the technical reporting officer of the district police officer.
110. The district police officer may be prematurely transferred from the district on specific grounds, with the concurrence both of the Zila Nazim and the District Public Safety Commission after affording him an opportunity of being heard in person. In case of a difference between the Zila Nazim and the District Public Safety Commission, the latter shall prevail.
111. When the district police officer is prematurely transferred, his charge shall be handed over to his deputy who will perform all functions of the district police officer until a new district police officer is appointed.
112. Where the Zila Nazim, after due satisfaction, is of the view that a subordinate police official is involved in, or has abetted, a serious/heinous crime, he may require the District Police Officer to transfer the said police official. The District Police Officer shall send him on leave within 24 hours and order an inquiry into the matter in accordance with the rules and procedures. If after the inquiry, the complaint is not sustained, the said official shall rejoin his original place of posting. In case the District Police Officer does not comply with this direction, the Zila Nazim may send the DPO on leave and require his deputy to implement his instructions. Simultaneously the Zila Nazim may initiate proceedings for premature transfer of the DPO.
113. If the DPO considers an order of the Zila Nazim to be unlawful or motivated he may seek recourse to the DPSC whose decision will be final and binding on the DPO and the Zila Nazim.
114. A Criminal Justice Co-ordination Committee will be established to promote efficiency in the criminal justice

system as a whole and to help deliver prompt justice at the doorstep through better communication and co-ordination among all agencies responsible for different aspects of criminal justice within the district. It will consist of the following members:

- District & Sessions Judge (Chairman)
- District Police Officer
- Superintendent of Prison
- District Public Prosecutor
- District Probation Officer
- Head of Investigation (Secretary)

CITY POLICE (CAPITAL CITIES):

115. There will be an independent and self-contained District Police for every capital city (Islamabad, Karachi, Lahore, Peshawar and Quetta) organised on functional basis of law and order, investigation, traffic, administration, and reserves including protocol duties.
116. The City Police Chief will have administrative and financial powers of the head of a department and necessary regulatory and licensing powers.
117. In each capital city, there will be a District Public Safety Commission consisting of 12 members, of whom three will be elected from the District Council by vote, another three from the Provincial Assembly by vote, and the remaining six independent members to be appointed by the independent Selection Panel comprising:
 - Chief Justice of the High Court.
 - A non-elected nominee of the Zila Nazim
 - A non-elected nominee of the Chief Minister
 - a. The functions and other provisions of the District Public Safety Commission in the capital cities will be the same as those of the District Public Safety Commission.
 - b. As far as possible one-third of each of the elected and independent members will be women.
 - c. The District Public Safety Commission will select its own Chairman on a rotation basis every quarter.

CITY POLICE (NON-CAPITAL CITIES):

118. In a non-capital city, there will be a self-contained police force subject to operational control of the Provincial Police Chief, organised on the same functional bases as the City District Police of capital cities.
119. The police chief of a non-capital city will have administrative and financial powers of head of a department and necessary regulatory and licensing powers.
120. The non-capital city District Public Safety Commission will be composed on the same basis as the District Public Safety Commission.
 - a. The functions and other provisions of the non-capital city District Public Safety Commission will be same as those of the District Public Safety Commission.
 - b. As far as possible one-third of each of the elected and independent members will be women.
 - c. The non-capital city District Public Safety Commission will select its own Chairman on a rotation basis every quarter.

PROSECUTION SERVICE:

121. An independent prosecution service will be established in each province, and also in relation to the Federation.
122. Head of the prosecution service will be the Director Public Prosecution, who will be ex-officio secretary to the government.
123. The Director Public Prosecution will have a hierarchy of public prosecutors in each district.

