

GOVERNANCE: LEKIN NIZAM KIYA?

A Note from a Former Parliamentary Practitioner turned Legislative Advisor

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Where I Stand

Early parts of my working life were spent in the Civil Service of Pakistan, including years spent around, and inside, the offices of Ministers and Prime Ministers — yet I come to this roundtable neither as an administrator nor as a bureaucrat. Some of my fellow panelists will speak from exactly those vantage points today, and rightly so, given the calibre gathered in this room. I come instead as someone who spent more than two decades inside the Parliamentary Service of Pakistan, rising through its hierarchy from Deputy Secretary to Secretary General of the Senate — and that too during the years the Eighteenth Amendment was drafted, debated, legislated, and then lived with.

I served directly with, and under, some of the stalwarts of that Parliamentary Decade of 2008–18 — individuals for whom I have great respect, but with whom I differ on some of their more ambitious, and at times confrontational, choices, which are now themselves the subject of review and criticism.

After a decade of parliamentary democracy, I confess to years of disenchantment. I have watched great compromises made with the Constitution itself — at the individual, party, federal, and provincial level — by the very proponents and self-styled heroes of that Parliamentary Decade, often negating the basic premise of electoral and constitutional supremacy they claimed to champion. I have also watched too many of our parliamentary stalwarts approach constitutional, electoral, and governance questions through the lens of party survival, or of a leader's personal position, rather than the public interest — on every side of the aisle, across every party. I have watched a political and parliamentary establishment at work.

I will be honest about where the years since 2010 have left us. Consider what actually remains with the federal Parliament and the federal government today: legislative competence that barely extends beyond the confines of the Islamabad Capital Territory — some 350 square miles — and a financial position reduced to roughly two-fifths of the federal divisible pool, while the Federation continues to carry the entirety of the country's standing liabilities: debt servicing, defence, and the rest. That is the arithmetic of devolution as it has actually played out.

But the failure that troubles me most sits closer to where we meet today. It is the spectacle — I use that word deliberately — of a provincial bureaucracy, party loyalists, and spokespersons glorifying a Chief Minister personally directing the pumping of rainwater out of city streets, personally supervising road-cleaning crews, personally intervening in local transport routes, all timed for the cameras and for social media. This is not governance. It is the highest office in a province doing a mayor's job, because no mayor exists to do it. That vacuum is the real subject of today's roundtable; everything else is downstream of it.

A Caution, Before We Propose or Draft Anything

Moving from that disenchantment with the system to the question of reform, let me offer a caution at the very outset, not a blueprint of reforms and amendments. Whatever emerges from this moment — from the Twenty-Eighth Amendment discussions, from the new-administrative-units debate now underway, from this very roundtable — must not be done in haste. It must not be done without genuine debate, without research, and without the discipline of proper legislative drafting. And it should not be done in a versus mood, pitting one tier or one institution against another.

We have been here before. The Basic Democracies of 1959, and the Local Government Ordinance of 2001 engineered through the National Reconstruction Bureau, were both devolution schemes imposed from above by non-elected governments — and both, not coincidentally, served to bypass or weaken parliamentary parties and institutions, or to reshuffle the bureaucratic dominance of the DMG and PAS cadres, more than they served any settled constitutional commitment to the land and the people of Pakistan. I do not wish to see that pattern repeat itself under a new name — reform as reaction, or reform as a bargaining chip in a larger political negotiation, rather than reform built for the actual capacity and culture of governance at the local level.

What is genuinely different this time — and worth naming plainly — is that for the first time, any new system or layer of governance can be designed, drafted, and legislated while elected representatives and institutions themselves exist and function. That is a real, and perhaps unique, opportunity to avoid the mistakes of the past. It is also a considerable challenge: it must be handled with care, keeping essential requirements, processes, and sensitivities firmly in mind. This is precisely where someone with firsthand parliamentary experience, and the acquaintances that come with it, may be of some use to this process.

