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EDITORIAL NOTE

Premier Journal of Social Sciences (PJSS) is a research Journal published by Premier Research Center, Premier Law College Gujranwala in English, Urdu and Arabic Languages. This is a 1ST volume, issue 1, which is going to be published in March, 2022. It is a quarterly Journal dedicated to provide original research articles in Social Studies as well as analysis and commentary on issues related to Legal & Social Issues. This Journal brings together many of today's distinguished scholars and thinkers, practicing lawyers, teachers and students making their research available on Current Social Issues.

It is an interdisciplinary Journal of peer-reviewed research and informed opinion on various intellectual and academic issues in areas of Legal & Social Studies. Its readership includes Social and Legal practitioners, policy makers, Judges, Teachers and Students of Social Sciences. The articles published in this Research Journal undergo initial editorial scrutiny, double blind peer-review by at least two experts of the field, and further editorial review.

Muhammad Awais Ikram says in his article that Common law along with statutes are the fundamental sources of law in United Kingdom. The interpretation of these statutes follow certain rules and guidelines developed by the Law Lords to overcome the problem of open texture of the language which prone to wide interpretations and to create certainty. Human Rights Act incorporated in the domestic law in 1998 and become part of the existing law on the subject matter. However the approach of law lords to statutory interpretation have been radically changed after the incorporation. Although their changing approach have raised questions on their legislative roles but this is debatable but judges

now see themselves as legislating human rights through their interpretation of Acts of Parliament.

Ayesha explains in her article that In the political history of Pakistan, the local system of district governments could not be stabilized. The main reason is the interference of the military regime in the democratic system. In Pakistan's 75 years of political history, every time the Vehicle oaf democracy has de-tracked from the political system. Some military governments have derailed this Political train.

Tamoor Mughal's article views and assesses the trademark rights protection in Pakistan. Trademark is the identification mark of any company or organization. A customer relates any trademark with the quality of products and reputation of the company that is using it. It is a distinctive name, word, phrase, symbol, logo, design, image, or a combination of these elements that identifies a product, service or firm that has been legally registered as the property of the firm. If any organization is using the registered trademark of another company without permission, that means it is not only committing a crime but also causing damage to the business of the company and damaging the brand name of that company. The organization might be using others trademark to use its market reputation and market stake to enhance its own business without extra efforts. These kind of activities mainly fall under two heads Infringement and Passing Off.

Ghulam Mohy ud Din says in his article that values are those things which we like in our day-by-day life living in a general public. Living in the Muslim society having Islamic values which are issued by our Islam when a man receives them everybody value them. Today there is much distinction among old and present values and the new age have been completely changed because of embracing new values and modern advancements these are because of the exceedingly adapted fields of apparel preparing music correspondence and strikingly tabs and cell phone and the most imperative thing is the utilization of web on pads.

Saleem Shaheen says in his article that International Labor Organization adopted a Convention No. 189 on 16th June, 2011 concerning domestic workers. Domestic workers are actually hidden workers. ILO unhidden them first time in history in 2011 by exploring their rights and setting standards and principles. All ratifying states made and amended their existing laws in line with this convention. This article actually is a study of domestic labor work and its problems in Pakistan in the light of ILO Convention No 189 emphasizing on a dire need of ratifying this convention and bringing domestic workers legislations in line with this convention.

Dr. Muhammad Amin
The Editor in Chief

HUMAN RIGHTS ACT AND CHANGING APPROACH TO STATUTORY INTERPRETATION IN UK

MUHAMMAD AWAIS IKRAM*

ABSTRACT; Common law along with statutes are the fundamental sources of law in United Kingdom. The interpretation of these statutes follow certain rules and guidelines developed by the Law Lords to overcome the problem of open texture of the language which prone to wide interpretations and to create certainty. Human Rights Act incorporated in the domestic law in 1998 and become part of the existing law on the subject matter. However the approach of law lords to statutory interpretation have been radically changed after the incorporation. Although their changing approach have raised questions on their legislative roles but this is debatable but judges now see themselves as legislating human rights through their interpretation of Acts of Parliament.

INTRODUCTION; Statutes are a fundamental source of law. Common law rules of interpretation have been developed by judges and have been effectively used. The main focus of this research is based upon the changing judicial attitude toward the interpretation of statutes by the incorporation of Human Right Act (HRA) 1998 in to domestic law and interpretative provisions included in it. In addition, the idea that how it redefines new parameters and limits of judicial interpretation will also be discussed. Review of the case law shows that the incorporation of HRA 1998 has changed the approach of Law Lords to statutory interpretation to a great extent. Whether this has

also created a legislative role for the judiciary however is a debatable issue.

The interpretation of statutes requires certain guidelines and in a common law setup this task is entrusted to the judiciary.¹To overcome the problem of open texture of language judges have adopted certain rules so-called rules of statutory interpretation; the literal rule, mischief rule, golden rule). These rules demand interpretation within certain parameters² but where the language of the statute is ambiguous, capable of different interpretations, the European teleological approach of interpretation is adopted in line with the interpretative provisions of HRA. For complete analysis of the contemporary judicial practice the European ‘purposive’ method of interpretation must be taken into account.³

It was therefore stated to firstly apply the literal approach to ascertain the intention of the Parliament, if the application results in the ambiguity then the statutes should be read in their natural, primary and technical context.⁴ Modern judges also appreciate the fact that ‘mischief approach’⁵ of judicial interpretation is more near to ‘golden approach’. Law commission⁶ in its analysis stated that ‘mischief approach’ is more satisfactory⁷. It has

¹ Lord Steyn (2004:248)

² Lord Searman in *Duport steels ltd v Sirs(1980)* stressed that judges must give thought to the intention of the legislature while interpreting the words of statutes. They are not entitled to change law to meet the idea of what justice required.

³ The literal approach refers to the dominance of the Parliament over the courts after the establishment of doctrine of sovereignty of parliament.

⁴ Twining(1992:368)

⁵ An interpretative technique in which the courts see the mischief behind the enactment of particular act to ascertain the ambiguity in the given scenario.

⁶ See the Law commission 1996.

⁷ Which is being very close to the European mode of interpretation ‘purposive approach’

been suggested that the increasing work load upon the Parliament's draftsman and the demand of rule of law⁸ creates a growing influence of judiciary to adopt 'purposive approach'⁹. It is pertinent to discuss the basic structure of the HRA to have an understanding of the impact that HRA has had on statutory interpretation. Section 3(1) of HRA puts an obligation on the judiciary to interpret the statutes as near as possible compatible with HRA. This demands a judicial move from 'literal approach' toward 'purposive approach'. In *Picstone v Freeman's plc*¹⁰ it was held that it was permissible for the court to read the words of the domestic legislation in a way to give effect to the community law.¹¹ Lord Griffiths put this in another way in *Pepper v Hart*¹² where he stated "*the time goes when the courts adopted the strict literal approach the courts now adopt the purposive approach to give effect to the true purpose of the legislation*".

It is required under section 3 (1) of HRA that a legislation is to be read in a way so that it is compatible with the convention so far as it is possible to do so; judges have to keep this in consideration when adopting purposive approach and where it is not possible to give an interpretation that is compatible with the convention, higher courts may issue a declaration of incompatibility¹³. This now places an obligation on the judges to interpret primary and subordinate legislations in a manner consistent with conventional rights. This also applies to

⁸ Law must be assessable and clear to all

⁹ Also see Lord Wilberforce's decision in *Royal College of Nursing of the UK v Department of health and social security* [1981]HL

¹⁰ [1998]HL

¹¹ Also see *Litster v Forth Dry Dock* [1989] HL and *Three river DC v Bank of England (NO.2)* [1996] for the illustration of the same point.

¹² [1993]1AllER42 at 50

¹³ Section 4, HRA 1998.

the legislations enacted before incorporation of HRA. But a question arises whether it's a general duty or is it leverage to be used in case of absurdity in the language of an act?¹⁴ Another question arises as to what actually amounts to absurdity? And if it is a general duty then what level of duty is required? To achieve this interpretative consistency is not easy and ascertainable due to certain reasons. The whole statement "compatible in so far as it is possible" is subject to judicial and academic debate as to whether it is restrictive or expansive?¹⁵ As far as possible this is an ambiguous part because it gave to judges the discretion to decide the level of ambiguity. In this regards Lord Nicholls argued¹⁶ "what is not clear is a test to be applied in separating sheep from the goats. What is the standard of 'possibility'? And it is hard to characterize its answer".

The case of *Ghaidan v Godin-Mendoza*¹⁷ (relating to rights of same sex couples and breach of Article 14 of the Convention read with Article 8) provides an example of this ambiguity as to how far courts can go in interpreting legislations. The House of Lords reinterpreted the provisions of the Rent Act 1977 to include the tenant of same sex relationships, thus protecting tenancy of the claimant. In his dissenting judgment Lord Nicholls state that the effect of s.3 (1) which stated that the court may depart if the word used in the statute is ambiguous but, the difficulty lies in the fact that how far should they go. On the basis of this decision it may therefore be stated that the

¹⁴ Compare the judgments of Scarman LJ in *Ahmad v ILEA* [1977]1CR490 and Lord Lowry in *R v Brown* [1994]1AC212

¹⁵ Marshall's arguments (1998) and hunt's arguments (1999:97-8)

¹⁶ In *Ghaidan v Godin-Mendoza*[2004]UKHL30,at[27]

¹⁷ [2004]UKHL

incorporation of HRA has had a great impact on statutory interpretation and the concepts thereto.

Even authors like Francis Bennon is of the view that incorporation of HRA in domestic law revolutionized UK's constitution. It was also argued that UK is now moving from 'agency model' toward a 'dynamic model'.¹⁸ So where the question of compatibility arises courts no more have to take in to account the intention of the Parliament and can go beyond sometimes called 'strained construction' but rather it seems a more dynamic approach toward a dynamic model.

In **R v A**¹⁹ the Youth Justice and Criminal Evidence Act 1999 s.41 (1) and (3) opposed the defendant's argument to bring about pre consensual relationship's evidence. This restrained his conventional right under ECHR Article.6. Lord Steyn in this regards argued that although using the ordinary method of interpretation does not solve the problem but by using s.3 (1) 'to subordinate the niceties of language'²⁰ the problem can be solved. Regardless of the House of Lord's decision in **R v A** and **R v Lambert**²¹, Lord Steyn showed his hesitation in doing so. He was of the view that it is better for the courts to give 'declaration of incompatibility' under s.4 of HRA rather than going too far in interpreting the statutes²². But even

¹⁸ Dame Mary Arden in his article 'The changing judicial role : Human Rights, community law and intention of parliament.2008

¹⁹ [2001]UKHL:[2001]2AC42

²⁰ Para.45

²¹ [2001]UKHL37

²² As it further stated in **R v A**: "*S.3 does not entail the court to legislate, it task is still one of interpretation. Compatibility is to be achieved as only so far as this is possible. Plainly this will not be possible if the legislation contain provisions which expressly contradict the meaning which the enactment would have to be given to make it compatible. It seems to me that same result must follow if they do*

then he argued that judges have to be prepared to override the intention of parliament in ascertaining the requirements of ECHR²³. Lord Hope later in *Lambert* stated that sometimes it seems to be necessary to ‘read in’ to the words of legislation. The cases of *Re S*²⁴ and *Bellinger v Bellinger*²⁵ represents a more restrictive approach of the law lords toward the use of s.3 (1) and their increasing inclination toward the use of s.4, declaration of incompatibility. Lord Nicholls also made clear the boundary between interpreting and legislating.²⁶ However, it may be noted here that seems to be a last resort for the courts to give declaration of incompatibility. On the basis of these judgments it has been argued that the plain meaning of words of the statutes cannot be ignored by raising its compatibility issues²⁷. This in turn supports the statement in question, that whether s.3 (1) or s.4 is applied, the judges eventually see themselves as legislating under these HRA 1998.

In connection with the above discussion, Richard Ekins and Philip Sales²⁸ argued that HRA mandates rights, consistent interpretation, and does not displace the

so necessary implication, as this too is a means of identifying the plain intention of parliament’’. (at 86).

²³ The Law-Making Process by Michael Zander; sixth edition; Cambridge publishing press. P; 185

²⁴ Ex p Anderson, [2002] UKHL

²⁵ [2007] UKHL 46

²⁶ *Re S* [2002] 2 AC 291 at p 313. He argued that ‘the greater the latitude with which courts construe documents, the less readily defined is the boundary. What one person regards as sensible.....other regards as impermissibly creative. For present purposes it is sufficient to say that a meaning which departs substantially from a fundamental feature of an act of parliament is likely to have crossed the boundary between interpretation and amendment’.

²⁷ F Klung and C O’Brien ‘The first two years of the Human Rights Act’ [2002] Public Law 649 at p; 654

²⁸ Richard Ekins and Philip Sales. (2011). “**Rights-consistent interpretation and the Human Rights Act 1998**”. *Law Quarterly Review*.

traditional understanding of interpretation that is to uphold the intention of Parliament. They went further on to state that s.3 only refers to the point as to how to confer that intention. It seems that they are reluctant to support the idea of extra discretion given in the hand of judiciary. In their view these are only the rules to bring statutes to law. They hold these as presumptions that the interpreters only adopt to infer the intention of the legislature.

In *Secretary of State for home Department v MB*²⁹ the importance of s.3 stressed and it was discussed as to why application of section 3 is preferred over s.4. It was held that the Prevention of Terrorism Act 2005 was widely drafted and infringes article 6 of HRA, hence the House of Lords using s.3 ‘read in’ to the words of the statute. This seems to be a counter argument to what Richard Ekins and Philip Sales argued, and it seems that s.3 gives more leeway to courts than what they thought. Lord Steyn argued that they know that s.3 demands a more teleological approach but courts must be mindful of a demarcation between legislator and interpreter. Nevertheless rightly or wrongly s.3 gives a greater insight of interpretation to judges. Cases like *Goode v Martin*³⁰ even authorized the use of ‘read in’ rules also into Civil Procedure Rules. This suggests the infringement of Lord Steyn’s test in judicial practice. Moreover s.3 (2) (b) stated that use of s.4 (declaration of incompatibility) does not effect the validity of the statute, its continuing operation or enforcement³¹. One of the commentators argued that a refusal to apply s.3 as it effects parliamentary sovereignty does not constitute a good argument because

²⁹ [2007]HL46

³⁰ [2002]1AllER620

³¹ Also see R V Secretary of state for transport ex part Factortame(No.2)(1991)

it's itself the intention of parliament to protect the fundamental rights of the individual³². The approach in *Ghaidan*³³ therefore seem to be legitimate because the decision was consistent with fundamental policy, but where they move beyond the scope of interpreting the policy of the legislation, court would not take the place of Parliament.

In light of the above, it appears that HRA has had a great impact on the manner in which judges approach interpretation of statutes, however this does not affect the Parliament's primary role of legislation making. Also, since it is the Parliament itself that has enacted the HRA, hence the role of legislation making is still that of the Parliament. In addition, section 3 of the HRA caters to arguments regarding the same. Nevertheless it may be stated that HRA has radically changed the previous approach of courts to interpretation; however, the fact that HRA is itself a product of UK Parliament the argument that the sovereignty of Parliament has somehow been replaced holds no weight.

³² *Ibid*, p; 566

³³*Supra*

LOCAL GOVERNMENTS: A STUDY OF HIJACKING THE EVOLUTION OF DEMOCRACY IN PAKISTAN

AYESHA*

Abstract: In the political history of Pakistan, the local system of district governments could not be stabilized. The main reason is the interference of the military regime in the democratic system. In Pakistan's 75 years of political history, every time the Vehicle of democracy has derailed from the political system. Some military governments have derailed this Political train. General Ayub Khan introduced his own designed district government system for local governments in the sixties. The clear purpose of which was to strengthen the military government. Similarly, General Pervez Musharraf introduced Turkish local district system of government "*Nazimit*" in Pakistan in the first decade of this century. The purpose of local system of government introduced by Gen. Musharraf was also to strengthen the military government at the local level. The local district government system devised by the military regimes was not meant to achieve democratic values. That's why the Pakistan was always deprived of local district order government with democratic values. This article presents an analysis of the history, evolution and values of local district administration in Pakistan, how the periods of military rule deprived the local district administration of its democratic spirit and became a major obstacle in the Political development of Pakistan.

Keywords: Local Government, Evolution, Democracy, Military Regime, Pakistan

I.INTRODUCTION

This is an attempt to address the gap existed in the democratic system in comparison with the totalitarian regimes which hijacked the evolution of democracy in Pakistan. The importance of Local Government system can only be viewed in the pure and simple form of democracy where the institutions are free to perform their duties. The rule of one corrupts the system of any country and this has been the real dilemma of Pakistan; the system of popular government has always been undermined to derail the democracy and replace with the unjust seizure of power by means of force.

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Moreover, there is a continuous struggle of Pakistan political parties and the will of its people not to forgo the essence to democracy. They, political parties and the masses, accepted the significance and the necessity of democracy for the survival in this world. Democracy on the other hand is not only a political system but it's a way to live a life, it's a message to all the other democratic countries that we also respect the opinion and the will of our people. Democratic government is a government by the people and for the people but at the same time, if we compare the rule of authoritarian government, the will and the wish of people weren't considered an important pillar of the government. There should be a comparison between these two forms of government with the special reference to the Local Government system along with its evolution. Consequently, the Pakistan on democratic line; its struggle, defeat and success will be appeared before all of us. The importance of democracy will be highlighted along with the historical basis of democratic struggle

against the authoritarian regimes which abrogated the ongoing democratic process in the country by declaring martial law.³⁴ This abrogation of popular political system is an indirect humiliation of the people of Pakistan as their mandate and their voice didn't matter for the dictators who came into power in the iron clads of saviors but in actuality,³⁵ they damaged the entire outlook of Pakistan and also dented the process of pure democracy. Those forces which strengthened the democratic values will be discussed here along with the importance of local government system in the pure and simple form of democracy.

It is also necessary to know the comparison of dictatorial and democratic regimes of Pakistan. Its emphasis on the effectiveness of Local Government system in both forms of government respectively. The sustainability, the growth and the problems faced under the afro-mentioned two forms of government.

With regard to this study, it is also necessary to know importance of Local government system in a pure democratic environment because it's the only way for the democratic government to serve the people and include them in the decision-making process which will ultimately affect them. In the end I will make conclusions and some recommendations for the betterment of the people through the Local Government system as the main objective of this research is to highlight the importance of Local Government system in a democratic form of government if that government want to enhance the living standards of its population.

³⁴ Shirah, R. (2015). Electoral Authoritarianism and Political Unrest. *International Political Science Review*. Epub ahead of print.

³⁵ Svulik, M. (2009.) Power Sharing and Leadership Dynamics in Authoritarian Regimes. *The American Journal of Political Science* 53: 477–494.

II.HISTORICAL BACKGROUND

Pakistan was created with the values of Islam and also to practice Islam in a separate homeland, where everyone will have the freedom to practice their religion. The United Kingdom colonized the Indian sub-continent and ruled it for almost two hundred years but in the end, by the three broad secular forces, public opinion of the international community, Indian political awareness and the natural evolution of imperialism itself had played an important role in giving independence to the Indian people. Pakistan got independence in August 1947 and defended its sovereignty in the world. In this course, Pakistan had faced multifaceted problems including the political and democratic crisis. In “*Pakistan a hard country*” Lievan argued that its people are very resilient, and they can endure hardships because it’s the culture and the social forces which made this country a hard country. Historically, Pakistani society had faced many undeniable catastrophes but somehow managed to survive. The focus of this thesis will be on the democratic journey of Pakistan that how the democratization on the society made possible. The main problem which Pakistan had faced right after its inception was the problem of management. There were many dire problems waiting to be solved but on the other hand, the hands of the administrators of Pakistan were tied because of issues like economic and defense.³⁶ The real contest has been started for Pakistan right after the partition but the resilient nature of its people and its non-daunting society made through the darkest nights in the history of Pakistan. Here, the darkest history has been referred to the era when all the democratic forces were forcefully curtailed with the heavy hammering of

³⁶ Acemoglu, D., Robinson, J. A. (2005). *Economic origins of dictatorship and democracy*. Cambridge University press.

authoritarian government in the name of the widest national interest but, curtailing the evolution of democratic process always undermined the steady growth of Pakistan; in the home and also in the eyes of international community.

The bleak history of dictatorship starts from the assassination of Liaqat Ali Khan,³⁷ the first prime minister of Pakistan. The reins of Pakistan held by the military dictator and implemented martial law for the first time.³⁸ It was the time when the military elites thought that they and only they can save the country from demise, so in for the first time, in the wider scope of national interest they took over the political office and started an authoritarian regime while dismissing and abolishing all political parties of Pakistan. In 1960, the huge general Ayub Khan had become the president of Pakistan, not by election nor attaining any mandate but seizing the power.³⁹ His tool to clear his name in the eyes of the world he introduced the system of “Basic Democracy” which didn’t serve his purpose. With the passage of time, the mounting tensions with India had reached to its culmination point resulting a war of 1965. The outcomes of the way with idea were deadly to him as his failure to win made him the bearer of nepotism and corruption. These allegations undermined his position and it was unable for him to occupy his office any longer. Due to the 1965 war and its outcomes, the popularity of Gen. Ayub Khan hit the lowest ebb and in 1969 he was left with no other option but to resign. He left the office but the dictatorship yet had plans to stay and enjoy the force of evil power over the country.

³⁷ Rizvi, H. A. (2003). *Military, State and Society in Pakistan*. Lahore: Sang-e-Meel Publications.

³⁸ *Ibid*

³⁹ *Ibid*

After the resignation of Field Marshal Ayub Khan,⁴⁰ another military general was in line to taste the fruits of political power in Pakistan. The power was taken over by general Yahya Khan and he remained in the office and ruled the people of Pakistan for their betterment and also for the national interest. His main agenda and ultimate objective were to hold general elections and for once again make the newly independent country a democratic outlook. He was successful in holding the national election in December 1970. The disintegration of Pakistan and the Mukti Bani was the direct result of military intervention in the socio-political theatre of Pakistan.⁴¹ The national interests were guarded and persuade by the military resulted in the events of civil war of 1971 which had become the main reason of independence of Bangladesh. This thesis will draw an indicating line where the evolution of democratic system has been sabotaged by the overwhelming interference of Pakistan army in the matters of the state.

