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EXPANDING CROSS-LOC INTERACTIONS: A CONFLICT TRANSFORMATION APPROACH TO KASHMIR

DR SHAHEEN AKHTAR

Introduction

The India-Pakistan dispute over Kashmir is considered most intractable as it remains unresolved even some 65 years following the partition of the subcontinent. Traditionally, both countries have pursued policies that revolved around their concerns regarding territoriality and sovereignty over Kashmir. However, in the last few years of the dialogue process, initiated in 2004, after a ceasefire on the Line of Control (LoC) in November 2003, both countries are moving slowly to a people-centric approach encouraging movement of people, goods and ideas across the LoC. Important steps were taken between 2005 and 2008 and after resumption of the composite dialogue in February 2011 for facilitating cross-LoC travel and trade between the two parts of Kashmir. Some intra-Kashmiri dialogue has also taken place during this period but it has been more sporadic and less institutionalized. Cross-LoC interactions have been discussed both as a part of the composite dialogue as well as in the back channel set up at the official level from 2004 to 2007 when it was actively pursued in the India-Pakistan dialogue process. The ideas discussed in the Track II initiatives have also strengthened the official cross-LoC peace process.

Dr Shaheen Akhtar is Research Fellow at the Institute of Regional Studies. She specializes in regional security, conflict resolution, environment and water security issues in the South Asian Region.

The study examines the transformational value of the current patterns of cross-LoC interactions by using the conflict transformation approach that believes in changing the conflict structure from war system to peaceful system. It argues that expanding cross-LoC travel and trade has the potential to create transformational spaces which will help ease tensions over Kashmir and bring in its people to the centre in resolving the Kashmir dispute. It will eventually contribute to peaceful settlement of the conflict by transforming it from State-centric to people-centric solutions. Thus priority should be given to removing all operational difficulties blocking implementation of the agreed cross-LoC confidence building measures (CBMs), especially institutionalizing cross-LoC travel and trade linkages. It identifies major problems in cross-LoC interactions especially in the area of travel, trade and intra-Kashmiri dialogue and explores ways and means of removing the difficulties in the implementation of the steps agreed to by both sides. Further, people-centric interactions must be expanded to another two areas like cross-LoC tourism and educational cooperation that also hold great transformational potential and can contribute to strengthening the cross-LoC linkages and dialogue processes. Finally, it makes specific recommendations to India and Pakistan on how they can improve trans-LoC interactions.

Conflict Transformation approach to Kashmir

Conflict Transformation is the third-generation approach in the peace and conflict studies which builds on concepts of conflict resolution and management. Its primary objective is to resolve prolonged and intractable conflicts by initiating dialogue processes and interventions that in the long run changes the relationships and interests of the warring parties by addressing the underlying dynamics of the conflict. This is quite distinct from the conflict management approach that stresses "positive and constructive handling of difference and divergence." It does not advocate methods for removing conflict but focuses on ways and means of dealing with it in a constructive way by bringing the parties into a cooperative process for the "constructive management of difference."[1] The main thrust is on containing the conflict in a positive way so that resumption of hostilities is prevented. Thereby, it focuses on a top-down approach and short-term solutions. Conflict resolution approach too addresses the symptoms of the conflict with short-term interventions. Its main thrust is on helping parties in reframing their positions and interests that can foster new thinking and new relationships and explore creative solutions so they may identify win-win outcomes. It

may temporarily solve the problem or stop the violence, but does not address the underlying causes of the conflict.

In contrast, the main assumption of the conflict transformation concept is that the potential for peacebuilding exists in a particular region or community and is rooted in its traditional culture. Conflict transformation is a process by which conflicts are transformed into peaceful outcome. It is a "process of engaging with and transforming the relationships, interests, discourses, and if necessary, the very constitution of society that supports the continuation of violent conflict."[2] This approach suggests a different understandings-based conflict theory, human needs and non-violent action. It emphasizes support for groups within the society in conflict rather than for mediation of outsiders. Conflicts are transformed gradually, through a series of smaller or larger changes as well as specific steps by means of which a variety of actors may play important roles.

Conflict transformation theory got impetus in the 1990s as an upsurge in nontraditional conflicts and 'New Wars', especially ethnic conflicts led to a shift to emphasizing broader definitions of security covering inclusive or human security. The leading theorists in the field like Edward Azar, Johan Galtung and John Burton who had been working with a frame of analysis based on "protracted social conflicts," "structural violence," "human needs" as opposed to the state-centric approaches played a pioneering role in laying the foundations of the transformative approach. John Paul Lederach and Raimo Vayrynen emerged as the leading proponents of conflict transformation theory. Lederach sees peacebuilding as a long-term "transformation of a war system into a peace system, inspired by a quest for the values of peace and justice, truth and mercy'. The process involves changes in the personal, structural, relational and cultural aspects of conflict brought over time and affecting different system levels at different times.[3] Raimo Vayrynen reinforces the argument by emphasizing that issues, actors and interests are dynamic and change over time due to social, economic and political dynamics of societies.[4] Building on Vayrynen's approach Hugh Miall identifies five types of transformation that can help peace builders in designing interventions. These include context transformations; structural transformations; actor transformations; issue transformations and personal/elite transformations.

The context of the conflict includes the society in conflict and the wider international and regional levels. Context transformation refers to changes in the context of conflict that may radically alter each party's perception of the conflict situation, as well as their motives. The structural transformations imply changes in the basic structure of the

conflict, involving set of actors, their issues, incompatible goals and relationships, or changes in the society, economy or state within which the conflict is embedded.[5] Asymmetric conflicts are less amenable to transformation than symmetric conflicts. Actor transformations include decisions on the part of actors to change their goals or alter their general approach to conflict including decisions to seek peace or to initiate a peace process. Changes of leadership are often crucial to securing transformation in conflicts. Changes in public constituencies and supporters of the respective political parties are equally important. This opens up avenues for specific conflict transformation work, as those who work within a party to bring about change in the party position are far more effective than Track I and Track II actors. Issue transformations relate to the reformulation of positions that parties take on key issues at the heart of the conflict as well as the way parties redefine or reframe those positions so as to reach compromises or resolutions. Finally, personal changes of heart or mind within individual leaders or the elite with decision-making power at critical positions may be crucial. This may include changes of perspective or gestures of reconciliation.

These transformers of conflict can play a pivotal role in designing interventions for peace building. Context transformation usually takes place in the regional or global environment while structural transformations mainly occur at the state/society level. Actor and issue transformations generally come about at the conflict party and elite levels while personal transformations depend on the competencies on the individual level. All the five types of transformers are interrelated. Structural and issue transformations affect the context while actor and issue transformations affect attitudes and memory, behaviour and relationships.

Box 1: Transformers of Conflict

	Type	Examples
1.	Context Transformations	Change in the international or regional environment
2.	Structure transformations	Change from asymmetric to symmetric relations Change of power structures Changes of markets of violence
3.	Actor transformations	Change of leadership Changes of goals Intra-party change Change in party's constituencies Changing actors
4.	Issue transformations	Transcendence of contested issues Constructive compromise Changing issues De-linking or re-linking issues
5.	Personal/elite transformations	Change of perspective Changes of heart Changes of will Gestures of conciliation

Source: See ref 2.

- The Kashmir conflict is going through all the five types of transformations in one way or the other. The changes in regional and international context, i.e. nuclearization of the region and emerging human security challenges combined with the end of the Cold War, the 9/11 tragedy, and globalization are slowly changing the perception of the parties about the conflict as they are trying to move away from traditional state-centric approaches, including unilateral military solutions, to search for common grounds or building on convergences.

- The structural transformations are also gradually becoming visible at the State and societal levels on both sides and more so across Kashmir. While the Kashmir conflict has become symmetric at India-Pakistan level, it continues to be asymmetric at Srinagar-New Delhi or for that matter Muzaffarabad-Islamabad levels that makes it far more complex as Kashmiris are yet not involved as party in the formal dialogues processes and lack of interactions between two parts of Kashmir constrains articulation of their narrative and capacity for peace building. The strategic symmetry in India-Pakistan dimension has, however, created a window of opportunity for cross-LoC interactions that may contribute to changing the conflict structure across divided Kashmir. With decline in

militancy, the market of violence is changing but Delhi has not yet responded positively by reduction of troops and withdrawal of Armed Forces Special Powers Act (AFSPA), vociferously demanded by the Kashmiris. In a recent report, the DGP, Kuldeep Khoda, has stated that there has been 49% decline in militancy-related incidents this year and that people want stability and economic prosperity.[6]

- Actor transformations are discernible on the parts of both States' political actors to change their general approach to conflict and initiate peace process. This was evident in A. B. Vajpayee–Musharraf and subsequently Manmohan Singh-Musharraf engagements on Kashmir but the security establishments on both sides are still entrenched in the traditional position on the issue. The Indian Army is strongly opposing reduction of troops or withdrawal of AFSPA from Kashmir. The decline in militancy and surge in peaceful protests in IHK indicates that new actors in the political community and cross-LoC trade are emerging and space is available for political dialogue and for specific conflict transformation work. Kashmiri civil society is also coming forward for peace and appreciating efforts for repairing inter-community relations. The moderates within pro-azadi leadership of the Kashmiri umbrella group, the All Parties Hurriyat Conference (APHC), are supporting a trilateral political dialogue with India and Pakistan and more institutionalized intra-Kashmir dialogue. The National Conference, and People's Democratic Party (PDP) and state Congress are respectively for greater autonomy, autonomy to self-rule, the BJP is for integration with India while Kashmiri Pandits follow a regional narrative.

- Issue transformation is reflected in the nuanced shifts in parties' traditional positions over Kashmir in the last few years. The dominant narrative in each state has been mutually exclusive and is embedded in contest over territory, ideology, self-determination; security including water security, sovereignty and regional aspirations. Pakistan's traditional narrative of *shahrug* (jugular vein), plebiscite; "unfinished agenda of partition," right of self-determination, and the "core issue" is giving way to aspirations of the Kashmiris and a mutual flexibility over

the UN resolutions. India's traditional narrative — *atoot ang* (integral part), "accession to India final," autonomy, plebiscite outdated, opposition to third-party mediation, and Pakistan-sponsored terrorism — is moving to making borders irrelevant with free movement of people across the LoC and cooperative and consultative mechanism between India and Pakistan to maximize the gains of cooperation and resolving problems of socio-economic development of Kashmir. The Kashmiri narrative continues to be fractured due to regional, religious and political complexities in Kashmir and is partly being influenced by the Indian and Pakistan narratives. The dominant narrative of pro-azadi groups like the APHC continues to be the exercise of the right of self-determination in accordance with the UN Charter/resolutions but it is also advocating Kashmiris inclusion in a trilateral dialogue process and has expressed their willingness to support alternative negotiated solutions acceptable to all parties to the dispute. So the parties are in the process of reformulating their positions on the conflict so as to reach compromises or resolutions.

- Personal and elite transformations are partly linked with the changing dynamics of issue transformation. On Kashmir, while there is a nuanced shift in the attitude of individual leaders who have been at the helm since 2004, the civil-military bureaucracies on both sides are still entrenched in state-centric approaches and hardliners including the right-wing parties and militant groups continue to live in bitter past memories characterized by hostile relationships.

The ensuing analysis will look into the changing context of the Kashmir conflict and transformational contribution of cross-LoC interactions in reshaping the dominant narratives and promoting people-centric approaches in resolving the dispute.

The changing context

The end of the Cold War and disintegration of the Soviet Union; the nuclear tests by India and Pakistan; the spread of globalization and domestic economic pressures; and the US war on terror in the wake of the 9/11 attacks are some of the developments that pushed the leadership on both sides to encourage steps that would promote cross-LoC interactions between the two parts of Kashmir. Pakistan that has had attached great sanctity to the UN resolutions on Kashmir showed its

willingness to accept a win-win solution of Kashmir that accommodated the sensitivities of Pakistan and India and at the same time met the aspirations of the Kashmiri people. Under former president General Pervez Musharraf, Pakistan showed remarkable flexibility and imaginative thinking in offering different "out-of-the-box" proposals that could satisfy the "aspirations of the Kashmiris." He made several statements identifying a number of potential options to resolve the Kashmir dispute. This included his four-point formula that envisioned "demilitarization and maximum self-governance" in Kashmir. In December 2006, in an interview with New Delhi Television (NDTV) he elaborated on his ideas saying: (i) Kashmir will have the same borders but people will be allowed to move freely back and forth in the region, (ii) the region will have self-governance or autonomy, but not independence. (iii) troops will be withdrawn from the region in a staggered manner; (iv) a joint supervision mechanism will be set up, with India, Pakistan and Kashmir represented on it.[7] The proposal gradually evoked positive response from India, especially in the area of free movement of the Kashmiri people and goods across the LoC. The new democratic government in Pakistan has expressed commitment to taking the cross-LoC peace process forward.

On the other hand, New Delhi that had traditionally maintained that Kashmir was an integral part of India slowly moved towards the notion of "making borders irrelevant." Prime Minister Manmohan Singh while rejecting "any redrawing of boundaries" or division of Kashmir on "religious lines" showed readiness to turn the LoC into a "Line of Peace". On 16 July 2007, addressing the special convocation of the University of Jammu, he expressed the hope that "Jammu and Kashmir can, one day, become a symbol of India-Pakistan cooperation rather than of conflict."[8] The "Line of Control" could become a "Line of Peace" with a freer flow of ideas, goods, services and people and the land and water resources of divided Kashmir could jointly be used for the benefit of the people living on both sides of the LoC.

This basic attitudinal shifts in Pakistan and India have provided a window of opportunity to promote cross-LoC interactions. This will not only address the sentimental needs of the divided families but also help ameliorate the socio-economic conditions of the Kashmiris, and allow Kashmiri leadership on both sides to come together to play their role as the main stakeholders in the resolution of the Kashmir conflict. As such the growth in cross-LoC cooperative relation can certainly help turn Kashmir from the bone of contention to a bridge for peace between the two countries.

Current trends in cross-LoC interactions

Since 2005 Pakistan and India have demonstrated a more creative approach on Kashmir that involves incremental growth in cross-LoC interactions. The new people- centric approach has led to opening of cross-LoC travel, economic exchanges and sporadic interaction between the Kashmiri leadership on both sides of the LoC. This has led to some symbolic softening of the LoC.

Resuming travel across LoC

The resumption of the bus services across LoC was the first major step in facilitating long disrupted human interaction between two parts of Kashmir. Its main purpose was to reunite the divided families across the LoC. In 1947 thousands of families living in the two parts of Kashmir were separated. After the ceasefire in Kashmir on 1 January 1949, a simple rahdari permit system was devised for travel between divided Kashmir but it was discarded a few years later and the bus service was suspended in 1965. After almost four decades of suspension, a bus proposal was floated by India in July 2001 and then revived in October 2003. On 16 February 2005, the two countries after intensive negotiations agreed to restart a fortnightly Srinagar-Muzaffarabad bus service from 7 April. The moot point was the modalities regarding travel documents. While India insisted on passport, Pakistan kept stressing on UN document. Back-channel diplomacy was used to work out modalities acceptable to both sides. It was agreed that travel across the LoC "will be by an entry permit system, once identities are verified. Application forms for travel will be available with designated authorities in Srinagar and Muzaffarabad."[9] It was decided that permit will be the basis of travel while an entry permit will be issued by the other side. The application forms will be sent to the other side for its permission, which will notify it to the authority that sent them. The bus will not cross the LoC but will stop at the LoC. Passengers will get off, cross the LoC on foot carrying their luggage, and board the waiting bus on the other side, after securing an entry permit there.[10]

In April 2005, Srinagar-Muzaffarabad bus-service was launched with great fanfare. That initiated the process of restoring communication links between AJK and IHK. In January 2006, both countries agreed to start another bus service linking Poonch and Rawalakot which was launched six months later in June. Initially, the bus services operated only fortnightly and carried 20-25 people in case of Srinagar-Muzaffarabad and 50-50 in case of Rawalakot-Poonch. In 2008, they were converted into weekly services.

The resumption of cross-LoC bus services was welcomed by majority of the Kashmiris living on both sides of the LoC barring a section of APHC and Kashmiri militant groups. The Srinagar-Muzaffarabad service was disrupted for some time after the road was damaged in the 2005 earthquake. Despite procedural delays, divided families have regularly been crossing the LoC over the last four years. According to AJK official sources nearly 20,000 people have travelled since the bus services were resumed in 2005. Besides, mainstream political leaders as well as those from APHC and mediapersons were allowed to cross the LoC.

Opening of cross-LoC crossing points

Fourteen months later, Pakistan and India agreed to open foot-crossings at five points across the LoC. The points were opened up mainly to provide relief assistance to quake victims and facilitate meetings between the divided families. The earthquake served as a catalyst in expediting the dialogue process to open the crossing points on the LoC. The five foot-crossing points were: Nauseri-Tithwal; Chakothi-Uri; Hajipir-Uri; Rawalakot-Poonch and Tattapani-Mehndhar. The parameters and procedures agreed upon for the Muzaffarabad-Srinagar bus service were to be used for additional crossings. Both sides agreed to make efforts "to expedite the clearance process, preferably within ten days."[11] It was further agreed that priority for crossings would be accorded to members of divided families on either side of the LoC. The first crossing point, Rawalakot-Poonch, was opened on 7 November 2005 to allow exchange of earthquake relief goods. There was lot of enthusiasm on both sides of the LoC and hundreds of Kashmiris on the Pakistani side surged towards the LoC to meet their relatives. In all, four points-Chakothi-Uri, Rawalakot-Poonch and Chilhana-Tithwal and Tattapani-Mehndhar are operational. Later, the two countries agreed to open two meeting points along the LoC including Chakan da Bagh and Chakothi, but they are still not operational.

Despite all the procedural difficulties and limited scope of the travellers, 19,071 people have been able to travel across the LoC from both parts of the divided territory. These include more than 12,000 from AJK and a little over 7,000 from areas across the LoC. Uri-Chakothi and Rawalakot-Poonch happen to be the major crossing points.

**The number of people travelling across the LoC
from 5-crossing points: 2005 up to 2011**

	From AJK to J&K*	From J&K to AJK	Grand total
Chakothi-Uri	5019	2655	7674

Chilhana-Titwal	403	665	1068
Hajipir-Silli Kot/Uri	-	-	-
Rawalakot-Poonch	2984	2844	5828
Tattapani-Mehndar	3647	854	4501
Grand total	12,053	7,018	19,071

Source: AJK Cross-LoC Trade and Travel Authority (TATA). Figures cover the period from April 2005 to 30 November 2011. Tattapani-Mehndhar and Hajipir-Uri crossing points are not operational at the moment due to poor road conditions.
*Here India's official title for IHK is used without prejudice to Pakistan's position on the disputed territory of Kashmir.

Resumption of cross-LoC trade

The cross-LoC travel initiative led to greater urge among Kashmiris on both sides for the resumption of cross-LoC trade. In 2006 an understanding was reached between the two countries to start cross-LoC trade in selected primary products of Kashmiri origin. In October 2008, three years after the resumption of cross-LoC bus service and after much protracted talks, a cross-LoC truck service for trade on the Srinagar-Muzaffarabad and Poonch-Rawalakot routes was put in place. In their 21 July 2008 meeting, the foreign secretaries of the two countries agreed to open the route for limited trade. The Working Group on Cross-LoC CBMS in its meeting on 22 September finalized the terms and conditions for the trade between the two parts of Kashmir, consisting of roughly 21 items. India rushed it through as one way of handling the crisis in the Kashmir Valley that erupted around the land-for-Amarnath controversy, and the subsequent economic blockade of the Kashmir Valley by the right-wing Hindu activists of the Jammu region. The blockade led to the demand for opening of Srinagar-Muzaffarabad road and "Muzaffarabad March" call that left a number of people including an APHC leader dead in the police firing.

Against this backdrop, on 21 October, after a 61-year breakdown of trade ties between the two sides of the LoC, trucks moved across the LoC between Srinagar and Muzaffarabad and Poonch-Rawalakot, which have been traditional trade routes. A convoy of 13 trucks carrying mostly apples set off from across the LoC for AJK and 14 trucks packed with fruits, onions and spices made the journey in the opposite direction. Generally, the goods traded include vegetables, fruits, rice, dry fruits and some major Kashmiri handicrafts. Under the agreement signed by Pakistan and India, the goods trucks were to cross at two points twice a week and no customs duty was to be imposed. Traders on both sides of

Kashmir were to conduct business through barter, as there was no banking facility available. Further, screening was to be done manually as X-ray machines were yet to be installed. When the trade started, the business community was assured that requisite modalities would be finalized soon.

The mainstream Kashmiris political parties on both sides of the LoC and majority of the APHC leaders supported the reopening of the Srinagar-Muzaffarabad road for trade as it would provide an alternative trade route to ensure uninterrupted flow of consumer items into the valley and for exporting fruit and other items from there. The business and trade community across the LoC welcomed the beginning of trans-LoC trade. They felt that trade would bring the people closer together across the LoC and reduce tension between the two countries while strengthening the peace process. Shortly, before the opening of cross-LoC trade a 19-member delegation of AJK Chamber of Commerce and Industry (AJKCCI) visited Srinagar from 9-16 October 2008. The delegation met their counterparts from Srinagar and Jammu region and discussed in detail the potential and volume of trade, modalities of the trade agreed and the problems faced the businessmen and traders involved in LoC trade. Their interaction led to the creation of a Joint Chamber of Commerce — Intra Jammu & Kashmir Chamber of Commerce & Industry (IJ&KCCI). As a goodwill gesture, Zulfiqar Abbasi, president of AJKCCI, was appointed president of the Joint Chamber for an initial one year-term upto October 2009.