POLICE COMPLAINTS AUTHORITY:

124. There will be an independent Police Complaints Authority (PCA) in each province with district presence where required, to deal with serious complaints against the police.
125. The Police Complaints Authority will consist of a Chairman and six members.
126. The Chairman Police Complaints Authority will be appointed by the Provincial Chief Minister, whereas the members will be appointed by the Provincial Home Minister out of a panel recommended by the Provincial Public Safety Commission.
127. There will be an independent Police Complaint Authority for the Federal Capital, which will deal with serious

complaints against federal law enforcement agencies,, Islamabad Police, Motorway Police, Railway Police, Federal Investigation Agency, and Anti-Narcotics Force. It will have a Chairman and two to four members. Its Chairman will be appointed by the Prime Minister, and members by the Minister of Interior.

PROVINCIAL PUBLIC SAFETY COMMISSION:

128. A Provincial Public Safety Commission (PPSC) will be established which will have twelve members, half of whom will be elected by vote by the Provincial Assembly, and the other six independent members will be appointed by the Governor in his discretion, on the recommendation of a selection panel consisting of:
- Chief Justice of the High Court
 - A non-elected member nominated by the Prime Minister
 - A non-elected member nominated by the provincial Chief Minister
- a. The selection panel will forward to the Governor a list containing twice the number of appointments to be made.
 - b. As far as possible one-third of each of the elected and independent members will be women.
 - c. Elected members as far as practicable will be in proportion to the representation of political parties/groups in the provincial assembly.
 - d. The Provincial Public Safety Commission will select its own Chairman on a rotation basis every quarter.
 - e. The Provincial Public Safety Commission will approve the annual policing plan prepared by the Provincial Police Chief in consultation with the Chief Minister, monitor police performance and evaluate the achievement of performance targets.
 - f. The Provincial Public Safety Commission will have responsibility for co-ordinating the functions of all Public Safety Commissions within the province and also for evaluating their performance annually.
 - g. The Provincial Public Safety Commission will select the Provincial Police Chief out of a panel of three suitable officers of the Police Service of Pakistan received from the National Public Safety Commission for the purpose.
 - h. The Provincial Police Chief may be prematurely transferred on specific grounds with the concurrence of the Chief Minister and the Provincial Public Safety Commission after affording him an opportunity to be heard in person. In case of a difference of opinion between the Chief Minister and the Provincial Public Safety Commission, the latter will prevail.
 - i. The Provincial Public Safety Commission will supervise the working of the Prosecution and Prison departments.
 - j. The Provincial Public Safety Commission will recommend persons for appointment as members of the Police Complaints Authority.

NATIONAL PUBLIC SAFETY COMMISSION:

129. A National Public Safety Commission (NPSC) will be established comprising 12 members, half of whom will be MNAs elected by vote by the National Assembly, at least one from each province. The other half will comprise independent members, to be selected by the national selection panel consisting of:
- Chief Justice of the Supreme Court
 - One Minister nominated by the Prime Minister
 - Chairman Federal Public Service Commission
- a. The national selection panel for independent members will forward to the Prime Minister a list containing twice the number of appointments to be made.
 - b. As far as possible one-third of each of the elected and independent members will be women.
 - c. Elected members, as far as possible, will be in proportion to the representation of political parties/groups in the National Assembly.
 - d. The National Public Safety Commission will select its own Chairman on a rotation basis every quarter.
 - e. The National Public Safety Commission will approve the annual plans prepared by the respective heads of federal law enforcement agencies (Islamabad Police, Motorway Police, Railway Police, Federal Investigation Agency, and Anti-Narcotics Force) in consultation with the concerned Minister.
 - f. The National Public Safety Commission will monitor performance of federal law enforcement agencies.
 - g. The National Public Safety Commission will recommend panels of officers of the Police Service of Pakistan as heads of federal law enforcement agencies to the Prime Minister.
 - h. The National Public Safety Commission will recommend a panel of three officers to the

- Provincial Public Safety Commission for appointment as the Provincial Police Chief.
- i. The National Public Safety Commission may recommend premature transfer of any head of the federal law enforcement agency on specific grounds to the Prime Minister after affording him an opportunity of being heard in person.
 - j. The National Public Safety Commission will supervise the working of the federal Prosecution and Prison departments.