Furthermore, the instigation of Local Government system from “Basic Democracy” to the “Musharraf’s Devolution Plan” every dictator in its authoritarian regime had tried to show the ultimate concern for the well-being and uncompromised growth of democracy while putting all the energies of the state to strengthen it on the basic or grass root level, whatever the scene was, it can be said that every time a dictator came, sang this old mantra on his newly composed tunes and all the people and masses of Pakistan listened it and from every dictator, the buoyant society of Pakistan⁴² categorized it, hoped for the best to come from

⁴⁰ Gauhar, A. (1996). *Ayub Khan: Pakistan’s First Military Ruler*. Lahore: Sang-e-Meel.

⁴¹ Rizvi, S. A (1976). *Changing Patterns of Local Government in Pakistan*. Karachi: Pakistan Historical Society.

⁴²Lieven, A. (2012). *Pakistan: A hard country*. Public Affairs.

every authoritarian regime. The reason was that, the society of Pakistan and the people of Pakistan survived during the dark rule of Zia-ul-Haq who declared Martial law and arrested the popular democratic Zulfiqar Ali Bhutto who became the Prime Minister of Pakistan under a new constitution of 1973.⁴³ General Zia-ul-Haq arrested him and hanged him after a controversial trail.

General Zia-ul-Haq had become a sole master of the state, assumed presidency and abolished and banned all the political parties. He gave a new look to Pakistan. He wanted to be a popular leader, so he tried to seek help from the religion, knowing that religion was the weak point for the people of Pakistan as they got united in their freedom struggle backed by the religious and nationalist forces behind them. He initiated the program of Islamization and took through Pakistan in to a darkest pit from where, the hard country is still trying to survive. He promised to hold elections in ninety days but he used the power until his last breath. Finally he died in a plane crash and now started another struggle to restore and revive the dying soul of democracy in Pakistan. It was important to educate people of Pakistan about democratic values and the importance of its prevailing forces but in order to do that the democracy must prevail.

For the love of democracy, another election held in November 1988 and a coalition government of Pakistan People's Party came into power with Mohajir Qoumi Movement (MQM) but due to some ideological differences and issues of self-interests,⁴⁴ MQM left the coalition and Ghulam Ishaq Khan dissolved the assembly

⁴³ Mueller, D. C. (1996). *Constitutional democracy*. Oxford University Press, USA.

⁴⁴ Jones, P. E. (2003). *The Pakistan people's party: Rise to power*. Oxford University Press, USA

because of increasing corruption and unpopularity of the PPP's Government.⁴⁵ A care taker government came into existence, a valid and vivid positive step towards strengthening the basis of democracy but the state of Pakistan was yet to witness dictatorial regimes to come.

III.PAKISTAN ON DEMOCRATIC LINES; ITS STRUGGLE, DEFEAT AND SUCCESS

Local government system is a grass root system of government in which the democracies utilize for the benefit of the people and also for the betterment of the people. Good governance is also the main contour of this system of government as the basic agenda of this plan was to create stronger communities in Pakistan by maximizing the basic integration among the different communities with the state machinery and the government. Local government system was an ideal system to bridge an increasing gap between the government and the people of the different communities, who thought that they were being ignored and marginalized by the power elite of Pakistan. Generally speaking, induction of local government system in the strata of Pakistan was considered another step towards the establishment of fair and pure basis of democracy, this was yet another affective step towards the system of growth and development of the democracy in Pakistan.⁴⁶ This was considered an affective step towards the reinforcement of democracy in the history of a country where the conditions remained hostile for this very concept of ruling individuals. The local government system was divided into three main categories which operate under their own domains as follows: local level, state level and federal level These sub-units allow the

⁴⁵ *Ibid*

⁴⁶ Applied Economic Research Centre (AERC) (1990). *Local Government Administration in Pakistan*. Karachi: unpublished manuscript.

elected officials to mitigate the issues on public levels by some authorities given by the government so that they may be able to solve the problem of that area on their own and also with the local resources. In this wake, local level is the first level, or one can say that this level is a touchable level for the local people. The success of government is significantly dependent on this local level; local level is an essence of the local government system as it gives an opportunity to the people of disintegrated unites of centers to act freely for the betterment of the people as democracies ought to act under this umbrella of good governance.⁴⁷

Furthermore, local government system directly addresses the plight and sufferings of poor people, which didn't have any direct access to the main stream power and the local administrative body. In this way local body or the local government system is significant to the local poor people because they have a direct contact with the people they elect as their representatives instead of waiting for their turn outside the offices of higher governmental officials. In other words, it is far more easy and convenient for the people to talk to their elected representative about their problems, rather than to a government appointee whose transfer likely to be held anytime as per the governmental policies. But on the other hand, the local elected person is attached to the people from which he got the votes and from which he or she is drawing power. This system gives an opportunity to the poor people, the minorities and the women to contribute in the development and betterment of their lives.

⁴⁷ Arif, S., Cartier, W., Golda, A., & Nayyar-Stone, R. (2010). The local government system in Pakistan: Citizens perceptions and preferences. *The Urban Institute IDG Working Paper: Washington, DC.*

However, People of Pakistan, from its inception, constantly striving for the better standards of life and also from its inception fighting against the menace of poverty and trying to elevate their depressed circumstances. This system provides a direct line of communication as this system offers a chance to affect the decision-making process of a government which gives a meaning and meaning to their voice.

Local government means the building blocks of local communities by which communities represent themselves in the annals of direct policy making streams, this system is also providing them, 'the local communities' a chance of better life style by which they will be able to discuss the matters with the government on the basis of their benefits. By the help of or by the creation of local government system, institutions get stronger which give arise a system of strengthen governance for the local communities residing in their constituency. This effectiveness solves their problems on the local level because of their easy excess to their local institutions. Therefore, institutions play very important role in the lives of human beings in this modern age of democracy; without effective and able institutions, the lines become blur between the totalitarianism and democracy. That is the reason, institutions in any country are the important contour of local government. These institutions are called the 'sub-groups' because they operate on public level and show the local public a way towards their better future and also, on the other hand, supplement the original and pure concept of democracy as democracy is nothing but the government of the people, by the people and for the people. This is the real sense which inspired the western political thought and they implemented this idea to the practice and they succeeded in providing better lives to their people. They

are now successful because they thought of their people and they strengthened their governments and made such governmental policies which strengthened their people, by considering their lives more important than the mere politics and policies to acquire power. Everyone cannot be taken to the fountain for power but the water of the fountain of power can be taken from its source to everyone. This is the main and original essence of local government system, of course in general.⁴⁸ This system has become so viable because of the three levels of government:

- Local level
- State level
- Federal level

These levels of government enable this system to deliver the fruits and benefits of democracy to the community under discussion. The motive is to solve their problems and to give the populace maximum relief and these two objectives can be achieved by these three levels of government.

In addition to that, local government is the first level to address the question of public good and better life style while providing them with the basic necessities of life to the poor populace of the community. This system, not only address to the poor people but it also brings the good governance for the marginalized portion of the community, minorities, poor women and the children of the poor families by including them to the real process of decision making.

Local government system is a systematic way to solve the poverty problem in the longer run as it operate on the individual level. The local level is directly related to the

⁴⁸ Svolik, M. (2009.) Power Sharing and Leadership Dynamics in Authoritarian Regimes. *The American Journal of Political Science* 53: 477–494.

lives of the poor people as it has been mentioned earlier that by this process, an individual can have access to the higher level of elected officials through their own elected representatives and encourage the government to address their plight and devise some policies to lessen their sufferings. Furthermore, the local level is the most important and the most crucial level for the success and effectiveness of the system of local government. In other words, the local level is the driving force behind the local government and this driving force serve as its backbone. Without the local level, the system of local government will not be able to stand on its own. This level provides this entire system a structural foundation to stand upon and also it gives a fair and vivid chance to the local elected representative a chance to bridge a gap between the local area and the capital. In any law and order situation, the local people can be interacted through a political and social forum by their local elected representative. The local representatives who are elected by the people of that community, are considered the voice and will of the entire community and at the same time, these elected representatives are the part of the government which in a broader perspective, allows them to become a better administrator. The aim and objective of the elected representative is to deliver the basic opportunities and to increase his ability in the eyes of his higher ups, in this way he or she adjust their course which benefits the both, the local communities and the government in power; as the elected representative is drawing his or her powers from the main governing body from the capitol. In this regard, through local bodies, government can promote peace and tolerance among the different communities in the hour of need. Similarly, the antagonism among the communities the feeling of distrust, and insecurity of lives and property

can be settled with the help this system of local government in general and on local level in particular.

On a state level, local government system also plays a vital role as it plays its significant role on local level. This level is also known as the provincial level as it tends to work on provincial level. This is the second tier of local government system directly connected with the federal level and also connected directly with the local level. This level plays central role in the local government system of Pakistan though provinces are independent in their policies and governance by 18th amendment in the constitution,⁴⁹ but they at the same time considered a bridge between local level and the federal level of local government system. The flow-chart representation of three tiers of local government in Pakistan are given as follows:

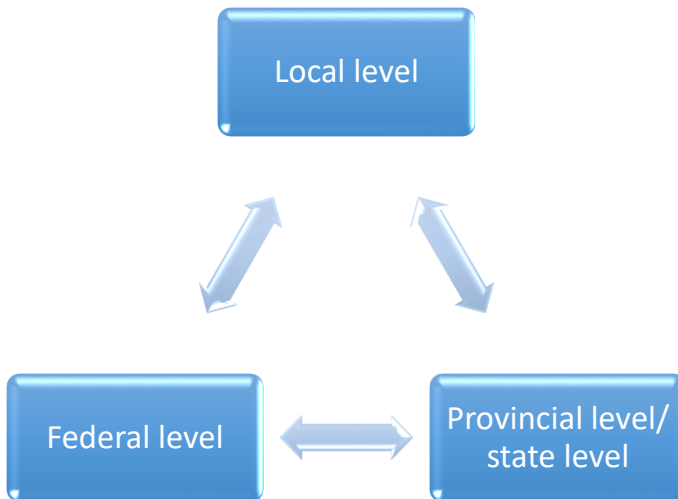


Table 1: Three tiers of Local Government in Pakistan

This flow-chart representation of local government in Pakistan is manifestation of a cycle which enact with the

⁴⁹ Mueller, D. C. (1996). *Constitutional democracy*. Oxford University Press, USA.

different local bodies and institutions to communicate with the provincial/ state level and then the provincial/ state level by its own institutions and bodies communicates with the federal level. By this way the problem in question or a situation of crisis at local level can be taken to the federal level through the provincial/ state level.

This is the simplest and easiest explanation of the systematic processing of local government system in Pakistan. The only core objective on this system is to create maximum opportunities for the people of the local communities and promote the voice and cause of poor people with a higher objective to eradicate poverty from Pakistan and make Pakistan a welfare state like Scandinavian countries.

IV. HISTORICAL BASIS OF LOCAL GOVERNMENT SYSTEM IN PAKISTAN

This was a dream of every dictator who ruled Pakistan, to give it a system for the betterment of local communities. The irony lies in the details of this shallow effort to win the minds and hearts of people by inducting and introducing a local government system by the hand of a dictator who wanted this system to work for the benefit of the people of Pakistan in particular and in general, his motive was to give Pakistan an attire of democratic country where democracy is working from its grass root level to the higher ups. This was the general's wish and that wish was to be fulfilled by the people who were working in his administration. He also initiated a campaign of enlighten moderation to tailor the look of Pakistani society a moderate one, in the eyes of his fellow countrymen, women and his western counterparts who were keenly observing the moves of Pakistan. Local government system, in other words, for Pervez Musharraf had become a necessity, if not a choice as the western or

allied powers despised any authoritarian government or regime.⁵⁰

Musharraf's local government system was implemented on August 14, 2001, as he claimed this prize to his countrymen and women. He was very eager to promote this concept of advanced cum borrowed local government and his hope was high in the success of this system. General wanted this system to work, this system worked or at least it seemed that its working, but the reality remained silent on the side lines of Pakistan's poverty stricken society. The condition of a common citizen of Pakistan didn't changed by the change of the system that remain as poor and depleted as age old history of Pakistan. That was a dream, dream of Musharraf who came into power de-facto, a frustrated desire to do well for the betterment of this country as it witnessed and survived many authoritarian regimes and yet it was another, with the new dreams to give people a hope for the better future days.⁵¹ That local government system was a guilty strife to transfer power from representatives to the masses of Pakistan. General's dream and desire to reinforce the common citizen of Pakistan and empower them by giving them the control of direct power in their hands. He had become a self-acclaimed people's benefactor and he staged the feelings of love and care for the poor of Pakistan. He wanted to win the hearts of people, not without votes or winning a mandate but capturing power by the power vested in him. In order to do that he copied a system of local government from Turkey and implemented

⁵⁰ Boix, C & Svobik, Milan. (2013). The Foundations of Limited Authoritarian Government: Institutions and power-sharing in dictatorships. *The Journal of Politics* 75: 300–316.

⁵¹ *Ibid*

that plan for the betterment of the society and for the betterment of the people.⁵²

The local government system of 2001 had three broad spectrums, the essence of this system. These three categories were objectified to solve the people's problems on grass root level; level at their door steps or village level at least. The second important objective of 2001 LG system was to include the common masses into the decision-making process and the third important objective was to provide people with speedy justice system. The afro-mentioned objectives remained mere objectives on papers or rhetoric in the slogans in favor of democracy because the LG system implemented in a hasty manner, without studying the needs and the requirement of Pakistani society. As mentioned earlier, the induction of local Government system was a mirror image of Turkish local government system, which suited the requirements of Turks but Pakistan wasn't Turkey nor its society was comprised of Turkish people; the outfit wasn't fit for all as it desired to be and that was the reason that it lacked many insights important for the betterment of the people of Pakistan.

The desire was noble, the effort attempted was in good faith as the LG system's vision was to make the government accountable to the people of Pakistan. Here, in this manner the weakness of this system lied. The system wanted another system to be accountable to the people; the corruption played an important role because this plan didn't change the people specially the ruling class of the country. In order to give power to the common people, this system empowered the power elites of Pakistan and by this system they had become the sole

⁵² Bowman, A. O. M., & Kearney, R. C. (2015). *State and local government*. Nelson Education.

people's representatives in the country. The menace of corruption wasn't addressed not curtailed but swiped under the carpet for time being. Furthermore, the community building and vigorous growth of awareness in the citizens was expected from the Local Government system of 2001. It was also expected from the program of local bodies to work along with the people and remove or converge the divide between rural and urban areas.⁵³ It was huge and tedious task in front of the bearers of the local government system as the system lacked capacity building campaigns for rural and urban people who weren't familiar with this change in the system but again this was the system for the local people and local people were expected to learn this system by their own, they were expected to adjust themselves with the change of the system, that wasn't the responsibility of the authoritarian government to educate masses first and also develop a viable system of them.⁵⁴ This change of new system was a lap dog of Pakistan military as its idea came directly from the chief of army staff who wanted to see basic democracy flourished under his authoritarian regime; dictatorial government seeking to lay durable foundations of democracy in Pakistan. At that time, in 2001 that progress in the field of democracy was considered an exercise to instigate the awareness on democracy in the minds of the masses of Pakistan. It was a timid effort from the incumbent government to support the claim that the people of Pakistan are ready of this change in the governmental structure of Pakistan which was struggling hard for the survival of democracy, which was fighting day and night

⁵³53 Fung, A. (2004). *Empowered Participation: Reinventing Urban Democracy*. Princeton, NJ: Princeton University Press.

⁵⁴54 Bukhari, A.S. (1985). *Rural development strategy in Pakistan past, present and future*, Peshawar Journal of Rural Development and Administration 17(1). P.45.

for the life of democratic struggle in Pakistan which was of course for the betterment of the good people of Pakistan.

V.FACTORS AFFECTING THE ROLE OF GRASS ROOT LEVEL DEMOCRACY

As mentioned in previous flag that the local government system of 2001 was a need-based program, not to confuse with the popular need but a need of dictator and this system was implemented without any proper research on Pakistan's social need and societal structure. Challenges and problems were to be expected but the major problem which came in front was the inter-play of local bodies' elections. There arose problems in within the process of elections and these problems were to be solved if the incumbent government wanted to implement the local government system in Pakistan.

Historically, the structure of Pakistan's political system comprises of two-tier system. These tiers were divided into provincial and federal government. This had become the limitation for the government. Devolution of power in the Musharraf's regime tried to strengthen the local people of Pakistan by making the Local Government system effective and to be work with. Musharraf's government dissected their own formatted Local Government system into various levels and different stages. The first and the foremost flaw in the effective working of Musharraf's Local Bodies was in the first phase of any democratic structure; the election. In the election phase,⁵⁵ the legitimacy of its candidature and the process on with the elections were being conducted were considered flawed

⁵⁵ Abbasi, M. Z., & Mussarrat, R. (2015). Devolution of Powers to Local Governments in Pakistan during Musharraf Regime. *Pakistan Journal of Social Sciences (PJSS)*, 35(2).

because the system was changed not the participants nor the culture of the villages of Pakistan were altered.

Another challenge which Local Government system of 2001 had faced was related to the illiteracy of the people of Pakistan. The new system was very much different from the old system which prevailed since the partition of united India. General Musharraf not only changed the entire structure of Local Government but, he along with the pattern, changed the entire nomenclature of the Local Government system which seemed almost impossible to understand in the initial stage of its launch by the common and local people of Pakistan. This issue made the Local Government System of 2001 a difficult one for the common people. The class to be benefitted were unable to grasp the true nature of the system, though National Reconstruction Bureau, before the launch of this Local Bodies system, had conducted many surveys and also launched many awareness campaigns but in the end or after its launch, they all seemed un insufficient because the efforts of National Reconstruction Bureau remained unsuccessful. The department has failed to educate the common masses of the Pakistan about the meaning and the working patterns of the new tailor made Local Government System by a dictator.

Thirdly, the bureaucratic model and the existing bureaucrats wanted this system to be reverted. They wanted this system to be failed because the authority and the influence of the district government were undermined. The *Zila Nazim* has become the high official in the district instead of Deputy Commissioner. This change made the bureaucracy resentful and for this they wanted to reclaim their lost position in the eyes of the government and also in the eyes of the common public on any given district. Their resentment and their love-loss between the tailors

and the designers of this system encouraged them to act non-cooperatively in their public dealings. The local administration was supposed to be the blood of this new system of government, but the administration, by their own hands, dried this blood to jam this machinery from running. The main objective of this local government system was to provide local masses with speedy justice and the system has failed due to the lack of interest and lack of will of local administration to make this system a success.

The main challenge which Local Government system or the famous devolution plan face was in the form of legal frame work of its structure. The devolution plan was the outcome of a hasty endeavor to win the minds and the hearts of the common people by establishing a fact of deliverance of the reforms⁵⁶. The makers of this system failed to address many legal formalities as whether the high or top offices were elected directly or indirectly. They failed to give any system regarding to the legality of the task. This made this system vulnerable to many dangers. Also, there were many loopholes in the matter of allocation of funding and its legal dimensions. The hierarchy was also another matter which has needed a proper legal touch. In short, the legal side of the Local Government System was prone to many questions and this also has become a challenge itself for the devolution plan which so gladly given by the general Musharraf on 14th of August 2001 as a gift to the local masses of Pakistan.

⁵⁶ Cheema, A., & Mohmand, S. K. (2003). Local government reforms in Pakistan: legitimizing centralization or a driver for pro-poor change. *Pakistan drivers of pro-poor change*.

VI. LAW AND ORDER SITUATION DURING THE ELECTIONS OF LOCAL GOVERNMENT SYSTEM OF 2001

It has been considered a common practice and proud deed to mend or break the laws and use violence to intimidate the voters in the election culture of Pakistan. The members or the campaigners of any political party use different methods to win the seat and for this they were all willing to go to any limits. This is the election in Pakistan. The election of Local Government of 2001 was also not different from any other election which has taken place from its inception. Although the military backed the local bodies election in Musharraf's regime but the political or the democratic counterparts also had their influence in their concerning constituency and also on their constituents because it was important for the political parties to win this election because when General Pervez Musharraf toppled Nawaz Sharif and declared Martial Law, he banned on the working of all the political parties of Pakistan but, in 2010 he announced the local government elections⁵⁷, it had become the dream of every political party to have a share in the dictator's power and that made this local government election very important. To win the election means to win the power and it has become an important issue for the leaders of the political party to contest this election. They started to use their power and influence to change the opinion of the people to win the elections and started to use the unfair means for this purpose. The presence of military was the only barrier in changing the face of elections into total cheat but the military, to some extent, tried to stop the unfair means but

⁵⁷ Abbasi, M. Z., & Mussarrat, R. (2015). Devolution of Powers to Local Governments in Pakistan during Musharraf Regime. *Pakistan Journal of Social Sciences (PJSS)*, 35(2).

it wasn't possible for anyone to curb the entire chain of the cheating to gain the power in the government.

Local government election happened, and people came into the power, but they didn't do anything for the betterment of the people because, first they wanted to enjoy the fruits of power and wanted to make sure the return of every penny which they had utilized in the election campaign. This practice took the local government to another level which will be discussed below.

VII.PATTERNS OF CORRUPTION IN THE NEWLY ELECTED LOCAL GOVERNMENT

As the power was distributed to the elected representatives of local government, they started to find the weakness in the system and they started to exploit those weaknesses for the basis of their corruption. They were tasting the share of power which comes not from the people but directly from the dictator, for whom the will and wish of the people hadn't mattered at all as he came into the power by force and he knew he wasn't answerable to the people nor he was going to ask for the votes in the next general elections. The local bodies elected representatives knew this fact and they also knew that they are working under the shadow of a dictator and also in the dictatorial form of government which is trying to justify its deeds and steps as democratic. This was the impact of the leadership as the representatives knew that in this system the common masses were not going to ask any questions because they knew its Martial Law and in Martial Law no civil rights were observed as the masses or the people of Pakistan had witnessed in the blood and the darkest phase of General Zia-ul- Haq in the entire bleeding history of Pakistan. People were scared but the representations elected those scared

people were open to scheme every corrupt move while remaining in the matrix of the Local government system. Of course, the corruption came into the way of progress of democracy and the democratic form of government but that was the process, a daily deal after the election of Local Government 2010. The local bodies under the rule of dictators cannot and will not attain true and original soul of democracy or the democratic process because of the overall impact on the psychology of people as well as a particular mind set of the leaders under authoritarian regime⁵⁸. So the people of Pakistan must stand for their rights and oppose every effort to subdue their civil and political rights from any military dictator in the future which is yet to come if not for the love of this country then at least for the sake our future generations because sincerely the Pakistan nor the people of Pakistan can afford or tolerate another dictator like Zia-ul Haq because he took this country into the dark ages and we all are paying the price of his doing in the form of our lives and the lives of our children. The menace of terrorism was his doing, he sowed the seeds of hatred and intolerance and we harvested the crop of thrones by sacrificing the innocent lives of Pakistani people. Let's just hope that the reign like his may not come in the life of Pakistan.