When the trade began, the potential problems were anticipated and outlined by the business communities in both parts of Kashmir. In a meeting at Srinagar between the AJK delegation and state government representatives, Dr Haseeb A. Drabu, economic adviser, J&K government and chief executive of J&K Bank, pointed out five basic networks that were necessary for the cross-LoC trade to become "a viable self-sustaining economic process". They were banking relations, including mutual acceptance of letters of credit; a communication network in order to enable traders to know the rates prevailing on the other side; transport network, regulatory network to determine the composition of trade and a legal network for dispute resolution.[12] Indeed the success of cross-LoC trade will depend on how these five mechanisms are finally worked out. In addition, the Joint Chamber prepared a set of joint recommendations for the facilitation of trade and submitted it to the governments of India and Pakistan in October 2008. Some of the major recommendations included expansion of the list of items for trade, facilitation of travel and traders' access to each other, infrastructure facilities, banking services, use of dual currency of both

countries as the mode of payment with the US dollar as the reference point, inclusion of services sector and opening of more trade routes.[13] The Joint Chambers remained only on paper and could not be launched formally as a reciprocal visit by businessmen from the across the LoC could not materialize due to escalation in India-Pakistan tensions in the wake of the Mumbai attacks in November 2008.

Formation of joint apex body: Jammu and Kashmir
Joint Chamber of Commerce and Industry (J&KJCCI)

The representatives of Chambers across the LoC did not give up and continued their efforts to iron out issues in the cross-LoC trade and institutionalize linkages between the respective chambers and emerging traders' associations on both sides of the divide. After four years of struggle, in November 2011, in a meeting held at Istanbul, Turkey facilitated by the London-based Conciliation Resources (CR) — international organization in peacebuilding — the representatives of 10 major business organizations including four major Chambers and Federations of Industries[14] from both sides of the divide formally launched an "inclusive and properly elected apex Joint Chamber of Commerce and Industry."[15] This has revived and restructured the existing Joint Chamber of Commerce and Industry which was in limbo since 2008. The apex body will comprise 44 members equally drawn from both sides of the LoC. Eight members of the general body will be from the cross-border trading points of Tetrinot-Chakan da Bagh and Salamabad-Chakothi. A proper constitution and terms of association for the body will be drafted by a ten-member committee before 31 March 2012 and approved by the Executive Committee before 30 April 2012. The J&KJCCI will integrate the Joint Federation of Cross-LoC Traders after its formal establishment. The presidency will rotate between the two sides with a one-year tenure. The institutionalization of the Joint Chamber from both parts of the divide is a major step in putting in place formal structures of cooperation that could be extended to trade in services like cross-LoC tourism in due course of time.

Despite all the difficulties, the trans-LoC trade has been sustained by the divided families and there has been a steady rise in the number of the trucks crossing the LoC and in bilateral turnover. In the last three years trade worth PkR 15.18 billion has taken place while more than 29,000 trucks have crossed the LoC.

Cross-LoC Trade: Volume and Value from 2008 to 2011*

	From AJK side	From J&K side	Grand total
No. of trucks crossed the LoC	14,480	14,581	29,061

| Value of the trade | 8441.30 | 6,745.93 | 15197.34 |
| Volume | 8631.6 MT | 15,558 MT | 24,186.6 MT |

Source: AJK Cross LoC Trade and Travel Authority (TATA). Data cover the period from 21 October 2008 to 30 November 2011.
*The amount is in PkR millions.

Intra-Kashmiri dialogue

Although intra-Kashmiri dialogue is central to the growth of cross-LoC interactions, it has been at the minimal and sporadic for the last seven years of the India-Pakistan peace process. Significantly, India allowed APHC leadership to visit Pakistan and AJK and meet Kashmiri and Pakistani leadership. This provided an opportunity to individual Kashmiri leaders from across the LoC to interact with their counterparts in AJK. Some of them in fact met Kashmiri militant leadership including Syed Salahuddin, head of the Hizbul Mujahideen and Chairman of the United Jihad Council, an umbrella group of Kashmiri militant groups now based in AJK, and urged him to give up the armed struggle. There were also a limited number of meetings between the Kashmiri leaders and stakeholders from different regions of Kashmir from both sides of the LoC. These were arranged by the different NGOs engaged in Track II dialogue, i.e. the Delhi-based Centre for Dialogue and Reconciliation (CDR), Washington-based Pugwash, the Islamabad-based Kashmir Institute for International Relations (KIIR) and London-based Conciliation Resources (CR). The participants of various meetings have been emphasizing the opening of all traditional routes of Jammu and Kashmir for the free movement of people and trade.

Major problems in cross-LoC interactions

The benefit of the steps taken to promote cross-LoC travel, trade and intra-Kashmiri dialogue has, however, been limited due to a number of difficulties in the way of their operationalization.

The issue of travel permits

Travel across the LoC is constrained by procedural delays in acquiring entry permits. Invariably, it takes several months to get the travel permits from both governments to cross the LoC. The processing of entry permit has been made so difficult due to clearance from various intelligence agencies that only a few people can make it and that also after long delays. Members of divided families complain that very few people get clearance from both the governments. Thereby the bus services remain underutilized while thousands of applicants remain on the waiting list. According to official records of AJK and IHK, over the first four years a total number of 45,863 people submitted their

applications forms — 27,532 from AJK (till September 2009)[16] and 18,331 from IHK (until July 2009).[17] Of these only 12,681 were able to travel across the LoC- 7,316 from AJK (until September 2009)[18] and 5,362 from across the LoC (until July 2009).[19] The eligibility to travel being limited to divided families has also limited cross-LoC traffic. Only those with close relatives on the other side are entitled to travel. Moreover, officials from AJK cannot travel across LoC. Thus only a limited number of people have benefited from the bus services.

There has been concerted demand by the Kashmiris on both sides of the LoC to simplify the entry permit procedures. In the fourth round of the Composite Dialogue held in March 2007, both sides agreed to ensure implementation of the already agreed Kashmir-related CBMs including rationalization of five crossing points across the LoC.[20] Later, the Working Group on Cross-LoC CBMs that met on 19 July 2008 discussed effective implementation of existing cross-LoC measures which were then approved at the foreign secretary level talks held in New Delhi on 21 July 2008. A number of CBMs announced included: 1) introduction of a triple-entry permit for cross-LoC travel; 2) Simplification of procedures for getting the permit which at present takes at least two years; and 3) An increase in the frequency of the Srinagar-Muzaffarabad and Poonch-Rawalakot bus services from fortnightly to weekly.[21]

As regards the triple-entry permits, a separate form has been finalized and all three entries will have to be from the same crossing point. The facility would be automatically available to senior citizens and accompanying spouses. Both sides also decided to take steps to reduce the processing time for applications, hold monthly coordination meetings of the designated authorities, with a provision to convene urgent meetings whenever needed. The designated authorities will also reconcile the data regarding crossings regularly. It was also decided to allow a maximum of 60 persons per crossing. The designated authorities would start exchanging applications for permits by e-mail that would require to be backed up by hard copies. Also, clearance would be processed within a week in case of emergencies like death of close relative across LoC, but the applicants' stay in such cases would be limited to maximum seven days.

However, hopes for the implementation of these measures were dashed by the spell of high tension between India and Pakistan due to the Mumbai attacks in November 2008. In fact, in the post-Mumbai period, there has been considerable decline in the number of travellers across the LoC. When the dialogue resumed in February 2011, the foreign ministers in their review meeting in July took several steps suggested earlier by the

Working Group on Cross-LoC CBMs to ease cross-LoC travel and trade. The frequency of the Srinagar-Muzaffarabad and Rawalakot-Poonch bus services was increased from fortnightly to weekly basis and it was decided to expand cross-LoC travel to include tourism and visits to shrines. The modalities would be worked out by both sides. It was agreed to expedite the processing time for applications within 45 days and exchange application forms for travel via email backed by hard copies. Six-month multiple-entry travel permits will be allowed by the designated authorities. Further facilities like waiting area, terminal and clearing procedures at the operational crossing points were to be provided to cross-LoC travellers.[22]

A number of steps were also envisaged to facilitate cross-LoC trade. These included respecting the list of 21 permissible items for cross-LoC trade; review of trading list to expand the tradable items and provision of adequate facilities at the trade facilitation centres on each sides. The number of trading days were increased from two to four days a week and it was agreed that designated authorities would resolve operational issues concerning cross-LoC trade through their meetings to be held alternately at the terminal of the crossing points on both sides of the LoC, every quarter or as and when required.[23] It was also decided that the Joint Working Group would meet on a bi-annual basis to review existing arrangements and suggest additional measures for cross-LoC travel and trade.

Trade related difficulties

The opening of the trade was "more a symbolic affair."[24] The modalities for smooth trade were not worked out. Thus presently the cross-LoC trade is marred by several infrastructural and operational problems. These include limited trade volume due to limited list of tradable items and barter system; inadequate infrastructure and trade facilities; lack of communication links, absence of banking facilities and restrictions on traders' travel across-LoC. This has robbed the trade off its potential to make any impact on the economy on either side.

Limited items on the trade list and barter system

The limited items on the trade list and the barter system are posing a great challenge to traders. Trade is restricted to only 21 items, all of which are primary products produced within Kashmir. There is also a ceiling on the number of goods limiting the transfer across LoC to the bare minimum. Further the goods on the positive list also do not correspond to market realities. "A number of items defy trade rationale as they are already available at lower cost within the importer's market

or the exporter has a more lucrative market available domestically."**(25)** The trade is also being conducted on barter system as no guidelines have been framed by the governments of India and Pakistan on the use of currency. This has led to many problems in making payments. In fact, in less than a month after the cross-LoC trade was launched, it ran into trouble as traders from the Valley started grappling with how to obtain the money for the goods they sent across the LoC. They even threatened to suspend supplies if these problems were not sorted out.

Lack of communication links

The absence of communication links is badly affecting the conduct of cross-LoC trade. There are no telephonic links or facsimile services between the two parts of Kashmir. In fact no phone call is allowed from the other side of the LoC to AJK or Pakistan. Traders from across the LoC can receive but cannot return the calls from AJK. They can communicate through e-mail, but they find this inadequate.**(26)** Moreover, no postal or courier service is available at the moment. On top of it, traders cannot meet regularly because businessmen face visa restrictions and cannot cross the LoC. In the absence of all kinds of communication, the cross-LoC trade is drifting to a halt. Mubeen Shah, former president of Kashmir Chamber of Commerce and Industry, stated that the government had promised to lift the telecommunication barrier besides meeting other demands of traders, like multiple-entry permits, or a payment system.**(27)** There could not be any progress on the modalities, as India-Pakistan relations got strained after the Mumbai terror attack.

In a report published on 25 April 2009, Hamidullah Dar and R.S. Gull, correspondents of Kashmir Life, a Srinagar-based weekly, highlighted the dismal state of the cross-LoC trade, especially on the Srinagar-Muzaffarabad route. The report revealed that trans-LoC trade had lost most of its gloss, leaving it for divided families to sustain the process. Barring a few who visited Muzaffarabad personally and settled terms with their counterparts, most traders either deal only with their relatives living across the LoC or seek a counter guarantee from relatives of traders in Azad Kashmir living here.**(28)** Thus more than 80 per cent of the traders involved have blood relations across the LoC. However, trade at the Poonch-Chakan da Bagh crossing point presents a better picture, largely due to the same factor as most divided families are from Poonch. Here, too, primitive barter transaction prevails which imposes its own limitations. In a positive development, on 5 November 2009, district administrations of Poonch and Rawalakot allowed a meeting of traders from both sides at Chakan da Bagh–Tetrinot point so that they "could

interact, establish their personal relations, know the rates of approved items on the other side and place the orders."[29]

Lack of banking facilities and payment modalities

The issue of transfer of money is the main obstacle which has in fact paralyzed the cross-LoC trade. There is no bank transfer facility. Neither the Jammu and Kashmir Bank on the other side nor the AJ&K Bank on this side has branches across the LoC. They also do not have direct correspondence and thus do not allow cross-referenced transactions.[30] The chambers of commerce and industry on both sides had agreed that trade would be done on part-barter and part-remittance basis. But no arrangement exists to make these payments. Banks across the LoC are not in a position to accept remittances from AJK; neither can they send money to the other side, for security reasons. Absence of banking facilities has practically reduced the entire cross-LoC trade to a barter exercise.

Lack of infrastructure and trade facilities

Trade is also adversely affected by the poor physical infrastructure. No more than 1.5 metric tons (MT) per truck load can cross the LoC due to infrastructural constraints on both sides. The small consignment size turns the transaction uneconomic due to high fuel, freight, handling, insurance and other costs involved.[31] Moreover, traders cannot transport their goods to their final destinations. Trucks are unloaded at checkpoints near the LoC and then reloaded onto local trucks which not only increases the cost but also terribly affects the perishable items. There is also no mechanism in place on either side of the LoC that can help traders in handling of trucks. Traders have to wait, some time for days for their turn which affects them badly, especially if they are dealing in perishable goods.

Possibility of Indian-Pakistani traders competing with Kashmiri traders

Cross-LoC trade is also likely to be gravely affected by the possibility of competition Kashmiri traders might face from Indian and Pakistani traders. Mubeen Shah, former president of Kashmir Chambers of Commerce and Industry (KCCI), has stated that New Delhi is trying to discourage trade across the LoC. His reference was to the ban by New Delhi on items like ginger, garlic, dates, mung lentils, raisins and pistachios which are in great demand in IHK. He contended that these items were banned due to Indian traders being forced to lower their prices to match those brought through the LoC. Mobeen observed that the "Indian and Pakistani businessmen trade through the Wagha border.

They felt competition from Kashmiri traders when the LoC opened for trade."[32] The ban notification that came through India's agriculture ministry and not the commerce ministry caused heavy losses to Kashmiri traders, who had invested in these items. Whatever reason may be cited for banning these items, the fact remains that in the absence of a proper regulatory system the cross-LoC trade is on the verge of collapse. Besides, proxy trade is endangering the business of the small traders from Kashmir engaged in cross-LoC trade. Big businessmen from Lahore and Amritsar, who do not face communication or transaction problems, are hiring local traders as facilitators, thereby marginalizing the local businessmen.

Traders' boycotts

Kashmiri traders who have been persistently demanding that the governments on both sides provide essential facilities like banking, communication and infrastructure for meaningful trade have been frustrated by inordinate delays and have thereby resorted to trade boycotts to press the authorities to address their problems. In December 2010-January 2011 the Salamabad-Chakothi traders' union went on indefinite strike in protest against lack of required infrastructure, especially covered storage facilities at Salamabad, that caused them huge financial losses. The traders' leader Hilal Turkey, asserted that the extreme step of boycott was taken after several requests to the administration in Srinagar did not yield any positive result and goods worth Indian Rs 7 crore, including costly carpets and dry fruits in nearly 80 trucks were destroyed in rains as they lay in open fields at Salamabad facilitation point.[33]

Similarly, traders from Salamabad and Chakan da Bagh suspended trade for four months protesting against Srinagar's decision to levy sales tax and value added tax (VAT) on items being sold across the LoC. The traders went on strike on 8 March 2011 to press their demands which included revocation of VAT, expanding the list of approved items, setting up of banking and communication facilities, construction of covered godowns at Salamabad and regular meetings of traders at the zero-line on the LoC. Failing to get any positive response from the authorities, the traders decided to go on an indefinite strike. The traders association from Poonch also moved the high court, seeking a stay against the levy decision on the ground that the trade, being a major confidence-building measure between the two countries, had been a duty-free trade and should be respected.[34] The traders argued that the trade should be treated as an intra-state business. Over 374 traders

involved in the Uri-Muzaffarabad and 164 from Poonch-Rawalakot boycotted the trade.[35]

Somewhat similar issues have cropped up for the AJK trading community engaged in cross-LoC trade. Trade was again intermittently suspended by the AJK cross-LoC traders when Pakistan central bureau of revenue (CBR) officials seized over a dozen loaded trucks in November 2011. The CBR and customs department officials maintained that the goods were illegal and smuggled from India. This led to protests and suspension of trade by cross-LoC traders from AJK. The Joint Chambers expressed serious concerns over the seizure of goods and imposition of customs duty. AJK prime minister took up the matter with Pakistan's prime minister who assured him smooth flow of cross-LoC trade. Finally CBR and Pakistan Foreign Office agreed that the CBR authorities would not seize their vehicles until next meeting of India-Pakistan Working Group on cross-LoC CBMs.[36]

Traders have also gone on strike several times in protest against the imposition of ban on key profitable items that are part of the 21 items in which trade was allowed. In the past officials across the LoC banned peanuts, ajwain and garlic while pulses especially dal moong and chillies were simultaneously banned by authorities on either side of the LoC resulting in suspension of trade for more than eight weeks in 2009 and 2010. Traders want that the list of tradable items should be expanded to 85 and the banned items immediately replaced with new ones. The traders on both sides of the LoC have also formed their associations to exert pressure on Srinagar and Muzaffarabad as well as Delhi and Islamabad to streamline the cross-LoC trade regime.

Transformational value of travel and trade

The cross-LoC travel and trade have created transformational spaces that can help in improving local economies and trust building within and across the divided state of Kashmir, eventually bridging the trust gap between Delhi and Islamabad over Kashmir. It is creating a sizable constituency in the region that is developing stake in peace and development in all parts of Kashmir and is bringing in the human dimension ignored so long in the Kashmir narrative.

Trading for Peace

The peacebuilding impact of the cross-LoC trade linkages on the local communities is becoming visible. Cross-LoC trade has created new economic opportunities for people living on both sides of the LoC that had borne the brunt of the conflict for so long. The trade that had a modest beginning is growing despite various obstacles and by 2011

generated employment and livelihood opportunities for nearly 10,000 people.[37] These include traders, drivers, loaders and many others engaged in allied services. The average weekly trade is reportedly to the tune of Rs. 20 crore.[38] With resumption of travel and trade, the "entire fabric of LoC changed overnight, habitants living close to bunkers from Uri to Chakan da Bagh and from Chakothi to Tetrinot seemed to have gotten rid of suffocation in a new environment… Residents who had to flee homes due to heavy shelling and nightmares returned."[39] The roads were reconstructed on both sides of the LoC and the people living along the Line began to reconstruct and rebuild their shops and houses. The revival of trade and travel linkages has great potential of improving the local economies in both parts across the LoC and increase trade connectivity between different regions of Kashmir. Kashmiris business communities have used the opportunity to build cross-LoC peace constituencies which is reflected in formalizing of cross-LoC traders associations and Joint Chamber of Commerce.

Reconnecting families, bridging perception gaps

Travel and trade have reconnected the divided families and can help build trust within and across the divided state of Kashmir. In fact, given the limited trade regime, the divided families have managed to sustain the trade, so it is emotions rather than facilitation that have saved the nascent linkages. Their argument is very clear. They do not want to provide any excuse to the authorities on either side that the trade has collapsed. Trade has also reportedly attracted some 40 former militants who have joined in, particularly on the Muzaffarabad route, which is not only developing their stakes in peace and making them emerge as new actors in intra-Kashmir peace dialogues. Trade is also closing the perception gaps that have widened owing to absence of movement and interactions across the LoC.

Repairing relationships, building trust

Cross-LoC interactions are improving relations between communities within and across the regions of Kashmir. Trade is cutting across religious lines especially in the Poonch-Rawalakot region. The traders on the AJK side are entirely Muslim while their counterparts in the Poonch district are non-Muslims. This can make a very positive contribution to restoring inter-communal harmony that is under severe stress in Kashmir. Significantly, trade is changing local attitudes in the Jammu region that has historically held different perception and sentiments vis-à-vis the Kashmir Valley and Azad Kashmir. On trade, the Jammu region is on the same page with the Valley and AJK.[40] The

formation of various cross-LoC trade associations and institutionalization of linkages between regional chambers of commerce is going to further bridge the perception gaps across the LoC divide.