What My Homework Has Shown

The gaps in Pakistan's own constitutional provisions on local government, set against India's, are by now open knowledge. In preparing for today, I went back through the

comparative constitutional experience of several jurisdictions: South Africa's treatment of local government as a distinct constitutional sphere rather than a subordinate tier; Germany's directly justiciable self-government guarantee, which local bodies may themselves invoke before the highest court; Kenya's automatic, non-discretionary minimum revenue share; and Japan's dual-consent mechanism for laws targeting a single locality — though I would flag that one candidly, since it has sat dormant for some seventy years, a caution about how easily even strong constitutional text can be read out of practice by those who administer it. India's fixed local-government term and its constitutionally mandated Finance Commission are often held up as a template for our own immediate challenges; let me flag, just as candidly, that they are no guarantee either, given our own past — and our very recent — experience of good rules circumvented at the local, provincial, and national levels alike.

In studying local government's own issues and challenges, I have also gone back through our record at both the provincial and federal level: the pattern by which Islamabad's own local government — our federal capital, not merely a province — has gone without an election for over five years, and a strikingly similar pattern of amendment, dissolution, and power-stripping repeated across every one of our provinces.

I have studied claw-back legislation practised not only by the provinces but by the federal Parliament itself, both in postponing elections at the last moment and in stripping powers or withholding finances after the fact.

And I have looked again at the history of the National Finance Commission under Article 160 — an instrument that has evolved through awards and amendments for fifty years, and yet has still never found a mechanism to reach a local government directly, without a province standing in between. I have also looked closely at the wording of Article 160(3A) itself — the sub-clause inserted by the Eighteenth Amendment that guarantees a province's share can never fall below its previous Award, a provision some now call the "ratchet effect." I find it, on scrutiny, curiously self-contradictory to the very rationale of a Finance Commission — an instrument whose purpose is precisely to periodically review and rebalance shares, not to freeze a single direction of movement into the Constitution itself.

My own study has extended to the constitutional amendments now under consideration and debate — to Article 140-A on local government, to Article 160 on the National Finance Commission, and to Articles 1 and 7. But I have gone further still: into the Fourth Schedule and its Legislative Lists, both before and after the abolition of the Concurrent List; into the fundamental-rights cover of Article 8, and what it would take to make local government's own guarantees genuinely justiciable; into how to make the triggers for constitutional protection unambiguous rather than easily read around; and into Article

239(4), and whether its dual-consent logic — a federal and a provincial legislature both required to agree, as we already require for altering a province's own boundaries — could properly be extended to protect local-government law from being unwound by either tier acting alone.

But I will not stand here today and prescribe the exact clause language for any of it. That would be exactly the haste I am warning against. What I can tell you is that serious, tested models exist elsewhere, each with real strengths and real limitations — and that Pakistan's own version deserves the same rigor in its drafting.

What Kind of Local Government We Should Actually Build

I would ask this roundtable to imagine local government doing a great deal more than roads, drains, and streetlights: local economic development; urban and rural planning; a genuine administrative role in primary healthcare and school management; disaster response; participatory budgeting, so that citizens are not merely governed but genuinely consulted. None of this is exotic. It is the ordinary business of local government almost everywhere else in the democratic world.

At the end of the day, it is the performance, delivery, participation, and accountability of any level of government that earns it the respect, loyalty, and longing of its people — that, and not any single clause of the Constitution, is the only durable guarantee of its creation, its election, its continuity, and the completion of its term.

I would also caution against measuring success by how many new layers of local government office, how many new politicians, or how many new avenues of patronage we create. My own instinct runs the other way: fewer local government positions, but genuinely qualified ones — a professional administrative cadre, a professional finance cadre, and — the one we speak of least in Pakistan — professional legislative drafters, working at the local level itself. I would go so far as to suggest recruitment through the Public Service Commission, trained to at least the standard of our Civil Services Academy.