VIII. LOCAL GOVERNMENT SYSTEM: A TUG OF WAR AMONG THE POLITICAL PARTIES OF PAKISTAN

The success and the failure of local government system in Pakistan depend upon the working of the local bodies and the political parties which are into the power. Every political party assumed that its local government system will prevail as initiated by the dictatorial regimes in

⁵⁸ Shirah, R. (2015). Electoral Authoritarianism and Political Unrest. *International Political Science Review*. Epub ahead of print.

Pakistan. Starting from Ayub Khan, he gave the BD system which was abolished and represented by the local government system of Zia as he thought that his system will be the best system in Pakistan. And will be able to address the issue of poverty and the problems of Pakistani people but also failed to accomplish the assumed goal from the tailored local government system. The drawbacks and the weakness from the BD system were rectified by the Zia's administration to make and evolve a better system from its predecessor but not succeeded.⁵⁹ The administration which came after the Zia dictatorial regime was democratic in nature and wanted to make the local government system their own success story and shared the responsibility of its failure on the policies of dictatorial regimes who had introduced a flawed system and the democratic government effortlessly rectified only for the betterment of the people of Pakistan.

After Zia regime, the incumbent government tried to ignore the local government as the government want to cut the baggage and want to survive the term which seemed difficult due to the crumbling of the political situation in the country. It has been understood and believed by the political elites that the failure of the local government in Pakistan was due to the military dictatorships and also due to the ruling government as the local government wasn't their priority and the ruling government didn't want to share the hard-acquired power. This has become a tug of war among the political parties of Pakistan and it has become a practice of blame game. Every government which came into power laid the burden of the failure of the local government on the shoulders of its predecessors and promised to fulfil the requirements the local government

⁵⁹Ziring, L. (1988). Public Policy Dilemmas and Pakistan's Nationality Problem: The Legacy of Zia ul-Haq. *Asian Survey*, 28(8), 795-812.

as promising the timely elections without any political influence upon them but again, they failed to fulfil this promise same as their predecessors and the struggle of the local government system goes on and on in an infinite circle of lies and broken promises as Democracy at Grass Root level couldn't be achieved yet.

IX.A CLASH OF INTEREST BETWEEN LOCAL GOVERNMENT MODEL AND THE BUREAUCRATIC MODEL

The rift started when the decentralization of power started the division of power between the local government elected personals and the officers of bureaucratic model who were the previous holders of the powers on the district level. The division of power, in devolution plan, allowed the local government elected representatives to get hold of the powers from the previously called Deputy Commissioner and the Superintendent Police.⁶⁰ Musharraf changed the name of these administrative bodies and these administrative persons and made them subordinate under the office of District *Nazim*. The elected representatives were in the pursuit of chances like that, they started to rule ruthlessly but the bureaucracy didn't remain silent, they started to draw different administrative hurdles for the elected representatives which ultimately weakened the system of local government. This rift ultimately started to run in the annals of the policies of Pakistan. The both models worked in a harmonious way only for keeping the appearances but in actuality, they were in a constant struggle to win the ultimate power from the government. Local government representatives knew that they had these five years because they were unaware from the

⁶⁰ Burki, S. J., Perry, G., Dillinger, W., Griffin, C., Gutman, J., Rojas, F., & Winkler, D. (1999). *Beyond the center: Decentralizing the state*. The World Bank.

policies of the new government, so they suppressed the bureaucratic model as much as they could. On the other hand, the administrative lobby knew that the local government would always be on the slippery grounds and they made every effort to make the system of local government failure and filled with mistakes and loopholes. There happened to a rift between the (DMG, PSP) and the local government system and of course, after Musharraf regime, the devolution plan was abolished by the Nawaz Sharif in a revenge against Pervez Musharraf. He didn't think for once about the betterment of the people of Pakistan. The democratic government of Pakistan Muslim League destroyed every structure of devolution plan because it was given by Musharraf which had become an arch enemy of Mian Muhammad Nawaz Sharif.

In short, the damage was done only to the local and common citizens of Pakistan as only the system of local government had suffered in every regime which wasn't its creator because everyone thought that he/she and their administration has the ultimate knowledge about the society of Pakistan and also about the people of Pakistan. Consequently, and surprisingly, the local government system, a bench mark of true democracy, flourished and served the people of Pakistan in dictatorial regimes. The democratic system hunted and damaged the smooth working of local government system. Surprisingly, this is true and only happened in the democracy of Pakistan.

X.COMPARISON BETWEEN LOCAL GOVERNMENT SYSTEMS IN DEMOCRACY VS. DICTATORSHIP: CASE STUDY OF PAKISTAN

Defining Democracy

Lincoln was considered the father of democracy, he coined the term in which he tried to express his dire feelings about the democratic concept and wished for a real and authentic

system for the people of this entire world.⁶¹ Rule of the people is the second name of democracy in which people are ruled by the power of the people to elect their own leadership to sort out their issues and problems and run the confined territory called state. The system vitalizes the people to speak about their wish and will, and have the right to ask questions from their elected leaders as the leaders are liable to the general population, which has the power to elect another leader from the government (BBC, 2011). The form of government in which masses are involved and groups called political parties expresses their manifesto to attract people of any country, in other words it's a kind of race in which every political party run to win the race with unique agenda and point of view and by the end of the election the political party wins who has more votes than its rival political party. The opposite of democratic form of government in which there are bans and punishments if anyone criticize the type of government. That type of government is called the authoritarian government and this is the opposite of the democratic system, but this practice is not acceptable in democracy (BBC, 2011). Another important factor to note is that, in the more liberal form or the more democratic form of government, there are no censorship in the annals of films and media but at the same time, in the dictatorial form of government, a huge burden of bans and heavy censorship becomes the practice of the daily life, no director nor any author can write his or her mind in dictatorship.

Along with this, the myth is to find an ideal democracy because there isn't one. The trick lies in forming an illusion of democracy in the minds of the general masses of any country with a tint of some truth in it to justify and

⁶¹Lincoln, A. (2009). *The gettysburg address*. Penguin UK.

blow some logic into this form of government, but this form of government is far better than the authoritarian form of the government.

Defining Dictatorship

As to understand the concept of darkness, one may give the example of light and explain that the absence of light is the darkness, same is the case with the simpleton definition of dictatorship to develop a basic understanding about this concept, is the absence of democratic system is the presence of dictatorship or the dictatorial form of government (BBC, 2011). The commonality of attributes in dictators of the world are same as they were all, from historical perspective, demagogues and wanted to control the mob by presenting themselves as the true and just saviors of the nations. These attributes made them the most dangerous and authoritarian in their personality and also inform the people who they are ruling.

Again, historically speaking, the dictatorial regimes have the worst control over the masses on the incumbent countries as the violence and the threat of violence are the only option and only way to take control of the civil liberties of any country.⁶²

As it has been proven that absolute power corrupts absolutely. This axiom is purely for dictatorial regimes as the entire country under dictatorship suffers from the miseries of the one man's will and wish. The state has nothing to say in the matters of the government and the overall picture of the state will become the picture of repression.

The state machinery has become involved in making the dictator of any country happy and for this, the machinery of the state starts to ignore the constitution and the laws.

⁶² Acemoglu, D., & Robinson, J. A. (2005). *Economic origins of dictatorship and democracy*. Cambridge University Press.

Laws of a country by which the normality of any state has been connected with the state department. The army and the police become the hand tool kit for the dictators and they by the help of this force initiate the polity of violence and repression in any country.⁶³

Brief History of Dictatorship in Pakistan

Pakistan is still suffering from the shadows of past dictatorial regimes as those shadows are haunting Pakistan. The external world is now gaining the process of trusting the political scenarios of Pakistan as there were three successful ousters of democratic governments in the country. They crippled the state of affairs in Pakistan but the people and the political parties of Pakistan never lost hope. They remained connected to the struggle of democracy and now Pakistan is on the track to become a pure democratic state.

General Ayub was the first who started the practice of this kind of power and he ruled the country by force against the will of people. He was the first military dictator who became the field marshal to add in the miseries of Pakistani people. His reign had started from 1958 and he resigned in 1962.⁶⁴ The second martial law remained for almost two years that was imposed by General Yahiya Khan. The third phase of dictatorial regime initiated and that delivered Pakistan in to the hands of a worst man named General Zia-ul Haq. He destroyed the country and made the outlook of a fundamentalist. The fourth man who assumed the power by force was another general named, Pervez Musharraf. He toppled the democratic government

⁶³ Baehr, W. P., & Richter, M. (2004). *Dictatorship in history and theory: Bonapartism, Caesarism, and totalitarianism*. German Historical Institute and Cambridge University Press.

⁶⁴ Ahmed, V. and Amjad, R. (1984). *The Management of Pakistan's Economy, 1947-82*. Karachi: Oxford University Press.

of Nawaz Sharif and became the head of the state by its power.

Interestingly, if the desire to see the development of local government, it thrived under the dictatorial form of government in Pakistan.

Understanding the Local Government System

Local government stands for the form of government with the direct representation of the people, elected from their local community of any consistency. This form of government is an important and integral part of democracy.⁶⁵ This system is considered the backbone of the democratic form of government because it is the only system which works for the direct betterment of the people and this is the reason, this system has been consider the base of any democratic government in any country

The local government in other words, a form of the government in which direct system of election has been presented because of its nature to deal the direct administration of people which work for their betterments. This system of direct representation has become the voice of people in the corridors of the parliament.⁶⁶ The structure of local government is different from the structure of private organizations which has the only capability to maximize their profit on the behest of local population, but this is entirely different from this concept, it maximizes the interest of the general public in the country.

Another definition of local government is “the significant part of the governance of any state that deals with the problems or issues of the local population that resides in a certain territory or geographical location”.⁶⁷

⁶⁵ Ndreu, A. (2016). Local governance units as a public manager in Albania. *Mediterranean Journal of Social Sciences*, 7(3 S1), 465.

⁶⁶ Lockard, D. (1969). *The politics of state and local government*. Macmillan.

⁶⁷ Stones P. (1968). *Local government for students*. Macdonald and Evans, 3rd edition.

Local government presents the direct link to the people of any country as it has the direct representation which is pure in its making and simple in its structure. This is the most unique feature of the local government system.⁶⁸

Robson (1937: 574) defines local government as, “Local government is involved in the conception of a territorial, non-sovereign community possessing the legal right and the necessary organization to regulate its own affairs. This, in turn, presupposes the existence of a local authority with power to act independent of external control as well as the participation of the local community in the administration of its own affairs ...”

Gomme (1987: 1-2)⁶⁹ has defined local government in the following manner:

“Local government is that part of the whole government of a nation or state which is administered by authorities subordinate to the state authority, but elected independently of control by the state authority, by qualified persons resident, or having property in certain localities, which localities have been formed by communities having common interests and common history...”

The division of responsibilities is another striking and unique feature of the local government system. The share in the power structure, the say of the people in the main stream governmental issues, has connected this system to the central government which is also called the provincial government. The definitions of the local government system vary according to the typologies but the main

⁶⁸ Ndreu, A. (2016). Local governance units as a public manager in Albania. *Mediterranean Journal of Social Sciences*, 7(3 S1), 465.

⁶⁹Gomme, G.L., (1987). *Lectures on the principles of the local government*. Delivered at London school of Economics, Lent term 1987, Westminster, whitthall garden. PP 1-2.

concept behind every definition is same, which is the basic form of democracy and for the betterment of the people.

The benefit and the role of local government in any state is to administer an enormous territory of any state which has become impossible task for the central and the federal government. This has also become another reason why local government is important in any country. This increases its importance to the higher limits of the utility and made this necessity of any state if that state wants to run its affairs smoothly.

By local self-government is meant that system of local authorities which has developed contemporarily in many modern states. The characteristics of the local government system include:

- a) a territory and population;
- b) an institutional structure for legislative, executive or administrative purposes;
- c) a separate legal identity;
- d) a range of power and functions authorized by delegation from the appropriate central or intermediate legislature;
- e) Within the sphere of such delegation, autonomy (which also includes fiscal autonomy).⁷⁰

Decentralization: An approach to Local Government

Decentralization is the soul of the local government system in Pakistan because without decentralization of power structure and decentralization of responsibilities there would be no local government system in the country that is the reason, this is an important factor in the wake of

⁷⁰ Mawood, P. N., (1983). *Local Government in the Third World Countries*. Wiley and Sons, New York.

local government system in a state.⁷¹ The difference among diverse forms of decentralization is as under:

- a) It's in the opposite to the world consolidation of power and the central form of the government.
- b) The transfer of power and the responsibility is another form of this decentralization as it summarizes the importance of the delivery of the power and the shift of the power from the higher hands to the lower ones.
- c) Yet another important faction of decentralization is the safe and successful transfer of power from first tier which is federation to the last and third tier of the government which is the local government tier.
- d) The system of rendering services to a company for the sake of wages comes under the similar system to the local government but again in this system the profit maximization is not the goal as in the system of any firm and any autonomous body.⁷²

Significance of Local Government in Democracy

It fulfils the demands of basic democracy by inviting the local representations into the channels of power which has become important to the real and basic soul of western concept of democracy. Without this concept the logic to govern people by the will of people become shallow and the democracy wouldn't be able to address the issue of common people. The state is the entity to deal with the issues on higher level, the voice of common people has this by the system of local government, to send it their issues to the ears of people in power.⁷³

⁷¹ Rondinelli et al (1981). *Government decentralization in comparative perspective*, International Review of Administrative Sciences, Vol. 47, No. 2, PP. 133-145.

⁷² *Ibid*

⁷³ Wraith, R., (1972). *Local Administration in West Africa*. George & Unwin, London. PP

The distinction in the power structure of a state made democracy workable instead of dictatorial form of government. Concentration of powers made the system chock and the evil side of the power become prominent. This is why the role of local government in the system of ruling has significance.

Merging of three tiers in a western democratic model can be taken as an instance to explain the significant of democracy in work and this significant alignment made this form of government more practical for the betterment of the people, which is the basic and rightful cause of the local government system.⁷⁴ Secondly, its counterpart, the dictators and the dictatorship only focus on the concentration of power not on the concentration on the betterment of the people.

Furthermore, the local government system provides a considerable support in the promotion of democratic culture in the country. In the modern form of democracy, the democratic rules of people cannot be governed without the help of the people entirely and as wholesome effect because in this age of technology and modern education, the basic knowledge of the rights and the duties make the citizens to ask questions to their representatives. Strong local government system provides strength to the effective system of democracy.

a) Local Government and Democracy

The availability of the local government system in the country exemplify the importance and the will of its nation that they had accepted the western form of the government. For better working, the local government system has its three tiers which work from the executive

⁷⁴ Whalen, H. (1960). Democracy and Local Government. *Canadian Public Administration*, 3(1), 1-13.

to the local voter who had elected the representative of local government.

The afro mentioned concept of three tiers means the participation of every single member of any commune in the process of election and expressing their will to elect the leader of their own choice. The democracy and the local government system go hand in hand for the betterment of the public.⁷⁵

b) Promotion of Social equity through Local government

Democracy can also be perceived as a social phenomenon because in this system an entire share of society works for their own betterment. The creation of a democratic government is a step towards the betterment because in the popular elected government it has been assumed that it's the responsibility of the elected government to provide the basic necessities and the good standard of life to its people.⁷⁶ This concept of involvement of all social factors in the electoral process confirms the acknowledgment that the democratic form of government wouldn't ignore the basic needs of the people in the society. The social phenomena of the democracy can be proved by its conduct with all the classes of minorities, transgender and all walks of life. It has become the responsibility of a democratic government to look after every citizen under its command because its power is coming directly from the people.

XI. CHALLENGES FACED BY THE LOCAL GOVERNMENT SYSTEM IN PAKISTAN AND SOME RECOMMENDATIONS TO MAKE DEMOCRACY STRONGER

⁷⁵ Gildenhuis, H., Fox, W., & Wissink, H. (1991). *Public macro-organization*. Juta & Co.

⁷⁶ Cloete, J. J. N. (1993). *Democracy: Prospects for South Africa*. JL van Schaik.

The process of electing the representatives of the devolution of power plan was developed under the authority of Election Commission of Pakistan.⁷⁷ The ECP was the monitoring body which has completed the local body's elections and after the elections, the power was handed over to the newly elected representatives of the Local Government system of 2001 of Pakistan. The responsibility of newly elected local government was to look after the political issues which were hampering the benefits to the local masses of Pakistan. The election of new representatives had avidly raised its voice to fulfil the agenda and the manifesto behind the philosophy of the devolution plan.⁷⁸ Another task which the newly elected local government was supposed to do was to solve the administrative issues which the common public faced on the daily basis. This was one of the important characteristics of local government which Gen. Pervaiz Musharraf had introduced in 2001. The new local government was to address the issues of common people by addressing them directly on popular front. The office of *Zila Nazim* was considered to be the direct link between the local populace and the governmental district administration. The soul of this devolution plan was to curtail the powers of Deputy Commissioner and to make his/her office under any competent political scrutiny. By this system, at least theoretically speaking, gave the direct access to the office of deputy commissioner and this was considered a success of this local government system which gave a direct access to the higher office on a district

⁷⁷ International Crisis Group. (2004). Devolution in Pakistan: Reform or Regression? *ICG Asia Report No. 77*. Islamabad/Brussels: International Crisis Group.

⁷⁸ Hasanain, Z. (2008). Devolution, Accountability and Service Delivery: Some insights from Pakistan. *Policy Research Working Paper 4610*, Washington, DC: World Bank.

level. Since *Zila Nazim* was competent popular political authority which mandate was likely to question the deputy commissioner's working in the field of public service and deputy commissioner was answerable to the authority of *Zila Nazim*. This is the way how Musharraf imagined his tailored system of local government.

Thirdly, another important factor which wanted Musharraf's regime to see was the financial responsibility of the public institutions. The local bodies will be accountable directly to the public; an essence of grass root level of democracy. According to Musharraf administration, it is the responsibility of any elected government to remain transparent and transparency can only be acquired by the involvement of the people. It was the foremost desire of Musharraf's administration to evolve a transparent form of local government system in Pakistan for the people of Pakistan.

Devolution of power in the Musharraf's regime tried to strengthen the local people of Pakistan by making the Local Government system effective and to be work with. Musharraf's government dissected their own formatted Local Government system into various levels and different stages. The first and the foremost flaw in the effective working of Musharraf's Local Bodies, like other newly democratic states face, was the election. In the election phase, the legitimacy of its candidature and the process on which the elections were being conducted were considered flawed because the system was changed not the participants nor the culture of the villages of Pakistan were altered.

Another challenge which Local Government system of 2001 had faced was related to the illiteracy of the people of Pakistan. The new system was very much different from the old system which prevailed since the partition of united

India. General Musharraf not only changed the entire structure of Local Government but he along with the pattern, changed the entire nomenclature of the Local Government system which seemed almost impossible to understand in the initial stage of its launch by the common and local people of Pakistan. This issue made the Local Government System of 2001 a difficult one for the common people. The class to be benefitted were unable to grasp the true nature of the system though National Reconstruction Bureau, before the launch of this Local Bodies system, had conducted many surveys and also launched many awareness campaigns but in the end or after its launch, they all seemed insufficient because the efforts of National Reconstruction Bureau remained unsuccessful. The department has failed to educate the common masses of Pakistan about the meaning and the working patterns of the new tailor of Local Government System by a dictator.

Thirdly, the bureaucratic model and the existing bureaucrats wanted this system to be reverted. They wanted this system to be failed because the authority and the influence of the district government were undermined. The *Zila Nazim* has become the high official in the district instead of Deputy Commissioner. This change made the bureaucracy resentful and for this they wanted to reclaim their lost position in the eyes of the government and also in the eyes of the common public on any given district. Their resentment and their love-loss between the tailors and the designers of this system encouraged them to act non-cooperatively in their public dealings. The local administration was supposed to be the blood of this new system of government, but the administration, by their own hands, dried this blood to jam this machinery from running. The main objective of this local government

system was to provide local masses with speedy justice and the system failed due to lack of interest and lack of will of local administration to make this system a success. The main challenge which Local Government system or the famous devolution plan face was in the form of legal frame work of its structure. The devolution plan was the outcome of a hasty endeavor to win the minds and the hearts of the common people by establishing a fact of deliverance of the reforms.⁷⁹ The makers of this system failed to address many legal formalities as whether the high or top offices were elected directly or indirectly. They failed to give any system regarding to the legality of the task. It made this system vulnerable to many dangers. Also, there were many loopholes in the matter of allocation of funding and its legal dimensions. The hierarchy was also another matter which needed a proper legal touch. In short the legal side of the Local Government System was to be addressed in details, codifying every statutes and every by- law of the constitution related to this local government system. To make this system fool proof, the General and its administration gave the local government constitutional cover by the article 140A. This article of constitution of Pakistan protect the rights of the local government to prevail on the provincial level, without any alien influence. This has become the strength of the devolution plan of Pervez Musharraf. The amendments like 140A allowed a streamlined system on local government because it was the requirement of evolution of democracy⁸⁰, it was expected from the local government

⁷⁹ Cheema, A., & Mohmand, S. K. (2003). Local government reforms in Pakistan: legitimizing centralization or a driver for pro-poor change. *Pakistan drivers of pro-poor change*.