Bringing in human dimension to Kashmir narrative

Cross-LoC interaction is changing the dominant narratives on Kashmir that were statist and ignored the voices and capacities of the Kashmiris for peacebuilding in Kashmir. The issue being treated as inter-state conflict, Kashmiris have not been formally accepted as party to the dispute, which has affected their lives fundamentally. Kashmiris have always complained about it but could not make their voices heard. Further, the conflict has "prevented any meaningful interaction between Kashmiri communities across the LoC and relationships, and exchange of ideas and perspectives have suffered."[41] The trade and travel linkages have provided an opportunity to the people of Kashmir to throw up a bottom-up approach in peacebuilding in which they are the main stakeholders. The "intra-Kashmiri relationships established through trade can be developed into 'cross-border partnerships for peace' and used to build collective Kashmiri peacebuilding capacity."[42]

The human dimension and peacebuilding potential of the intra-Kashmir connectivity is now increasingly recognized by the local political actors on both sides of the divide. M.Y. Tarigami, Communist Party of India (Marxist) MLA from IHK, emphasized liberalizing the travel and trade regime and evolving commonalities for finding an amicable solution to the Kashmir dispute. He urged both countries to share the responsibility and initiate a visionary and credible peace process to put an end to the human tragedies in the state. He regretted that both countries had so far viewed the issue from territorial angle though it transcended territorial dimensions.[43] Similarly, People's Democratic Party (PDP) President Mehbooba Mufti views LoC trade as a positive step that "symbolized a change in the mindsets of India and Pakistan towards Kashmir and was an acknowledgement of the need to address the siege that the state had fallen into." She felt that the trade had great potential of new possibilities of peace, development, growth and ultimate resolution of the Kashmir issue.[44]

Bridging trust gap between Delhi and Islamabad

The vision of nuclear rivals embroiled in the Kashmir conflict is still overshadowed by a state security rather than human security paradigm which is quite discernible in their security policies. Although they have allowed cross-LoC interactions, they have not practically done much to make its work hassle free, with the result that the full potential

of these initiatives is still not realized. There is also not much realization of the need for consciously linking it with peacebuilding activities across the LoC. However, there are many peacebuilding organizations like CR and CDR as well as the emerging peace constituency in both parts of Kashmir that are taking advantage of the openings and using it to bridge the trust gap between Delhi and Islamabad over Kashmir. The fact that cross-LoC relationships of trust developed through trade showed resilience to political vicissitudes following the Mumbai attacks is encouraging and shows that a "bottom-up" approach to peacebuilding is taking shape in Kashmir. Although intra-Kashmir trade cannot resolve or dilute underlying political disputes, it nonetheless offers a platform for reconciliation and broader understanding.[45]

Building educational linkages & cross-LoC tourism

Transformational spaces can be expanded by extending cross-LoC interaction to other areas especially building educational linkages and extending trade to services sector like tourism. Cross-LoC educational cooperation will benefit both parts of the disputed territory. A recently conducted first ever joint study on the possibilities of cross-LoC educational cooperation has explored the opportunity structures and has come up with a number of short-term, medium-term and long-term steps that can enhance such cooperation, especially in the sphere of higher education. These range from formation of cross-LoC Vice Chancellors' Consortium which has recently been established[46] to scholarly exchanges, vocational training and human resource development.[47] The institutionalization of educational cooperation would further concretize the people-to-people interactions across the LoC. Cooperation in higher education can bridge the perception gaps within and across different regions of Kashmir that underlie many stereotypes sustaining negative mindsets. It can also act as a catalyst in bringing the younger generations of Kashmiris together that have been kept apart by the conflict.

Tourism is an equally important area for enhancing cross-LoC trade ties. It has lot of economic potential and will allow interaction between members of larger civil society of Kashmir, going beyond the divided families. It can also play a crucial role in bridging the divides between different communities as both parts of Kashmir are dotted with shrines that are symbol of interfaith harmony.

Intra-Kashmiri dialogue on the back burner

Kashmiris are central to cross-LoC interactions, but intra-Kashmiri dialogue is yet to take a concrete shape especially at the Track

I level between the two parts of Kashmir. For instance, parliamentarians or government officials cannot go across the LoC, which if allowed could remove lot of operational difficulties in the implementation of the CBMs relating to trade and travel across the LoC. It appears that India and Pakistan suffer from a trust deficit not only against each other but also vis-s-vis the two parts of Kashmir. If this continues, it is likely to undermine cross-LoC interactions.

Growth in intra-Kashmir dialogue is also very important for evolving a consensus amongst Kashmiris regarding their common position on the resolution of the Kashmir dispute. Currently, Kashmiri narrative is largely fractured, divided along regional and religious lines. This is partly the result of the territorial division of Kashmir which also divided the people. There are diverse regional narratives within and across the three regions — the Valley, Jammu and Ladakh — ranging from *azadi* (freedom) to autonomy to integration of parts of Kashmir with India. There is also division within the Hurriyat ranks between the moderates and the hardliners. On this side of the LoC, there are perception gaps between AJK and Gilgit-Baltistan on the future of Kashmir. Personality clashes and leadership rivalries have further fragmented the Kashmiris' narrative. Then there are perception gaps across the LoC that need to be addressed. The regional and communal divides need to be bridged and it is not possible unless there is intensive intra-Kashmiri dialogue among and within the different regions of Kashmir and across the LoC.

The inclusion of the people of Kashmir is also critical for the success of the India-Pakistan dialogue on Kashmir. They are the direct stakeholders and their involvement would help both in evolving and implementing a solution acceptable to all the three parties to the dispute — India, Pakistan and the people of Kashmir. Kashmiris have been very supportive of the Composite Dialogue and the Kashmir-specific CBMs but have been demanding their own inclusion in the process making it a trilateral rather than a bilateral dialogue. They firmly believe that a solution of Kashmir will be durable only when the Kashmiri people from both sides of the LoC are taken into confidence, their voices are heard and they are given an opportunity to express their wishes. Keeping the intra-Kashmiri dialogue on the back burner would never help in finding a solution acceptable to all the three parties.

The road ahead: Overcoming the problems

There is an urgent need to remove bottlenecks in the way of operationalization of the measures that the two countries have agreed

regarding cross-LoC trade and travel and institute more CBMs to expand the free movement of the people, goods and ideas across the LoC.

Liberalizing travel regime

Of foremost importance is the easing of the administrative and security procedures relating to the entry permit system for travel, simplifying its format and process and expanding its scope to include all citizens of Kashmir living in the two parts of Kashmir as well as the Kashmiri diaspora. Kashmiri traders should not only be added to the eligibility list but also be issued special multiple-entry Trade Pass as suggested by the Joint Chamber. The Trade Pass can be issued on the recommendations of the respective Chambers of Commerce and Joint Chambers and should be valid at least for two years. It would be much desirable for the Kashmiris if the powers to issue the travel permits is delegated to the respective state governments and local officials.[48] There is also a desire among Kashmiris for the restoration of the procedure followed during the 1950s. It was based on a letter of identification from the district commissioner which served as a travel document. This remained in force until 1953 in the rahdari system.[49] A certificate of "permanent resident" of the state should be considered sufficient for issuing travel permit. This may appear difficult under the prevailing environment of distrust between the two countries, but it would be essential if both sides want to make cross-LoC travel a success. In the meantime, the decision regarding triple-entry permit should be implemented as soon as possible. Additionally, special category permits may be introduced to enhance exchanges of students, faculty members from universities, journalists, lawyers and cultural or religious tourist groups from both sides of the LoC. This will also enhance civil society linkages between the two parts of Kashmir.

Opening more bus services & trade routes

There is great need and urge among the people of Kashmir for opening more roads across the LoC to improve the mobility of people and promote economic interaction between the two parts of Kashmir. Opening of more road links is key to enhancing trade especially barter trade across the LoC. The Joint Chambers has recommended the reopening of all historical trade route within the state of Kashmir. These include the routes of Mirpur-Nowshera, Chhumb-Pallanwalla (Jammu), Kotli-Rajori and Sialkot-Suchetgarh on priority basis.

There is a strong desire among Kashmiris in both parts of the state to expand cross-LoC mobility. In a meeting held on 27 August 2009, the leaders of AJK political parties urged the two governments to

open without delay all points on the LoC and all roads and paths, including the Kargil-Skardu and Mirpur -Jammu (Mnawar-Akhnur) road for traffic and commerce.[50] Similar sentiments have often been expressed by the political leaders across the LoC. In a letter to the Indian Home Ministry, Srinagar has asked for opening of the Suchetgarh-Sialkot, Nowshera-Mirpur and Chhumb-Pallanwala trade routes. In its report issued in January 2007, the Working Group on Strengthening Relations Across the LoC, established by New Delhi as one of the five working groups given the task to explore "particular issues relating to J&K," identifies seven roads that could be opened to cross-border traffic: Kargil-Skardu, Jamu–Sialkot, Turtuk-Khapulu, Chhamb-Jaurian-Mirpur, Gurez-Astore-Gilgit, Tithwal-Chilhan, and Jhangar (Nowshera)-Mirpur-Kotli.[51]

Additional routes and meeting points along the LoC have been part of the ongoing India-Pakistan Composite Dialogue. A number of cross-LoC CBMs on the table include sports events on both sides of Kashmir, starting of a helicopter and postal service between Muzaffarabad and Srinagar, bus service between Skardu and Kargil and exchanges of students and cultural troupes. Given the across-the-board desire of the people in both parts of Kashmir, both India and Pakistan need to demonstrate political will to facilitate increased interaction between the two parts of the state.

Measures to improve cross-LoC trade and economic activity

Expanding tradable items

The cross-LoC trade can flourish only if it moves beyond primary goods. The trade list needs to be expanded and items selected on the basis of market realities. The Federation of Chambers of Commerce in Kashmir (FCIK), based in the Valley, has already urged Srinagar to allow that export of manufactured products. It has submitted a list of 52 items that it wants to be included in the approved list.[52] The Joint Chambers has suggested inclusion of tourism and software industries in the cross-LoC trade. Traders on both sides are also interested in adding industrial items to the import-export list. To facilitate trade in manufactured items across the LoC a mutually acceptable Rules of Origin framework specific to Jammu and Kashmir needs to be put in place. Besides, it is necessary to work out legal framework for dispute resolution.

Improving trade infrastructure

Cross-LoC trade cannot take off without improving trade infrastructure including roads, power supply and telecommunication

services. To make trade viable, full truck load of 12 to 15MT should be allowed for cross-LoC trade. This will reduce per unit cost for the traders. To avoid extra cost and hassle, trucks should also be allowed to carry goods to their final destinations. Security checks could be ensured to address concerns of the respective state authorities on both sides of the LoC as well as national governments. The work on trade centres and truck terminals needs to be expedited at each LoC crossing point. Periodic trade fairs and industrial exhibitions should be organized by both sides. Further, trade should not be restricted to only two days a week. It must be open all the seven days a week and all the required arrangements need to be made for this purpose.

Banking services

The lack of banking services is a big hindrance in the way of cross-LoC trade. The governments of India and Pakistan need to put in place proper guidelines for the use of currency and open bank branches on both sides. The Joint Chamber has asked Indian and Pakistani governments to allow J&K Bank to open three branches at Muzaffarabad, Mirpur and Rawalakot and AJ&K Bank to open its three branches at Srinagar, Jammu and Poonch. Islamabad and Delhi should expedite the process of providing banking services to the traders on both sides. In the meantime, corresponding banking arrangements need to be kept in place to support this trade.

Improving telecommunication links

Restoration of telephonic and electronic communication links is a must to enhance connectivity between the two parts of Kashmir to facilitate mobility of people and conduct of trade. The governments on both sides should consider early restoration of telephone landlines that were cut off in 1965 and the expansion of mobile telephone services. Early introduction of facsimile, courier and postal services is also very important for the growth of cross-LoC trade and travel.

Possibility of joint ventures

The possibility of joint venture projects for promoting tourism across the LoC should be examined to explore the maximum potential of this sector. There is also keenness among the business community across the LoC to move from the "to" to "through" arrangement with the AJK which can be studied by the Joint Chambers. Given the similar nature of economies on both sides of the LoC, trade in goods is useful as a starting point. The prospects of real long-term gains lie in eight service sectors: tourism, forestry, waterways, power generation, information technology, education, anti-poverty programmes, and disaster management.[53]

There has been some thinking going on internationally as well as in various business, political and policy circles on both sides of the LoC that the entire state of Jammu and Kashmir or part of it like the Kashmir Valley be declared a Special Economic Zone (SEZ). In 2005, Teresita Schaffer proposed a SEZ that could include J&K, AJK and the-then Northern Areas (now renamed Gilgit–Baltistan) or restricted to a more limited area. The region would enjoy free trade and joint investment.[54] More recently, Dr Mubeen Shah, the former president of KCCI, has advocated that Kashmir be declared SEZ on the same pattern as the Hainan province in China. It seeks to combine declaring the Valley as SEZ with cross-LoC trade to change the Valley's economy for the better.[55]

Conclusion

The resumption of cross-LoC interactions through travel and trade is as yet symbolic and needs to be streamlined and institutionalized. The growth of cross-LoC communication, commerce and dialogue has largely become hostage to the vicissitudes of India-Pakistan relations. The intermittent tensions and distrust between India and Pakistan, especially the aftermath of the Mumbai attacks, badly hampered progress regarding operationalization of the modalities to facilitate trans-LoC travel or trade. With the resumption of the Composite Dialogue, it is hoped that both sides would focus on the implementation of the agreed measures and institute new ones where required to enhance cross-LoC linkages and remove anomalies impeding the growth of such interaction. Some of the measures may include easing travel permits, restoring telephonic communication, building trade infrastructure, expanding tradable items list, instituting trade mechanisms like banking services, trade pass, opening of traditional routes so as to make cross-LoC mobility of people and goods meaningful.

Development of cross-LoC linkages holds great transformational value in humanizing the Kashmir conflict and involving the people of Kashmir into informal and formal dialogue processes on Kashmir. For the last over six decades, Kashmiri narrative was missing and their aspirations were viewed through the prisms of Indian and Pakistani states' dominant narratives while their voices remained unheard and their peacebuilding capacities and role stunted. The cross-LoC interactions provide an opportunity to the Kashmiri people to bridge their perception gaps and narrow down regional divides deepened by the communication barriers. In the process the State of Jammu and Kashmir can develop its human and natural resources, and provide trade access to outside world through the revival of the old silk route. This will certainly contribute to

addressing the trust gap between India and Pakistan and help in projecting and utilizing the human dimension of Kashmir in a more creative manner.

The transformational value of the trans-LoC linkages cannot become substantive, unless intra-Kashmiri dialogue within and across–LoC is institutionalized at the informal and formal levels. The political leadership of all hues and from all regions, including the hardliners and those who have been involved in the armed struggle, should be involved in the dialogue process. There has been some sporadic intra-Kashmir dialogue but that is not enough to take the Kashmiri peace process forward. Cross-LoC trade and travel is bringing the two parts of Kashmir closer and is helping in de-freezing the Kashmir issue in a more constructive manner. It is time that India and Pakistan showed political will and vision to involve the Kashmiris in the dialogue process and address the political dimension of the conflict. Kashmir can certainly become the bridge of peace between India and Pakistan.

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Traded Items

	ITEMS TRADED FROM AJK SIDE		ITEMS TRADED FROM IHK SIDE
1.	Rice	1.	Carpets
2.	Ja-e-namaz & Tasbis (rosaries)	2.	Rugs
3.	Precious stones	3.	Wall hangings
4.	Gabbas	4.	Shawls and stoles
5.	Namdas	5.	Namdas
6.	Peshawari leather chappals	6.	Gabbas
7.	Medicinal herbs	7.	Embroidered items
8.	Maize & maize products	8.	Furniture including walnut furniture
9.	Fresh fruits & vegetables	9.	Wooden handicrafts
10.	Dry fruits including walnuts	10.	Fresh fruits and vegetables
11.	Honey	11.	Dry fruits including walnuts
12.	Moongi	12.	Saffron
13.	Imli	13.	Aromatic plants
14.	Black mushrooms	14.	Fruit plants
15.	Furniture including walnut furniture	15.	Dhania, moongi, imli & black mushrooms
16.	Wooden handicrafts	16.	Kashmiri spices
17.	Carpets and rugs	17.	Rajmah (red beans)
18.	Wall hangings	18.	Honey
19.	Embroidered Items	19.	Papier mache products
20.	Foam mattresses, cushions & pillows	20.	Spring rubberized, coir/foam mattresses, cushions, pillows & quilts
21.	Shawls and stoles	21.	Medicinal herbs

THE PREDICAMENT OF MUSLIM EMPOWERMENT IN INDIA

AARISH U. KHAN

Introduction

India's Prime Minister Manmohan Singh constituted a committee in March 2005 to document the socio-economic status of the Muslims in the country. The committee, headed by Justice Rajinder Singh Sachar and hence commonly known as the Sachar Committee, presented its report in November 2006. The report turned out to be an eye-opener about the condition of Muslims in India. The Sachar Committee Report (SCR) can also be considered an achievement of the Congress-led United Progressive Alliance (UPA) government as it was the first successful attempt at documenting of the socio-economic status of Muslims vis-à-vis the other socio-religious categories (SRCs).[1]

This paper is restricted to the analysis of the socio-economic conditions of Muslims, and does not cover issues such as communal violence against them. It sums up some of the key findings of the over 400-page comprehensive SCR and critically analyzes its salient recommendations as well as the follow-up on those by the government. It observes that despite taking the courage to quantify and publicize the information about the deprivation of Muslims, the government has shown reluctance in implementing the key recommendations of the committee. Instead, it has concentrated on labelling some non-Muslim-specific and at times even non-minority-specific actions as the follow-up

Aarish U. Khan is Research Analyst at the Institute of Regional Studies. His special interest areas include religious movements, and non-state actors and Indo-Pakistan relations.

on the report as well as implementing some insignificant recommendations.

Sachar Committee Report: An Acknowledgement of Muslim Deprivation and Powerlessness

The total population of Muslims in India, according to the 2001 census, is 138 million out of the total population of 1.028 billion, which is 13.4 per cent of the total.[*] Over the years, the population of Muslims has been growing faster than that of other socio-religious categories (SRCs). Figure 1 shows the rise in population of Muslims as percentage of the total population since the first official Indian government census in 1961.

Figure 1: Population of Muslims as Percentage of Total Population
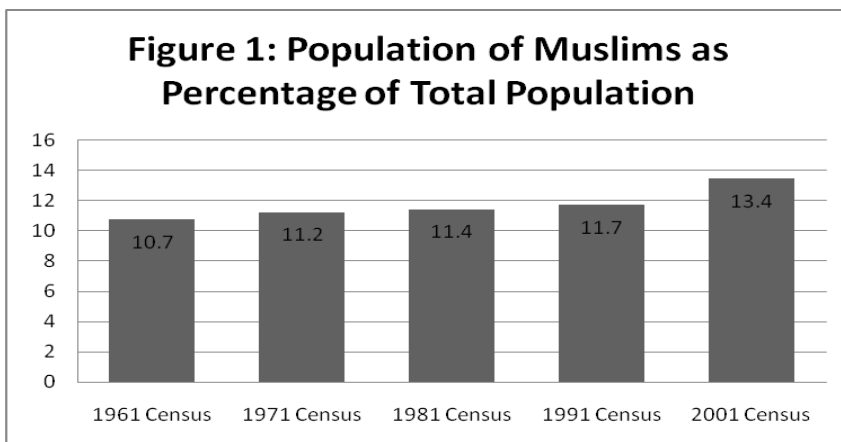
The consistent increase in the share of Muslims in the total population has been worrying the right-wing elements among the Hindus for long. However, the rise in their population paints a one-sided picture of the state of affairs for the Muslims living there, and their feared takeover of the Indian identity over the years is rather far-fetched. The on-the-ground reality about the Muslims living in India is to the contrary; they are living as a marginalized minority constantly under the influence of — and sometimes under threat of physical violence by — the majority Hindu community. This was also supported by the findings of the Sachar Committee in the report that it submitted in November 2006. The committee was formed by the Indian National Congress-led coalition government which assumed office after the 2004 general elections.

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[*]This paper uses the 2001 census data because comprehensive data on the religious composition of the population according to the latest 2011 census would not be available until mid-2012. Moreover, these population figures include those of the disputed territory of Jammu and Kashmir.