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Local Government (Final Plan 2000)

LOCAL GOVERNMENT SYSTEMS

ELECTORAL SYSTEM:

130. Voting Age: The minimum voting age shall be 18 years.
131. Non-Party Elections: Elections will be held on non-party basis.
132. Run-off Elections: When no set of candidates for the Zila Nazim and Naib Zila Nazim in a district or Tehsil Nazim and Naib Tehsil Nazim receives more than 50% of the total votes, the election authority will within one week conduct a run-off election between the two candidates who polled the highest number of votes, thus ensuring that the set of joint candidates elected enjoy confidence of the majority of the Electoral College.
133. Separate Electorate: Local government elections will be held on the basis of separate electorate.
134. Qualifications for Candidates and Elected Representatives: A person shall qualify to be elected or to hold an elective office of the local government or membership of a local body, if he/she:
- a. is a citizen of Pakistan;
 - b. is at least twenty five years of age;
 - c. is enrolled as a voter in the electoral roll of the relevant local area;
 - d. is of good character and is not commonly known as one who violates Islamic injunctions; has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins; provided that these qualifications shall not apply to the one who is a non Muslim, but such a person shall have a good reputation.
 - e. has academic qualifications of not less than matriculation/secondary school certificate or equivalent for all Nazims and Naib Nazims;
 - f. has not been declared by a competent court to be of unsound mind;
 - g. is not in the service of Federal, Provincial or Local Govt. or any statutory body or body which is controlled by any such government or in which any of such government, has a controlling share or interest, except the holders of elected public office and part-time officials remunerated either by salary or fee, provided that in case of a person who has resigned or retired from such service, a period of not less than six months has elapsed since his/her retirement;
 - h. has not been dismissed, removed or compulsorily retired from public service on grounds of moral turpitude;
 - i. does not possess assets which are inconsistent with his/her declaration of assets or justifiable means; whether held in his/her own name or of dependents, or any other person/corporate body in whose name assets are held in trust or under any other arrangement whereby the de facto control of such assets including their sale, transfer or pecuniary interest, is retained by him/her;
 - j. has not been adjudged a wilful defaulter of any tax or other financial dues owed to the federal, provincial, local government or any public financial institution, including utility bills outstanding for six months or more;
 - k. has not been convicted by a court of competent jurisdiction on a charge of moral turpitude indicating corrupt practice or misuse of power or authority under any law for the time being in force;
 - l. has not been sentenced to imprisonment for more than three months for an offence under any law and in case he/she was, a period of not less than five years has elapsed since his/her release; and in case of a member of a holder of a public office, has not been sentenced to imprisonment;
 - m. has not failed to file the required return of election expenses or is not convicted for exceeding the limits of election expenses prescribed under the electoral laws;
 - n. has not been declared an un-discharged insolvent by any court;
 - o. does not, directly or indirectly, engage in any transaction involving pecuniary interest with the local government(s) of which he/she is a member;
 - p. does not absent himself without reasonable excuse from three consecutive meetings of the local body of which he/she is a member provided that a member shall not be disqualified if the absence was necessitated by a national emergency or force majeure;
 - q. does not fail to attend a training course organised under this Law;
 - r. has not been and is not involved, whether individually or as a member of a group of persons, in activities directly or indirectly prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society;
 - s. has not used for his/her election the platform, flag, symbol, and financial or material resources/support of a political, ethnic, religious or sectarian party, formation or organisation.
135. Term of Office:

- a. The term of office for all elected officials will be of three years and will count from the date of assumption of office.
 - b. No Nazim or Naib Nazim may hold the same office for more than two terms.
136. By-Elections: By-elections for the seats falling vacant or remaining vacant will be held once every year.
137. Bar to Contesting Elections for Other Office: The holder of an elective office may contest election for any other political office provided that he resigns 90 days before the date of elections.