⁸⁰ Khan, A. Q. (2017). Local Government and Judiciary in Pakistan after 2010.

system to strengthen the democracy in Pakistan while educating the common masses about the importance and the advantages of democratic system. Furthermore, the 18th amendment in the constitution of Pakistan in 2010 made the environment for the local bodies more favorable as according to 18th amendment, provinces work in an independent capacity without any influence or the involvement of federal government.⁸¹ This amendment went hand in hand with the local government system as in the local body system, the working and the decision making body were independent. The important feature of this amendment was the allocation of funds, according to the amendment, provinces are responsible in their own sole capacity in the means of their budget. The main feature of the 18th amendment is to empower provinces. In the wake of 18th amendment, the local government system was considered to be thrive because by this system, provinces would be in a better condition because of their autonomy in the matters of decision making, administrative manner and also in the matters of funds and budget allocation.⁸²

In addition to that, Musharraf's devolution plan comprised of three tiers as described in previous chapter which was advantageous in its own nature but the vital challenge which this structure faced was the allocation of responsibilities and the assigning of the authority among these three tiers of the Local Government system of 2010.

XII.PRINCIPLE OF DECENTRALIZATION

In a theoretical as well as in a practical manner, an effective local government system governs the public in a

⁸¹ Aslam, G. (2010). *Dictatorship as a Bargaining Process: The Case of Pakistan*. George Mason University.

⁸² Khan, A. Q. (2017). *Local Government and Judiciary in Pakistan after 2010*.

successful way⁸³ by remaining the structure of three tiers. This is done by the principle of subsidiary by which a real and functional local system will run in the country. This has become a challenge for the Musharraf's devolution plan because the collaboration between the tiers regarding the administrative as well as the financial powers remained on the side-lines of the policy of this system. The real nature of decentralization was the distribution of equal power to each tier in any three-tiered systems. In this local government system, the division of power became a bone of contention.⁸⁴ The division of power was ought to be in a spiral way, running from top to the bottom or vice-versa but the devolution plan failed to follow this spiral structure of power flow in the system. This challenge and drawback made this system dysfunctional and gradually it crumbled and proved short lived remedy to address the issues and problems of poor and common folks of this country. The failure or the reason of its dysfunctional was a struggle between the tiers to accumulate more power. The evil lied in the details of financial power and the corruption in the system. The elected representatives were in pursuit of power but from power, they wanted to withhold the maximum funds allocated to any district. This autonomy of the provinces led to the autonomy on lower level, on a district level. *Nazims* and *Naib- Nazim* were the representatives of the people but here the corruption came the deal of the day. This struck local government system in the heart and minimize its efficiency. The autonomy which were given to the provinces with the 18th amendment allowed the local bodies to generate their own

⁸³ Dollery, B., & Robotti, L. (Eds.). (2008). *The theory and practice of local government reform*. Edward Elgar Publishing.

⁸⁴ Aslam, G., & Yilmaz, S. (2011). Impact of decentralization reforms in Pakistan on service delivery—An empirical study. *Public Administration and Development*, 31(3), 159-171.

revenue and spend it on the expenditures of the local councils. The local government system made it possible to govern the public service sector. The vitality of the local government system was to deliver the programs of public uplift. The local government was considered responsible for the delivery of services to the general population, but it had also become a huge challenge for the local government system because the government couldn't deliver what was promised by the authors of the local government system. The main hurdle of not delivering to the people of Pakistan was the missing linkages in the system. If a local body failed to provide anything then it went into the purview of provincial government and after the failure by the provincial government, the issue had become the task of federal government to address which eventually made the local government system as same as the previous local government systems in Pakistan.

General Pervez Musharraf desired to make this system more transparent and able in order to run a country. For its success, the General had introduced a concept of enlightened moderation. This very concept was to strengthen the government outlook in general and to give a local government a lift in particular. The aim of enlightened moderation was to develop tolerance in the society of Pakistan and give a new moderate look in the eyes of the entire world. This moderate image can only be achieved if the whole society put its effort in the system and without the local bodies, involvement of general masses into the system was an impossible task. The both concepts reinforced and supplemented each other in the reign of General Musharraf, they enlightened moderation and the devolution plan ran smoothly without any bumps and ridges. Yet, both systems weren't self-sustaining, they

both collapsed after the dictatorial regime was over and Asif Ali Zardari became the President of Pakistan.

a) Higher tiers and the Local Government

The form of government which prevailed in Pakistan is known as the Parliamentary form of Government. In this government, a bicameral system runs the machinery and the business of the government. It is important for the government to establish a balance between these two houses; a balance between an upper house and the lower house. Similarly, it was important for the local government, to maintain the balance and create communicating interaction with the higher tiers for working in a conducive environment. It was required for the system of devolution of power to get itself imbedded with the representation of the country's political parties as those political parties jointly create a political environment from which political representation emerges. Same was the case with the devolution plan, the majority of elected representatives came from the existing political parties so it had become the necessity for the newly emerged local government system to get itself streamlined with the existing order of the system. It had become important for the local government to work alongside with the two higher tiers.

Along with the streamlined working of local bodies, it has become another challenge for the local Government to how to manage and include the other political parties into the policy structure of this new local government system. It had become a dire question for the makers of devolution plan whether to include the existing political parties or to include the new and emerging political parties of Pakistan. Of course this question needed to be addressed because it was the political parties which have the ability and capability to organize the political representation in the

country. The challenge which emerged in a shape of political representation on local level which, ‘this new Local Government system of 2010’⁸⁵ allowed the local political parties to select their own representatives which will become the executive of the local government after elections. On the other hand, this system had allowed local and national political parties, after contesting the local government elections, determine who will become the mayor or the *Zila Nazim*. The 18th amendment feed the provinces to act in an independent way but in the long run,⁸⁶ this freedom and autonomy came as challenge for the devolution plan which Musharraf had introduced. There are a number of political parties in Pakistan working on local level as well as on the national level. This was the main reason which completed the situation for the Election Commission of Pakistan to conduct a smooth and transparent election in Pakistan.⁸⁷

b) Institutions: Building Blocks of Local Government Systems

No one can deny the importance of local government institutions because without those institutions, betterment of the people wasn’t possible without the institutions introduced in the devolution plan; the Musharraf administration tried to upgrade the existing structure of local bodies by invigorating some new departments and institutions into the system. The come common and affective example of inclusion in the local government system was the *Tehsil Municipal Authority* commonly

⁸⁵ Abbasi, M. Z., & Mussarrat, R. (2015). Devolution of Powers to Local Governments in Pakistan during Musharraf Regime. *Pakistan Journal of Social Sciences (PJSS)*, 35(2).

⁸⁶ *Ibid*

⁸⁷ Abbasi, M. Z., & Mussarrat, R. (2015). Devolution of Powers to Local Governments in Pakistan during Musharraf Regime. *Pakistan Journal of Social Sciences (PJSS)*, 35(2).

known as TMA. The *Tehsil-Nazim* was given the power to chair this department and allocate and release funds in order to upgrade/ maintain the infrastructure on *tehsil* level.⁸⁸ The inclusion of TMA was a successful step which actually favored the local people, which worked under the purview of both *Tehsil-Nazim* and the Assistant Commissioner of a sub-division. The main or the central command runs through the secretary of any department, for instance, secretary of finance and addressed to the District *Nazim* for compliance and from the office of District *Nazim* the main orders or the main authority passed to the office of Deputy commissioner then to the office of Assistant Commissioner and *Tehsil Nazim to the Union Council Nazim* commonly known as *UC Nazim* ,⁸⁹ and from this office a common man had a n access to the higher level of secretary of finance for the reversal of any issue or for the sake of any urban or rural developmental program. This is the main concept of devolution of power and the main essence of grass root level of democracy which the General Perviz Musharraf wanted to create permanently, but the political and conditions of Pakistan and the politics of revenge shattered the good of this devolution of power plan.⁹⁰

Below is the organogram of local government system which was implemented in 2010 till the PMNL came into power. According to this plan there were two factions of same system,⁹¹ the first faction emerged from the popular elected bodies which came between the office of Chief Minister/ Secretary local government and the district administration body; the bureaucratic structure.

⁸⁸ *Ibid*

⁸⁹ *Ibid*

⁹⁰ *Ibid*

⁹¹ Khan, A. Q. (2017). Local Government and Judiciary in Pakistan after 2010. *Pakistan Perspectives*, 22(1), 27-41.

The office district *Nazim* were placed between the bureaucratic structure and the local public of Pakistan. Before this system there were no political democratic body to represent the interests of common people of Pakistan. In this plan of devolution of power, the government wanted to introduce such a system by which the commune of rural and the urban people could be obliged and in its own sense, the devolution plan, due to its invigorating institutions, was a best of in its own kind. Nevertheless, it had its own disadvantages as well. The first and foremost disadvantage or challenge for the common people was the change of the names of the government offices. It was impossible for the lay men to develop a correlation between the working/duties/responsibilities and the names of the officials which were given new names in Musharraf's devolution plan but wasn't the only challenge, the demerit of this system was the appointment District *Nazim* in an upper rank of Deputy Commissioner whose name was changed to District Coordination officer. In majority of cases, the bureaucrats came after the contesting the exam of CSS. Only some numbered successful people can qualify to District Management Group but this system made them work under an elected person without any considerable education but only having a mandate, this made this system a challenge for its own self. There was no parameter for the qualification of District *Nazims*, they only needed mandate for rule over a well-educated, well trained and well-disciplined government officers. The devolution plan collapsed under its own burden and couldn't address its challenges.

also recommended that if Pakistan wants to strengthen the rule of democracy then it is important that it hold the free and fair local government election. This would be the only way for the accomplishment of speedy justice along with the betterment of citizens of Pakistan at grass root level. It is also recommended that provinces shouldn't compromise of the autonomy and the system of local government because power should be given into the hands of masses who elect their representatives. The cycle of democracy cannot be complete without the presence of local government in Pakistan.

b) Equal Distribution of Power among Three Tiers of Government

For the better and lucid working of local government system, it is important not to ignore the third tier of the government which General Perviz Musharraf has introduced in his devolution plan. This plan was not the only local government plan which was introduced in Pakistan, struggles were made to fulfill the promise of good governance but the local people remained deprived from the fruits of the local government system not because of the flaws in the system but also the unwillingness to distribute power from the already existing two tiers to the third tier which was the tier of local bodies and the local institutions.⁹² It recommended that the distribution of power should be allocated equally to the three tiers of the government. It has also been recommended from the conclusions of the above discussion, that the third tier ought not to be ignored by the other two tiers of the government. Equal flow of power from top to the bottom, from the office of the Chief Minister to the office of Union Council is necessary if needed the system of local

⁹² Ismail, Z. H., & Rizvi, S. (2010). Some issues of governance in Pakistan. Retrieved on May, 17.

government to work efficiently in Pakistan and strengthen the roots of democracy in the country.

c) Local Government's Constitutional Cover

The constitution of Pakistan is not the flexible constitution like Britain nor its customary in its nature. It had been drafted and redrafted many times to rectify the mistakes and loopholes in it by the passage of time. Many weaknesses and the disadvantages were removed, and new legislation was done to make constitution more accurate and to work with. The process of amendments and rectification of constitution has been started from the 1973. Since the constitution of 1973 were presented, it has been expected that the new constitution will fulfill the requirements of the country, but that constitution was not yet just finalized. As time proceeded, different amendments were introduced and the amendment which protected the local government system was added as 18th amendment. It is recommended that the more legislation should be done to give the local government cover and protection from the powers which want to dismiss the prevailing local government system in Pakistan. On the other hand, it is also recommended that by the help of constitution, the incumbent government must hold the Local Government elections on the time given by the Election Commission of Pakistan.

d) Political Culture of Pakistan and Local Government System

Since the independence of Pakistan, the preconceived notions in the minds of its leadership proved that they despised the system of sharing of power with another tier. This has become an issue since the people of Pakistan got their independence because the power was snatched and they were being ruled by the Britain as the united India was the colony of Great Britain. There is a complex in the

minds of the leaders of Pakistan that if they share their power with anyone other than their own kith and kin when they acquire the power through general election. This inability in the minds and in the psychology of Pakistani leadership made the sharing of power with the local representatives very much difficult. In this wake it is recommended that the leadership must change the patterns of their thinking and try to evolve from the past and take a positive step of sharing towards the future for the betterment of the people. It has now become the necessity for the democratic government to change this attitude of paranoia and develop an environment of trust and sharing to stop the failures of the local government system in Pakistan.

e) Limitations of Local Government in Pakistan

Without local government system in Pakistan, there wouldn't be any flow of power from the higher ups to the lower and grass root level. There wouldn't be any justification of limiting the power of local government in the democratic regimes in Pakistan. The provincial governments after getting into the power, stop or to slow the process of local government because of the involvement of monetary issues and the issues of authority to control over the constituencies from where the elected provincial leader got their support and votes. They, in the sense of insecurity, try to sabotage the free and fair local body elections. This is the reason that the local government in Pakistan have the limited power and is not free in the conduct of matters like revenue generation, budget allocation and the delivering the required and promised services to the people at grass root level. It is recommended that, the provincial government should not influence the working of the local government in Pakistan, rather make them truly independent and autonomous in its

working and in its function, not theoretically but practically as well.

f) Mechanism to Uplift the Underdeveloped Areas of the Country

In Pakistan, there is no single functional system to address the evil of poverty. With the passage of each day, the poverty index is increasing. There are no concrete plans by any government to address this uncontrolled issue in Pakistan. Government came, make different promises and gone without delivering anything to the people of Pakistan. First of all, government should develop a concrete mechanism to give financial aid to the underdeveloped areas of the country as there is a mechanism had adopted by the federal government.⁹³ The Islamabad or the federation allocate the funds to the provinces on the basis of poverty and also on the basis of unemployment and underdevelopment of any area. The provincial government should also acquire these kinds of mechanism to address the issue of rural poverty and urban unemployment. By allocation of the funds where the funds are desperately will also address the issue of street crimes and the rate of crimes can also be controlled. A crime happened because of the evil of poverty, if the provincial government will follow a mechanism or a proper method of allocation of funds to the much-deprived area on the basis of poverty and deprivation, the crime rate and the betterment of the people can be attained. It is recommended that provincial government must devise a method by with the government ensure availability of funds to the disposal of local government.

g) Revenue Generation, a Question Mark for Local Government

⁹³ Wright, J. (2009). How foreign aid can foster democratization in authoritarian regimes. *American journal of political science*, 53(3), 552-571.

Though, theoretically speaking, the local body government has its own sources of revenue generation. The system of local government has been developed yet to attain its own funding. The expenditure always increases from the allocated budget or the budget discussed in the meetings at the *Zila Councils* because the rural as well as the urban areas of Pakistan are still in their developing stage and at the same time, the local government has no proper source of income. That is why many projects failed to exist or die at the table of Union council *Nazims*. Therefore, it is recommended that government should make self-sustaining programs by which local government will have an independent source of funds but not barring the support from the provincial government itself. The process of self-sufficiency of local government has not yet reached to a level where the general of funds will be available to them as a ready reference, whenever they are required for the development, they become available to a competent authority. Another recommendation which is related to the funds and the fiscal issue of local government system is that the funds should be directly sent to the MPAs and from them to the District *Nazims* for their better usage and also the sake to transparency.⁹⁴

h) Capacity Building Programs

Education is the backbone of any society and it is as important as society itself. One cannot deny the importance of education because educated society can adopt new and innovative ideas for their betterment and also for their uplift and without awareness and without education its most likely reject any new and innovative idea. For the success of the local government system, it is

⁹⁴ Cheema, A., & Ali, U. (2005). How Rule-Based is Punjab's Intergovernmental Fiscal Transfer System', Lahore University of Management Sciences. *Social Enterprise Development Centre Working Paper*.

recommended that government must launch awareness campaigns about the benefits of the local government. It is highly recommended that government should research the society and develop a capacity to which people will accept the new system of local government. The unawareness about this new system which Musharraf has introduced in Pakistan during his time in power, failed because people were unable to grasp the important of the system. The people of Pakistan wasn't ready to accept the democracy at their door step level, it wasn't their fault but it was the fault of those who were ruling them. They just introduced the system and had expected that it will run on its own, they didn't make the grounds first. The Musharraf government tried but that try through the National Reconstruction Bureau wasn't enough because the required time wasn't given to the society. It is recommended that, for the success and affective working of local government in Pakistan, government should launch intensive awareness campaigns beforehand if any government wants to make the local government system a success and also the government wants to see the democracy prevail. It is important for the government to launch full-fledged capacity building campaigns for the citizens of Pakistan who are unaware from the advantages and benefits of democracy at grass root level.

i) Duties and Responsibilities must be Improved

Sporadic work cannot take any organization, institution or system to the point of success as the lack of central command on assigning the responsibilities and the duties. Same is the case with the local government system. The officials are overdoing their duties and confused about their responsibilities. It is highly recommended that government should demarcate the responsibilities and the duties of the officials of the local government of Pakistan.

The provincial government should make a policy which the local bodies execute as federal government's policies are executed by the provincial government. By doing this the work can be centralized in a decentralized form of government, it will increase its efficiency in the form of betterment of the people which is the aim of the local government.

j) Democracy: the ultimate goal

It is recommended for the government to make democracy their ultimate goal by strengthening the local government system in Pakistan. Local government system is the building block of democratic system which will suit the socio-economic culture of Pakistan as socio-economic integrity can only thrive in a democratic culture. One cannot think of having a peaceful, undisturbed socio-economic culture without having the democratic form of government.⁹⁵ So, the government should take all necessary steps to ensure the empowerment of local government system to establish firm basis of democracy in Pakistan which no dictator can topple.

In addition to this, a new concept of public management has been introduced in the local government system of Pakistan. It concerned with the ideas to maximize the growth and capacity in the field of public sector. Decentralization, according to this new concept of public management can increase the yield of the work done for the betterment of the people, the services, by this new approach can also be upgraded to the level of citizen's satisfaction. Not because of the result of any good will from the governmental side but mainly due to the program's criteria check the progress on citizen's end. The concept of public management has increasing the

⁹⁵ Zaidi, S. A. (Ed.). (2003). *Continuity and change: socio-political and institutional dynamics in Pakistan*. City Press.

importance of the need of local government system in the county. In Pakistan, it is very important to strengthen the program like this,, which on the one hand can maximize the yield of the public satisfaction and on the other hand gives the governors of the government to realize that they don't acquire the absolute and ultimate over the population of nay country, especially the country like Pakistan, which is still struggling form the menace of poverty and basic necessities of the life. The program like public management can lead the country on the road of progress and ultimate self-actualization by which Pakistani people and the government can focus their energies to the work of development and progress as in the countries which have achieved the status of developed countries the maximum index of human development.

Furthermore, by relating to the concept of change in the human lives and its surroundings lead us to the concept of social change, this is yet another concept by which one can see and measure the growth index in any society. Yet Pakistan is lacking in this field as well because of the society is still attached to its roots and the people are afraid to let go the ways of life which were led by their forefathers, the social change is in proximity to the change in overall. The system which runs the country has its roots attached to the roots in the history and this restraint the people to accept the new ways of life and accept the social change, but at the same time, it is almost impossible to stop the wheel of social change. One way or the other social change will hit the society of Pakistan, the process is in its way due to the awareness and the media and also due to education, people are learning to live not only to exist under a totalitarian rule of anyone. The Local Government system is the pure and simple manifestation of this process of the social change in a successful way and presents a

parameter by which any observer weighs the need and the importance of the local government in any society with the growing influence of social change. Social change in the American society led them to break down the system of rule of one, from the time of their forefathers like Washington DC and Benjamin Franklin, the American has devised a constitution which has ensured the rule of people not the rule of one military or political elite. The American, fore fathers of the concept of democracy, has introduced the idea of self and local government because this was, at that time, and even today is the best political system to rule a country because the nation-state is for the people and they have the right to rule their own mother land.

Thus, given by the Britishers, modified and tested, practiced and prevailed by Americans, local government system in democracy justified its role in the progress and the betterment of the people in contract with its arch rival system of dictatorship as it threatens, not only the freedom and safety of an individual but, at the same time, puts the safety and security of entire world in danger. This can be justified and analyzed by the two great wars fought by the world. Those wars, indeed, were a struggle, a conflict between democracy and dictatorship and ay the end of the day the democracy survived and strengthened which ultimately blocked the way of the third world war to happen, or at least for now.

Along with this, the concept of democracy and in it the Local Government system, an intelligent government which enables its citizens to operate and work in a way which establish the basis of another, upcoming government to supplement the local system with their policies. The polices should be of two folds, one should address the needs of people, the general public of any

country in general and the needs of the people of Pakistan in particular and the second fold should address the ways to strengthen the existing Local Government as an institution, not under the shadow of any other institution or any individual, the system of Local Government should work independently and for this a responsive leadership and educated community is required but unfortunately, Pakistan also lacks in these afro mentioned qualities which is why the pure and un biased system of local government system is ceased to exist. The need should be address by the intelligentsia and the also the universities and the education sectors must play their rule in educating the populace to reach out to the authorities which were elected by them for the remedies of their problems and for the betterment of their future.

What is evil is the absence of good. This oft quoted axiom reflects the presence of bad Local Government system in Pakistan. The basic logic behind this is the village system and no central judicial and ruling system in Pakistan. The village elders are difficult to challenge and also it is almost impossible to challenge their decision. The Local Government system has also been hijacked by those political village elites, in almost every election from Ayub khan's BD system to General Pervaiz Musharraf's local body system, the village elders contested on the seat and captures the power over the naïve and nomad villagers, to rule them and also to rule their lives. This system prevails in Pakistan because no reforms has been introduced in this filed. Truth be told, this is the very structure on which the building of Pakistan's politics stands, and this very building is cemented by the wealth and the money of these village elders. The chance of social change diminishes in the atmosphere like this where there is the presence of

local government but without any effective role of people of the vicinity.

In the system of decentralization, it is evident from the culture of *Panchaiet* in Pakistan's villages, no doubt, the system of Local Government has not thrived. The village elected elders know that there would no check and balances upon them once elected to the seat. This mind set hinders the evolution of an independent LG system also stupor the process of social change. The system of LG in Pakistan goes unchecked by the authorities because of the there is an attempt to elect from the people, but this chance was highly sabotage by the presence of elitism in the village structure, mainly due to the economic reasons. A lay man or a common villager has its own daily survival battles to fight, he or she just don't seem interested in contesting the election and route their meagre funds to a lesser chance of winning against the village elite who has the power to buy and sell the votes and also has ample money to spend on its election campaign.