Chaired by a former chief justice of the Delhi High Court Justice Sachar, the committee was tasked, inter alia, to obtain relevant information on Muslim demography, education and employment status, socio-economic development, and their share in the officially designated Other Backward Classes (OBCs).[2]

The Report, brought the scale of the deprivation and neglect of Muslims to public notice in such great depth. In its concluding chapter, the SCR makes the following remarks:

> The Muslim "Community exhibits deficits and deprivation in practically all dimensions of development. In fact, by and large, Muslims rank somewhat above Scheduled Castes/Scheduled Tribes (SCs/STs) but below Hindu-Other Backward Classes (Hindu-OBCs), Other Minorities and Hindu-General (mostly upper castes) in almost all indicators considered."[3]

The report makes it evident that the socio-economic deprivation of Muslims is fuelled by their lack of education and representation in governance structures. The literacy rate among them — according to the 2001 census data presented in SCR — is 59.1 per cent, which is quite below the national average of 65.1 per cent.[4] This translates into even lesser levels of higher education for Muslims. Only around 4 per cent of the Muslim population has achieved a graduate degree or a diploma, constituting less than 7 per cent of the total degree/diploma-holding population[5] — far too low than the percentage share of Muslims in the total population of India at 13.4 per cent according to the 2001 census. Only 63 students out of the 4,743 studying in the Indian Institutes of Management (IIMs) and 894 out of the 27,161 in Indian Institutes of Technology (IITs) are Muslim according to the report.[6] It further states that only 2 per cent of the students enrolled in post-graduate courses are Muslim, which is considerably lower compared even to the figures for the OBCs (24 per cent) and SCs and STs (13 per cent).[7] The report acknowledges non-availability of Urdu education as a reason for the educational backwardness of Muslims[8] and suggests that "steps should be taken to ensure that Urdu is taught, at least as an elective subject, in areas which have a substantial presence of Urdu speaking population."[9]

The report also denies that lack of education among Muslims could be attributed to their aversion to modern education. It states:

> "Muslim parents are not averse to modern or mainstream education and to sending their children to the affordable Government schools. They do not necessarily prefer to send children to Madarsas. Regular school education that is available to any other child in India is preferred by

Muslims also… There is also a common belief that Muslim parents feel that education is not important for girls and that it may instil a wrong set of values... Our interactions indicate that the problem may lie in non-availability of schools within easy reach for girls at lower levels of education, absence of girl's hostels, absence of female teachers and availability of scholarships as they move up the education ladder."[10]

The lack of access to quality education among Muslims has translated into their poor representation in regular salaried jobs in the public and private sectors. According to the SCR, only around 7 per cent of working-age Muslims work in jobs in the formal sector, with 5 per cent in the public sector job market, which is lower than the figure for the Hindu-OBCs and Hindu SCs/STs.[11] The total share of Muslims among various socio-religious categories (SRCs) represented in the public sector jobs is also around 5 per cent.[12] Furthermore, even this limited share of Muslims in the public sector jobs is in the lower cadres.[13] The report states, "in general Muslim men and women are in inferior jobs, such as clerical or Class IV employees, compared to the Hindu men and women even in the public sector jobs."[14] Direct recruitment of Muslims into the Union Public Service Commission (UPSC, which is the Indian equivalent of Pakistan's Central Superior Services or CSS cadre) through a competitive examination is mere 2.4 per cent.[15] The SCR states:

"Overall, Muslims constituted only 4.9 percent of the candidates who appeared in the written examination of Civil Services in the years 2003 and 2004; this is far below the 13.4 percent share of Muslims in the population. However, the success rate of Muslims is about the same as other candidates."[16]

The report shows that Muslim representation in the law enforcement and defence services is abysmally low — actually a lot lower than Hindu-SCs/STs and Hindu-OBCs. The share of Muslims in "Public Order and Safety Activities" at the Central government level is only about 6 per cent, according to the report; while that of the Hindu-Upper Castes (UCs) is 42 per cent and both Hindu-SCs/STs and Hindu-OBCs have a share of 23 per cent each. The report notes that at the state level, the share of Muslims is a little higher at 7 per cent, but still considerably less than the other three categories and in proportion to their overall percentage of the total population. It estimates the share of Muslims in the defence workforce to be only 4 per cent, which is far less

than that of Hindu-SCs/STs (12 per cent), Hindu-OBCs (23 per cent) and Hindu-Upper Castes (UCs) (52 per cent).[17]

The meagre representation of Muslims in the public sector and private sector formal job market due to their lower levels of education and other reasons is reflected in the gravitation of Muslims towards the informal sector of the economy, especially the small self-owned proprietary businesses. The report notes that a significant proportion of working age Muslims work in self-owned enterprises; especially in urban areas.[18] The economy of a Muslim household, however, is crippled in this field too. The SCR notes that the access of Muslim community to bank credit is "low and inadequate," and makes the following recommendation: "As self-employment is the main source of income of Muslims, to empower Muslims economically, it is necessary to support self-employed persons by ensuring a smooth flow of credit to them."[19]

The expenditure of a household is considered to be one of the most reliable indicators of its well-being. In India the overall Mean Per Capita Expenditure (MPCE) of Muslims at Rs. 635 falls far below that of the national average of Rs. 712, and only about 60 per cent of the MPCE of the general Hindus category at Rs. 1,023.[20] With the exception of Himachal Pradesh, urban poverty for Muslims is higher than the national average in all the states of India.[21] On the rural poverty index, however, Muslims show a little better ranking with less than the average national poverty in eight states.[22] The report sums up the instance of poverty among Muslims in these words:

> "The analysis of differentials in poverty across SRCs shows that Muslims face fairly high levels of poverty. Their conditions on the whole are only slightly better than those of SCs/STs. As compared to rural areas, Muslims face much higher relative deprivation in urban areas."[23]

The SCR has also discussed the issue of reservations for various categories in India and their impact on the Muslims, which is discussed in greater detail in a subsequent section of the paper.

Sachar Committee recommendations, follow-up, and analysis

The SCR has given some far-reaching recommendations. Not all of them, however, have been taken up by the government for implementation. The then federal minister for minorities affairs, A.R. Antulay, in his statement to the Lok Sabha (Lower House of Indian parliament) on 31 August 2007, laid down a plan of action for the implementation of the Sachar Committee recommendations that listed

improvement of basic amenities targeting 90 "minority concentration districts" (details below) for streamlining of bank credit to Muslims, improvement of Muslim education through girls schools and study scholarships, development of Wakf (Muslim Trust) properties, establishment of an Equal Opportunity Commission (EOC), and creation of a "Diversity Index" for workplace diversity, as a priority (details below).[24] The latest Sachar Committee follow-up report on implementation of its recommendations available at the Ministry of Minority Affairs website mentions the achievements in the follow-up on the recommendations. The following section analyses the recommendations of the SCR, the government's follow-up, and a critical analysis of both the recommendations and their follow-up.[25]

Education

The SCR observed in its concluding chapter that the situation of Muslims in the field of education was "depressing" and that their school education needed particular attention. The report not only encouraged the government to meet its obligation of compulsory education for children up to the age of 14, it also urged the government to review the school curricula with an aim to reflect diversity and discourage religious intolerance.[26] In the field of higher education, the SCR recommended linking allocation of funds to the encouragement of diversity by a certain college or university (Diversity Index is discussed in a little more detail below), besides calling for more girls' hostels, teacher training, support to Urdu language, and mainstreaming of madrassahs.[27]

According to the Ministry of Minority Affairs' follow-up report on the recommendations of SCR, 427 girls' residential schools under the Kasturba Gandhi Balika Vidyalaya (KGBV) scheme were sanctioned for minority concentration districts, and a plan of universalization of access to quality education at secondary stage called Rashtriya Madhyamik Shiksha Abhiyan (RMSA) was approved with provision of preference to minority concentration areas.[28] The Ministry of Minority Affairs' Annual Report for 2010-11 states that one model college each would be set up in 374 educationally backward districts (EBDs) of the country, and that out of those 374 EBDs, 67 were in identified minority concentration districts (the subject of minority concentration districts is discussed in greater detail below).[29] The annual report has information about setting up of polytechnic institutes in un-served and under-served districts, and says that 36 minority concentration districts are already covered for setting up polytechnics under the programme.[30]

The follow-up report states that the University Grants Commission (UGC) has sanctioned 233 women's hostels during the 11th

Five-Year Plan in 90 minority concentration districts.[31] It also lists some madrassah streamlining and modernization initiatives undertaken by the government as well as teacher-training for Urdu-medium teachers and appointment of appropriate numbers of Urdu teachers in localities with more than 25 per cent Urdu-speaking population.[32] The report also mentions some scholarships for minority students, details of which are given in the Ministry of Minority Affairs' annual report for 2010-11.[33]

Most of the education sector achievements mentioned in the latest Sachar Committee follow-up as well as the annual report by the Ministry of Minorities Affairs — with the exception of scholarship schemes and madrassah-streamlining — are not minority-specific. They are added in there, however, with the impression that they would benefit minority communities including Muslims. For instance, the KGBV scheme was launched in 2004, even before the Sachar Committee was set up. The RMSA is an all-India initiative to achieve the goal of universal secondary education, thus not a Muslim-specific or even minority-specific scheme. Similarly, the establishment of model colleges in EBDs is also presented as minority-specific initiative in the report, which it is not. It would, however, benefit certain segments of minority groups in minority concentration districts (a subject discussed in greater detail below). The end-result is that not much is achieved in the field of education for Muslims. Abusaleh Shariff — who was recently removed from the Assessment and Monitoring Authority of the Planning Commission of India on the implementation of the SCR — made this revelation in August 2011, which speaks of the implementation process in the field of education:

> "Most alarming is that the overall shares of Muslims in matric [10th Grade] and higher education have improved the least compared with all socio-religious categories between 2004-05 and 2009-10. This has happened along with the lowest base level for Muslims compared with other communities. Urban areas where relatively larger percentage of Muslims lives, the share in higher education has declined during this period."[34]

On the important question of review of textbooks, the follow-up report simply brushes aside the SCR recommendations by saying, "National Council of Educational Research and Training (NCERT) has prepared text books for all classes in the light of the National Curriculum Framework-2005."[35] This essentially negates any inconsistencies at any state level vis-à-vis the 2005 National Curriculum Framework.

Employment

The SCR recommended taking specific actions to fight discrimination against religious minorities or any other deprived or oppressed community. It recommended that the government constitute an Equal Opportunity Commission (EOC) to address the grievances of the deprived communities.[36] To encourage educational and workplace diversity, the SCR also recommended development of a Diversity Index, which could be used to provide incentives to both public and private sector organizations adhering to the provisions of the index.[37] In addition, the report also recommended initiatives to improve the conditions of self-employed Muslims as well as improvement of their representation in the job market.[38]

As Diversity Index and Equal Opportunity Commission were complex subjects, the government constituted expert groups to give their recommendations on the way forward for the two suggested institutions. The committees presented their reports in March 2008 which were still being processed by the government for any action at the time of writing this paper.

If implemented, the EOC and Diversity Index would be significant safeguards against religious and other forms of discrimination. They are not Muslim-specific initiatives though, as in the words of Zoya Hasan:

"Both the EOC and Diversity Index are in themselves extremely worthy proposals… But neither of these proposals deals specifically with the problem of under-representation of Muslims. Nonetheless, propelled by the official recognition of Muslim under-representation, both schemes are important pointers to a new model of equality which touches upon issues of justice hitherto reserved for caste groups."[39]

The scope of the two is also limited because of the non-binding nature of the recommendations as well as their inapplicability to the unorganized labour market. Chandan Gowda writes:

"Since the EOC [Equal Opportunity Commission] and the EGDI [Expert Group on Diversity Index] recommendations are not mandatory, their beneficial consequences remain to be seen. Further, since they strive to regulate interactions only in the formal organizational arena, a large part of the Indian society located in the informal sector remains outside their scope. The presence of a huge unorganized labour market in India, i.e., 92 per cent of the workforce, cannot

but temper enthusiasm about the welfarist potential of the EOC and EGDI policy recommendations."[40]

Zoya Hasan further adds:

"Moreover, the EOC should not be limited to education and employment. At the very least, it must apply to the housing sector, given the evidence of pervasive discrimination in urban housing. To what extent an EOC can help in the promotion of equality of opportunity without an anti-discrimination law that prohibits discrimination, however, remains doubtful. How much it can help eradicate structural injustice is even more debatable."[41]

It is ironic that the statement by the minister of minority affairs made in the Lok Sabha — as well as the follow-up report of the ministry on SCR — only glosses over the important problem of the chronic under-representation of Muslims in the public sector workforce with no concrete plan of action. The follow-up report only mentions advice to central and state/Union Territory (UT) governments on recruitment of minorities.[42] This is simply unreasonable considering that nearly 50 per cent of the central public service positions are reserved for one segment of the society or the other with no exclusive quota for the Muslims. Any discussion on the issue of exclusive reservations for Muslims would be incomplete without an overview of the system of reservation of quotas for the backward communities of India in the fields of education and employment.

Reservations and Muslims

In its quest for promoting national cohesion after independence and the emergence of Pakistan as a separate country for Muslims, the Indian government eschewed any special representation for Muslims, or other religious minorities, for that matter.[43] Part XVI of the Indian Constitution (Articles 330 to 342), however, has the title "Special Provisions relating to Certain Classes", which deals with reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs) in state legislatures and "appointments to services and posts in connection with the affairs of the Union or of a State."[44] Therefore, job reservations for the SCs and STs were incorporated by public sector organizations under a constitutional obligation soon after the promulgation of the Constitution.[45] Those reservations were, however, restricted mainly to Hindu-SCs and -STs. The Sikhs were the first religious minority to be formally included in the SC/ST reservations in 1956, followed by the Buddhists in 1990; the Muslims and the Christians remained excluded,

save a negligible 0.25 per cent representation for Muslims among STs according to the 1991 census.[46]

The biggest increase in the number of reservations for various classes came in 1990 on the recommendations of the Mandal Commission (1980). That particular decision by the then government reserved 27 per cent positions in the central government and public undertakings for Other Backward Classes (OBCs) — that included Muslims — in addition to the 22.5 per cent reservations for SCs/STs.[47] While reservations in government jobs on such a massive scale is a controversial subject in India to this day, this paper would concentrate on how those reservations for non-SC/ST OBCs affected Muslims of India.

The reservations were not extended to all the Muslims. Only the Muslims listed as OBCs were eligible for the reservations. For the purpose, the Muslims are divided into four broad classes (or 'castes' so to say). The *Ashraf* who trace their origins to foreign lands such as Arabia, Persia, Central Asia or Afghanistan; the upper-caste Hindus who converted to Islam; the middle-caste Hindu converts whose occupations are ritually clean called *Ajlaf*; and the converts from the erstwhile untouchable castes called *Arzal*. These four groups are usually placed into two broad categories: *Ashraf* (the former two categories of Muslims) and *Ajlaf* (the latter two categories of Muslims).[48] While theoretically, according to this arrangement, the Muslims of the *Ajlaf* category qualify for the OBC reservations, the reservations for Muslims are made in a way that makes it very difficult for them to actually benefit from the reservations. There are no separate reservations for Muslim OBCs (the *Ajlaf* among Muslims) in the central and almost all the state governments;* rather, they are clubbed together with all other OBCs. This makes it very difficult for them to compete with the more numerous and better educated OBCs of other religions. The Sachar Committee, thus, made the following recommendation:

> "By clubbing the arzals and the ajlafs among Muslims in an all-encompassing OBC category, the Mandal Commission overlooked the disparity in the nature of deprivations that they faced. Being at the bottom of the social hierarchy, the arzals are the worst off and need to be handled separately. It would be most appropriate if they were absorbed in the SC list, or at least in a separate category, Most Backward Classes (MBCs) carved out of the OBCs."[49]

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* Karnataka and Kerala are the two exceptions at the state level.

While the SCR recommendation for differentiating between the lower and lowermost 'caste' among Muslims makes sense, the whole idea of dividing Muslims on the basis of the caste system is contrary to Muslim concept of social organization. Some have argued that the differences in economic conditions of the *Ajlaf* and *Arzal* vis-à-vis the *Ashraf* are real and, thus, the latter require preferential treatment.[50] There are others who argue that such 'caste' distinctions were not imposed on Muslims by the Hindu majority of India, but that those were Arabic words that existed during the Muslim rule as well.[51] Several other common denominators dividing the Muslims into the elite and non-elite could be figured out though, if fixation on 'caste' in a Hindu-dominated India was not so overbearing. Division of Muslims on the basis of their pre-conversion status is akin to negating the conversion of Hindus to Islam altogether, besides dividing the Muslims on 'caste' lines. Going through several references to the usage of the terms *Ashraf* and *Ajlaf* during Muslim rule in different parts of India, it seems like the distinction is generalized and overstated. Furthermore, even if such distinctions did occur in that period in certain areas of India, they were against the basic precepts of Islam and should have been discouraged.

The aggregate impact of the inclusion of Muslims into the OBC category to qualify for reservations is negative. First, there are no exclusive reservations for Muslim OBCs, which make them vulnerable to stiff competition from the more numerous and better educated OBCs of other religions. Second, the criteria for inclusion of Muslims into the OBC category for the reservations have Hindu origins. Not only does the OBC category for Muslims need to be exclusive, its criteria need some serious revision as well. Subsequently, as the SCR has recommended, the exclusive OBC list for Muslims could further be divided into OBCs and MBCs (Most Backward Classes). The criteria, however, need certainly not be the pre-conversion status of the Muslims in the society. The Indian government will have to think out of the box of Hinduism to understand the economic deprivation of certain segments of the Muslim society.

Empowerment

Creation of space in the governance structures for Muslims was one of the most important recommendations of the SCR. The report noted:

> "One reason for less than adequate participation in the development process may be due to inadequate participation in the governance structures… Over the last sixty years minorities have scarcely occupied adequate

public spaces. The participation of Muslims in nearly all
political spaces is low which can have an adverse impact
on the Indian society and polity in the long run."[52]

In his statement to the Lok Sabha, the minority affairs minister
did mention the constitution of a high-level committee to review "the
Delimitation Act * and the concerns expressed by the Sachar Committee
regarding anomalies in the representation of Muslims."[53] The follow-up
report only adds a one-liner on this important subject, "A High Level
Committee, set up to review the Delimitation Act, has considered the
concerns expressed in the Sachar Committee report and submitted its
report."[54]

This is a serious disregard for an important problem of Muslims
in India, the magnitude of which is not completely or even adequately
highlighted by such an authentic document as the SCR. According to the
2001 census, there were 593 districts in India, out of which only 20 were
Muslim-majority districts.* It means that only 3 per cent of all the
districts of India (including those of the disputed territory of Jammu and
Kashmir) had Muslim majority. These districts are scattered far and wide
all across India. Uttar Pradesh, which is home to 22 per cent of the total
Muslim population of India, does not have a single Muslim-majority
district. If we exclude the disputed territory of Jammu and Kashmir from
the figures, only 10 districts out of the total 593 according to the 2001
census are Muslim-majority districts. The Sikh community, which was
only 1.9 per cent of the total population of India according to the 2001
census, is in majority in 13 districts. Figure 2 and Figure 3 give a
comparative picture of the percentage populations of Muslims and Sikhs
living in districts where they are in majority. While the concentration of
Sikhs in one geographical area in the north-west of India could be
considered a reason for their better representation as a majority in the
state of Punjab, the disparity between Muslims and Sikhs — considering
their overall percentages in the total population — is too obvious to

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*Delimitation Act provides for readjustment of the allocation of seats in the Lok Sabha to the
states, the total number of seats in the Legislative Assembly of each State, the division of
each State and each Union territory having a Legislative Assembly into territorial
constituencies for elections to the Lok Sabha and legislative assemblies of the States and
Union territories and other matters.

* According to the administrative figures released after the 2011 census, the number of
districts has been increased to 640 from 593 as per the 2011 census. It is yet to be seen
how that has affected the representation of Muslims at the district levels because the
district-wise figures by religion are yet to be released. It is worth noting, however, that eight
new districts have been created in the disputed territory of Jammu and Kashmir since the
2001 census. Six of those newly carved out districts have affected the borders of the
Muslim-majority districts as per the 2001 census. It would be interesting to see how the
changes have affected the population composition of the districts once the district-wise
data by religion is released sometime this year by the Census Organization of India.

ignore. For instance, not finding a single Muslim-majority district in
Uttar Pradesh, a state with around 30 million Muslim population —
which is greater than the total population of the Sikh-majority Punjab —
is surprising.
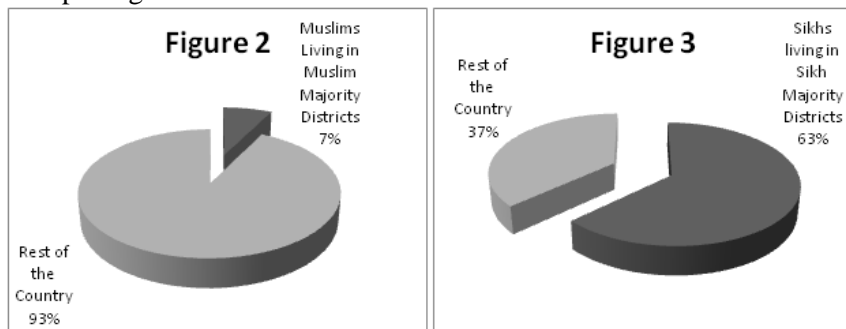
Source: Based on district-wise population figures of the 2001 census.

Such "minoritization" of Muslims to the grass-roots levels
becomes one of the major hurdles in their upward social mobility
because they have to compete with a majority population, which is
economically, socially, educationally, and politically more powerful.
That is partly the reason the SCR found that "the share of villages with
no electricity increases substantially as the size of the village falls and
the share of Muslim population rises;"[55] or that "About a third of small
villages with high concentration of Muslims do not have any educational
institutions… About 40% of large villages with a substantial Muslim
concentration do not have any medical facilities."[56] Observers aware of
the power-play in the administrative structures at the grass-roots levels in
the South Asian context could easily appreciate the negative fallout of
such administrative minoritization of Muslims.