A Story from New Orleans

Let me tell you why I believe that is possible, and essentially required, from something I saw myself. Some decades ago I completed an international diploma in legislative drafting in New Orleans, Louisiana. What I saw there was three layers of government — municipal, state, and federal — fully functional, coexisting, and all visibly busy about the public's business. On the drafting side, I expected the most impressive work to come from the Louisiana State Assembly or the State Senate, and both were, in fact, genuinely

impressive. But the unit that struck me most was the City of New Orleans' own municipal legislative drafting office — technically rigorous, comparable in craft to the state legislature itself. And to underline the link between legislation and local government: although the course itself was jointly organised by two leading national universities, the diploma at its conclusion was conferred, named, and signed — not by any academic or state official — but by the Mayor of New Orleans in person.

I offer the New Orleans story for two reasons. First, it showed me that local, state, and federal governments can genuinely coexist without cannibalising one another — that a political incentive structure is possible in which a career can run from local mayor, to governor, to senator, to president, so that local government becomes a rung on a ladder of political public service rather than a dead end or a rival to be starved. Second, it showed me that serious legislative craftsmanship is not an incidental skill reserved for the state or the centre — it is an essential component of any tier of government, especially one operating in a genuinely competitive federal environment.

A Story from China

A second story, from the same period of my life. During a distance-learning diploma course, I met a husband and wife, Dr. Ann and her husband, both associated with Boston University's International Law and Development Consortium, who had spent several years working in China before a short stay in Pakistan. What struck me was their observation, offered almost in passing but meant, I think, quite seriously: that research-based, effective legislative drafting was one of the most important factors behind China's own economic development and its transition out of a socialist economy. Not capital alone, not policy alone — the discipline of how law itself gets written, and made to work.

I am not proposing that we import either the American or the Chinese system — that is not the lesson. I raise them only to show how two extremely different systems share something in common beneath the surface. Each offers a structural lesson, not an ideological one. From the American experience: that multiple, genuinely empowered tiers of government can coexist; that local office can be a stepping stone rather than a cul-de-sac; and that legislative craft matters at every level. From the Chinese experience, as Dr. Ann described it to me: a rhythm of governance in which a central deliberative body convenes rarely — once or twice a year — to settle only what genuinely needs settling at that level; a smaller standing body carries the essential work between those sessions; and the great bulk of actual day-to-day governance, and a great deal of legislative drafting energy besides, is devolved to where the people and their representatives actually live and work.

Pakistan, I believe, now faces a choice between two coherent paths, not a licence to blend them. It may pursue change and reform within the existing parliamentary system — in

which case the implication is quite specific: our federal Parliament and provincial assemblies concentrate on the essential framework, oversight, and law, while the daily work of governance, and a genuine share of the drafting of rules and codes itself, is devolved to a professionally staffed local government. Or it may attempt an altogether fresh start, built more deliberately on one of the two lessons above. What it should not do is patchwork — borrowing a piece of one model and a piece of the other into a hotchpotch that serves neither. In the end, it is the discipline of fully following one coherent system, and choosing one way, that actually reaches a destination. We should do what we say, what we claim, and what we legislate.

Conclusion

My submission to this roundtable, then, is a modest one. Our task today is not to finalise a constitutional design in a day — that would repeat precisely the haste I have warned against. Our task is to commission the sustained, informed debate, the comparative research, and the disciplined legislative drafting that a reform of this consequence actually requires — not another top-down imposition dressed as reform, but a project genuinely built for the land, the people, and the local capacity of Pakistan.

Let us build bridges, and strengthen the linkages already there, among those in the service of Pakistan who feel that a change in our system of governance is very nearly a do-or-die moment, alongside a functioning Parliament and a political leadership that is, understandably, still somewhat apprehensive. Let us plead for synergy rather than confrontation. There are many, past and present, within this system who genuinely feel the need for reform; our task is to find them, and to build with them, not to bulldoze past them.