Moreover, the financial side of LG in Pakistan is also in a fragile state because of the issue of funds and budget allocated to the development of the constituency. The center, apparently, in the case of Sind province, remained reluctant and always lay blame on the federal government of depriving Sind from the developmental funds but on the other hand, the federal government, claims that Sind has been included and a considerable amount of one to two billion has been allocated for the Sind rural development. This is yet another paradox to solve the mystery of funds for the development and strengthening the LG system in Pakistan. Apparently, this is the classic case of corruption of the system and this is another reason which is declining the devolution plan into the depths of redundancy and being obsolete in general sense.

Another drawback which has minimized the impact and working of LG system in Pakistan over the years was the lack of interest of the national leaders in the essence and the utility of LG system because they, the leaders of various political parties, think that their personality and the impact of their party is enough to rule the county and almost every consistency. The idea of sharing power was not acceptable for the leaders of Pakistan, simply because they only believe in themselves; another attribute to be addressed if want to eliminate the dictatorial regimes inside the psychology of leader of Pakistan.

The main argument under this heading is vast concept of social change because, the local government cannot operate with the apparatus so redundant that no member of society accepts its vitality. The question of social change is so important because it is directly related to the vitality of the working and operation of LG system in Pakistan and in the society of Pakistan which comprises of its population. This the why social change is so important a concept related to the LG system in Pakistan. It directly addresses the issues of education, politics, historical background of the country, its religion, customs, norms, demography and morality. With all these concepts of greater importance one cannot deny their direct relation to the system of Local Government because all these factors combine shape the holistic characteristics and the features of the government in general and Local Government in particular.

The social change has various interlocutors which varies with the needs of society over a period. The first and fore more important interlocutor is the structure on which the basis of society exists; the structure of its values, its norms and the traditions associated with it. In this case of Pakistan, the very social structure is its *Baradari* system

and this system has its roots deep into the process of electing a government. Same is the case with the electing the body of Local Government because of this social structure of the society. It is difficult to say when and how this social structure will undergo through a change. Since the devolution plan, no serious efforts are done to support and collaborate with the process of social change which General Pervaiz Musharraf has initiated with a name of enlightened moderation. The Pakistani society is moving with extremely slow speed to embrace change which directly slows down the speed of transparency and efficiency of Local Government in Pakistan. This very structure of Pakistani society renders it to drag itself to the social conflict with the emergence of new social process as a natural outcome of an inevitable process of social change. Yet another attribute related to the afro mentioned point is the social conflict generated by the inclusion of the ideas of conflict leads to the disintegration of society into different groups, adhering to their respective ideas and philosophies and with a passage of time and also with a experiences many a members were forced to join or to accept the dominating ideas or prevailing ideas in the society which by the time again, become the social structure of any society. For this very sake, in some countries, a covert program of social engineering to rearrange and modify the existing philosophies of social structure. The program of social engineering runs through the education and the mind making media campaigns to achieve the desired objects from the population of a society. This process is a slow one but by the change of a generation, it produces a result and change the desired variables in the society which the people in power want to replace with the ideas of their own likings. This is yet another reason why LG system is important and always in

the best interest on the people because it may provide a cover against the tests and experiments like this. A strengthened democracy breeds a powerful and fool proof system of Local Government which enables the citizens of the country to raise their voices in favor of their rights and put limit to the authority of the government over the lives of its population.

Development is another mile stone of the Local Government system, scholars and the sociologists believes that by the development in any society, an observer can see the shift in the social structure; from the previous phase of local government and its measures taken to towards development of the society to the current phase of the policies and the measures of development, the different between these two phases mark the amount of change in the structure of a society. This is a variable by which one can quantify the significance of the social change from point A to point B and draw a conclusion in favor of or against the prevalence of Local Government in a society. Since the Musharraf's time, no visible measures have been taken in the development of Pakistani society. The Local Government system has become just a stone with a name on it without any true and productive working for the betterment of the society. Generally, from point A to point B, in the case of Pakistani society, these is near to nothing happened in the field of development of Local Government.

While on the other hand, the society of Pakistan has been booming in the wake of social reforms, with the help of education, excessive and unbridled on air time of news sensationalism and the addiction of refreshing the social media pages. These mentioned reforms go beyond in the negative corner of a social set up, but reforms it is and it is in the field of social science to accept whatever comes

with the time to see the difference in the previous scenarios and the prevailing scenarios

Similarly, this is the case with the change in the structure of government when it comes to the system of LG system because, with the passage of every day, with the tint of awareness and presence of social media with the availability of smart phones with camera built in it, makes the federal government aware along with the awareness of the common populace of Pakistan. The social reform cycle is in its prime due to the afro mentioned factors and also due to these factors, the elected leaders of Local Government, remained under a constant system of check and balance. This is an effective way to strengthen the LG system in Pakistan because the country is in the phase of transition, from a primitive society to a modern one and due to this transition, the concept of feudalism also transits to the concept of good governance without no chains attached to the system of baradari and elitism on village level. Nevertheless, this is not in its full form and shape, it will take time to be groomed in its maturity and till then Pakistan has to face the challenges to the democracy and its evolved culture of home-grown democratic society. Of course, the roots lie in the western concept of democracy but the people of Pakistan, because of their culture, methods to perform daily businesses, customs, religion and economic structure, has made this concept of western democracy to work for them and also for their benefits in a way of eastern way of democracy. This is the reason it took so many years for Pakistan's government and its people to cope with the deteriorating and failing system of governance in the wake of a successful democratic system. The study of society in which this change has been undergoing has its own ways to measure it or look into the process of change in the society. As stated earlier, it is

important to measure the change in the society if to strengthen the Local Government system in any society. The case with the society of Pakistan hasn't been changed from the time of its inception till the date when the last tenure of Martial Law has been imposed and overthrew the elected government of Nawaz Sharif by General Pervaiz Musharraf. That military coup was also comes in the domain of social change because, it enabled Pakistan to see the importance of democracy in the developing country like Pakistan. Many anthropologists, sociologists, economists and political scientists graded every coup a step towards the more strengthen pattern of democracy in Pakistan. And this social change from the beginning has brought Pakistan to the doors of development in every field of life and for this very reason, Pakistan never missed a chance to make democracy self-sustaining and a well-established institution of Pakistan. The history of general elections after the last military coup of Musharraf made it clear that there is no room for military to take over the public office. This has been considered a mile stone in the democratic history of Pakistan. The society of Pakistan comprised with the people having a positive curve or bend towards the capitalism and a capitalistic form of economics. The middle class in Pakistan comprises a huge portion of population in Pakistan and due to the capitalistic oriented middle class, democratic system has been evolving as their interests and economic gains can only be maximized in the prevailing and strengthening system of democracy rather than any other systems like dictatorial, totalitarianism or even socialism. It is another important factor in the history of democracy of Pakistan that the presence of capitalistic oriented middle class, having interests vested in the democratic form of government, helps to sustain the government and provide an assistance

to the democracy to prevail in the Pakistan. The shift from rural areas of Pakistan to the urban areas in a process of urbanization, making the survival of democracy easier because of the business patterns and the form of economics. The process of urbanization is another step towards the industrial development and the industrial development bore the fruits of growth and awareness in the society as it is evident from the western societies. The transit point or the reference point in the development and the growth of society vis-à-vis democracy was the industrial revolution. In a way industrialization of the western societies took them to the path of growth and on the way of democratic form of government. The society of Pakistan has also been shifting from the rural back ground to the urbanization in search of wages and also in search of new industries as the needs and the demands of living are increasing which the Agri based society was not able to meet. With the development of rural shift from village-based society of Pakistan, the importance of education has become an important contour in the domain of Local Government system and its progress in Pakistan. As it has been observed that under the rule of Musharraf, the education clause has come in the lime light for the qualification of District Nazims. It was a progressive step to introduce an educated cadre in the grass root level of government. The goal of this introduction of education of minimum graduate level, was to ensure a better and effective rule of law and the availability of good governance in the society of Pakistan. This initiative of introducing education in the Local Government made new places for the young leadership among the elites who contest election for the acquisition of public office. Also, this clause of graduation pass candidature has compelled many seasoned politicians to vacant their place and

allowed the people to see new faces for the first time in the rural set up of local elections. This system of education-based leadership in Pakistan's Local Government system also brought some weaknesses in the system of general elections of Pakistan in as it unveiled the educational capacity of the leaders of Pakistan because many of the renounced leaders appeared to be under graduate and couldn't fulfil the basic requirements of contesting elections, especially in the general election of 2002 as that was the time when this graduation based candidature became a basic requirement for contesting elections. In general elections, this process has served as a strainer for the youth to come and join the race for the leadership of Pakistan. The huge names, the seasoned politicians at last compelled to make a way for the new leadership to come to the surface but also this came with a draw back as this also brought those who were already associated with the previous leadership in some way or another. Either the new leadership was bought and sponsored by the old one or the new graduated leadership was already kith and kin of the old leaders of Pakistan. This system, in way, wasn't as successful as it was anticipated due to the reasons described above.

CONCLUSION

Consequently, the political culture of Pakistan is complex in nature and the linkages between the different forms of governments including the Local Government system worked under strains of governmental red tapes and corruptions but still it never ceased to be evolved from an under developed system to fully evolved democracy in the country. For the coherence among the other forms of government, it is important for the LG system in Pakistan to work in the matrix where there are minimum red tape

and corruption less system on which the machinery of government runs. Moral and honest society leads to the pure and practical form of democracy and in this form, Local Government thieves and the good of people will prevail which is the essence of the Local Government system in Pakistan. In a comparative study with other countries and their local government system, that framework of working and administrative structure cannot be mirrored because of the physical realities of Pakistan and its people with their basic needs and also with their social problems like poverty, food insecurity, standards of living, slums, transport, communications labor force and environmental insecurity. With these problems and challenges, it is almost impossible to mimic the entire local government system as General Pervaiz Musharraf tried to copy the entire structural frame work of Turkish Local Government system but that exact system didn't work because of the very conditions of Pakistan as elaborated earlier. Keeping this point in mind, it is safe to say that Pakistan need its own Local Government system championed by the factors related to the conditions and the physical features of Pakistan and that type of system can be obtained with the passage of time, in an evolutionary process rather than adopting from another country's model and try to implement it on the revolutionary basis. This way of comparison of Pakistan with other countries and their Local Government system wouldn't work, rather it will work when its people will be ready to accept it and embrace it. The government of Pakistan should take some necessary steps to empower the Local Government system in Pakistan. It is the need of an hour that an awareness campaign regarding to the benefits and importance of LG system would be launched to tell the people of Pakistan that this system without corruption and nepotism is for

their own good. Secondly, the leadership should act in a sincere way to establish the basis of true Pakistan's oriented LG system which will work in accordance to the needs Pakistani people. Thirdly, it is important that government should take steps necessary to curb the menace of corruption because it leads to every crime committed against the progress and development of a country. Pakistan being a developing country, and with the economy always on the verge of collapse, is not in the position to sustain the shocks of corruption and nepotism. Fourthly, its time for the rural populace of Pakistan to see and safe guard their own interest by stressing the importance an effective and honest leadership to maximize the development of the rural side of the country. Fifth, the people of Pakistan and its government should take steps to empower the overall concept of democracy in the country and decentralization of power or the Local Government system is the first and most important step towards the strengthened the democratic culture of Pakistan.

TRADE INFRINGEMENT AND PASSING OFF

TAMOOR MUGHAL*

ABSTRACT; This article views and assesses the trademark rights protection in Pakistan. Trademark is the identification mark of any company or organization. A customer relates any trademark with the quality of products and reputation of the company that is using it. It is a distinctive name, word, phrase, symbol, logo, design, image, or a combination of these elements that identifies a product, service or firm that has been legally registered as the property of the firm. Trademarks grant the owner the right to prevent competitors from using similar marks in selling or advertising. A trademark can be used for identifying and distinguishing a particular seller's goods from others. Trademark also shows the origin of the goods i.e. a customer can identify the manufacturer and also assume about the quality of goods that all goods bearing the particular trademark are of a particular quality desired by the customers. Trademarks are widely used for the advertisement purposes also which helps to customers in associating any good with the quality, reputation and goodwill of any company. So it is very important for any organization to take precautions while allowing any one to use its trademark because the name and reputation of the company is directly associated with the trademark.

If any organization is using the registered trademark of another company without permission, that means it is not only committing a crime but also causing damage to the business of the company and damaging the brand name of that company. The organization might be using others trademark to use its market reputation and market stake to enhance its own business without extra efforts. These kind

of activities mainly fall under two heads Infringement and Passing Off.

INTRODUCTION; Trademark is the identification mark of any company or organization. A customer relates any trademark with the quality of products and reputation of the company that is using it. It is a distinctive name, word, phrase, symbol, logo, design, image, or a combination of these elements that identifies a product, service or firm that has been legally registered as the property of the firm. Trademarks grant the owner the right to prevent competitors from using similar marks in selling or advertising.⁹⁶ There has been various new concepts have emerged in relation to trademark due to the technological revolution in the communication, media and other areas and due to the increased knowledge and perception of individuals, business enterprises are showing more interest in registering non conventional marks such as color marks, shape marks, smell marks, sound marks, advertisement slogans, trade dress etc. to capture the market.

A trademark can be used for identifying and distinguishing a particular seller's goods from others. Trademark also shows the origin of the goods i.e. a customer can identify the manufacturer and also assume about the quality of goods that all goods bearing the particular trademark are of a particular quality desired by the customers. Trademarks are widely used for the advertisement purposes also which helps to customers in associating any good with the quality, reputation and goodwill of any company. So it is very important for any organization to take precautions while allowing any one to use its

⁹⁶Colston, Catherine *Modern intellectual property laws*, Kirsty Middleton, P:466

trademark because the name and reputation of the company is directly associated with the trademark.⁹⁷

If any organization is using the registered trademark of another company without permission, that means it is not only committing a crime but also causing damage to the business of the company and damaging the brand name of that company. The organization might be using others trademark to use its market reputation and market stake to enhance its own business without extra efforts⁹⁸. But such companies are not using the exact trademark of other company but they generally go for use of similar marks and here the problem came in to existence. These kind of activities mainly fall under two heads Infringement and Passing Off.

VIOLATION OF TRADE MARK

A. By infringement

B. By passing off

INFRINGEMENT

Section 29 of the Trademark Act-1999 talks about various aspects related to infringement as given in S.29(1) that a registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which is identical with, or deceptively similar to, the trade mark in relation to goods or services in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being used as a trade mark.

Other subsections describes that in course of the use of the trademark it is said to be infringing the rights of other company due to use of similar or identical trademark using

⁹⁷<http://www.wisegeek.com/what-is-trademark-infringement.htm>

⁹⁸<http://tcattorney.typepad.com/ip/>

for marketing of similar kind of goods and services or use of identical or deceptively similar trademark for any other kind of goods and services. It is further given in the Sub Section (9) of this section that the infringement can also be done by the spoken use of those words as well as by their visual representation.⁹⁹ There are certain elements of infringement of a trade mark:

- 1) Someone else use one's trade mark
- 2) Registered trade mark
- 3) Dilution of mark
- 4) Mislead others

Infringement occurs when someone else uses a trademark that is same as or similar to your registered trademark for the same or similar goods/services. Trademark infringement claims generally involve the issues of likelihood of confusion, counterfeit marks and dilution of marks. Likelihood of confusion occurs in situations where consumers are likely to be confused or misled about marks being used by two parties. The plaintiff must show that because of the similar marks, many consumers are likely to be confused or misled about the source of the products that bear these marks.¹⁰⁰

Dilution is a trade mark law concept forbidding the use of a famous trade mark in a way that would lessen its uniqueness. In most cases, trade mark dilution involves an unauthorized use of another's trade mark on products that do not compete with, and have little connection with, those of the trade mark owner. For example, a famous trade mark used by one company to refer to hair care products might be diluted if another company began using a similar mark to refer to breakfast cereals or spark plugs.¹⁰¹

⁹⁹ F:\trademarks tm\Trademark Infringement & Passing Off.htm

¹⁰⁰<http://www.wisegeek.com/what-is-trademark-infringement.htm>

¹⁰¹<http://www.wisegeek.com/what-is-trademark-infringement.htm>

The concept of infringement can be explained with the help of the following case laws:

In the case Castrol Limited Vs P.K. Sharma

Facts of the case: Plaintiff is the registered owner of the trade marks Castrol, Castrol Gtx And Castrol Gtx 2 in respect of oils for heating, lighting and lubricating. During the month of December 1994, plaintiffs came to know that the defendant was carrying on business of selling multigrade engine oil and lubricants under the trade mark 'Castrol Gtx& Castrol Crb' IN IDENTICAL containers as used by the plaintiffs. Plaintiff filed a suit for perpetual injunction.

Held: The user of the said trade marks by the defendants, who have no right whatsoever to use the same is clearly dishonest and is an attempt of infringement. The prayer of the plaintiff is accepted.

In Ranbaxy Laboratories Ltd. Vs. Dua Pharmaceuticals Ltd. the plaintiff company manufactured drugs under the trade name "Calmpose". The defendant company subsequently floated its similar product under the trademark "Calmprose". The said two trade marks having appeared phonetically and visually similar and the dimension of the two strips being practically the same including the type of packing, the colour scheme and manner of writing, it was found to be a clear case of infringement of trade mark and the ad interim injunction granted in favour of the plaintiff was accordingly made absolute.

PASSING OFF

The specific description of passing off is not given in the trademark act but the courts have drawn its meaning from common law that if the infringement of trademark done in such a manner where the mark is not only deceptively similar to the trademark of other company but also

creating confusion for the customers, which ultimately results in damage for business of the company.

Taking business by presenting goods or services as someone else's is actionable at common law. The tort is known as "passing off" in the British Isles and most of the Commonwealth, "palming off" in the USA and unfair competition elsewhere. The usual remedies are injunctions, delivery up of offending items and inquiries as to damages or accounts of profits. There is an international obligation to assure effective protection against unfair competition under art 10bis of the Paris Convention.¹⁰²

Passing off is judge made law. The modern law is to be found in a handful of cases of which the most recent are the decisions of the House of Lords in *Reckitt & Colman Products Ltd. v Borden Inc* [1990] RPC 341 and *Erven Warnink BV v J Townend & Sons (Hull) Ltd* [1979] AC 731. In the first of those cases, Lord Oliver said, at page 406, that a claim may be brought where:

- 1) the claimant's goods or services have acquired a **goodwill** or reputation in the market and are known by some distinguishing feature;
- 2) there is a **misrepresentation** by the defendant (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the defendant are goods or services of the claimant; and
- 3) the claimant has suffered, or is likely to suffer, **damage** as a result of the erroneous belief engendered by the defendant's misrepresentation.

¹⁰²<http://www.amazon.co.uk/Passing-Off-Intellectual-Infringement-Personality/dp/6130343809>

This restatement of the elements of passing off is often referred to as the "classic trinity".

RELATED CAUSES OF ACTION

The action of passing off is closely allied to the law of trade marks, the Trade Descriptions Act 1968 and Community legislation on the protection of geographical designations of origin. Claims for passing off are usually brought at the same time as actions for infringement of a registered trade mark.¹⁰³

ENFORCEMENT

Claims for passing off are brought in the Chancery Division of the High Court of Justice. The vast majority of such claims are disposed of upon an application for interim injunction. The reason for that is that the losing party either has to change its packaging or quit the market. Either way, it has much less interest in the brand by the time the action comes on for trial.

An actionable misrepresentation may also be an offence under the Trade Descriptions Act 1968. Prosecutions are brought by local authority trading standards officers.¹⁰⁴

RISK FACTORS

Brands are among the most valuable assets of a business and the action of passing off is indispensable for their protection for two reasons. First, not every type of branding qualifies for registration as a trade mark. Secondly, no action may be brought on a mark until after

¹⁰³Lynne, Judith, The psychology behind trademark infringement and counterfeiting, Zaichkowsky, P; 19

¹⁰⁴Phillips, Jeremy, Trade marks at the limit, P; 256

registration.¹⁰⁵ If goodwill, misrepresentation and damage can be proved an action will lie regardless of whether the wrongdoing was intended and there is no threats action to protect those accused of passing off from intimidation of their customers.¹⁰⁶

KINDS OF PASSING OFF

These are as follows

1. Extended passing off

One of the instances where passing off is actionable is the extended form of passing off, where a defendant's misrepresentation as to the particular quality of a product or services causes harm to the plaintiff's goodwill. An example of this is [*Erven Warnink v J Townsend & Sons \(Hull\) Ltd*](#)¹⁰⁷ [1979] AC 731, in which the makers of [advocaat](#) sued a manufacturer of a drink similar but not identical to advocaat, but which was successfully marketed as being advocaat.

The extended form of passing off is used by celebrities as a means of enforcing their [personality rights](#) in common law jurisdictions. Common law jurisdictions (with the exception of [Jamaica](#)) do not recognise personality rights as rights of [property](#). Accordingly, celebrities whose images or names have been used can successfully sue if there is a representation that a product or service is being endorsed or sponsored by the celebrity or that the use of the likeness of the celebrity was authorised when this is not true.

2. Reverse passing off

Another variety, somewhat rarer is so-called 'reverse passing off'. This occurs where the defendant markets the

¹⁰⁵*Ibid*, P; 256

¹⁰⁶[Lambert M. Surhone](#). Passing Off: Tort, Trademark, Common Law, Intellectual Property, Trademark Infringement, Personality Rights

¹⁰⁷ [1979] AC 731

plaintiff's product as being the defendant's product (see *John Roberts Powers School v Tessensohn*¹⁰⁸ [1995] FSR 947. It will be recalled that orthodox passing off entails the defendant representing that his product is the plaintiff's product. In many cases, reverse passing off can be explained under the ordinary rules: for example where a defendant may represent that he or she made goods which were in fact made by the plaintiff so as to pass off his own business as a branch of the plaintiff's.

WHAT PROBLEMS CAN PASSING OFF CAUSE?