Let us take the example of the much-talked-about 90 "minority
concentration districts" that are designated by the government of India
after the submission of the SCR for positive discrimination because of
their socio-economic backwardness as well as concentration of religious
minorities.[57] Even though that list includes 7 out of the total 10 Muslim-
majority districts of India — excluding the disputed territory of Jammu
and Kashmir — Muslims still constitute only 30 per cent of the total
population of the minority-concentration districts.[58] Moreover, the
designated "minority-concentration districts" only cover a segment of the
population of Muslims in India; a great majority of them are living
outside those districts as shown in Figure 4 (the inclusion or exclusion of
the population of the disputed territory of Jammu and Kashmir makes
only marginal difference to the percentages).
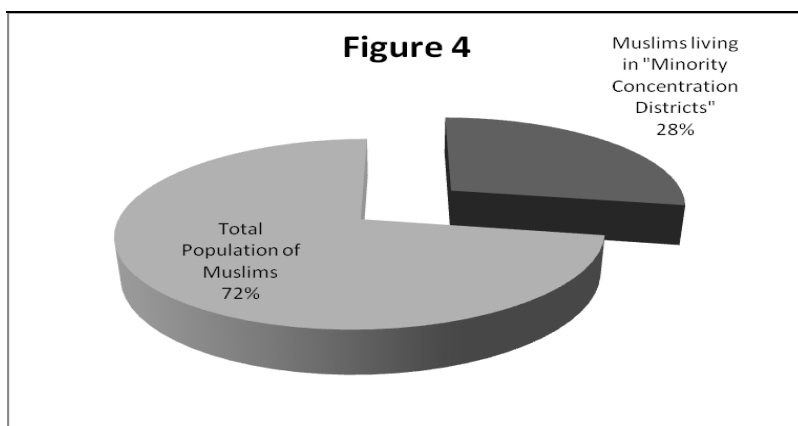
Source: Based on the 2001 Indian Census figures

The number of national level electoral constituencies allocated to each state on the basis of the 1971 census — and frozen to that effect until 2026 by the 84th Constitutional Amendment (2002) — are usually less than the total number of districts in any particular state and roughly correspond to the boundaries of one or more than one districts.[59] This "minoritization" at the district level is thus also reflected in the electoral constituencies of the central and state legislatures. Even in cases where the electoral constituency demarcation does not correspond to the borders of the administrative districts, the constituencies are delimited in a way that it fragments the Muslim concentration pockets into various contiguous constituencies.[60] This is one of the reasons Muslims have always remained under-represented in the Lok Sabha as compared to their overall share in the total population of India. Figure 5 shows a comparison of Muslim share in the total population of India according to various census reports and their representation in the Lok Sabha over the years. It is quite obvious from Figure 5 that even at the height of their representation in the Lok Sabha in the 1980s, they were still under-represented as compared to their population. Other minority communities of India, like the Sikhs and Christians, are not as under-represented in the national parliament as the Muslims.[61] One of the reasons for their limited presence in the Lok Sabha is that major parties are not eager to giving tickets to Muslim candidates.[62] This could also be a direct consequence of the Muslim 'minoritization' because of which the major parties do not see much political merit in nominating Muslims against Hindu candidates nominated by the rival political party who are more likely to succeed because of the numbers game in each constituency.

Figure 5: Muslim Representation in Lok Sabha Compared with their Total Population
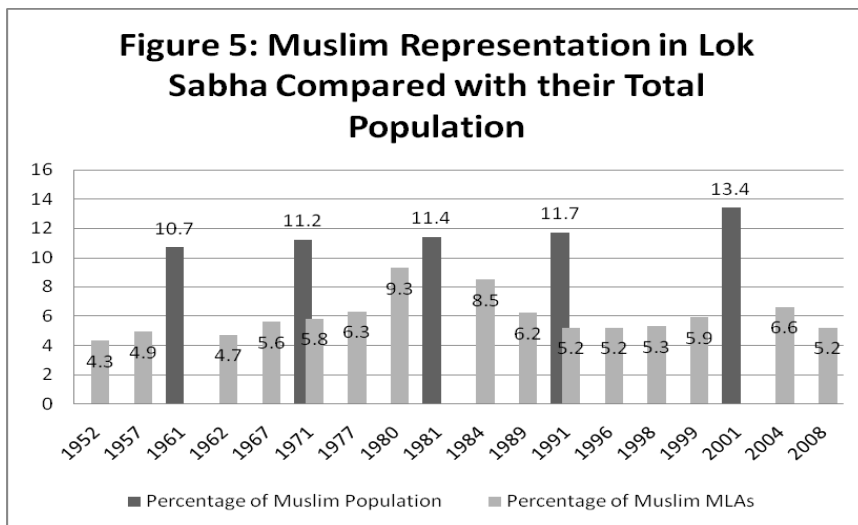
Source: Data of various censuses on SRCs; Hilal Ahmed, "Debating Muslim Political Representation" in Seminar No. 586: (June 2008): Redrawing Boundaries; and Christophe Jaffrelot et. al., "Understanding Muslim voter behavior," in Seminar No.602: (October 2009): India's Religious Minorities.

In Pakistan, 10 seats out of the 342 National Assembly (lower house) seats are reserved for the non-Muslims, which at around 3 per cent seem to do justice to the population of non-Muslims in the country at less than 4 per cent of the total.[*] Reservations in the national parliament for minority religious communities — especially Muslims — is a taboo subject in India, quite understandably, because of the call for separate electorates for Muslims by the All-India Muslim League prior to 1947 and the circumstances of partition. Steps need to be taken in India, however, for improving Muslim representation in the national legislature, as also for empowerment of Muslims at the district levels to ensure that they are taken seriously as a community.

Muslim response

The neglect of socio-economic development of Muslims and the marginalization of the community on the part of the Indian government over the years could be attributed to a variety of factors. The most important among them are: the circumstances of the partition resulting in the creation of a homeland for Muslims in the immediate neighbourhood;[63] and the rise of Hindu right-wing organizations that

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[*] Pakistan's reservation for non-Muslims has its flaws too, but that is not the topic of discussion here.

have come to view anti-Muslim demagoguery as a tool for deflecting the potential of social division among the Hindus. The response of the Muslim community, thus, cannot be viewed in the context of the socio-economic marginalization on the part of the state alone. It would have to take into account the societal trends such as the post-partition Muslim identity crisis, the rise of Hindu fundamentalism in India, and manifestation of the latter in the form of anti-Muslim violence. So far, the overall approach of the successive governments in India towards Muslims has been that of symbolic appeasement such as appointing Muslim personalities on positions of symbolic importance, etc. This has led to the demonization of Muslims by the right-wing Hindu groups as an unduly favoured religious community, which has, inter alia, contributed to the stoking of communal violence against the Muslims.

Some observers have criticized Muslim-specific initiatives, even such as the SCR, as promoting 'communitarianism' and empowering the Muslim elite and the clergy.[64] Actually, the Muslim voting behaviour over the years as well as the wooing of Muslim voters on the basis of Muslim issues by various political parties and alliances is an indication that the Muslims do see themselves as a community. For instance, after the inaction of the Congress following the demolition of Babri Mosque at the hands of Hindu extremists in 1992, the Muslim vote that was so loyal to it for decades — despite some policies of Indira Gandhi in the 1970s evidently disliked by the Muslims — shifted towards the regional political parties. The same Muslim vote turned in favour of Congress and its allies after the BJP government wilfully ignored the massacre of Muslims at the hands of Hindu extremists in 2002. Perhaps, the Muslim cohesion as a community could be softened precisely by adopting pro-Muslim policies that would safeguard their interests against the majority Hindu community and, more importantly, protect them from the violence of extremist Hindu vigilante groups, and not by just shutting the eyes to the Muslim grievances.

While the political manifestation of the Muslim reaction to their systematic targeting by the majoritarian state can be evidenced in the Muslim voting patterns, its social manifestation can be seen in Muslim gravitation towards religious practice. This has resulted in the ascendance of the clergy as the custodian of the Muslim personal space against the attacks by the majority Hindu community and the majoritarian state. The ascendance of the clergy can be seen in the intense opposition to Uniform Civil Code that would do away with the Muslim, and other, personal law, and the monumental proliferation of religious identity and practice-based movements such as the Tableeghi Jamaat. The Indian government has also contributed, advertently or

inadvertently, to the cocooning of Muslims in the personal realm and the rise of the clergy. For instance, the All-India Muslim Personal Law Board — an institution for the protection of Muslim personal law — was established in 1973, while the Ministry of Minority Affairs was established as recently as in 2006. As another instance of the trend, when the Indian government declared a state of emergency and banned several religious organizations (1975-77), the Tableeghi Jamaat was allowed to carry on its activities unhindered.[65] Similarly, the enactment of the Muslim Women (Protection of Rights on Divorce) Act of 1986 by the Congress — diluting the liberal judgment of the Supreme Court on the right of divorced Muslim women to receive alimony in the famous Shah Bano case — can be considered another example of strengthening conservative Islam. The regional political parties, which were the main beneficiaries of the loss of Muslim vote by Congress in the 1990s, also "pander[ed] mainly to the interests of the conservative Muslims."[66] If Muslims as a community had been given the socio-economic and political space that they really deserved in India, they might not have inclined towards assertion of their religious identity — a response generated largely by their sense of insecurity and subtly stoked by the government policies.

Conclusion

The current trajectory of the implementation of the SCR recommendations is leading it nowhere near the goal of empowerment of the Muslim community. It is, thus, no wonder that the performance of the Ministry of Minority Affairs came under criticism from the parliament's Standing Committee on Social Justice and Empowerment in its 17th report, which said that apart from the scholarship schemes and financial aid to the community under Maulana Azad Foundation, the minority affairs ministry was "not paying heed to the root of the problems as publicised in the report of Sachar Committee."[67] The Standing Committee is right in its observation because the government has simply overlooked the most important aspects of Muslim deprivation and its root causes.

More recently, the authors of the SCR also made their grievances on the implementation of its recommendations public. Justice Sachar termed the non-implementation of SCR 'unfortunate' while his colleague, Abusaleh Shariff who was the member-secretary of the committee, said more bluntly, "Our report recommended mainstreaming. Now the opposite is happening, for reasons of political timidity or because isolating Muslims as a community suits them." Both of them

also expressed their dissatisfaction over non-implementation of the EOC and Diversity Index recommendations.**(68)**

Generalized education sector public programmes such as Kasturba Gandhi Balika Vidyalaya (KGBV) and Rashtriya Madhyamik Shiksha Abhiyan (RMSA) would be as much or as less beneficial for Muslims as any other such general scheme that is not Muslim-specific. The Indian government is dragging its feet on the implementation of the reports of the expert groups on Equal Opportunity Commission (EOC) and Diversity Index, which are not even Muslim-specific programmes but might lead to improvement in their representation in the job market. The government has not done any substantial follow-up vis-à-vis the improvement of Muslim representation in public sector employment. Furthermore, the Muslims are handicapped in competing in the reserved quotas for Other Backward Classes (OBCs) because they are lumped together with OBCs from all the other religions which are greater in numbers and higher in social hierarchy than them. Additionally, the criteria for inclusion into the OBC category are profoundly Hindu and against the Islamic teachings. The Muslim disempowerment stems not only from their lack of access to education and public service but also administrative and political marginalization evident from their "minoritization" at the district levels. The 13 per cent Muslim population of India is in majority in only 1.6 per cent of the total districts according to the 2001 census.* No wonder they are ignored because of their political and governance marginalization by the government agencies responsible for infrastructure development and social service delivery, as well-documented by the SCR.

It is evident from the findings of the Sachar Committee Report that the Muslims in India are deprived and disempowered. For empowerment of any community, it is essential that it is included in decision-making through greater inclusion into public service and political decision-making. Overall Muslim backwardness in the fields of education, employment, and governance is considered both the cause and effect of their social deprivation at the neutral and self-evident level. There are, however, more deep-rooted causes of Muslim under-representation in public offices, their snail-paced upward mobility, and even their limited access to education. A particular mindset in India — influenced, inter alia, by the circumstances of partition of India and creation of Pakistan as an independent state for Muslims of India — seems to have generated a particular sense of scepticism about the Muslims. This particular mindset has translated into a measured but

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* All percentages are based on the population figures excluding those of the disputed territory of Jammu and Kashmir.

resolute ostracization of Muslims in India. At times it has also shown its ugly face in the shape of anti-Muslim riots and mass murder of Muslims while the state remained a silent spectator. And any time any government tried to do something even symbolic for Muslims, it was termed by the Hindu right as the 'appeasement' of Muslims.

The empowerment of clergy among the Muslims is also a consequence of the Muslims neglect rather than their 'appeasement'. The reason for the coalescence of Muslims around religious issues and religious personalities is their retreat from the socio-political to the personal owing to their overall neglect and disempowerment. Pakistani Muslims are a case in point. Whenever they were given an opportunity to freely choose to bestow their trust in a particular leadership or a system, they preferred modern over the conservative. Muslims would be better co-opted in the Indian state through their inclusion into decision-making processes and increasing their stake in the system rather than "Indianizing" by trying to marginalize them at best or kill their distinct identity at worst.

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69.

ANALYSING US OBJECTIVES IN AFGHANISTAN: COUNTERING TERRORISM TO PROMOTING DEMOCRACY

DR. MUHAMMAD IJAZ LATIF,
HUSSAIN ABBAS, SYED IMRAN SARDAR

Introduction

Admittedly, Afghanistan's stability and prosperity determines regional stability and world peace. For a war-torn country, 'democratic development' is a great challenge facing the international community particularly, the United States. Decades of war, anarchy and autocratic rule have left no space for political structures and democratic institutions to grow. American efforts to bring stability and democracy in Afghanistan have not succeeded to date. It has remained unable to establish peace despite numerous measures taken from 2001 onwards. The challenges ahead loom large in the form of warlords and militias that must be demobilised, resurgent insurgency that needs to be countered and devastated economy that demands rehabilitation and development. However, there are some positive signs indeed; for instance, national pacts, elections and drafting of the constitution has raised hopes that

democracy can flourish with the continued commitment of the international community, especially the United States.

How far the US has succeeded in bringing stability to the war-ravaged country? What are the challenges and prospects of democracy? To address these questions the paper evaluates the efforts made by the US administrations since 9/11 to eradicate terrorism, bring stability and to transform Afghanistan into a viable functioning democracy. The paper is divided into three broad sections. The first, "U-turn over Afghanistan," discusses the root causes of US policy shift and subsequent intervention in Afghanistan as well as the nature of US agenda. The second section, "Towards stabilization and promoting democracy" discusses the measures that the US has taken so far to combat terrorism, bring stability and democracy to the country and the third section highlights key challenges that the US is facing as well as the prospects of democracy in Afghanistan.

U-turn over Afghanistan

Long before the Soviet invasion of Afghanistan the US had been nursing ambitions to bring this region under its influence to promote its strategic and economic interests. On its part the Soviet Union was well aware of these covert intentions which were exposed when the US actually tried to topple the pro-Soviet regime of the People's Democratic Party of Afghanistan. To foil US strategic planning and to keep the country under its own influence, the Soviet Union in 1979 invaded Afghanistan. The US escalated the covert operations which had already been taking place. It adopted coercive policies against the PDP government and spread unrest across the country through the 'Mujahedeen.' It recruited a large number of mujahedeen including Afghan warlords to form rebel groups. It shrewdly exploited the religious sentiments among the Muslims in its "containment of Communism" policy. It promoted jihadi culture with all-out material support without considering its far-reaching consequences. Eventually, the Soviets were forced to withdraw from Afghanistan. The Soviet Union's disintegration in 1990 marked complete victory for the US in its battle against Communism.

However, it is also a fact that Afghans have always been resisting foreign invaders, as seen in the days of the British Empire and, later, during the Soviet invasion. The international community particularly the US could not understand the Afghan psyche. Consequently, relations between the US and the Taliban could not sustain long. In 1992 the attack on Gold Mohur Hotel in Yemen, where the US troops had been staying, and later in 1998 the bombings of US

embassies in Kenya and Tanzania brought a dramatic change in the policy towards Taliban who were once in the good books of the United States. Upon American insistence, the United Nations imposed economic sanctions on the Taliban regime. These sanctions blocked, among other things, foreign investment in the country. Thus, the US-Taliban honeymoon came to an end. Clearly, the reason behind the US outrage was Taliban's defiant posture. They were no longer American stooges; they had ambitious plans detrimental to US interests.

The 9/11 tragedy added to the souring of already strained relations. The catastrophic event, coupled with the threat of further expansion, prompted the US along with the international community to launch a global war against terrorism. On 19 September 2001, president George W. Bush spoke to the nation and the world declaring:

> Every nation, in every region, now has a decision to make. Either you are with us, or you are with Terrorists. From this day forward, any nation that continues to support or harbour terrorism will be regarded by the U.S. a hostile regime.[1]

This was indeed an impact of the 9/11 tragedy that turned the US more hawkish. It completely revisited its foreign policy particularly towards the 'tyrant' and 'rogue' regimes like that of the Taliban. Before the military action in Afghanistan the US delivered an ultimatum to the Taliban leadership demanding:

> Deliver to the U.S. authorities all the leaders of al-Qaeda who hide in your land, release all foreign nationals including American citizens, you have unjustly imprisoned. Protect foreign journalists, diplomats and aid workers in your country. Close immediately and permanently every terrorist training camp in Afghanistan, and hand over every terrorist, and every person in support structure, to appropriate authorities. Give the U.S. full access to terrorist camps, so we can make sure they are no longer operating.[2]

The Taliban did not take these warnings seriously. On their defiance, the US with the support of NATO forces and other allied states invaded Afghanistan with the avowed objective to uproot terrorism. Washington declared the Taliban regime 'rogue' and held that they had been sponsoring international terrorist organizations especially al-Qaeda and its leader Osama bin Laden. Together with the international

community it accused Taliban of imposing extreme interpretation of Shariah in amalgamation of Pushtun tribal code all over Afghanistan and committing massive human rights violations directed against religious, sectarian and even cultural minorities and especially against women. The whole matter led to the forcible removal of the Taliban regime. Thus, another era of war and political instability in Afghanistan and the region began. **(3)**

On 7 October 2001, the US along with NATO forces and other coalition partners started military operation, codenamed "Operation Enduring Freedom (OEF)," with bombing the Taliban targets and al-Qaeda camps. The 'light footprint strategy' containing heavy air offensive but minimum ground troops was adopted at the initial stage. **(4)** The US government justified these attacks as a response to the 9/11 attacks and failure of the Taliban to meet any of its demands. Eventually, the OEF led to the ouster of the Taliban regime in December 2001.

Towards stabilization and promoting democracy

Soon after the fall of Kabul, various ethnic groups re-emerged jockeying for power. The most prominent was the Northern Alliance representing Tajiks, Uzbeks and Hazaras. It was already a US favourite as it had fought alongside the American forces during OEF. The other prominent ethnic entity was the Pushtun group. After some post-war consolidation the US used the UN forum in its attempt to establish peace and democracy in Afghanistan. The Bonn Agreement was the first step in this direction.

Bonn Agreement and the interim government

To discuss the future of Afghanistan regarding governance and political set-up, a meeting was called at Bonn, Germany, on 26 November 2001. Four groups of Afghan representatives — the Northern Alliance, the Rome Group, Peshawar Group, and Cyprus Group — attended the one-day meeting which was later extended to nine days. The Northern Alliance and some representatives of King Zahir Shah remained dominant during the entire discussion. The four groups concluded an agreement on an interim set-up headed by Hamid Karzai. The cabinet comprised over 30 members, with the Northern Alliance getting 17 portfolios, the Rome Group 9, and the Peshawar Group 3 while the Cyprus Group could not get any seat. Important portfolios including Interior (Younus Qanuni, Tajik), Defence (Dr. Mohammad Fahim, Tajik) and Foreign Affairs (Dr. Abdullah Abdullah, half Tajik and half Pushtun) went to the Northern Alliance. King Zahir was able to secure eight ministries including the finance, education and

reconstruction posts. Hamid Karzai, the chairman of the interim administration, took charge on 22 December 2001 for a period of six months. The Bonn summit also set a time frame for drafting a constitution. In this regard a Constitutional Loya Jirga (gathering of tribal elders and leading politicians) was scheduled to be convened by June 2002 after establishment of the transitional authority in order to legitimize the new constitution. [5]

The Bonn Agreement invested interim set-up with powers of sovereign state administrator of Afghanistan, declaring that "all Jehadi factions, Afghan armed forces and other local armed groups in the country shall come under the command and control of Interim Authority. Moreover, their status would be recognized according to the needs and requirements of Afghan security forces." [6]

Central to the agreement was the provision to initiate a state-building process by setting incremental targets to establish a legitimate and sovereign democratic state. The Bonn Agreement provided a roadmap for the future political set-up. It served as a mechanism for achieving some specific political purposes, especially drafting of pacts among different Afghan ethnic groups. The agreement established a timetable for putting in place democratic institutions in Afghanistan. It also mandated the establishment of a central bank, a supreme court and an independent human rights commission.

If we look at the interim government composition — a coalition between the Northern Alliance, especially its Tajik component, and the Pushtun royalist — it seems to have generally disappointed a number of influential militia commanders or warlords in the country, several of whom acted as de-facto provincial governors. To varying extent they felt that their interests, organizations or ethnic groups were not sufficiently represented in the government and ultimately these dissident groups challenged the legitimacy of the Karzai government. Thus, the interim set-up since its inception was weak and did not enjoy the loyalties of the entire Afghan political and ethnic fragmentations. Despite the quadripartite deal at Bonn, a particular challenge was to win over groups of Pushtun ex-mujahedeen, who were not well represented in the government, and Taliban sympathizers.