FINANCE SYSTEM:

138. Almost universally, local governments receive some form of fiscal transfer from higher levels of government. In Pakistan, local governments have been receiving 10 to 15 percent fiscal transfers from provincial sources. The level of self-financing of local government in Pakistan has been much higher than in most countries. This is because provincial departments have been responsible for carrying out government functions and development at the district level.
139. The transfer and grant system has been weak. There is no formula for distribution of funds to districts and provincial budgets do not specify district expenditures. Districts do not know, with certainty, what they will expect from the provincial departments which affects planning negatively. This results in political machinations, ad-hocism, and lack of transparency. In order to accomplish a transparent, credible and fair system of transferring funds to the district level, a provincial finance commission will be constituted.
140. The principle of the formula for provincial to district transfers is that district and local government should generate their own resources to the extent possible. Incentives should always encourage financial self-sufficiency to the extent possible at each level. However, the current quantum of funds being used by the provinces will ensure the working of the district administration and the political system. Untangling provincial finances and simplifying funding processes and the financial plumbing will result in increased efficiency.
141. It is envisaged that the Finance System of the District Government will consist of the following factors:
- a. Revenue and its sources
 - b. Tax collection machinery
 - c. Incentive framework (ownership promotion, performance incentives)
 - d. The District budget (Development expenditures and recurrent expenditures)
142. All these factors will combine to maintain financial autonomy and sustainability of the district government. The district finance system will have the following main objectives:
- a. Finance the new District political structure and system.
 - b. Finance the new administrative structure and system.
 - c. Ensure the financial sustainability and autonomy of the local government.
 - d. Provide enhanced level of funding for development activities in the district.
 - e. Enhance public participation in development works by fostering ownership through the incentive framework.
143. The three tiers of local government will have tax collection machinery at their disposal and the specified schedule of local taxes for union, tehsil, and district that will fall under the control of these respective levels.
144. Eventually, there will be a need for financial inter-mediation. The development of this system requires credit rating agencies, accounts and audit, and legal and regulatory frameworks. Achieving this is a medium term goal of the local government reform.
145. Remunerative projects and other incomes will also enhance revenue.
146. A formula for provincial fiscal transfers will be devised and implemented. The model provincial formulas will become part of the proposed new provincial finance awards and the resultant formulas developed in conjunction with the provincial governments will be subject to change in a similar fashion as the national finance awards.

PLANNING SYSTEM:

147. In consonance with the bottom up methodology and participatory development, the formal planning system will begin at the union council level for both urban and rural areas. Informally, the Citizen Community Boards and the village councils will identify local development priorities to the Union Councillors. Municipal and development needs will be communicated to the Tehsil and District levels respectively. The Tehsil and the District administration and planning offices will prioritise development initiatives based on locally identified priorities commensurate with financial capacity. The development inventory will become part of the Tehsil and District budgets and the respective councils will be responsible for passing these budgets.
148. In addition to this, the union councils, with expanded and strengthened capacity for revenue generation and implementation, will be empowered to initiate development schemes. The schemes targeted for development by the union councils will also be communicated to the tehsil and district levels to complete the integrated planning picture of the district.

149. The ownership development incentive framework will cater to those schemes and initiatives for which communities are willing to contribute. This will constitute a separate planning and finance system designed to promote local resource generation for new projects and maintenance of existing infrastructure and services.

INFORMATION SYSTEM:

150. "Information as Empowerment" for the many, as opposed to the traditionally narrow notion of "Information as Power" for the few, is the information system focus of the Local Government Plan. It operationalises the 'Right to Information', and promotes transparency, accountability, and responsiveness to citizen demands to achieve greater efficacy, efficiency, and acceptance.
151. Open access and the free flow of information is a basic element of the devolution of power to the grass root level. Information can allow citizens access to services and provide a platform for the improvement of services. This is especially the case when evaluation, on the basis of results and performance indicators, is linked to incentives, as is the case in the Local Government Plan.
152. The information that citizens themselves generate can in turn be of enormous benefit to the government, especially concerning citizen rights and security, and service delivery. Citizens can provide information on real service delivery indicators in which they have an active interest (for example, teacher attendance etc.). This information can in turn serve to trigger the reactivation of inoperative installations. Transparent information forms the basis of citizen monitoring that can strengthen official oversight. It serves as a safety valve against official arbitrariness and poor performance.
153. The district governments will have transparent information systems at all levels with the department of information technology developing and supporting the automation of government systems in each district. Standardised information systems on crime reporting, accounting, service delivery systems, schools, hospitals, official payrolls, personnel data, financial and auditing systems, official disbursements, among others are to be put in place. In addition, a comprehensive and incisive system to ensure transparency through information on across the board government functions will be made functional through three types of detailed standard forms and lists:
- a. Lists containing routine information of public interest on the office/organisation which are to be displayed for public view.
 - b. Lists of documents that departments or functionaries would be obliged to produce before monitoring committees or Citizen Community Boards on demand.
 - c. Standardised forms for use by Citizen Community Boards and monitoring committees at the Union, Tehsil and District level to submit periodic monitoring reports to the Zila Nazim or Zila Council.
154. On the ground, introducing transparent information systems at the District level will require no less than a massive transformation in the way government works. The virtual non-existence of the concept of freedom of information, outdated official procedures and regulations restricting public access to information, vested interests in the bureaucracies, and lack of capacity and infrastructure for managing information systems are some of the major hurdles. These obstacles must be overcome if Pakistan is to be positioned to be able to compete in the world of the 21st century. Once in place, transparent information systems have the potential to transform the ground rules of district government by replacing official insularity and secrecy with a transparent and responsive political and administrative culture rooted in citizens' access and contributions to accountability information flows.

MONITORING SYSTEM:

155. In addition to executive oversight, the Zila Council, besides debating district policy issues, will monitor the district administration through a system of committees. The committees can also investigate cases of particular relevance for the good functioning of the administration. Committees will also operate at the Tehsil/Town and Union Council levels. They will oversee results, performance, and policy and operational issues at the local levels.
156. The Public Safety Committees and the Justice Committees will undertake monitoring of the police and judiciary respectively. These entities will receive information in an unobtrusive manner on police and judicial performance from official information systems, the monitoring of citizen community boards, union and tehsil monitoring committees, and members of the district assemblies, as well as citizen complaints and their own direct sources. They will issue monthly reports that will go to the police, the Zila Nazim, the relevant committees of village, union, tehsil, and zila councils, and the public. Some case based investigations may be confidential for various reasons, but the oversight system that forms the basis for the evaluation of the administration will be public.
157. In addition to official oversight by the administration, community-based organisations, the media, academia, and other civil society organisations should undertake citizen monitoring. A proactive role of the citizenry in monitoring policy, results, and performance is essential for issue-based electoral politics and elected

representative-constituent relations. Citizen monitoring can also make direct forms of participation more meaningful in terms of their content and impact.

158. Through citizen monitoring, groups of citizens are empowered to generate and obtain information on official entities or projects in their communities, thereby transforming their monitoring into an additional input for official oversight. Transparent information, for example, the amount of funds from all programs destined to a particular school, the lists of materials to be employed in a construction or maintenance project or the personnel that should be serving, is the basis of this monitoring.
159. Citizens will take direct part in monitoring the performance of the district administration and line departments through the Citizen Community Boards. Indirectly, they will be able to evaluate administrative performance through the Union and Tehsil Monitoring Committees and through open public hearings. In essence, citizen monitoring signifies the actual exercise of the right to participation of the citizenry in its development and welfare. It is hoped that sustained citizen participation in monitoring of official performance will in due course nurture a proactive citizenry that will exercise vigilance over public facilities and service delivery. A sense of ownership is a pre-condition. It should be emphasised that citizen monitoring will be operationalised through political channels without interference in administrative lines of responsibility and accountability.