There are a number of problems that passing off can cause your business; depending on the type of business and the extent of passing off taking place.

1. Missing Customers

If your customers are led to believe that another business is yours (or associated with you); then you may find that your customers simply vanish, using the other business by mistake. If you obtain a lot of your custom by word of mouth, then new customers searching for you may never realise that the business passing off is not you.

2. Future Custom

If your customers realise that another business has gained their custom inappropriately, they may lose trust in you and feel hesitant about using your services again. If the other business treated them badly they may go elsewhere altogether, and (If they do not realise they have used a different business) could even tell other people of their disappointment with your business.

3. Reputation

If your business is respected in your marketplace, the appearance of a business passing off as you could cause customers to think less of your business; especially if the

¹⁰⁸ [1995] FSR 947

passing off business provides poor quality products or services.

If the passing off business causes bad word of mouth publicity, this can cause serious damage to your image and reputation.

4. Finances

If a business is passing off as you, then your financial damage is not limited to the money from customers you lose to them and through bad publicity. Any money you spend on advertising or other promotions (e.g. Leaflets, web banners, ‘pay per click’ listings) becomes less effective as some of the customers you can gain may end up using the passing off company.

DIFFERENCES BETWEEN PASSING OFF AND INFRINGEMENT

1) As to remedy

Statutory remedy is available for infringement whereas the action for passing off is a common law remedy.¹⁰⁹

2) As to identity

For infringement it is necessary only to establish that the infringing mark is identical or deceptively similar to the registered mark but in the case of a passing off action, the need is to prove that the marks are identical or deceptively similar which is likely to deceive or cause confusion and damage to the business of the company.¹¹⁰

3) Registration as to particular category of goods

When a trademark is registered, registration is given only with regard to a particular category of goods and hence protection can be given only to these goods and action of infringement would be taken but in a passing off action,

¹⁰⁹<http://www.bowman.co.za/LawArticles/Law-Article~id~2132417158.asp>

¹¹⁰<http://www.amarjitassociates.com/index.htm>

the defendant's goods need not be the same, they may be related or even different.¹¹¹

4) As to action

For a passing off action registration of trademark is not relevant. It is based on property in goodwill acquired by use of the mark. On the other hand infringement is based on statutory right acquired by registration of trademark.¹¹²

5) As to goods

In case of a passing off action, the defendant's goods need not be same as that of the plaintiff; they may be allied or even different. In case of an action for infringement, the defendant's use of the offending mark may be in respect of the goods for which the mark is registered or similar goods.

6) As to confusion

Passing off action identity or similarity of marks is not sufficient, there must also be likelihood of confusion. But in case of infringement if the marks are identical or similar no further proof is required.

7) As to forum of remedy

The remedy of passing off has been found in one form or another for centuries. It is part of the common or so-called unwritten law. In contrast, the system of statutory protection of trade marks by way of the registration thereof, has, relatively speaking, not been in existence that long. The law relating to passing off was thus, put differently, made by judges, and the law relating to trade mark infringement was created by the relevant legislative bodies. The latter origin does not necessarily indicate a greater degree of rigidity insofar as the application of legislative instruments is concerned. The courts obviously

¹¹¹<http://www.bowman.co.za/LawArticles/Law-Article~id~2132417158.asp>

¹¹²Ibid

interpret the legislation continuously, and in a sense the words of the statute form only a broad framework within which the judiciary functions, and "finds" the law.¹¹³

8) As to related rights

Rights relating to passing off are established "gradually", with use, and the central question would be when it can be said that a reputation has been acquired insofar as a specific mark is concerned. The establishment of a reputation is dependent on a number of factors, including the nature of a mark, that is, the degree of distinctiveness, sales figures, promotional expenditure on the marketing of products bearing the mark or get-up, and the period of use. Protection in terms of the Act is available immediately, on registration, and is not, in the short term, dependent on use of the mark. Although the obtainment of statutory rights would seem, from this perspective, to be a more expedient way in which to obtain rights, such an observation is not borne out by reality. This is on account of the fact that the time frame within which an application will proceed to registration can be a matter of up to three or four years at this stage. This factual consideration does however not change the theoretical position.

9) As to allegation

A further difference is that in cases of alleged passing off, it is said that it is the goodwill built up through the use of a mark that is protected, whilst in instances of trade mark infringement, it is the right to the mark itself that is being protected. Flowing from this fact is a practical difference between the two remedies, namely that passing off involves a comparison of the two marks and the get-up of the products in relation to which they are used. In other words, the mere fact that a mark, whether registered or not,

¹¹³<http://www.tms.org/pubs/journals/jom/matters/matters-9610.html>

is used by A, does not automatically imply that he would be liable towards B for passing off. Colours and shapes or the addition of other distinctive material can thus be considered by the court to determine whether or not there is a likelihood of confusion. On the other hand, in the instance of trade mark infringement, the comparison is solely between the two marks themselves, and extraneous matter cannot be taken into consideration. In a manner of speaking, a holistic approach is adopted in passing off cases. Trade mark infringement is concerned only with the mark that has been registered, and if that mark is used by the respondent along with other distinctive material, the addition of the latter is disregarded. In line with the above, in infringement cases there is a prohibition on the use of the mark in issue, but the wording of an interdict in passing off cases rather relates to steps to be taken to distinguish the products concerned.¹¹⁴

10) As to remedy relates to a particular geographical area

Lastly, it is important to bear in mind that the remedy of passing off relates to a particular geographical area in which a reputation can be said to exist. In other words, where a mark is used in Brackenfell, it will not necessarily be possible to prevent the use of the mark in Brakpan. In the case of a registered mark, the registration will in principle be enforceable in the whole country. In summary, it appears that there are a number of instances where relief in terms of passing off will achieve the rights holder's objective of the protection of his intellectual

¹¹⁴<http://www.amazon.co.uk/Passing-Off-Intellectual-Infringement-Personality/dp/6130343809>

property, whilst in other instances relief in terms of the Trade Marks Act will be more appropriate.

CASE LAW THAT DIFFERENTIATE PASSING OFF AND INFRINGEMENT

In the case *DurgaDutt Sharma V. N.P. Laboratories*, a Supreme Court judgment, the difference between the two has been laid. It was held that " An action for passing off is a Common law remedy, being in substance an action for deceit, that is, a passing off by a person of his own goods as those of another. But that is not the gist of an action of infringement. The action for infringement is a statutory remedy conferred on the registered proprietor of a registered trade mark for the vindication of the exclusive right to use the trade mark."¹¹⁵

JUDICIAL RESPONSE

Courts have given several judgments in these kinds of disputes where the infringement and passing off of trademark were in question. Few of them I am discussing in this paper where courts have dealt with these questions and formulated several concepts related to them.¹¹⁶

CASES OF INFRINGEMENT

No one can use the trademark which is deceptively similar to the trademark of other company. As in the case of *Glaxo Smith Kline Pharmaceuticals Ltd. v. Unitech Pharmaceuticals Pvt. Ltd.*¹¹⁷ the plaintiff claimed that defendants are selling products under the trademark FEXIM that is deceptively similar to the plaintiff's mark PHEXIN, which is used for pharmaceutical preparations. The defendants are selling anti-biotic tablets with the trademark 'FEXIM' with the packing material deceptively similarly to that of the plaintiff, whereby intending to not

¹¹⁵<http://www.amarjitassociates.com/index.htm>

¹¹⁶ *Ibid*

¹¹⁷ [MANU/DE/2840/2005]

only to infringe the trademark but also to pass off the goods as that of the plaintiff as the two marks are also phonetically similar. The Court restrained the defendant from using the trademark 'FEXIM' or any trademark deceptively similar to the trademark of the plaintiff 'PHEXIN', any label/packaging material deceptively similar and containing the same pattern as that of the plaintiff.

If a party using the deceptively similar name only for a single shop and not spreading its business by use of that particular name then also that party could be stopped from using the tradename of other company. This is given in *M/s Bikanervala v. M/s Aggarwal Bikanerwala*¹¹⁸ where the respondent was running a sweet shop in with the name of AGGARWAL BIKANERVALA and the plaintiff was using the name BIKANERVALA from 1981 and also got registered it in the year 1992. Hence they applied for permanent injunction over the use of the name AGGARWAL BIKANERWALA for the sweet shop by the defendant. Court held in favour of the plaintiff and stopped defendant from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in food articles for human consumption under the impugned trade mark/trade name/infringing artistic label 'AGGARWAL BIKANER WALA' or from using any trade mark/trade name/infringing artistic work containing the name/mark 'BIKANER WALA/BIKANERVALA' or any other name/mark/artistic work which is identical or deceptively similar to the plaintiff's trademark 'BIKANERVALA'.

If the trademark is not registered by any party but one party started using it before the other then first one would have the legal authority on that particular mark. As in the case of *Dhariwal Industries Ltd. and Anr. v. M.S.S. Food*

¹¹⁸ [117 (2005) DLT 255]

Products¹¹⁹ where appellants were using the brand name MALIKCHAND for their product and the respondents were using the name MANIKCHAND which is similar to the previous one and both parties have not registered their trademarks. Court held in this matter that even though plaintiff have not registered their trademark they are using it from long time back and hence court granted perpetual injunction against the respondents.

Even if a company is not doing business in country, but it is a well known company or well known goods, then also it would be entitled to get authority over its trademark. As given in case of *N.R. Dongare v. Whirlpool Corp. Ltd.*¹²⁰ where the defendants have failed to renew their trademark 'WHIRLPOOL' and in the mean time the plaintiffs have got registration of the same. In this case court said that though there was no sale in India, the reputation of the plaintiff company was travelling trans border to India as well through commercial publicity made in magazines which are available in or brought in India.

The "WHIRLPOOL" has acquired reputation and goodwill in this country and the same has become associated in the minds of the public. Even advertisement of trade mark without existence of goods in the mark is also to be considered as use of the trade mark. The magazines which contain the advertisement do have a circulation in the higher and upper middle income strata of Indian society. Therefore, the plaintiff acquired transborder reputation in respect of the trade mark "WHIRLPOOL" and has a right to protect the invasion thereof.

CASES OF PASSING OFF

¹¹⁹[AIR 2005 SC 1999]

¹²⁰[(1996) 5 SCC 714]

Even if the goods are not same or similar to each other, then also no one can use the registered trademark of a company for any kind of goods which may result in the harm to the business and reputation of the company which is the owner of the trademark. In *Honda MotorsCo. Ltd. v. Mr. Charanjit Singh and Ors*¹²¹ defendant Company was using the trade name HONDA for 'Pressure Cookers' which they are manufacturing in India and even when their application for registration of this trademark had been rejected by the registrar they continued using it and again applied for registration and hence plaintiff has brought this plaint. Plaintiff is the well known company having presence all over the world in the field of Motor Cars, Motorcycles, Generators and other electronic appliances. They are doing business in India in association with the SiddharthShriram Group with the name Honda Siel Cars India Ltd. Plaintiff has established that his business or goods has acquired the reputation and his trade name has become distinctive of his goods and the purchasing public at large associates the plaintiff's name with them. The use of trademark HONDA by respondents is creating deception or confusion in the minds of the public at large and such confusion is causing damage or injury to the business, reputation, goodwill and fair name of the plaintiff. Hence court has restricted the defendants from using the trademark HONDA in respect of pressure cookers or any goods or any other trade mark/marks, which are identical with and deceptively similar to the trade mark HONDA of the plaintiff and to do anything which amounts to passing off to the goods of the plaintiff. In the case of *Smith line Beecham v. V.R. Buntaria*.¹²² The plaintiff applied for permanent

¹²¹[2003(26)PTC1(Del)]

¹²²[MANU/DE/2890/2005]

injunction to restrain the defendant from infringing the trademark, passing off, damages, delivery etc. of its registered trademark ARIFLO, used in respect of the pharmaceutical preparations. Defendants were using the similar name ACIFLO for their product of the same drug in India. Plaintiffs were not doing business in India for the particular product and argued that since their advertisements are been published in medical journals hence they have a transborder reputation and defendants should be stopped to use the similar trademark which creating deception in customers.

Court said that mere publication of an advertisement in a journal cannot establish a trans-border reputation. Such reputation if any is confined to a particular class of people, i.e., the person subscribing to the said specialized journals and the same can't be said to be extended to the general consumers. Thus any adverse effect on the firm in such a case can't be amounted to the offence of "passing off".

Though the dispute resulted in compromise where the defendant agreed and accepted the plaintiffs' exclusive right on the use of mark i.e. ARIFLO in India and abroad and further agreed to not to manufacture pharmaceutical preparations under the mark ACIFLO or any other mark identical or similar to ARIFLO.

There are two types of remedies are available to the owner of a trademark for unauthorized use of its imitation by a third party. These remedies are:-an action for passing off in the case of an unregistered trademark and an action for infringement in case of a registered trademark. An infringement action and an action for passing off is quite different from each other, an infringement action is a statutory remedy and an action for passing off is a common law remedy. Accordingly, in order to establish infringement with regard to a registered trademark, it is

necessary only to establish that the infringing mark is deceptively similar to the registered mark and no further proof is required. In the case of a passing off action, proving that the marks are deceptively similar alone is not sufficient. The use of the mark should be likely to deceive confusion. Further, in a passing off action it is necessary to prove that the use of the trademark by the defendant is likely to cause injury to the plaintiff's goodwill, whereas in an infringement suit, the use of the mark by the defendant need not cause any injury to the plaintiff. Trademark infringement laws help the trademark holders to keep awareness about infringement of trademark.

CONCLUSION

There are two types of remedies are available to the owner of a trademark for unauthorized use of its imitation by a third party. These remedies are:-an action for passing off in the case of an unregistered trademark and an action for infringement in case of a registered trademark. An infringement action and an action for passing off is quite different from each other, an infringement action is a statutory remedy and an action for passing off is a common law remedy. Accordingly, in order to establish infringement with regard to a registered trademark, it is necessary only to establish that the infringing mark is deceptively similar to the registered mark and no further proof is required. In the case of a passing off action, proving that the marks are deceptively similar alone is not sufficient. The use of the mark should be likely to deceive confusion. Further, in a passing off action it is necessary to prove that the use of the trademark by the defendant is likely to cause injury to the plaintiff's goodwill, whereas in an infringement suit, the use of the mark by the defendant need not cause any injury to the plaintiff.

Trademark infringement laws help the trademark holders to keep awareness about infringement of trademark.

So by this discussion we can draw following inferences

- Registered trademark is the property of the holding company and it is directly associated with the name, reputation, goodwill and quality of products of a company.
- There are very slightly differences between infringement and passing off
- A company cannot use the trademark of another company.

No one can use even the similar trademark which is creating deception or confusion for the customers.

- No one can use the trademark of a company, which is well known and having a transponder reputation, even if it is not registered

IMPLICATION OF GENDER AND GENDER DISCRIMINATION ON MODERNITY, CHANGING LIFESTYLE AND ADOPTING NEW TECHNOLOGIES.

(QAMAR UL NISA¹²³, DR. ASMA ISLAM¹²⁴,
GHULAM MOHY UD DIN¹²⁵)

Abstract: Values are those things which we like in our day-by-day life living in a general public. Living in the Muslim society having Islamic values which are issued by our Islam when a man receives them everybody value them. Today there is much distinction among old and present values and the new age have been completely changed because of embracing new values and modern advancements these are because of the exceedingly adapted fields of apparel preparing music correspondence and strikingly tabs and cell phone and the most imperative thing is the utilization of web on pads. There are much contrast among nourishment beverages and medications when we contrast it with the past. Non-customary dispositions go before the rise of changing sexual orientation part practices or the other way around isn't beloved. The research was conducted in Gujranwala. Helpful inspecting strategy was utilized for information accumulation. Information was gathered from youth at various Colleges in Gujranwala.

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Add up to test of 150 respondents were chosen. Data was analyzed using statistical packages for social science (SPSS).

INTRODUCTION; It is presumption that the dispositions of the couple and the have inverse part in the general public. Husband have the commanded part into the individual from the general public since Pakistan culture male overwhelmed society and they driving part into the general public and if their better half move toward becoming not partake into the general public, they may wind up despondent if their significant other unconsciously not deal with them. They work all the day in and other working ladies ding work into the open-air exercises then again, the female rebuffed of their follow up on these behaviors.¹²⁶

There are many reasons that to have some effect among as socially and candidly this distinction might be independently and in gathering .first ,sex shrewd make contrast as sexually and strong connection second, both male and female feel extraordinary and acknowledged some distinction as social standards method for livings ,third male and female can be unique in relation to the each other on the base of intensity ,fourth sex diverse can be happen because of the utilization of the power and finally contrast amongst male and female can be on the base of their part in various day by day exercises all these distinction every one of these distinctions might be the onlooker to features the contrast between ender.¹²⁷

¹²⁶ Gerson.Kathleen.1993. No. Man's Land: Men's Changing Commitments to family and Work. New York Basic Books.

¹²⁷ Von Wallenberg Pachaly, A. (2000). Group psychotherapy for victims of political torture and other forms of severe ethnic

Dialect change and utilization of the dialect is an approach their think from one to the next individual from the general public. Also, impact of the general population to each other by dialect. Distinctive dialects were utilized from the beginning of the world in wherever of the world. Diverse dialects were utilized from the beginning of the world in wherever of the world. Diverse new developments are going to change and come quickly they have assume a Vitol part into the innovation. Today is the day of PC and distinctive dialect can be utilized as a part of PC for the working and pass on their talk.¹²⁸

Individuals of the urban regions have incredible mindfulness about the social and electronic media which are change the old customary way correspondence advertisement it have awesome impact on the living standers of the general population. Subsequently there are se new systems are going to changed and created diverse method for the interchanges. Web correspondence going to much and all the more simple method for correspondence among taught youth. Individuals going to leave their customary method for the living and embrace innovation. Through web media transmission the pattern of talking come increasingly and simple route through thusly we can get the things all the more effectively and in genuine path yet in really meaning.¹²⁹

Diverse zones have distinctive level of significant worth and standards. Distinctive level of the life demonstrated that the diverse level of the general public exist and individuals of this general public what have and what have

persecution. In R. Klein & V. Schemer (Eds.), *Group Psychotherapy*.

¹²⁸ Crystal, 2001. *The Effects of Globalization: Examining Change*.

¹²⁹ Wilson SM, Peterson LC. 2002. "The Anthropology of Online Communities" *Annual review of Anthropology* 81: 449-60.

they to do and these sort of exercises not the same as society to society. Pakistani society have uncommon stander of living with the considerable esteem which they have and they not quite the same as other countries.it change from family in the other family and from one gathering to the next gathering. Distinctive families have their diverse qualities and convention to run their general public these custom exceptionally starting with one place then onto the next place from one territory of the other zone.¹³⁰

Distinctive sorts of the characterization can be the reason of the diverse violations. With the quick development of the innovation there are distinctive kinds of wrongdoing happen and they have demolished the quiet condition of the world. In the PC f period the techniques for cries likewise changed and the youthful age going to include into various kinds of the wrongdoings. On the best the sexually wrongdoing going to expanded day by day. In this section the creator attempt t recounted the sensible story of wrongdoing and presents diverse sorts of the hypotheses which are identified with the wrongdoing in display time and furthermore depict its reasons.¹³¹

Way life and alternate offices which are important for the existence they not quite the same as one. The way if living onto the general public and classifications from one to the others are extraordinary. The target of this investigation showed the each general public have their own particular manner of living and they have not quite the same as each

¹³⁰ Handling, L. Moor. 2004. Comparative Research on Values: Tilburg University Press.

¹³¹ Jeffery, R. K., L. Jens and F.K. Lawrence.2005. Neighborhood Effect on Crime for Female and Male Youth: Evidence from Randomized Housing Voucher Experiment .Quarterly Journal of Economics. 120;87-130.

other. The living way can be arranged fro into the general public and the other hand it will be the not the same as others. In straightforward importance the lifestyle is diverse method for the life is distinctive method for the life and benefactors which are vital for the living of individuals.¹³²

Diverse tribes, group, society families and gatherings have their own particular manner of life and incentive as indicated by these qualities they make some wayof life on these on these lifestyles they can spend their lives and they depicts their part in the general public man ordinarily play the outside exercises and alternate hands the female participate in the family exercises and they can care for their kids and different exercises this procedure recognize the distinctive part of the male and female in the general public if called sex for the pretending individuals utilize distinctive dialect to pass on through various dialects and images and signs.¹³³

A rapidly change into the conduct and lifestyle of the general population are changed and it's have the pessimistic impact on the general population and it case the broken of the esteem chain and it additionally changed the lifestyle into the general public .With fast a development of the general public individuals have extraordinary changed into their lives and instruction, business, and different open doors likewise play an imperative; part for social difference in the people. Particularly the dressing, sustenance, method for living and other essential change happened because of the

¹³² Benjamin, D.Z. and M. K. Rosa Beth. 2006. "The Differentiation of Lifestyle" Annual review of Sociology. 2:269-298

¹³³ Merriam-Webster. (2007). Gender Retrieved February 15, 2007, from Merriam-Webster's online Dictionary.

innovation and other compelling impact of in entomb. Diverse scholar likewise demonstrates the sexual orientation part and esteem change into the society.¹³⁴

Valance through the cutting edge innovation will expand step by step and the particularly female are more victim of these kinds of wrongdoings. Connection between the distinctive sexual orientations are all the more particularly expanded and they are less esteem. On the name of the training neighborhood networks have more casualty of the violations and after they propel too confer suicide. In the Modern world the general population are a long way from their qualities and they lead an esteem less life.¹³⁵

Dialect assumes the essential part into the improvement of the general public they have critical support into the variety into the qualities and conventional method for living and through various dialects the esteem can partake into the social advancement and the part of dialect in the public arena. Distinctive dialects can impacts of the new innovation and their contribution to the difference in the general public. Dominant part of the new advancement the PCs will change with various verities of the renditions and information sources. The social change are the significant contribution to the advancement of the general public. Self-awareness and the advancement of human cerebrum is going to sharp and the quickly built up this sort of development effect sly affect the human being.¹³⁶

¹³⁴ Mason, Karen. John L. Czajka and Sara arber.2008. "Change in the US Women's Sex-Role Attitudes, 1964-1974." *American Sociological Review* 41:573-96.