The institutional milestones as laid out in Bonn had been completed by the end of 2005, but the Afghan state was still a weak and fragile one whose political presence was little to none in many parts of the country and which remained unable to provide basic security to a majority of its citizens. The specific political goals of the Bonn Agreement had been attained, though not the agreement's underlying spirit of peace and democratic governance. [7]

It is a state responsibility to provide basic security and fundamental social and economic services to its citizens through well-built institutions. However, in the case of Afghanistan, years of large-scale devastation has left no room for institutional progress in the country. The International community on its part realized that the objective of democratization could not be achieved until the strength of the central government and quality of its major institutions is built up. Even after the formation of the new set-up under the Bonn agreement, Afghanistan is unlikely to succeed in the longer term. Therefore, major stakeholders in democratic process decided with mutual adaptation to establish viable institutions in the country and tackle the law and order situation.

Permanent Constitution: A legal framework
for democratic institutionalization

After drafting a national pact in the form of the Bonn Agreement and the settlement of an interim government, the next step was to devise a legal framework acceptable to all Afghan factions with regard to the nature of the government and its institutions. A 35-member constitutional commission drafted the permanent Constitution after extensive debates held in the constitutional Loya Jirga from 13 December 2003 to 4 January 2004. These debates took place among 502 delegates selected in the UN-run caucuses. [8] The delegates seemed more enthusiastic about establishing a successful national government rather than curtailing its powers. Some of them favoured a parliamentary form of government. While a few insisted on federal system, the majority endorsed the unitary state. Finally, a centralized system was adopted with a strong presidency, a parliament and an independent judiciary.

The Constitution stipulates that:
- The government would consist of ministers who work under the chairmanship of the president.
- The president shall appoint ministers and introduce them for approval to the National Assembly. [9]

The US-backed Constitution provided the foundation for a new political order in Afghanistan and proved to be a crucial feature of post-invasion democratization. It intends to "establish an order based on the people's will and democracy."[10] It guarantees equal rights between men and women, obligates to universal human rights instruments, and establishes the Afghanistan Independent Human Rights Commission (AIHRC). It also establishes the Supreme Court as an independent and highest judicial organ, with control over all aspects of the judicial profession and court administration. It is composed of nine members appointed by the

President with the approval of Wolesi Jirga (National Assembly). The Constitution entrusts the President with the right to appoint one of its members as Head of the Supreme Court. Judges are appointed on the recommendations of the Supreme Court and approval of the President. [11] Additionally, a formal justice system consisting of the Attorney General's office, a network of prosecutors and ministry of justice have also been established.

Although the creation of these formal institutions formed the basis for a modern system of the rule of law, yet the court system is notoriously weak. Only some 20 per cent of civil and criminal disputes come into the formal justice system. Court processes are tainted by 'inefficiency' and 'corruption' which indeed is a reason for continuing reliance on customary practices and even for the popularity of Taliban-style courts in some areas of Afghanistan.[12] The permanent Constitution is considered a formidable achievement. However, lack of clarity about its sources and on the relative powers of the executive, legislature, and judiciary contributed to confusion and delay over issues such as ministerial appointments and vital preparations for elections. These challenges to the constitution and legal structure of Afghanistan are grave since they could derail the entire democratic process in the country.

Elections 2004-2005: Avenues for political participation?

First, the presidential elections were sought to be held by June 2004 but the deteriorating security situation delayed the process until October. However, parliamentary, provincial and district level elections were to be held in April-May 2005. The presidential elections took place with 23 candidates contesting. Many of them were heads of influential mujahedeen factions having support from networks of commanders with regional and/or ethnic basis, or, in a few cases, religious such as *pirs* (spiritual leaders). Masuda Jalal was the only woman candidate.

Hamid Karzai emerged as the single-most powerful candidate running for presidency since 15 candidates pulled out and boycotted the elections alleging rigging while two others withdrew in his favour. Karzai was able to secure 54.4 per cent of the vote in the first round on an estimated turnout of 55 per cent of 10.3 million registered voters. His nearest rival, Younus Qanooni, a Tajik leader, received 16.3 per cent. Similarly, a Hazara jehadi leader, Mohaqeq, received 16.3 per cent and the Uzbek warlord Dostum 10 per cent. The turnout demonstrated dominance of the structures built up through years of conflict. [13]

Abdul Satar Serat, a contender blamed the election authorities of favouring US-backed Karzai. Such allegations proved true when

American vice-president Dick Cheney and his wife attended Hamid Karzai's inauguration ceremony on 2 December 2004. Further, on 23 May 2005, president Bush overtly endorsed Hamid Karzai in a joint press conference, saying: "I am honoured to stand by the first democratically elected leader in the five-thousand-year history of Afghanistan… I've got faith in this man as a leader. He has shown tremendous courage in the face of difficult odds. He's been a strong leader; he's a good friend to our country..." [14] Following Karzai victory, a new phase of US strategy began which furthered direct links with his regime. [15]

In post-conflict countries, it is indeed important that all groups and factions participate in political process and are represented in governmental institutions right from inception. This can be done through effective political parties which are necessary to channel participation constructively.[16] Unfortunately, this is not the case with Afghanistan. In the first election after promulgation of the new Constitution, although political process achieved broad-based electoral participation overnight with more than 70 per cent of eligible voters voting, yet an effective party structure has not developed.[17]

The reason behind this was in fact the legal order and practical realities under which the elections were conducted. It not only limited the scope for democratic competition to get institutionalized but also the ability of parties to articulate.[18] For instance, the single non-transferable vote (SNTV) system impeded formation of effective political parties. It encouraged individual electability at the cost of party influence. It was more advantageous to ethnic and military strongmen, warlords, drug traffickers, and human rights violators in the 2005 elections. This system restrained effective and independent working of legislative bodies.[19]

The idea behind the SNTV was to limit political groupings that drew support from networks of commanders, or relied on ethnic and tribal appeals.[20] However, the outcome was just the opposite as the grouping known as the Tanzim parties were the only established political organizations that could take advantage of the vacuum due to the absence of new or multi-ethnic alternatives. They remain highly personalized, factionalized, and only partially committed to democratic forms of participation.[21] About two-thirds of those elected had fairly clear affiliations with some form of party, mostly ethnic or jehadi. Other political groupings, such as the Taliban and portions of Hezb-e-Islami, were systematically excluded from the political process.[22] To sum up, elections represented an achievement though, the political system in Afghanistan remains underdeveloped.

Democratic state-building since 2005

The US extended its full support to the democratically elected president of Afghanistan, Hamid Karzai. On 23 May 2005 both countries signed a memorandum of understanding in which President Bush pledged continued help to strengthen Afghanistan's security forces, democracy, and the economy. Addressing a joint press conference he said:

> I am glad that you [President Karzai] signed with me today a memorandum of understanding on the long-term partnership between Afghanistan and the United States of America, which will make sure that Afghanistan continues to receive reconstruction assistance, which will make sure that Afghanistan continues to receive training from the U.S. for its military and the police, and which will enable Afghanistan to stand on its own feet eventually and be a good, active member of the region, contributing to peace and stability in the region, and be a bridge between various parts of that part of the world for trade and values.[23]

Despite enhanced cooperation and assistance to Afghanistan, the situation got worse in early 2006. The reason behind Karzai's inability to establish the writ of the government was clearly the fact that he did not have entire local support. This vacuum gave rise to Taliban. They built up their operational capability and began threatening the very existence of the government. Whatever the progress made so far towards building a democratic Afghanistan was under threat of being derailed by rejuvenated role of the Taliban. In addition, both the inadequate donor funding (see figure below) and the 'culture of impunity' led to devastation of institutions. There was a dire need to improve government institutions through a concerted effort of the donor community, particularly the US which being preoccupied with the war in Iraq had to divert its focus from the rising insurgency in Afghanistan.

Figure
Aid pledged, committed and disbursed – 2002-2011

Figure 1 Aid pledged, committed and disbursed 2002-2011
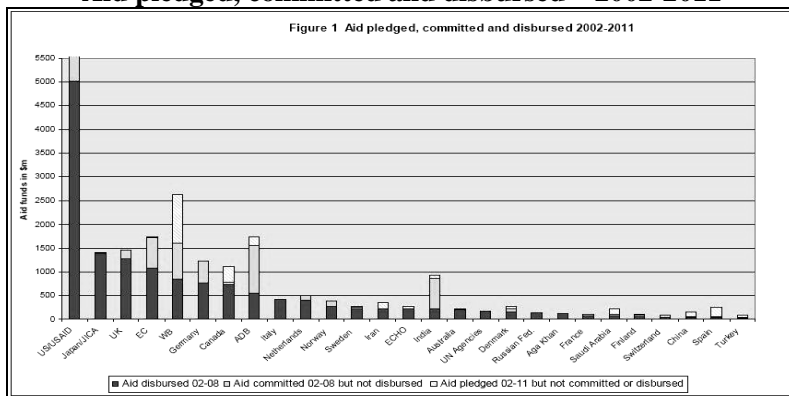
■ Aid disbursed 02-08   Aid committed 02-08 but not disbursed
□   Aid pledged 02-11 but not committed or disbursed

Source: Humera Iqbal, "Afghanistan: Aid and Accountability Mechanism",
Regional Studies, summer 2009, p.66

The US and the international community realized that the Karzai government could not achieve the goal of uniting the nation under a single political entity and subduing the armed factions. Moreover, the Bonn Agreement had failed to achieve major goals set out to be attained by 2005. Thus, owing to the deteriorating situation the international community decided to step up its effort.

On 31 January 2006 the International Conference on Afghanistan was held in London. Sixty-six states and 15 organizations participated in the meeting, which continued into the second day. It was chaired by British prime minister Tony Blair, Afghan President Hamid Karzai and UN secretary-general Kofi Annan. Both the Afghan government and the international community "Resolved to overcome the legacy of conflict in Afghanistan by setting conditions for sustainable economic growth and development; strengthening state institutions and civil society; removing remaining terrorist threats; meeting the challenge of narcotics; rebuilding capacity and infrastructure; reducing poverty; and meeting basic human needs."[24] The delegates adopted the "Afghan Compact," a political agreement between the Afghan government and the international community. This compact devised a five-point strategy in the light of *Afghanistan: Millennium Development Goals — Country Report 2005: Vision 2020*. It identified three critical areas in which global assistance was promised: Security; Governance, Rule of Law and Human Rights and Economic and Social Development.

The US, on its part, shifted its policy from focussing on the centre to strengthening local governance through establishment of an Independent Directorate of Local Governance (IDLG) in 2007. The basic purpose was to address growing alienation between the centre and local by expanding the decision making power of later and help them speak for their rights. In 2008, a government's Social Outreach Programme was launched to further the IDLG objective. Under this programme small payments of $200 per head per month were given to the tribal leaders and other participants intended to persuade them to inform on Taliban insurgent movements. Primarily, it is the 'Afghan Public Protection Force' in order to build local tribally-recruited militias to help in local policing.[25]

Obama's stabilization strategy and democracy support in Afghanistan

Barack Hussein Obama won the 2008 presidential elections and committed to change the existing wrong policies of the previous administration. He rode to electoral victory mainly because of his opposition to the 'bad war' in Iraq. He argued that America needs to focus on the right war in Afghanistan. The challenge facing Obama is to manage the conflict in such a way that it continues to redress the critical security situation on the ground, whilst forging a sustainable long-term engagement strategy rather than escalating the conflict beyond a reasonable extent.[26]

President Obama unveiled his administration's Afghan strategy in his speech to the US Military Academy at West Point on 9 December 2009. He very consciously took middle-road, and declared sending more troops there but placed the surge within a framework by linking it with the situation in Afghanistan. It is a significant to note that Obama has focused on the counterinsurgency efforts more than democracy promotion. He focused more on maintaining stability, separating extremists into two categories and transferring responsibility to the Afghan government and security forces. In this regard, US Secretary of the State Hillary Clinton said that

> We must… support Afghan government's efforts to alienate the extremists of al-Qaeda and the Taliban from those who joined their ranks not out of conviction, but out of desperation. They should be offered an honourable form of reconciliation and reintegration into a peaceful society, if they are willing to abandon violence, break with al-Qaeda, and support the constitution.[27]

The enhanced involvement of the US and its Western allies in Afghanistan is predicated on an apprehension that Afghanistan is a failing state and if the international community could not 'win' the war, the Taliban would return to power, al-Qaeda would once again have safe heavens to operate against Europe and the US.

To pursue the objective of stability in Afghanistan, on 27 March 2009, President Obama called on regional powers, Russia, China and India and Iran, to join hands with the US on a single-point agenda of countering terrorism and fundamentalism in Afghanistan and Pakistan. In his new 'Afpak' strategy he characterised Afghanistan and Pakistan as one theatre of military operation. He treated Pakistan and Afghanistan as two countries but one challenge. However, regarding Pakistan, he called for more significant increase in US support, both economic and military, linked to performance against terrorism. Moreover, Obama, who already has authorized 17000 troops in February, announced an extra 4,000 troops to train the Afghan National Security Forces so they could increasingly be enabled to take responsibility for the security of the Afghan people. He argued that the surge would help in the process of routing neutralising the Taliban by luring them into joining the political process; employing moderate Taliban as foot soldiers in an effort to get them to shun extremism. Another aspect of his strategy is to include Iran in the contact group. He probably intends to draw Iran to the US orbit by invoking its important role in the Afghan crisis.

2009-2010 presidential, provincial and parliamentary elections

President Karzai's term was to end on 22 May 2009. Constitutionally, the date for elections is set 60 days before the serving president's term expires. The Independent Election Commission (IEC) could not hold the elections in time due to security risks and financial reasons. The IEC re-set 20 August 2009 as the election date and justified the delay by citing another article of the Constitution.[28] This decision was opposed vehemently, particularly by United Front. Later, the Afghan Supreme Court and the Obama administration both endorsed the IEC decision. The presidential election held on 20 August turned out to be a bigger charade. The polls were spoiled by the flawed process and legitimacy crisis in spite of special attention given to every part of the process.[29] The Karzai loyalists set up hundreds of fictitious polling sites where no one voted but where hundreds of thousands of ballots were recorded towards the Karzai's re-election.[30] Abdullah Abdullah, the main opponent of Karzai, refused to accept the results. Under pressure, re-election was announced by the IEC and the date set on 7 November.

However, a week before, Abdullah withdrew from contest and left Karzai getting elected unopposed for the next five years.**(31)**

Similarly, the IEC set a constitutionally mandated election deadline of 22 May 2010 as the date for provincial and parliamentary elections. But the Afghan institutions remained unable to hold free and fair elections within the timeframe. Owing to the logistical, funding, security and other difficulties, on 24 January 2010, the IEC formally announced postponement until September 2010.**(32)** Fraud in the earlier presidential election substantially contributed to parliamentary opposition to many of Karzai's nominees for his new cabinet. In each of two rounds of nominations, more than half of Karzai's choices were voted down by the National Assembly. Thus was created an atmosphere of mistrust among the different ethnic factions and, consequently, mistrust towards the democratic process increased.

The outcome of the elections was very disturbing as the results were challenged by different opposition factions. Another important point was that many warlords and Pushtun leaders having sympathies with the Taliban won a considerable number of seats. Allegations of fraud and rigging were made against the Karzai faction and together with the elections results, ultimately the legitimacy of his government was challenged. Dissident groups and the Taliban stepped up their insurgent activities destroying peace and stability needed for functioning of democracy in the country.

Consequently, Washington-Kabul relations, souring already, further strained. The election fraud created a crisis like the one that followed the presidential polls, resulting in delays and weak governing bodies. On the war front, troop casualties are rising and lack of confidence is apparent among the allied governments even after aggressive operations against militants. Thus, the flawed election process coupled together with the high causalities led to high-level re-evaluation of US strategy. In this changed strategy, more pressure was put on Pakistan. The Obama administration during the Pak-US strategic dialogues held in 2010 clearly conveyed its expectations from Pakistan to do more in the Afghan war and particular stress was put on taking action against the Haqqani network.**(33)**

President Barack Obama is more concerned about improving Afghan governance, which according to him is a long-term means of stabilizing Afghanistan and preventing its reversion to a base for terrorist groups. He categorically stated that there would be "no blank cheque" for the Afghan government if it failed to reduce corruption and deliver basic services to the people. This emphasis was expressed extensively in the State Department January 2010 document entitled "Afghanistan and

Pakistan Regional Stabilization Strategy."(34) The corruption issue was also raised at the London Conference, held on 28 January 2010, and also discussed during Karzai's visit to Washington on 10-14 May 2010.

Washington's policy reviews in 2009 formally narrowed US goals to preventing al-Qaeda from re-establishing a base in Afghanistan. President Obama during his speech on 1 December 2009, outlined the US goals as: (1) to deny al-Qaeda a safe haven in Afghanistan; and (2) to reverse Taliban's momentum and deny it ability to overthrow the government. The focus of the mission was set to be applied on 121 districts (out of the total 364 districts in Afghanistan) deemed most restive and where support for the Afghan government is lowest. The US emphasis on transition to Afghan security leadership beginning in July 2011 had been interpreted by some administration officials and some Afghan and regional leaders as laying the groundwork for winding down American involvement in the coming years.(35)

Integration of insurgents and reconciliation with the Taliban

Later, the Obama administration recognized the fact that they could not win the war only through military means and that stability could not be achieved without integration of insurgents and armed groups including the Taliban into the political process of Afghanistan. Hence, the administration devised a strategy to engage the Taliban in negotiating peace in the country. In this regard, the ISAF in November 2009 set up a "force reintegration cell," headed by Britain's Maj. Gen. Richard Barrons, to develop additional programmes and policies to accelerate the effort to cause insurgents to change sides.(36) This issue of negotiating with the insurgent leaders and fighters had also been a major focus during the entire discussion at the January 2010 London Conference. The conference, in general, backed devoting more emphasis to reintegration of fighters amenable to surrendering. To pursue this goal, Britain, Japan, and several other countries announced a total of about $150 million in donations to a new fund to support the reintegration process.(37) Some of the incentives to be offered to surrendering fighters, using these funds, are jobs, amnesty, and protection, and possibly making them part of the security architecture for their communities. Secretary Gates, in a January 2010 trip to the region, said the Taliban was "part of the political fabric of Afghanistan" — an indication that the US has shifted toward this approach as part of its overall strategy.(38)

Even before the London conference, the Obama administration had been expanding US efforts to attract lower-level insurgents off the battlefield with job opportunities and infrastructure construction incentives. Another component of the programme has been meetings

with tribal elders urging them to persuade the Taliban and other insurgents in their areas to give up fighting. Some America commanders are reporting some successes with this effort, using Commanders Emergency Response Programme (CERP) funds.**(39)**

On the other hand, some human rights and women's rights groups are fearful of Taliban reintegration. They argue that the Taliban reintegration will jeopardize women's rights, since they might demand curbs on women's rights as part of a deal for their reintegration. Most insurgent fighters are highly conservative Islamists who agreed with the limitations on women's rights that characterized the Taliban rule. Many leaders of ethnic minorities are also sceptical of the effort because they fear that it might further Pushtun solidarity and political strength within Afghanistan.

Obama's troop withdrawal plan

Under growing opposition of the Afghanistan war from the US public, Obama has decided to withdraw combat troops from Afghanistan. In a nationally televised address from the White House, President Obama announced that all the 33,000 additional US forces he ordered to Afghanistan in December 2009 would be home in 15 months. He said that 10,000 of the "surge forces" would withdraw by the end of 2011, and the other 23,000 would leave Afghanistan by September 2012.**(40)** The troop withdrawal decision would have a negative impact on the counter-insurgency measures in Afghanistan. However, it has been made just to pacify the negative public sentiment over the "troop surge" policy of the administration without considering the security situation.

Obama's troop withdrawal plan faced strong criticism even in the US political circles. Senator John McCain took a swipe at Obama from the Senate floor, questioning the timing of his troop pullout plan and said, "Just when they are one year away from turning over a battered and broken enemy in both southern and eastern Afghanistan to our Afghan partners — the president has now decided to deny them the forces that our commanders believe they need to accomplish their objective."**(41)**

This decision seems a withdrawal of Obama administration's policy to let the Afghan security forces manage the national security situation themselves. However, as they are still immature to deal with the deteriorating security the insurgents might regain control, thus leading to further deterioration, and resultantly that would undermine chances of democracy to flourish in Afghanistan.

Current status of democracy in Afghanistan: Challenges and prospects

Almost a decade of efforts to promote democracy in Afghanistan has passed but the Afghan society is still waiting to taste the fruits of democracy. The situation in the country is still very dangerous in terms of security and governance. Since 2001, a number of measures to establish a stable and prosperous Afghanistan that could provide better services to its population, were taken but a real, viable and functioning democracy could not be established. To gauge the current state of democracy many non-profit organizations have conducted research and the results present a gloomy picture of the state of democracy in Afghanistan.

Freedom House, a think tank, in its yearly assessment scored Afghanistan 14 in 2001, the worst score possible on its index. By 2005, Afghanistan's Freedom House score rose to 10, and settled the country in the "Partly Free" category. This score is the same score as that of the troubled states of Yemen and the Central African Republic. The score indicates democracy in Afghanistan, while making limited progress until 2005 (see table 1), has since stagnated at the lowest measurable level of partial freedom by global criteria.