INCENTIVE SYSTEM:

160. The Local Government Plan 2000 envisages two forms of incentive systems. One of these relates directly to the administrative performance incentive system. The other relates to the promotion of the ownership of local governments functioning and infrastructure by communities.
161. Administrative Incentives: The current system of administrative functioning has shortcomings that result in good performance not being rewarded. The existing system of rewards or incentives is outdated, misused, and virtually obsolete. Even if rewards are predicated on Rules and Regulations, they are hierarchical in terms of decisions to grant rewards. And even when rewards are awarded their delivery is again hierarchical and not timely.
162. The envisaged system for administrative incentives has two prime objectives. First, that the awarding of rewards have a direct relationship with end user satisfaction. Second, that the realisation of rewards to recipients be unfettered, automatic, and timely. The kinds of rewards, which could ensue to administrators and managers, need to be revised to represent current economic realities and preferences of the administrative tier for which they are being provided. For this purpose, surveys may need to be carried out in the respective target administrative sectors to assess these preferences and the amounts involved.
163. The National Reconstruction Bureau is also in consultation with a number of administrative government organisations within Pakistan. The purpose of this consultation and research is to develop an operations manual that will provide a model generic code determining the details of how the administration will interact under the practice of this code to access the incentives envisaged in the program, thereby ensuring better service delivery.
164. Citizen Ownership Promotion: One of the reform initiatives is the promotion of ownership. Providing an enabling environment means, providing people with the means to help themselves. People must be brought to understand the virtues and necessity of involving an ever-increasing number of communities in self help type development. Sustainability as well as protection of the local government will also be a direct outcome of ownership. The information provided through monitoring will have a much higher probability of sagaciousness, if it is provided by owners and beneficiaries of the particular service being evaluated.
165. The district governments will provide a system of incentives through which Citizens Community Boards will be able to access state funding for projects initiated in some manner representing commitment of resources by them. This assistance can also take the form of technical help. As groups, with vested interests in the success of local infrastructure and services take part in construction or maintenance or contribute to service improvement, these groups, upon verification of their contributions and organisational characteristics will have the right to access government resources. As in the case of administrative incentive frameworks, the ownership promotion operations manual is also under preparation. The government through existing experience with matching grants kinds of projects, as well as international best practice ascertained through research, is in the process of developing a generic operations manual. The two manuals as well as the reformed administrative functioning code will be made part of the final program.
166. Transparency and Accountability: Transparency of information in governmental processes and procedures not only improves accountability for official acts, but also the potential for efficacy, efficiency, responsiveness, and acceptance. Transparency is a critical enabling environment for the elevation of levels of accountability, as well as for anti-corruption movements. Open access to information and the free flow of information are essential for determining responsibility for acts, as well as their classification as licit or illicit.
167. By their organisational nature, administrative bureaucracies are hierarchical, insular and command and control oriented, with restrictions on information (information as power) and communications (official channels). The combination of the foregoing commonly leads to the primacy of process, rules, and

regulations over mission, substance, and results. Sectoral, top-down policies are formulated based on restricted information and narrow communications. Upon approval, policies are issued as commands, and executed through processes-oriented rules and regulations. This is undertaken by multiple structures with low managerial capacity due to the primacy of central systems over operational decisions. Hence, the low levels of transparency and accountability typically characterise bureaucratic organisations.

168. An environment of transparency can strengthen accountability through multiple layers of mutually reinforcing oversight and monitoring. These include executive, legislative, auditing, police, and judicial oversight of public functions and private transactions, as well as monitoring by the assemblies and councils, media, academia, civil society organisations, private sector organisations, and the citizenry.
169. Checks and Balances: The oversight and monitoring mechanisms described consist of multiple layers of overlapping information flows. These constitute the informational checks and balances against corruption and tyranny. Several mechanisms may fail while one may carry the day for transparency, accountability, and responsiveness. International experience indicates that this is especially necessary where efforts are being made to roll back high levels of endemic and systemic corruption.
170. In addition to informational checks and balances, balanced power and authority is accompanied in all of the systems and structures by built-in checks and balances that minimise the risk of any actor or group of actors usurping power. This is the case in all of the sectors, structures and systems of the Local Government Plan.