¹³⁵ UNESCO (2009) "Statement on Women's Contribution to a Culture of Peace. "Presented to the 4th World Conference on Women, Beijing.

¹³⁶ Giddens, Anthony (2010), *Modernity and Self-Identity: Self and Society in the late Modern Age*, Stanford, CA: Stanford University Press.

At the level of the nation there are some extraordinary change operators which have incredible part into the improvement of the general public and reason for its change. Sex part into the changing quality is quickly is caused of the esteem changed. An investigation have been directed on the esteem changed and its impacts on the sex part. Training is significantly more imperative into the improvement of society and they are the reason for the esteem changed. Diverse method for talking for this distinctive dialects. Social exercises, recreations, social trades exercises and the other and the changing into the sexual orientation part. Practices and the state of mind of the individual from society vastly expanded diverse classes assume distinctive part into the social trade and esteem change activities.¹³⁷

Changing of the tie the quickly developing exercises in various field are more than and I have impact on the part broadening of male and female in various field of life. Youthful age in the cutting edge territories have more successful interest into the changing of the esteem and standards.¹³⁸

New youthful age have essential part into the investment of the esteem changing and the standards as individual from the society. In Pakistan quickly changing into the general public are occurred and individuals embrace new innovation and new development. Modernization is vital for the advancement of the financial level of the nation learning about the new innovation and alternate hands they

¹³⁷ Miller, Joanne and Howard H. Garrison.2011. "Sex-Role: The division of Labor at Home and in the Workplace." *Annual Review of Sociology* 8:237-62.

¹³⁸ Yogendra, S. 2012. *Modernization and its contradiction; contemporary Social Change in India.*

denied from the selection of the old conventional qualities.¹³⁹

Conjugal changing into the general public quickly expanded day by day. They have awesome part into the esteem changing in any general public the youthful age have real part for the reception of new innovation and the evolving esteem. Urban development and the fast development of the new advancement into the general public have awesome part into the society. Adoption it got from the estimation of the general population which set it for the side of their families.¹⁴⁰

Youth of any nation assume an essential part into bring some change into. The society and everywhere throughout the world. Today is the period of the new innovation and new development and new innovation have part into the appropriation of the new advancements. Youthful age changed their exercises they replicated the other culture and make it the piece of their day by day life. This thing denied them from their lateness and esteem which exchange from their parent's side.¹⁴¹

Objectives

1. To recognized the socio economic background of the identified population.
2. To observed the socio culture and monetary problem which have effects n role of male and female.
3. To detect the participation of male and female about the varying ethics.

¹³⁹ Cooperstown, M.A. (2013) the Storms of Youth: Violence's, Depression and the Needs for Adolescent Research, Pennsylvania Psychologist Quarterly, 59(8), (pp.10,22).

¹⁴⁰ Benokraitis, N. (2015, Marriage and families, changes, choice and constraints, 6th Edition) New Jersey: Pearson Education.

¹⁴¹ Christopher, A.S. 2003.the Value of Families.

4. To learn the relation difficulties which play a role into the adoption of the traditions.
5. To make some suggestion about the changing and savings the values in rural areas.

REVIEW OF LITERATURE

The present period, the part of male and female is less as indicated by esteems. The esteem and standards are the method for living in any general public and give a decent help to their living arrangement. Diverse part are at various time. Ladies for the most part play out their family unit exercises and customarily lived in their home. In the advanced time the time is changed, now female have changed their part and doing their activity in the manufacturing plant and different spots. At the contrary men help their spouses in any business related to their expert and family unit exercises. Presently ladies can participate into the basic leadership.¹⁴²

The utilization of the new innovation and its effects on the practices of the general population. An example was chosen from the tremendous populace which utilizes phone for day by day works. Test was chosen through particular examining procedure. The consequence of this examination he found that lion's share of the general population utilized the old sort of the phone sets in 1980 and a few people will change their method for living and know about the fresh debut of mobiles.¹⁴³

¹⁴² Thornton, Arland. 1990. "Changing Attitudes towards Family Issues in the United States" *Journal of Marriage and Family* 51:873-94.

¹⁴³ Booth, Alan, David R. Johnson, Lynn K. White, and John N. Edwards, 1991. "Material Instability Over the Life Course: Methodology Report and Code Book for a Three Wave Panel Study" Department of Sociology, University of Nebraska, Lincoln, NE.

The innovation happens with the section of the time in light of the fact that the time isn't static. From twentieth century the advancement is going too quickly and it changed the living style of the general population. Offices for the kids are rapidly going excessively changed and it has awesome impact on the psyche of the youngsters. In each field of extraordinary of old rational values in the public arena, youngsters are keener on the reception of new innovation.¹⁴⁴

The wedded female are more current than the unmarried female. In various stages, female have their distinctive parts in house they perform diverse parts and the working ladies assumed 2 parts in their home and at their working spot. The unmarried ladies have their own specific manner of living and wedded ladies have more obligations and weight of work. At work put they confront distinctive issues and unmarried ladies face diverse part shapes in the diverse social orders. The method for living in the house and playing out the family obligations this pattern will change and the female do work all the more viably and with awesome duty.¹⁴⁵

The connection between the part in the individual from the general public and they assume these kind of part successfully and well privately. Diverse genders have distinctive parts as normally male have more power than the female and handle hardest work performs from the side of the men and the low limit work performs from the individuals from the female side. Be that as it may, expand

¹⁴⁴ Clarke, John (1992), "Style in Resistance through Rituals" ed. Stuart Hall and Tony Jefferson, London: Hutchinson, 175-91.

¹⁴⁵ Molm, Linda D. 2000. "Sex-Role Attitudes and the Employment of Married Women: The Direction of Casualty." *Sociological Quarterly* 19:522-33

in the pretending has impacts on the everyday based exercises.¹⁴⁶

Sex part and the pretending into the diverse fields of life. This wonder is moving from the beginning of the world and with the section of the time it has not been changed. In various stages the distinctive parts are played into the general public and they perform diverse fills in as the individual from the general public and satisfy their essential needs. At various levels individuals have their part and they act as per the all-around characterized standards and esteem which are given from the side of the guardians.¹⁴⁷

Females have part into the transmission of the qualities and the standards starting with one age then onto the next age. The change operator assumed an imperative part in the general public. At political and societal level they perform distinctive part and exchange their insight starting with one age then onto the next. Be that as it may, time will change and the part of female Have more obligations and men. They play out their obligations in house and working spot.¹⁴⁸

An example of the general population chose with the end goal of the investigation and distinguished the effect on the individual from the general public. The present yields of the investigation demonstrates that the estimation of the diverse families is not quite the same as one family to the next and this thing may have distinctive impact on the

¹⁴⁶ Martin, C. L., Ruble, D. N., & Szkrybalo, J. (2002). Cognitive theories of early gender development. *Psychological Bulletin*, 128,903.

¹⁴⁷ Ticknor, J. A. (2001) *Gender in International Relations*. New York, NY: Columbia University.

¹⁴⁸ World Bank (2003) *World Development Indicators*. Washington DC.

individual from the general public. In any case, with the immense change and the advancement impact for the reception of the old customs and esteem which are given from the side of their families. The striking buster changing of the new developments have extraordinary impact on the individual from society and it will be changed the estimation of the general public.¹⁴⁹

The distinctive channels change the method for living into the general public and have impact on the living stander. The progressions are happen physically and in addition rationally and it have been expanded the immense change into the general public. Distinctive nations have diverse esteem change diverse gathering part have their own particular manner of life. These social orders have diverse qualities. In India they have an incentive as per their religion and Pakistanis have diverse incentive from alternate nations since it is an Islamic nation. Individuals can't embrace the Hindu's custom in Pakistan and Hindu can't receive estimations of alternate religions.¹⁵⁰

Youth quickly embrace the method for living into the individual from the general public. The western nations have their own creating exercises and they went through their own particular time on earth style. Social changes are the adjustment in which the youthful age receives the distinctive new verities of the things. Female of those nation do works into the diverse kinds of work and they embrace the distinctive verities of the work. New innovation has been changed the method for living things and the youthful age have incredible part for the changing

¹⁴⁹ Carole L. Juriewiez, 2004. "The Interaction of Materialistic and Post-materialistic Values in Predicting Dimensions of Personal and Social Identity" Vol. 57, No. 11, 1379_1405

¹⁵⁰ Ansari, S.2005 Star plus Injecting Poison in Pak Households. The Daily Newspaper, Sep.8, 2005.

of the general public and furthermore the change of the qualities starting with one then onto the next age.¹⁵¹

Individuals have a place with various periods have distinctive kinds of the identity and the advancement of the singularity. Youthful age is the real part player into the esteem change and selection of the new innovation. All these social specialists including the online networking and other portable innovation. With the considerable difference in the business individuals have the immense interest into the improvement of nation. Individuals have awesome level of the advancement however they have no particular impediment and not spare qualities.¹⁵²

Fast development of the modernization and different fragments which have the real part into the esteem change. There are some obvious confirmation which have unmistakably demonstrated that they are change operators and change the esteem and customs of the general population.¹⁵³

Couple of years prior the general population of the distinctive territories have diverse sorts of very much characterized supporters of life and as indicated by those example they carry on with a solid life. Individuals of various regions put distinctive states of uniqueness as indicated by their religion esteems. Diverse individuals have a place with the better place have distinctive standards and vales which are important for the improvement of the general public. There is some political changing of the old conventional qualities changes and the

¹⁵¹ Dannie, K. And A Soren.2006. The Globalization of Youth culture: the Global Youth Segment as Structure of Difference. *Journal of Consumer Research*. 33;231-247

¹⁵² Crusader 2007. Valentine's Day Amidst Social Restrictions in India. Hub Pages.

¹⁵³ Chom.2008 The Effects of Globalization: Examining Change.

new examples of the life will be embraced from the side of the general population they receive distinctive new innovation and new advancement which are unmistakably characterized from their family, society and their religion.¹⁵⁴

Ascending of the outcomes from this investigation that American culture step by step grew to an ever increasing extent and new advancements and innovation changed the practices of the general population. Modernization is a procedure of progress esteem and the changing of the example of life. They can change through instruction, internet based life, cell phone and other social operators which have extraordinary part for the evolving. From the youth to till death the changing procedure persistently changed step by step.¹⁵⁵

Females in the house can change nature of the house and it likewise assume a part for the exchange of qualities and starting with one age then onto the next age. In each general public the female have enormous part in execution of family unit exercises and other related take care of kids. Every one of the individuals from the general public are reliant to each other and have the wellsprings of the appropriation of various qualities reception. A female can partake into the distinctive exercises yet in a few exercises female have no part in basic leadership. Female all the day play out their exercises into the house and in addition their

¹⁵⁴ Ronaldson, B., & Bjork, U. (2008). Being an efficient or dialogue-oriented rural Municipality on the net: Farming civil servants' confidence in e-services. *International Journal of Internet Sciences*, 3 (1). 55-67.

¹⁵⁵ Aries' Philippe (2009) *Centuries of Childhood: A Social History of Family Life*, New York: Vintage.

open air exercises in any general public yet toward the end they denied from the basic leadership process.¹⁵⁶

In the period of new innovation and in the time of cell phone. World based web and new programming have awesome part into the advancement of the general public; media in western nations have impact on the everyday exercises of the general population. For the reception of the new web innovation individuals have the enormous change in qualities and conventions of the neighborhood network.¹⁵⁷

In Pakistan the female have incredible part for the improvement of the nation they have extraordinary part into the creating exercises and they likewise have part into the advancement of the national economy. They do work all the day in the houses and the working ladies going occupation into the working spots. They generally disregarded from their fundamental rights and t wellbeing offices, training and different necessities which are the solid day by day exercises and for greater improvement of the general public. They work into the farming field and other play out the exercises which are the reaction of the improvement, however they generally denied from the new development and advancements.¹⁵⁸

The effective life the general population have similar examples and the convictions which have

¹⁵⁶ UN (2010) Improving Concepts and Methods for Statistics and Indicators on the Situation of Women New York, NY: United Nation Publication.

¹⁵⁷ Dons Bach, W., Rentsch, M., & Walter, C.(2011,May). Social Media as news Source.; Empirical Evidence from our countries. Paper presented at the 61st annual Conference of International Communications Association, Boston.

¹⁵⁸ Ahmad, 1...2012 Modernization and Social change among youth. Jawaharlal Nehru University, New Delhi

awesome part for the advancement of the general population. Female investment for the creating exercises are sure part however toward the finish of the day diverse exercises. Individuals have awesome cooperation for the improvement of nation.¹⁵⁹

The that mother assume an essential part for the new age into the esteem change starting with one then onto the next age. In objective families mother denied from the instructive and from the fundamental need however they have crucial part into the creating conventions and different exercises. From the beginning of the youth and till the demise family and their condition have incredible part into the improvement of the general public and different exercises. Portable clients will increment and the conventional method for correspondence going to change. In coming days it will be more exercises and all the more intense device for age social changes into the general public.¹⁶⁰

Online life will be extremely normal into the fast difference on the planet. They grew progressively and better approach for correspondence, through various methods for the advancement individuals have pattern to pass on their message from various ways yet a few people have not the eager to change their own particular manner

¹⁵⁹ Eccles J. S., Asler, T. F., Futterman, R., Goff, S. B., Kaczala, C.M. Meece, J. L. , & Midgly, C.(2013). Experiences, values and academic behaviors. In J. T. Spence (Ed). *Achievements and Achievements Motivations* (pp. 75-146). San Francisco, CA: W.H. Freeman.

¹⁶⁰ Altman, Sydney L. And Frances K. Grossman. 2014. "Women's Career Plans and Maternal Employment." *Psychology of Women Quarterly* 1:365-76.

Bite, D., G Kornberg., Z. And L. Jan mere. 2016. "Economic Science for Rural Development Conference Proceedings." 38:91-91.

of life. Email PC and other social TV sources have the colossal impacts of the improvement of the female who have awesome part for the advancement of the general public and they exchange the esteem and conventions of the family. From the beginning of the youth to the seniority these social specialists have awesome impact in the advancement of the people in any general public. Member of female and male into the creating exercises is useful for the improvement of the world.¹⁶¹

Realm of the monetary improvement individuals have the business advancement and different components which have the part to adopt and turn into the reason of significant worth change. For the acquiring purpose of perspectives the general population get more instruction and more chances of the advancement in the general public they began their business with one nation to the next and thusly individuals changed their lifestyle and leave their old conventional social exchanges. Social traded exercises these days will be expanded and tin along these lines one network trade their qualities to the following network.¹⁶²

METHODOLOGY

Interview Schedule

In the present investigation information was gathered from the understudies through the meeting timetable and it is a huge information and et of inquiries through which the information was gathered. The masterminded information

¹⁶¹ Kate, R. K., L. Jens and F. K. Lawrence.2015. Neighborhood Effect on Crime for Female and Male Youth: Evidence from Randomized Housing Voucher Experiment. Quarterly Journal of Economics. 120;87-130.

¹⁶² Oyekale, A.S. and T.O. oyeakle. 2016 Applications of Health Belief Model of Promoting Behavior Change among Nigerian Single Youth. African Journal of Reproductive Health. 14: 63-75

was settled through up close and personal every one of the inquiries organized by the investigation goals. Each respondent takes 10 minutes to satisfy the survey.

Statistical Analysis

Univariate examination which incorporates the frequencies, rates and methods for various factors. There are numerous measurable examinations which is discovered how these investigation taken up after the accumulation of information. Is it broke down by the gamma test and the chi square in the examination? It is utilized to discover the covariate among the diverse factors which relates with each other, Mean and recurrence discover the exact answers and through the method for mean and rate it is discover that there are what number of level of various factors having values.

STATISTICAL TEST

Chi-square test

To test the significance of association between independent and dependent variable chi-square test was used. The formula for chi-square is as under:

$$X^2 = \sum (O-E)^2/E$$

Where:

O = Observed frequency

E = Expected Frequency

\sum = Sum of the observation

To know the significance of association between attribute, the calculated values of chi-square were compare with corresponding table values at 0.05 level of chi-square was greater than table values otherwise it is rejected a non-significant (Brainy,2011).

Gamma Test

$$\text{Gamma} = \frac{\text{NS}-\text{ND}}{\text{NS}+\text{ND}}$$

Where:

NS = Sum order pair

ND = Different order pair

RESULTS AND DISCUSSIONS

HYPOTHESIS TESTING

Association between age of the respondents and Modernity and changing lifestyle.

| Gender | Gender discrimination in adopting new technologies. | | | Total |
|--------|---|----------------|---------------|----------------|
| | To Great extent | To some extent | Not at all | |
| Male | 34 | 45 | 15 | 94 |
| | 22.6 % | 30.0 % | 10.0 % | 62.6 % |
| Female | 26 | 22 | 8 | 56 |
| | 17.3 % | 14.6 % | 5.3 % | 37.4 % |
| Total | 60 | 67 | 23 | 150 |
| | 40.0 % | 44.5 % | 15.5 % | 100.0 % |

Chi Square = 9.970 d.f = 4 Significant = .017

Gamma = -0.454

This table indicates that there is association between age of the respondents and in modernity dew to which lifestyle changing day by day. Chi square value (9.970), d.f (4), gamma value (-0.454) which shows that there is association between the age of respondents and there changing lifestyle dew to the modernity. In this way the hypothesis improved. In different age structure the way of changing lifestyle is due to the modern technologies. There is an association between gender and gender discrimination in adopting new technologies.

There is an association between gender and gender discrimination in adopting new technologies.

| Gender | Gender discrimination in adopting new technologies | | | Total |
|--------|--|----------------|------------|-------|
| | To great extent | To some extent | Not at all | |
| | | | | |

| | | | | |
|---------------|--------------|--------------|--------------|---------------|
| Male | 34 | 45 | 15 | 94 |
| | 22.7% | 30.0% | 10.0% | 62.7% |
| Female | 26 | 22 | 8 | 56 |
| | 17.3% | 14.7% | 5.3% | 37.3% |
| Total | 60 | 67 | 23 | 150 |
| | 40.0% | 44.7% | 15.3% | 100.0% |

Chi Square =1.566 d.f = 2 Significant = 0.282
Gamma= -0.156

This table show the relation among gender and the discrimination in adopting the new technologies. Chi Square =1.566 and d.f = 2 and Significant = 0.282 and gamma -0.156 shows that there is somewhat association between and the gender and their differences in using the modern technologies in the present era.

SUMMARY

Qualities means to make differences among sublime and frightful stuffs. Qualities strategies to make disconnect between radiant and alarming which we similar and which we extremely disdain and among astounding and amazing effects. The probability of personal makings is not effectively the same as separate to single in this way it moves from people to civilization.

The potentials is not the same as relatives to families' homeland to nation and old fashioned to time pressure over principles are as reliability as believable raised in friendship with rehearses for sex sensibility being made joint effort. Now and then, program officers or accomplices are centered on that development of sex consistency would interface with close by values and along these lines feel sex communication should not be progressed for good motives.

In numerous belongings, the social approximations of a specific locale are delineated as a central need on tries for sensual overview change, and thusly improvement is

acknowledged to be upsetting for supportive motives. Communal sales and collective solicitations are not stationary.

Finished the considerations of manliness and womanliness happen just in comparable suggestion with each additional. In that utmost, enjoyableness does not occur vivaciously of maleness and there is substitute way. Sex influences and is pretentious by community party-political, money related and secular forces. The result of carnal summary are found and shrouded amidst all period life. Youngster originate to recognize pardon mannishness and femaleness proposes through clearly insignificant performs. Male can permissions the home unreservedly, reimbursing little notice to whether it be for effort or extricating up meanwhile some subdivision of their sensual associate share is with reinforce the domestic they are not vital to ask for decide to be in the road. Amongst Muslims early parenthood is an old-fashioned of acclimation to new occasion of life times and new communal wishes.

Conclusion

By the day's conclusion, communal requesting is not standardized and not at all doubts can be complete about a synchronization on communal makings so likewise, sensual overview shares are understood negotiating measure connected with individuals and ladies inside a given social occasion, philosophy or structure.

The control emphasis of this audit is to a take a gender at the bit of sexual rough guide in fluctuating potentials among formative year which they are on stage. The contemporary time adolescence is receiving under the satellite TV stations which are heart-rending the sensibly and informally and more over changing their method of life time and the additionally bandage have been altered.

Indian shows and motion picture have changed the intelligences of the vivacious old-fashioned. He watched that the star regardless of channel incredibly effect on the Pakistani culture and hypnotizing the young lady's mind which are understandings the Hindu's method of life.

Recommendations

- The proposals are being exhibited in the light of outcomes drawn from the information and discoveries.
- Adolescence ought to be given a genuine mind around the Islamic lifestyles by these individuals.
- Our organization should make sense of how to keep up a fundamental partition from the negative impacts of association.
- Youth ought to comprehend that how the telecom is influencing us be in this world and Pakistani accepts.
- Islamic influencing must to be accepted by the gatekeepers in the youthful in this way they will remain predictable for going with enhanced life.
- Here ought to be crusade nearby assembling India standards to make more care and create standard affectability on these issues.
- These standard respects ought to be revoked by tolerating unmistakable social requests.
- Our social respects ought to accord our Islamic respects and guards ought to mirror this material crucial and this is responsibility of watchman to drifting their young people as per our morals.
- Much extra examination is depended upon to find that how the makings have been varying an aftereffect of the change such strolls hold take to direct it.

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DOMESTIC WORKER'S RIGHTS; IN THE LIGHT OF ILO CONVENTION NO. 189; A DIRE NEED TO RATIFICATION AND LEGISLATION

Dr. Muhammad Amin**

Abstract: International Labor Organization adopted a Convention No. 189 on 16th June, 2011 concerning domestic workers. Domestic workers are actually hidden workers. ILO unhiddenes them first time in history in 2011 by exploring their rights and setting standards and principles. All ratifying states made and amended their existing laws in line with this convention. In Pakistan, though it has not ratified this convention but amended the Punjab employment of children act in 2011 making it in line with this convention. For Pakistan, it is difficult to solve the domestic workers problems as domestic work does not fall within ambit of regularized and contracted jobs. In public sectors, the government may increase easily the wages at certain percent ratio but the wages for are not easily increased the work being done behind the walls, can't possible to increase its prices as household employer don't like because they can have the cheapest labor due to increased number of population. This article actually is a study of domestic labor work and its problems in Pakistan in the light of ILO Convention No 189 emphasizing on a dire need of ratifying this convention and bringing domestic workers legislations in line with this convention.