Table 1

Changes in Freedom House scores of Afghanistan: 2001-2007	
Years	**Points**
2001	14
2002	12
2004	11
2005	10
2006	10
2007	10

Source: www.freedomhouse.org

Though the most recent Freedom House numbers on Afghanistan have improved since 2001, its narrative report offered a gloomier assessment of the situation, suggesting a downward trend in effectiveness of government. According to its 2008 country report, "little progress was made on various governance issues, including attempts by the central government to combat corruption, improve transparency, and strengthen judicial and law enforcement services. In the prevailing atmosphere of impunity, numerous human rights abuses, including attacks on aid workers, political and social activists, journalists, and schools, as well as

systematic violations of women's rights, were reported during the year."[42]

Currently democratic indicators of Afghanistan are at the lowest ebb. Continuously deteriorating security situation, corruption, weak institutions, lack of political will and insecurity are potential threats to democracy in the country. Establishment of illegitimate government with weak international commitment to curb challenges has worsened the situation instead of providing a conducive environment for democracy to flourish.

Challenges to democracy promotion

Almost a decade of efforts has passed seeking to democratize the country, but democracy-building in Afghanistan is still a policy goal to be pursued by the US and the international community. There are encouraging indicators that suggest that democracy can take roots but at present challenges loom large that have the potential to derail the whole democratic process. The US along with the international community used various practices and strategies to stabilize and democratize Afghanistan but all efforts proved futile.

According to the data collected by Jason Campbell and Jeremy Shapiro, "the security environment in Afghanistan is continuously deteriorating. Civilian fatalities have doubled since 2006, after having increased by a considerable fraction from 2002-2003, as have U.S. fatality rates. Fatalities among Afghan security forces are now well over 1,000 a year. Total foreign force losses since 2001 now exceed 1,000 in aggregate (with British and Canadian forces now having each lost more than 100 troops, and the U.S. over 600). Afghan security forces have grown very slowly and remain badly undersized. Police and border security forces have followed a similar trajectory."[43]

Only 30 per cent of the army and just 3 per cent of the existing police force rank in the top two tiers of combat readiness. Kidnappings remain rampant, and roads are increasingly unsafe for foreigners as well as Afghans themselves, with the Taliban increasingly able to disrupt normal commerce and movement, especially at night. And, the acreage of Afghanistan's farmland devoted to opium production has roughly doubled in the last few years.[44] The overall security environment is still not conducive for the functioning of democracy. There are many potential challenges to the democratic process in Afghanistan that can derail it and, if not tackled properly, can lead to chaos and anarchy again in the Afghan society.

The insurgents have repeatedly and methodically destroyed Afghan communities by endorsing and fanning ethnic, linguistic and

religious frictions.[45] Especially in the last decade of war the warring factions have tried to bring ethnic and linguistic differences to the forefront of national politics as a means of maintaining control over the population. Due to the influence of commanders and local warlords, who by coercive and covert means have positioned themselves beyond the reach of the state, local institutional structures have become enormously vulnerable.[46]

Afghanistan's multiplicity of ethnic identities and linguistic divisions make forging national democracy a particular challenge. Pushtuns, particularly in the south, feel marginalized in spite of Karzai himself being a Pushtun. Indeed, many Pushtuns see Karzai as a figurehead president representing external rather than Afghan interests. Correcting this sense of exclusion is a vital challenge.[47] A high proportion of government positions have been filled by Tajiks and other non-Pushtuns. This forced many Pushtuns to view the new government through an ethnic prism, because they had traditionally dominated the government.[48] In its effect this means that Karzai's political support base includes many groups who either distrust or oppose the government he leads.[49]

Legitimacy of the government has been challenged by Pushtun citizens and that discontent has posed formidable opposition to government policies and Taliban insurgency has been able to make its strongest inroads in Pushtun territory in Afghanistan's east and south. However, majority of Afghans from all backgrounds oppose the Taliban, including Pushtun opponents of the current national government. In spite of this anti-Taliban sentiment, Afghan scepticism about the ability of the national government to govern as an honest broker and improve their lives causes many, especially Pushtuns, to either sit on the sidelines or sometimes passively support the Taliban.[50]

The functioning quality of the parliament as a representative of the Afghan population is marginal. Another fact is that a significant number of figures with ties to the Taliban are members of the parliament. International Crisis Group argues that the parliament has more warlords and criminals than democrats. Even many pro-American figures have unsavoury pasts which suggest a suspect commitment to democracy.[51]

The resurgence of Taliban and deterioration of security, with a central government that is still seen as weak not only by the Taliban fighters but also by many Afghan citizens whose expectations have not been met, point to problems in the task of rebuilding. Moreover, the de facto decentralization of political power to the Taliban and warlords in some areas of Afghanistan has resulted in empowerment of non-state actors who control illegal as well as legal trade, further undermining the

strength of the central government and the newly woven fabric of Afghan democracy.[52]

The economic, security, governance and overall political situation in Afghanistan is at a point where the progress made in building a democratic country is under threat of being derailed due to the abovementioned factors as well as because of an inadequate international commitment to Afghanistan and the failure of government institutions to provide essential services needed by the people. The Obama administration's current policy focus on transferring responsibility from the US to the Karzai government and on withdrawal of troops from Afghanistan irrespective of considering its political and security situation has generated added burden on the fragile Karzai government and incapable Afghan security forces, and thus posed a further challenge to democracy-building.

In a recent Bonn Conference held on 5 December 2011, President Hamid Karzai while highlighting the challenges said that "poverty and underdevelopment are still our top challenges. Our young democracy remains fragile, and the Afghan people are yet to see their aspirations realized through strong, effective and accountable national institutions."[53] He said that his nation would require continued financial support through the next decade. He stressed that the work of the past 10 years could get undone "unless Afghanistan's significant fiscal gap is addressed."[54]

Ali Ahmad Jalali, former interior minister of Afghanistan, argues that "the failure of the Bonn Accords to produce a viable peace plan is further exacerbated by the absence of a cohesive long-term post-conflict reconstruction and reconciliation strategy in Afghanistan. The entire focus on fighting terrorism has thwarted political approaches aimed at reaching out to reconcilable elements that later managed to regroup and launch the insurgency. There has been no clarity about whom to talk to, what political cost is acceptable in order to achieve peace and what kind of an end state is envisioned."[55]

Moreover, the regional environment is still not conducive to any political settlement in Afghanistan. The neighbouring states appear to be more interested in asserting their influence. Resultantly, the Afghan civil war could drag on. In this whole scenario, Pakistan's role is central to the counterinsurgency effort. However, the present strategy of the US is not helping enhance the positive role that Pakistan might play particularly for a political settlement.[56]

Prospects for democracy

Over almost the last ten years, the people of Afghanistan have faced many challenges and hardships in the shape of bombings, death and destruction, and overall invasion of their land by foreigners; however, at the same time they have also got a historical opportunity in terms of measures taken to free them from oppression and violence and build a democratic society. Their interests have coincided with the collective security interests of the international community. They have also been witness to many political landmarks that have become possible as a result of this convergence of interests.

Since the end of 2001, Afghanistan has made progress towards democracy in terms of reconstruction of its political, social, and security institutions. These include adopting an enlightened Constitution, holding presidential and parliamentary elections, raising a national army and national police force, dismantling major factional militia units, starting building a national economy, expanding and improving formal education system, and improving the status and future of Afghan women. These indicators provide a hope for better future for a democratic Afghanistan.

Regarding prospects for democracy in his country, the foreign minister of the Islamic Republic of Afghanistan, Dr. Rangeen Dadfar Spanta, speaking in early 2008, in a seminar in Finland very optimistically declared:

"Six years ago, Afghanistan was a geography without a state; a country destroyed by invasions, wars, foreign interference, terrorism and oppression; one third of our population were either refugees outside our borders or displaced internally; our people were denied even the most basic human rights including education and health. Six years on, the picture is very different. Today, our people are taking part in a genuine political process to shape their own destiny as a nation. A new constitution has been adopted, new democratic institutions created, and a new, democratic government has been elected. Despite all the odds, the freedoms enjoyed by our media and civil society organizations are totally unprecedented and unparalleled across the whole region. In addition, millions of children are going to school today who would not have the opportunity to do so six years ago; over five million of our refugees have returned home; we have implemented more development projects during the past six years than the previous three decades put together."[57]

In sum, the prospects for Afghan democracy are poor because challenges to democracy loom large. The coming 5-10 years would be very crucial in view of these challenges. The environment for promotion of democracy is not much conducive; there is an alarming resurgence in Taliban insurgency as they have launched a campaign to recapture territory they had lost to allied forces and Northern Alliance. The American-backed government of Hamid Karzai has proven to be both extremely weak and corrupt. President Obama had sent additional troops to Afghanistan to counter the resurgent insurgency but recently he has declared the schedule for the withdrawal of troops from Afghanistan. In this situation, the prospects for promoting democracy in Afghanistan appear very poor. **(58)**

Existence of permanent hostility between different ethnic communities has resulted in violence and chaos in the Afghan society undermining the state institutions capacity to function properly. Lack of viable institutions and sluggish economic development has further worsened the situation in the country. However, an environment conducive to the establishment of democracy could only be created with long-term and enhanced commitment of the United States, the Afghan leadership and the international community.

Conclusion

Building democracy in Afghanistan is at a critical juncture today. Legitimacy of democratic measures has been challenged. The United States and the international community considered elections as a major milestone in establishment of democracy in the country and focused more on elections than strengthening institutions and tackling insurgencies. But fraud and rigging in the last presidential and parliamentary elections by the US-sponsored Hamid Karzai faction has increased scepticism among the Afghan people about legitimacy of democratic measures taken by the US and the international community.

The Obama administration took significant steps to strengthen institutions in Afghanistan and to reduce violence and disorder there. Currently, it is pursuing a policy of integrating the insurgents and dissident groups, especially reconciliation with the Taliban to engage them in the political process, but this strategy requires time and enhanced focus to work in the long run.

Despite efforts on the part of the Obama administration and international players in Afghanistan the situation there is still not conducive to smooth functioning of democracy. The state-building efforts today are at a precipice. The Bonn Agreement viewed the Loya Jirgas and parliamentary elections as means to legitimizing the nascent

Afghan government but in practice the goals set in the agreement could not be realised. The Obama administration efforts to stabilize the country by integrating and reconciling with the Taliban and other insurgents seem distant from reality.

The most important point is that without capable and accountable institutions, legitimacy of the Afghan government and the international community in establishing democratic institutions will fade away and that would also undermine democratic state-building efforts in Afghanistan. The challenges faced with regard to democratization of the country require enhanced and well-coordinated measures by the US, Afghan leaders and the international community to strengthen institutions. Only a coordinated approach can curb the menace of insecurity and terrorism and will ultimately reverse the increasing insecurity, growing narco-economy, continued low level of socioeconomic well-being and deteriorating state legitimacy and can establish stability and order that can facilitate establishment of democracy in Afghanistan. Last but not least, China's potential role in Afghanistan needs to be considered seriously. Seeking to integrate its abilities in the region is fundamentally important now. There are new and converging interests between China and the United States, making possible a strategic partnership that could lead to peace and sustainability in the region.

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POLITICAL PARTY FUNDING IN BANGLADESH

DR. AL MASUD HASANUZZAMAN

Introduction

Political funding is a much talked-about phenomenon in electoral affairs and party politics around the world. All democratic systems irrespective of developed and developing are involved with such practice. There is an increasing concern that for the sake of democracy and good governance political funding affairs should be transparent, open and accessible to the watchdog agencies as far as possible. Since the influence of money in political arena is incontrovertible, any absence of transparency in financial transactions may lead to corruption and irresponsible practices. It cannot be denied that undisclosed money and corruption significantly harm the economic and political system of a country distorting the performance of politicians, diminishing public confidence in democratic form and ultimately undermining national development.

In the party systems of the established democracies in the nomination process, campaigning and transparent financial activities, a number of measures including registration, proper electoral laws and funding for parties had been introduced. In the democracies of the west, since the late 1950s, state funding has helped the parties to meet their

Dr. Al Masud Hasanuzzaman is a professor and former chairman of the Department of Government & Politics at Jahangirnagar University, Savar, Dhaka, Bangladesh. A British Council Scholar, Senior Fulbright Scholar and Japan Foundation Fellow in his earlier years, his research interests include parliamentary processes, opposition politics, party affairs and gender issues.

election expenses and other day-to-day expenditures. The practice has contributed largely to organizational viability of the political parties, ensured transparency in their financial procedures, mitigated political opportunism, minimized gaps in electoral campaigns of the contestants and democratized the party nomination process. Since legal sources of income and state assistance curb personal interests and discourage purchasing influence within the party structures, the process of funding includes conditions like declaration of their wealth by the office-bearers and monitoring their assets. In this respect, only those parties receiving a certain percentage of votes are eligible for state assistance. They also get income tax benefits and media accessibility besides public grants and direct funding for electoral expenses.

In Bangladesh until recently there had been lack of control on campaign funds of parties and their questionable fund-raising. The mass of the people so far remained in dark concerning finances of political organizations. This is owing to the fact that the sources of income, party expenditure, and statement of accounts are not widely discussed and openly scrutinized. In the absence of any clear-cut and transparent party financing system, the parties had been free to get funding from any source. Thus in order to fund their day-to-day operations and election campaign, they allegedly obtained finance through improper modes. Ceiling on election expenditure was often disregarded because of political competition and confrontational politics. In the post-1991 parliamentary elections the nomination process turned into a money investing game as more than a hundred new faces managed to get nominations simply on the basis of their contribution to the party fund. It was also noticed that politics became an expensive affair and politicians treated it as a full-time occupation. In this situation enormous financial support was required that purportedly came from well-off sponsors and financiers.

The crisis of confidence in the election system exacerbated after the 1991 polls and subsequent bye-elections that led to formalizing the provision of a neutral caretaker government which although proved unique in holding fair polls, could not establish confidence among the contending parties. As such both political game and electoral fight had been fraught with rampant violence, intimidation, influence of black money, and use of hoodlums and arms against political rivals. The obvious outcome was making the country's politics captive to terrorism, involvement of criminals and use of unlawful arms. It was alleged that advantaged criminals who had been caught up in politics operated with the protection of political parties. "Clash of beliefs" thus degenerated

into a "clash of arms" between the contending parties and their stalwarts. Such a trend worsened the frustrating political milieu.

After assuming state power in 2007, the caretaker government embarked upon a number of political reforms. The Representation of People's Order (RPO) was modified to make political parties responsible both organizationally and financially. Subsequently, under the newly elected Awami League government of Sheikh Hasina Wajed, a few more amendments were made in the RPO in 2009. Political observers opine that the amended RPO is a great step forward regarding mandatory registration of political parties and possible transparency in party financing. However, strict observance of the RPO and constant monitoring are imperative to make it effective and operational.

Considering the above the present study intends to look into the following in the context of Bangladesh: political funding for parties and its significance; political party financing and practice of the major parties, and the degree of disclosure and transparency and accountability in political fund-raising.

While examining the above issues the paper points out the strength and limitations of the existing legal measures, the roles of the election commission and the watchdog agencies in establishing sound and effective political funding supportive of parliamentary democratic order and good governance. In the course of analysis various publications on political party finances, existing rules and procedures regarding political funding as well as information gathered from major parties have been used.

Significance of political funding

Political funding involves financial support intended for political parties both for electoral and non-electoral purposes. Properly and effectively operating a political party organization has not been a simple affair. A party has numerous sectors of spending involving day-to-day expenditures, office and logistic expenses, utility payments, various service charges, and above all electoral and campaign spending. All these expenditures undoubtedly mean enormous financial pressures.

In the multidimensional process of governance political parties are imperative and play their part in both formal and informal policy framing and implementing structures. Since they are the key actors influencing the input as well as the output functions of the political system the capability of parties to accomplish the required functions for democratic governance is dependent basically on the resource base, more particularly the human and financial potentialities of the parties. These in turn have a great bearing on the effectiveness, dynamism and

institutionalization of political parties. In today's democratic practice vigorous party organizations either singly or in combination contend for political power by participating in popular elections. "To keep the system functioning, political parties must have the resources to run successful campaigns and the system functioning, political parties must have the resources to run successful campaigns and support political machines."[1] Political parties and their nominated candidates as such obtain funding from various sources in order to meet election expenditures. Indeed electoral campaigning demands huge sums of money and party organizations therefore require sound financial foundation to bear the cost.

An expert, Marcin Walecki, remarks that political finance is the collected money and resource meant for electioneering or campaign purposes. This money is raised and spent by candidates for public office, by their political parties or by other individuals and organized groups of supporters. Political parties play a crucial role in election campaigns in many parts of the world, and since it is difficult to differentiate between the campaign costs of party organizations and their routine expenses, political party funds may reasonably be considered as political finance.[2] Such funding offers admittance to the vital mechanisms of a modern democracy including publicity, managing political parties, deciding on candidates, mustering the electorate and polling. As such in both developed and underdeveloped democracies political funding has a great influence on nearly each facet of democratic politics.[3]

Another analyst, Muzaffer Ahmad, notes that like any other organizations of modern times political parties in order to operate in the right direction need lots of resources including human resource, material resource, technological resource and most of all financial resource.[4] The presence of political parties is imperative in the day-to-day affairs of governance having great implications for public opinion formation and ultimate impact on the whole election process. For maintaining a strong base of support and influencing the members of the electorate and the media, political parties endeavour to remain constantly perceptible and project their goals and accomplishments. "These objectives need to be cogently articulated and perceptively argued to sound a sympathetic chord in the minds of many. This requires organizing discussions, rallies, campaigns, and events that will be broadly grouped as work related to political education."[5]

Politics and finance are correlated. In view of the fact that democratic politics cannot carry on without considerable supply of finance enabling the party organizations and leaders to accomplish their legally recognized assignments, the need for political funding obtained

both from individual or public sources is obvious. Whereas political financing that is managed to organize campaign expenditures and cover the expenses of a party organization that are admitted in democracy, political funding also has been a major factor in fraud in and deception.

Theoretical viewpoints

Political finance has been studied in different contexts using a number of theoretical considerations and notions including pluralist and investment conceptualizations. The pluralists maintain that political parties within a profit seeking system make the best use of maximizing votes for accomplishing targets. Parties functioning under a democratic framework thus contend in an economic market for the purpose of obtaining majority support from the electorate. In view of the fact that policy priorities are in contest with incompatible squabbles for political feat, interested persons or political strata extend their support to respective parties and candidates employing required resource and material goods to translate into pertinent policy objectives. The reality is that within the existing economic market, power and money are dispersed in an unequal manner and following such hypothesis the pluralists forward their arguments that questions regarding political funding legislation emerge from an endeavour to settle economic inequality and lopsided footing of political organizations. Such pluralist postures give rise to the problem of keeping an intricate balance between the propositions like political rights, constitutional freedom and equal opportunity. While the proposition on constitutional and political freedom stipulates that during the time of polling and electioneering there should not be any spending limit and the individual citizens and political parties should be capable of spending as much as they desire, the notion of political equality entails equal treatment, access and indistinguishable opportunity and sharing of power amongst the party organizations.[6]

As for the investment theory, it is argued that in the process of winning polls and securing state power the successful contenders use enormous sources of finance and electoral funding which is often regarded as finding "gold" and therefore the notion is regarded as the "golden rule." This conception presupposes that as long as the whole electioneering process remains under the grip of certain financiers the voters will scarcely have little or no influence in the election process. The assumption has been that a perfect democratic framework can thrive only when political finance and campaign money is accessible to all competing political parties.[7]

Practice of party financing

As mentioned earlier, overall party activism, nomination of candidates in elections and party performance in the parliament and political processes are related to financial resource of the party organizations and means of their fund-raising. Needless to mention that in all systems parties require a sound financial base for their performance. However, political parties' obtaining funds and looking for state support has relatively been a much talked-about phenomenon especially in western democracies. In these systems the development of democracy, and more importantly the increasing role of parties in socio-political sectors ranging from running their own organizations and services to performing both input and output functions, necessitated funnelling of required funding. As such the traditional idea of collecting funds from parties' own source like members' dues and public donation began to change.[8]

Since the middle of the last century nearly all aspects of citizens' democratic lives became a concern of political parties. This resulted in requiring increased human welfare awareness and accountable behaviour from political organizations. Establishment of this efficacy brings forward the eventual receptiveness and sensitivity of the parties to the very system in which they operate and ultimately to their constituents and mass of the citizenry. Such process calls for responsible conduct of the parties by means of democratic functioning of their inner structures, participatory decision-making process and transparent political financing. In the developed countries, such accountability of political parties had been established in the process of institutionalization of democracy. In this perspective a general agreement on the rules of the game of politics, establishment of political conventions, appropriate legislative measures and related statutes had also been instrumental. There are arguments that political parties should not be guided directly by legal measures or legislative provisions regarding their formation and operations that may put constraints on the fundamental democratic right of freedom of organization. Contrary opinions uphold the accountability thesis and emphasize responsible performance of party structures and transparent procedures. In fact, quite a number of democratic systems, both developed and developing, have opted for the latter and approved guiding standards for party operations in the political course and finding options for establishing better funding system for political parties free from financial and political corruption. Such provisions as argued do not stand in the way of constitutional guarantee of the vital right of association and institutionalization of parties. As observed, established and consolidated parties of the developed democratic world are

characterized by organizational continuity that lasts longer than the life of the incumbent leadership, a permanent organizational structure spreading down to the grassroots level, and a leadership assertive to gain policy-making powers. On the other side, many countries of the Third World including Bangladesh are struggling to establish a sound party system and formulating proper policy options concerning political party laws, conduct regulations and financial procedures compatible with democratic norms.