Keywords: Pakistan, Domestic, Workers, Convention 189, Ratification, Legislation

INTRODUCTION Domestic workers are actually hidden workers. These workers include Men, Women, children of every age group. This work may include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children or elderly or sick members of a family, gardening, guarding the house, driving for the family, even taking care of house hold pets. ILO Convention No 189 defines domestic work as “work performed in or for a household or households”¹⁶³ These workers in Pakistan mostly work at low rate of wages. A woman provides services of washing of clothes for a whole family comprising about 8 to 10 members and she receives for this job about Rs 2500 to 3000 per month. If these clothes are washed at laundry market rates, the family has to pay about Rs 15000. But unfortunately, they don't pay domestic lady worker a rightly wage for this job so that she makes up a bread for herself and her children. In subcontinent, the feudalism culture is still so strong. Waderaism and feudal lords keep the men, women and children work at their homes and dheras under their brutal clutches at daily bread and pay them no wages. Actually, these domestic workers are their slaves. In certain cases, they pay some money in advance and keep them at their houses as slaves. Children below fourteen years of age are seemed to work in kitchens. They welcome visitors by opening the home's gate, they bring groceries from shops, wash clothes and serve their master's children. People prefer the children to employ at home as they pay them cheapest wages.

A home based network in Pakistan says ``there are 20 million home-based workers in the country, of which 12 million are women. The conditions for home-based workers are unregulated and unprotected, involving

¹⁶³ See the definition clause for domestic work in Convention No 189.

repetitive and hazardous work, long shifts lasting from 14 to 16 hours, and low wages. They also have to rely on, and are subsequently exploited by, contractors or middlemen¹⁶⁴. Home-based workers in Karachi held a protest in December calling for an end to workplace harassment and demanding wages equal to their male counterparts.¹⁶⁵

EXISTING LAWS ON DOMESTIC WORKERS IN PAKISTAN

It is all this happened in spite of The laws on prohibitions of employing children. Punjab employment of children (Amendment) Act 2011 says. “No child shall be employed or permitted to work in any occupation set forth in part 1 of the schedule or in any workshop as set forth in part 2 of the schedule.”¹⁶⁶ In line with manifesto of the Pakistan people’s party, the Government envisaged a Labor policy in 2010. Article 20 of this policy says “Workers between the ages of 14 and less than 18 years will not be engaged in hazardous working conditions and other working environments that adversely affect their physical and moral development. They will also be provided greater access to education and training particularly training, tailored to identify labor market needs. Children and young person’s will be withdrawn and prevented from hazardous nature of work as, for example, mining, tanneries, brick kilns, construction, and glass bangles. Special programmers will be designed to focus young domestic workers employed in private households. Payment of minimum wage will also be ensured to the

¹⁶⁴The statement mentioned above accorded as by a Home Net Pakistan Institution, a membership-based network of home-based workers.

¹⁶⁵ See for instance, the report of HRCP, 2018 p; 213.

¹⁶⁶ See section 3, vide Punjab employment of children (Amendment) Act X of 2011, dated 2.5.2011.

young persons”¹⁶⁷. The first time in history of Pakistan the Sindh Assembly passed the law for protection of home based workers. “Which would register and regularize home-based workers and ensure equal treatment to them and their dependents in cases of sickness, maternity leave, injury, or death. All home-based workers involved in the production and manufacturing of goods or provision of services at a home premises or any other place near a home would benefit from this law. The rules of business had yet to be framed”¹⁶⁸. Other provinces have yet to follow suit. Here it can be clearly seen from the report of HRCP how the number of domestic workers in Pakistan is increasing and their rights are infringed. The report says “domestic workers are roughly estimated to be over 8 million. Most of these are women and girls whose labor is undocumented, rendering the compiling of accurate statistics impossible. A high number of these workers are children. The treatment meted out by employers only comes to light when media reports highlight extreme abuse, and anecdotal accounts speak of long work hours and heavy workloads, low pay, no rest or holidays, allegations of theft, and physical and sexual abuse”¹⁶⁹. The Punjab Domestic Workers Bill 2018 was tabled in early December in the Punjab Assembly. A similar Bill was reportedly under preparation at the Ministry of Human Rights, to be tabled in parliament. The Punjab Bill finally recognizes the economic and social value of domestic workers in the country, addressing the exclusion of domestic workers from labor and the need for social protection. However, there are some anomalies in the Bill that raise concern, work for example in setting the

¹⁶⁷ See article 20, Labor policy 2010.

¹⁶⁸ In May, the Sindh Assembly passed the Sindh Home-Based Workers Act 2018.

¹⁶⁹ See for instance, the report of HRCP, 2018 p; 213.

minimum age at 15 years, and making no mention of the hazards faced¹⁷⁰.

INTERNATIONAL PERSPECTIVE ON DOMESTIC WORKERS

International labor organization adopted the Convention No.189 on 16 June 2011, concerning domestic workers. This convention uses a term of decent work for domestic work. This term puts pleasant psychological effect on the minds of domestic workers as they feel that they are performing an excellent job. This convention is basically a treaty in nature adopted by the international labor conference, which is made up of government, worker and employer delegates from the 183 member's states of the ILO. This convention offers specific protection to domestic workers. It also lays down basic rights and principles and makes states bound to take steps and measures for making domestic work an honorable job and good reality for domestic workers. All ratifying states should firmly make a commitment to implement all the obligations provided in this convention. This convention may be implemented in ratifying states by extending or adopting existing laws and regulations and these states may also develop new and specific laws and regulations as required under this convention progressively. A domestic worker may work on full-time or part-time basis. He may be employed by a single household or by multiple employers. He may or may not reside in the household of the employer. All domestic workers are covered by this Convention, although countries may decide to exclude some categories, under very strict conditions. The employer of a domestic worker may be a member of the household, for which the work is performed, or any agency

¹⁷⁰ Ibid at 213.

or enterprise that employs domestic workers and makes them available to households. The convention requires Government to consult with the most representative organizations of employers and workers.

Convention No. 189 affirms the fundamental rights of domestic workers. Such as support for the ratification and implementation of the Convention, promotion and protection of the human rights of all domestic workers, respect and protection of protection of rights at work and protection against all forms of abuse, harassment and violence, fair terms of employment and decent living conditions¹⁷¹.

Article 10 says “Measures aimed at ensuring equal treatment between domestic workers and workers generally with respect to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave”¹⁷²This convention also sets a minimum wage standards and a criteria for payment of wages in cash or in kind. The wage in cash must be paid directly to the workers, and at regular interval of no longer than one month.¹⁷³This convention verifies occupational safety and health as a right to safe and healthy working environment and set standards concerning child domestic worker as a minimum age for entry into domestic work. Domestic workers aged 15 years old but less than 18 year old their work should not deprive them of compulsory education.¹⁷⁴This convention also sets standards for living conditions of domestic workers as they have a decent live-in that respect the workers’ privacy.¹⁷⁵

¹⁷¹ See for instance, articles 3, 4, 5, 11 of ILO convention No 189, 2016.

¹⁷² Ibid at article 10.

¹⁷³ Ibid at article 11, 12.

¹⁷⁴ Ibid at article 13, 4.

¹⁷⁵ Ibid at article 6.

This convention actually a written contract that is enforceable in the country of employment, or a written job offer. Dispute settlement, complaints, and enforcement are also set forth in this convention as an effective access to the court, tribunals or other dispute settlement mechanisms, including accessible complaint mechanisms.¹⁷⁶

Universal declaration of human rights put emphasis in its initial phases on the right of everyone to work as the article 23 says ``everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interest``.¹⁷⁷

Likewise United Nation Organization Convention on the rights of the Children says that ``State parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development``.¹⁷⁸ Now we see the reports of ILO on the estimation of labor force induction in public and private sector in Pakistan ``estimated that around 7,096 trade unions were registered in Pakistan in December 2016. It also estimated that the

¹⁷⁶ Ibid at article 17.

¹⁷⁷ See article 23 (1-4) Universal Declaration of Human Rights 1945

¹⁷⁸ See for instance, article 32(1) United Nations Convention on the rights of the child.

total unionized workforce at the same time stood at 1,414,160, as well as 1,390 collective bargaining agents (CBAs) in the country¹⁷⁹.

The ILO further estimates that ``around 2.32% of the total workforce is organized in trade unions, independent economists believe this number is no more than 1%. Most of the trade unions in Pakistan exist only in formal sectors and, according to the estimates, only 15.55% of the informal sector workforce is organized under trade unions¹⁸⁰.

There is another phenomena of employment in Pakistan, mostly a third party involved in employment named as `contractors` for this reason most of the people lost their jobs and became unemployed. As this situation can be seen in human rights commission report ``large number of workers lost their jobs under the new mode of employment. The contract employment situation was further exacerbated with the introduction of the third-party employment system, in which the workers are employed by a private contractor to work for a particular company on a daily wage or piece-rate basis. That means the workers are not employees of that company whose products they are producing and they are not provided any appointment letter or identity cards of that company, despite the fact in many cases they go to the premises to work. This third-party contract employment is now adopted by most of the industries and commercial establishments in Pakistan, which has virtually changed the employment scene¹⁸¹.

¹⁷⁹ See for instance, the report published in 2018 by International Labor Organization (ILO) Pakistan-A profile of trade unionism and industrial relations in Pakistan.

¹⁸⁰ Ibid at 205.

¹⁸¹See for instance, State of Human Rights in 2018, a report issued by Human Rights Commission of Pakistan in 2018. p; 205.

In December 2017 the Supreme Court of Pakistan in a historic verdict declared the third-party contract system against the Constitution and fundamental rights and ordered all the employers to retrospectively regularize their workers employed on contract or third-party contract.¹⁸²

Human Rights Commission of Pakistan comments on the order of the Supreme Court of Pakistan ``during 2018, no steps were taken to implement that order. The labor representatives filed a petition in the Supreme Court of Pakistan for implementation of the order, but the Supreme Court refused to entertain their petition, ordering them to file a petition in any high court under Article 199 (jurisdiction of the High Court)``.¹⁸³

Private Sector workers are the main victims of their wages payment. As the report of Human Rights Commission of Pakistan says ``private sector workers are the main victims of the current financial situation. Their workplace conditions are pathetic, where occupational health and safety standards are mostly ignored. The absence or ineffectiveness of the state's inspection system has resulted in numerous industrial accidents, many of which are unreported. Throughout the year, there were reports of deaths and injuries caused by roof collapses, cylinder blasts, and falls at factories``.¹⁸⁴

WOMEN DOMESTIC WORKERS IN PAKISTAN

Women entered into labor force in the past 15 years in Pakistan more than 50 percent as The Human Rights Commission of Pakistan report, 2018 says:

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Op cit. at 208.

While women's labor force participation in Pakistan has increased by more than 50 percent over the past 15 years, only one out of every five women participates in the labor force. A woman's entry into the labor force in Pakistan is dependent on several socioeconomic and cultural factors—among them education levels, family and domestic restrictions, transport etc. Pakistan's labor laws do not create an enabling working environment for women and suffer from inconsistencies in the definitions of labor and labor rights, among other problems, according to a gender audit carried out by Women's Action for Better Workplaces.¹⁸⁵

Women entered into Agriculture sector that is also a domestic work job in nature in Pakistan. Landlords and `vaderaas` mostly keep the women working at their homes and `deraas` involved in their agriculture lands as a rural women in Pakistan Status Report, 2018 says;

With almost two-thirds of Pakistan's population in rural areas, seventy-five percent of women and girls are employed in the agriculture sector. Sixty percent of their work is being utilized as unpaid—in family farms and enterprises—while only 19% are in paid employment. The literacy rate of rural women between the ages of 15-64 years is 35 percent, while in urban areas it is 69 percent. Twenty percent of rural women are classified as own account workers. Support for microenterprises is still limited to low return skills and average loans of Rs.25, 000 per woman.¹⁸⁶

¹⁸⁵ See for instance, a study Gender equality in public administration jointly released in March, 2018 by the United Nations development program (UNDP) and the United Nations Entity for gender equality and the empowerment of women (UN WOMEN PROGRAME).

¹⁸⁶ See for instance, rural women in Pakistan status report, 2018, *launched* in July, 2018 by United Nations.

The report further says, ``rural women are not prepared to cope with the changes resulting from urbanization, climate change, environmental degradation and shocks, and technological innovations. The report concluded that legislation, policy, and activism are required to address the rights and wellbeing of women agricultural workers, and emphasized the need for research ranging from the introduction of new technologies, the value of unpaid care work and the care economy, and rural women entrepreneurs, to the links between climate change and rural women, the impact of CPEC, and violence against women``.¹⁸⁷

DOMESTIC VOILENCE AS REGARD TO DOMESTIC WORKERS

Domestic violence can be defined as threatening behavior, violence or abuse (psychological, physical, sexual, financial or emotional)¹⁸⁸.It is widespread, common and likely to cause both physical and emotional injury not only to the victim but to children caught up in violence.

In 1992 the Law Commission in its Report on Domestic Violence had explained domestic violence thus.

The term “violence” itself is often used in two senses. In its narrower meaning it describes the use or threat of physical force against a victim in the form of an assault or battery¹⁸⁹.

Each definition has been drafted for and takes it’s meaning from a specific context, whether homelessness applications, immigration legislation or the criminal or family law but all now recognize that domestic violence can be physical, emotional. Sexual, intimidating and is not

¹⁸⁷ Ibid

¹⁸⁸ A definition used by the Home Office: see family document 5.3

¹⁸⁹ See Law Commission Report No.207, 1992. Para 2.3.

limited to either male or female. In *Yemshaw* Baroness Hale, talking in context of part VII of the housing act 1996 made the point that ‘domestic violence’ is not a term of art. It is capable of bearing several meanings and applying to many different types of behavior’.¹⁹⁰ She continued:

‘There may also be a concern that an expanded definition is setting the threshold too low. The advantage of the definition to adopted by the president of the Family Division is now that that it deals separately with actual physical violence, putting a person in fear of such violence, and other types of harmful behaviour .It has been recognized for a long time is dangerous to ignore what may appear to some to be relatively trivial forms of physical violence . IN the domestic context it is common for assaults to escalate from what seems trivial at first .Once over the hurdle of striking the first below, apologizing and making up ,some people find it much easier to strike the second, and the third, and go on and on But of course, that is not every case. Isolated or minor act of physical violence in the past will not necessarily give rise to a probability of their happening again in the future. This is limiting factor.’¹⁹¹

The 2001 British Crime Survey (BCS) included a detailed self completion questionnaire designed to ascertain: the most accurate estimates of the extent and nature of domestic violence, sexual assault and stalking for England and Wales.¹⁹² There were an estimated 12.9 million incident of domestic violence acts against women and 2.5 million against men in England and Wales in the year prior to interview.

¹⁹⁰ UKSC3, [2011] FLR 1614, p; 27.

¹⁹¹ *Ibid*, at 34.

¹⁹² Webley and Allen Domestic violence, Sexual Assault and Stalking: Findings from the British Crime Survey (Home Office Research Study 276, 2004).

The following risk factors can be found in domestic violence,

- Women are more at risk than men of inter-personal violence and especially of sexual assault.
- Younger people are more at risk of all forms of inter-personal violence than older people.
- It may be that poverty is associated with the onset of domestic violence, or it may be that in fleeing domestic violence or reduced to poverty.
- The presence of children in the household is associated with nearly double the risk of domestic violence for women.

The domestic violence also reported by Human Rights Commission of Pakistan as commission report says ``alleged torture of a 20-year-old maid, Anees Bibi, by police in Gujranwala was reported in January 2018. Her employer, a landlord in Bhamowali village, had alleged she had stolen some expensive items from his house. She was arrested and reportedly tortured. An inquiry committee appointed by the chief minister held the police officials guilty and recommended action against them``.¹⁹³ Another case of agricultural domestic violence was reported by the human rights commission of Pakistan as the report say ``the son of a former federal minister was arrested in December at the Seventy-five percent of women and girls are employed in the agriculture sector Women 177 Supreme Court on charges of detaining and abusing his maids, Yasmin and Saima, over a theft allegation. The exploitation and abuse of (mostly) female domestic employees— children number among these to an alarming extent—is an issue that is rarely brought out into the open. Considered indispensable in middle and upper

¹⁹³ See for instance, state of human rights in 2018, a report issued by human rights commission of Pakistan in 2018, p; 177.

class households, these women are nonetheless often subjected to long working hours, low pay, heavy workloads, no rest, no holidays and, worst of all, physical abuse. Even the more considerate employers do not have contracts for their domestic staff, which means that they are unregistered and unrepresented¹⁹⁴.

Here you may see a case of child domestic violence in Human Rights Commission of Pakistan as the commission report says ``the case of the ill-treatment of the young maid Tayyaba captured the country's attention in December 2016. In April 2018, the Islamabad High Court sentenced an additional district and sessions judge and his wife to one year each in prison and ordered them to pay a fine of Rs50, 000 each for keeping their then 10-year-old child maid Tayyaba in wrongful confinement, burning her hand over a missing broom, beating her with a ladle, detaining her in a storeroom, and threatening her with 'dire consequences'. A week later, a division bench of the Islamabad High Court suspended the one-year jail sentences handed down to the judge and his wife. The parents of Tayyaba told the Islamabad High Court that they did not wish to pursue the case. In June, the Islamabad High Court accepted an appeal filed by the state and increased the prison sentence from one year to three years with a fine of Rs500, 000.¹⁹⁵ The bench observed that the criminal justice system had failed to protect the most vulnerable members of society from neglect, inhuman treatment, and the worst form of abuse, and had only started functioning after publicity on social media and the subsequent suo motu notice taken by the Supreme Court. A couple were arrested in Gujjar Pura for allegedly torturing their 11-year-old maid, Sumera, clubbing and

¹⁹⁴ Ibid at 178.

¹⁹⁵ Op cit. at 196.

burning her with an iron rod. Another 11-year-old girl, Kinza, was beaten with blunt instruments by her employers—a woman army officer and her doctor husband. The husband was arrested in November after his interim bail expired. The wife, named as the prime suspect, was already being investigated by army authorities.

Seven-year-old Hadia was shot dead by her employer, and her six-year old sister Safia injured, when they arrived late for work. The incident took place in Lakki Marwat, in the province of Khyber Pakhtunkhwa.¹⁹⁶

The Human Rights Commission of Pakistan report comments on the alleged cases of domestic violence as “these are the tip of the proverbial iceberg—incidents that only come to the attention of the authorities and the media when neighbours report them or parents complain. Far too often, however, parents who have farmed out their children because of their own impoverished circumstances are persuaded to stay silent with financial inducements”.¹⁹⁷

MINIMUM WAGES FOR UNSKILLED DOMESTIC WORKERS

Implementation of minimum wages for unskilled workers has not been observed in the Provinces as the Human Rights Commission of Pakistan report says “after the 18th Amendment, the provincial governments were bound to announce minimum wages every year for unskilled workers under the Minimum Wages Law (each province has a separate law). Usually minimum wages are announced at the time of budget, but the former

¹⁹⁶ See for instance, state of human rights in 2018, a report issued by human rights commission of Pakistan in 2018, p; 196.

¹⁹⁷ Ibid.

government did not announce it at federal or provincial level. After the elections, only the Sindh government announced the minimum wage for unskilled workers, increasing the amount from Rs15,000 to Rs16,200 per month. The other three provinces have kept the old rate of Rs15,000 for the second consecutive year. Implementation of the minimum wage is still scarcely observed¹⁹⁸.

CHILD DOMESTIC LABOR

The dire situation of child labor in the country showed no signs of improvement. Pakistan Labor Force Survey shows `` It is estimated that over 12 million children are involved in child labor in the country, many of them due to poverty aged between 10 and 14 years active in child labor, 61 percent were boys and 88 percent came from rural areas. Estimates of the number of children can never be accurate because children working in unregistered small or family businesses or in domestic service are not covered by surveys¹⁹⁹.

In February, the previous Punjab administration announced a drive to eradicate child labor in brick kilns. Following this, 32 child laborers were reportedly freed and owners arrested in Sialkot. In April, activists called for detailed information on the Punjab government's Integrated Project for Elimination of Child and Bonded Labor 2014.²⁰⁰ The following statements of HRCP are very important to see this case ``the government had apparently allocated Rs5.1bn for this project and claimed to have removed 88,000 children from brick kilns and rescued around 41,000 from child labor in other

¹⁹⁸ See for instance, State of Human Rights in 2018, a report issued by Human Rights Commission of Pakistan in 2018. p; 204

¹⁹⁹ See for instance, Pakistan Labor Force Survey 2014-15.

²⁰⁰ See for instance, the Report of Human Rights Commission of Pakistan 2018, p; 210

sectors²⁰¹. Human Rights Activists and people working with brick kiln laborers said that ``the schools were empty and children were still working. In district Sheikhpura, 204 one-room schools set up informally under this project were reported to have been closed down²⁰². The report further says ``previous Khyber Pakhtunkhwa cabinet in its last meeting on 24th May, 2018 approved what they said was the first every child labor policy of its kind, claiming it would discourage child labor and help in preparing a solid strategy for preventing the factors responsible for child labor``. The government is careless to check the employment of children in homes as the HRCP report says ``continues to prevail unchecked and only surfaces in the media when extreme cases of neglect and abuse are reported. The regularity with which reports surface even after employers have been exposed and prosecuted demonstrates once again that legislation alone cannot eliminate child labor and it is the implementation of laws and initiatives that presents the main obstacle``.

CONCLUSION

In the end, as it is above studied and discussed the phenomena of domestic work in the light of ILO Convention No. 189, and other international laws and policies and the reports of HRCP concluded the matter that there is not a good situation in Pakistan regarding the rights of domestic workers. Pakistan is still hesitating to ratify the ILO Convention No 189. Therefore, there is a dire need to ratify the International Labor Organization Convention No. 189 and bring all existing labor laws in line with this convention and introduce new laws and

²⁰¹ Ibid at 211

²⁰² Ibid at 212

legislations in the country which set standards and principles for domestic work.

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