Debates on public funding

Case against public funding

There have been disagreements over the provision for public funding for political parties as well as candidates. A number of negative arguments are thus forwarded that include the following:

It leads to creating a big gap between political party leadership, candidates and common citizens including party followers and members of the electorate. Dependence of parties and candidates on funding from private financial sources may result into economic inequality and that will, in turn, sustain imbalanced socio-political order and asymmetrical political system. As long as the parties and candidates do not rely on their leaders and followers for financial contributions in the form of membership or donation or unpaid job, the former will lose their responsible behaviour and will have less regard for associating the latter with party decision-making in a two-way consultation process. The system of public funding strengthens the existing power structure and helps benefit major political parties. These have a negative consequence for the smaller and newer parties that will face difficulties in obtaining proper representation in the national representative structures. Public funds are in fact the money of the taxpayers and they have no choice but to contribute financially to the parties and candidates whose views or ideologies may not get equal support or acceptability. The procedures of public funding to political parties and candidates stand in the way of prioritization of state expenditures and there is a danger of withdrawal of public money from infrastructural development or humanitarian and public welfare activities. The funding from the state through legislation or other methods may have consequential effects on limiting the autonomy and independence of the political parties and candidates, declining linkages with the civil society organizations and discouraging volunteerism for institution building.

Case for public funding

The arguments in favour of public funding have been: Public funding is an essential expenditure and is not incompatible with democratic development. Through this provision a transparent process is created where the candidates and party organizations meet their financial requirements for electioneering, campaigning, keeping regular contact with the constituents, properly formulating party policy programmes, paying bills of logistics of various sorts and keeping efficient personnel and workforce. Public funding has a great role in restraining the influence of money and muscle power in the election process, reducing financial irregularities and combating corruption. The supply of required amount of funding to political parties and candidates helps them remain free from succumbing to undue pressure of the donors or large contributors in their policy decision-making process, get rid of the harmful effects of patron-client and patronage politics. There is a positive correlation between public funding and proper party and legislative politics. Public sentiment is more perceptible to the representatives of the masses in party and legislative structures in the process of their preparing decisions, deliberations, debates, and ventilating the grievances of the masses. Public funding encourages the state, political parties and civil society organizations to introduce necessary structural reform measures, practice internal democracy, and increases the extent of nomination and representation of women and minority communities and thereby leading to a balanced power equation within the party and the legislature. Disclosure of income and expenditure of the political parties and candidates concerned is possible when public funding is made available to them. In this case the accounts and financial statements of the parties will not be a secret affair. General citizens' access to such audited documents helps the process of demanding responsibility and accountability of the party leaders and public representatives. In the context of enormous cost in advertising, media exposure and election campaigning, state funding can ensure electoral participation of genuine and dedicated party leaders. "In societies with high levels of poverty, ordinary citizens cannot be expected to contribute much to political parties. If parties and candidates receive at least a basic amount of money from the state the country could have a functioning multi-party system without people having to give up their scarce resources."[9]

Despite certain limitations in the state funding system different countries of the developed democracies initiated state policies in this respect. For conducting predictable functions and incurring expenditures during election campaigns Western democracies as such introduced

public funding for the parties since the post World War II period. As observed, this acted as a significant device and contributed to parties' organizational capability, meaningful political activism, and transparent party finance, balanced electoral contest of the competitors, increased party- constituent relations, impartiality in democratic competition, open leadership and candidate selection process, and spoil system.

Practices in the established democracies

In the developed democracies political parties and candidates meet their funding requirements from their own sources, individual or membership donations, financiers, and also from a system of state funding approved by central legislation.

In Britain, traditionally the Conservative Party has relied on local constituency associations, and individual and corporate donations for much of its finances. "Between April 2001 and May 2005, the Conservative Party received a larger average of individual donations than the other parties with high value donations over 100,000 pounds including aggregated donations amounting for 43% of its donation income. A further 29% of its income came from state funding in the form of short money and Policy Development Grants." "The Labour Party was the largest single beneficiary of donation income, which totaled 65,980,846 pounds during this period: 64% of this donation income was provided by trade unions...37 donors provided a further 25% of the Labour Party's donation income… Estimates suggested that trade union income to the Labour Party still accounted for over 64% of its total income." "The Liberal Democrats have never received funding on the scale of the Labour and Conservative parties, but in recent years the party has received significant and regular funding from a few sources, notably the Rowntree Reform Trust… In 2005 general election these sources accounted for 38% of the Liberal Democrat funds… three companies accounted for more than 30% of all donation income and a further 44% of all donation income came from private sources."[10] Other sources of funding to British political parties include funding by members and elected representatives, party political broadcasts, free postage, free use of meeting rooms, and inheritance tax relief.[11]

In the United States, public funding of presidential elections implies that eligible presidential candidates be given federal government funds to pay for the legal expenses of their political campaigns in both the primary and general elections. National political parties also receive federal money for their national nominating conventions. In 1976, the Federal Election Commission administered the first public funding programme. Qualified presidential candidates used federal funds in their

primary and general election campaigns and the major parties used public funds to pay for their nominating conventions. "Partial public funding is available to Presidential primary candidates in the form of matching payments. Each major political party is entitled to $4 million plus cost-of-living adjustment to finance its national Presidential nominating convention."[12] The provisions of the US Federal Electoral Commission maintain that any presidential candidate receiving 5% of the vote qualifies for financial support from the federal government. Matching funds as such are also made obtainable for primary elections. Nonetheless, private financial support continues as a major source of campaign financing. Political parties receive plenty of 'soft money' from supporters and admirers which they sequentially forward to their nominated candidates.[13]

In France presidential candidates receiving 5% of the votes obtain reimbursement under electoral laws and in Germany, the political parties get 50% of the total financial expenditure from the state fund. Countries like Canada, Germany, Israel, and Mexico have developed their own systems of public funding. In order to be qualified for such assistance Canadian parties need to nominate at least 50 candidates who should receive a minimum of 15 per cent of the vote in an electoral district and the parties must spend "at least 10 per cent of the election expenses limit." For these parties tax credits and media benefits are also available. In Germany public funding is given to those parties receiving at least 0.5 per cent and 1 per cent of the vote in the latest national and state elections, respectively. Israeli parties obtain the highest public grants in the world including respectable monthly payments. Mexican parties get direct funding for campaign and day-to-day activities and indirect finances through minor tax advantages and use of the media. Party support and secretariat assistance are made to the Swedish parties since 1965.[14] Although there is no system of public financing in Britain there are procedures for a permissible ceiling to expenditures of candidates within a voting district, and indirect funding like postage without any charge for the candidates, free auditorium facilities, media coverage and broadcasting.[15]

Political financing in developing countries

The above system of party financing as developed in the western democracies is not observed in the developing countries. Unlike the western countries, in many developing democracies exact information regarding expenditure practices of the parties and candidates are not available to the citizens. Enlisted membership of the parties is not significant and accounts are not properly recorded. The system of

reporting is either not followed or is absent, and the method of gathering actual information by the authorities concerned is also loose. Obscurity is generally seen in the process of collecting funds by political parties. Fund raising and spending operations remain under the grip of the top brass of the parties. There is a general accusation that many competing parties during the polls resort to a competition of vote–buying and offering various sorts of benefits to the voters. An unhealthy phenomenon in such countries is the entrance of well-off people in the electoral arena seeking membership in the legislature and representative bodies and trying to gain control of the national decision-making process and state benefits. Business magnates and moneyed individuals in exchange for their financial contribution to parties and candidates claim paybacks, special treatments and obtain various profitable contracts, trade facilities, etc., from the winning side. Owing to such private finance by the outside patrons, parties and candidates often lose their organizational autonomy and compromise their freedom of choice.

Against this backdrop the contending parties and their nominated candidates habitually defy the ceiling and spending limits.[16]

Bangladesh scenario

In Bangladesh political parties as voluntary associations fund their day-to-day activities and election campaigns from members' dues, donations and the like. Until recently, in the absence of any clear-cut and transparent party financing system, political parties resorted to obtaining funds through improper and unethical means. This has been more so in the context of unhealthy political competition where electoral rules including ceiling on election expenses are hardly followed. Other factors contributing negatively to this process are the existing nature of confrontational political culture, continuous political imbroglio, violent faces of political duel, and a gross lack of agreement on the general rules of the game. For these reasons major political parties have largely remained ambivalent if not totally indifferent to strictly following the financial ceiling on electoral campaigns as mentioned in the RPO. Politics has thus remained confined to the corridors of power leaving the political class dealing with state prerogatives in exchange for positions within their respective parties. Consequently, opportunist politicians along with newly inducted political leaders comprise mainly of the nouveau riche and retired civil and military bureaucrats have taken advantage of the situation. People with money and muscle power have therefore made inroads into the major political parties. Donations from these groups to the campaign funds of the parties play a very instrumental role in bringing about such an alliance. In the recent polls,

because of the lack of strict adherence to the RPO, political parties had little problem accepting questionable money and consequently getting susceptible to industrial/business barons' pressure or mafia manipulations. As such party nominations were influenced by money and muscle power. Owing to the considerable entry of political opportunists in the nominations of the parties old party loyalists without financial strength and muscle power were ignored.

Over the last one decade common citizens of this country have watched simply a rotation of faces with similar backgrounds representing more or less fifty per cent businessmen MPs in the fifth, seventh, eighth, and ninth legislatures rather than any qualitative change in the nature of representation in the national parliament.

It is observed that the conduct of raising funds is kept secret by the political parties in Bangladesh. It is, however, presumed that such activity normally takes place in a non-transparent manner and the central-level functionaries of the parties collect individual, local and overseas donations from the supporters, admirers and business and industrial financiers. Additionally, the members of parliament, stalwarts, well-off candidates of the parties from time to time make their contributions to the party chiefs. More or less, this has been the modus operandi of the funding of major political parties including the Awami League, the BNP, Jatiya Party and Jamaat-i-Islami.[17]

Ahmad notes that in Bangladesh political funding is not transparent, as is the case with electoral finance. Supply of political party finance can only be inferred as no audited balance sheets are available and until now the reporting on finance within the party or the Election Commission is quite inadequate. Such reports, when submitted, are far from comprehensive and lack in depth. Disclosure by parties or candidates in election is inconsistent and thus not reliable. Sanctions contained in the RPO are hardly employed. The system of monitoring, including state oversight and civil society oversight, is yet to become practical. It is the function of the media and civil society organizations to insist on disclosure and transparency in this situation.[18]

The system of managing party funding and especially that for electoral campaigns is commercialized to a considerable extent creates an environment where party structural relations and nomination procedure are characterized by money-centricity.

In the process of candidate selection emphasis is given on access to financial resources which has contributed to a trend of turncoat politicians and outsiders playing a greater role in politics. This has become a buying and selling process, where prospective candidates would first dispense money and endowment to the constituency and then

come within reach of the party leadership to secure candidature from the party. The reason for such commercialization of campaigns has been an outcome of the centralized control on decision-making process and lack of internal democratic practice in the political parties.[19]

Systemic corrupt practices, non-functional parliamentary structures, and impracticable expenditure parameters all lead to meagre or no accountability in Bangladesh's party finances. Absence of internal party checks and balances blocks financial transparency while the leaders are not held responsible for financial transactions or donations by members. The system tilts politics favouring the affluent given that just the well-to-do can have enough money to run for office and they are not necessarily the most qualified, or the least fraudulent.[20]

According to a research finding "the question of political party funding is an extremely sensitive issue…the party leaders prefer to remain rather tight-lipped about the sources of funding. Political parties in Bangladesh are perceived as actors who manipulate their powerful positions to extort bribes, to offer members and followers rewarding positions in the public sectors, or to channel the public resources into the hands of the party leaders or supporters. Party corruption is thus widespread in Bangladesh."[21] Transparency International Bangladesh (TIB) found that within the prevailing political culture political finance is a covert matter for the party organizations. None of the parties disclose financial information even within the party. Party funds are usually collected by members, central leaders and MPs. Funds are also collected directly from businessmen and industrialists. Such funds are often donated voluntarily out of vested interest, and in many cases through extortion. Fund-raising is also done through inter-party contributions as a part of alliance building for elections. The treasurer of a party is the main responsible person handling the accounts. Recently, the parties have been registered with the Election Commission and have to submit their audit reports annually. The rules and laws on accounting and auditing of parties funds are not put into operation and the regulations regarding political funding are disregarded.[22]

It has also been noticed that income and expenditure record is not maintained properly. Reporting on electoral financing is a new phenomenon in the political and organizational practice. "After the 1996 elections, nearly 95% of the MPs did not submit the individual expenditure report, and after the 2001 elections none of the parties submitted reports of electoral expenses. However, after the 2008 elections most candidates and parties submitted their electoral accounting reports before the EC"[23] but the matters are yet to be publicized.

In order to be effective and proper, functionality of the recently made provisions, compliance with the directives and a significant change in the prevailing political practice as well as reforms in political culture are very much required.

Extent of disclosure in political funding

Ensuring transparency and accountability in all public activities and decision-making processes have been crucial preconditions for proper governance and democracy. Good governance practices in political party affairs as such entail responsibility and particularly transparency in political funding. This is very vital for building public trust in the very democratic system where there is interlocking correlation between money and politics. Indeed any secrecy in financial matters and unreported money negatively impinge on the national financial system, encumber the process of democratic participation and promote various types of corruption. According to G. Ward "secret money and corruption hurts the economy and the polity of a nation as well as distorts the behaviour of politicians, hence development falters and citizen confidence in democracy wanes."[24]

In attempting to introduce provisions for proper political funding both the developed and developing countries have taken different initiatives considering their own systemic environments and political cultures. Besides the United Nations, the Council of Europe, and the African Union and the like have set certain standards in this context. The UN Convention against Corruption, for instance, advocates enhanced transparency in the funding of the candidates for elected public offices, control over political party funding and directives for the public officials. The Council of Europe (COE) suggests some common rules calling for an appropriate balance between the private and public sources of political financing and recommends specific rules incorporating transparency of donations and avoiding secret donations and keeping the integrity of party by means of avoiding conflict of interests and ensuring autonomy of party organizations. The African Union Convention on Preventing and Combating Corruption includes provisions necessitating transparency in political party funding for controlling unrestricted private finance that may pose a menace to democracies by means of corruption or corrupt practices.[25]

Besides the above, a number of international governmental and nongovernmental organizations such as the World Bank and Transparency International have set standards and promoted good practices and measures in political funding. The key recommendations have been: detailed disclosure by political parties and candidates of

assets, income and expenditure; limits on the duration and cost of election campaigns, and on large private donations; mechanisms to safeguard ethical standards in public life, including conflict-of-interest laws; and adequately resourced, independent oversight bodies.[26] Additionally, certain political finance regulations are suggested that involve: reducing demand for funding and limiting the comparative advantage of wealthy parties by providing public funds to political parties; curbing the influence of corrosive money through caps on individual donations, or donations from corporate, foreign or trade union sources; making political parties more accountable to the electorate by increasing transparency of political financing.[27] These recommendations are forwarded with an understanding that "the reform of party funding is not an end in itself, but a means to achieve the wider benefit of improving the quality of democracy.'[28]

Corruption in matters of political party funding is a major issue of concern in the present-day democracies. Combating such corruption brings forth the matters of regulatory behaviour for parties and most notably disclosure of information on finance, for without disclosure, money can be drawn from anywhere on the earth and in any amounts. Other than combating corruption, disclosure is greatly significant for the following reasons: "Financial disclosure contributes to an overall transparency of the electoral process, offering voters an opportunity to learn more about political contenders in order to make an informed decision at the polls. Requirements to disclose sources of funding are likely to stimulate parties/candidates to raise and also spend their financial resources in ways that are acceptable to a majority of voters and do not provoke political scandals. Furthermore, disclosure enhances the accountability of political parties and provides enforcement agencies, as well as civil society and media with all the information necessary for proper verification."[29]

A study conducted by the USAID noticed that out of 118 countries, 28 had no disclosure laws or rules and only 15 required parties and candidates to disclose income and expenditure accounts and disclose the identity of donors to political parties.[30] It may be mentioned that disclosure patterns regarding party expenditures differ among the democratic states. Countries like the United States, New Zealand and Germany apply the procedure of public disclosure to the authorities concerned, while Canada follows a mixed system of confidential reporting to an oversight body and South Korea has introduced reporting to party and election officials.[31] In Australia, during the 2008-9 disclosure periods the disclosure threshold was for amounts of exceeding ten thousand dollars. The political party annual return requires disclosure

of total amounts of receipts, payments and debts. It also requires disclosure, including the full names and addresses of individuals, organizations or other entities from which money, gifts, gifts-in-kind or loans with a value exceeding $10,900 were received over the 2008-2009 financial period. The disclosure returns are on the public record and the parties and their associated entities may be subject to a compliance review by the Australian Electoral Commission.[32]

Consolidated democracies have established effective institutional mechanisms to enforce funding rules. In Britain, the Electoral Commission has the power to require a relevant person from any organization that falls under its supervision like political party or third-party organization to produce documents, books or other records related to the income or expenditure of the organization. It can also ask that the individual provide an explanation of the information in question and failing to provide such information is a criminal offence. Furthermore, it can enter the organization's premises, inspect books and take copies of any documents found there without any prior judicial authorization or warrant. In Germany, the speaker of the Bundestag is responsible for enforcing political funding rules and laws, but is himself overseen by the Federal Audit Court. This court makes it sure that laws governing the distribution of public funds are not breached, and the speaker does not favour the parties with which he is affiliated.[33] In some countries the election commission, the public accounts committee, designated commission or agency and the government audit authorities act as oversight bodies for political funding and disclosures. Disclosure may include a provision that the authority concerned will facilitate making these financial reports accessible to the public for review and analysis and for increased legitimacy and confidence of the voters.

In Bangladesh, the finances and related accounts of the political parties are overseen by the constitutional body called the Election Commission. The Political Party Registration Rules, 2008, and the Representation of the People (Amendment) Ordinance (RPO) 2008, spell out the rules concerning monitoring and disclosure of expenditure of political funding. Regarding campaigning expenditure, the RPO (Amendment) Act, 2009, states that every nomination paper shall include information like description of profession and business of the candidate, sources of income, statement of property or debt of his own or his dependents, the amount of loan received by him alone or jointly or by his dependents from any bank or financial institution and the amount of loan received by him from any bank or financial institution, and the statement shall be accompanied by a statement in the prescribed form, of the contesting candidates' assets and liabilities and annual income and

expenditure and, if he is an income-tax assessee, a copy of the income-tax return last submitted by him. A copy of the statement submitted together with a copy of the statement and the return shall be sent by the contesting candidates to the Commission by registered post at the time of their submission to the returning officer.[34]

The RPO has placed a limit on electoral expenditure and says that the election expenses of a contesting candidate, including the expenditure incurred for him by the political party nominated him as its candidate, shall not exceed taka fifteen lakh provided that the election expenses of a contesting candidate shall be determined per capita on the basis of total number of electors in a constituency.[35]

No political party shall expend during the period for election purposes, including election expenses for the contesting candidates set up by it, an amount exceeding- (a) where the number of such candidates is more than two hundred, taka four crore and fifty lakh (b) where the number of such candidates is more than one hundred but not more than two hundred, taka three crore, (c) where the number of such candidates is not more than one hundred taka seventy-five lakh, more than fifty but not more than one hundred, taka one crore and fifty lakh.[36]

Every political party shall maintain proper account of all its income and expenditure till the completion of elections in all the constituencies in which it has set up candidates and such account shall show clearly the amount received by it as donation above taka five thousand from any candidate or any person seeking nomination or from any other person or source giving their names and addresses and the amount received from each of them and the mode of receipt. The funds of every such political party shall be deposited and maintained in any scheduled bank. No political party shall receive any donation amounting to more than taka twenty thousand unless it is made by cheque.[37]

A registered political party is entitled to receive in a year donation or grants from any person, company, group of companies or NGOs provided that the amount of donation shall not exceed taka five lakh or property or service in case of a person and taka twenty five lakh or property or service in case of company or organization. No registered party is allowed to receive any gift, donation, grant or money from any other country or NGO assisted by foreign aid or from any person who is not a citizen of Bangladesh by birth.[38]

Every political party nominating any candidate for election shall submit to the Commission for its scrutiny within ninety days of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred by it in connection with the election of its candidates for the period. The expenditure shall include

separate expenditure incurred on general propagation of the manifesto, policy, aims and objects of the party and expenditure incurred in connection with the election of each of its contesting candidates.[39]

The RPO includes provisions for punishments on non-compliance of its directives by the parties or candidates. If a registered political party fails to submit its expenditure statement within the specified time the Commission shall issue a notice of warning directing it to submit the statement within 30 days otherwise face a fine of taka 10,000; the deadline is extended for another 15 days and if the party fails once again the Commission may cancel its very registration.[40] Provisions are also there for disseminating information through the Commission's website on the statements, returns or documents of the parties. The electoral expenditure of the political parties in the 9th parliamentary election and statements of the major participating parties of Bangladesh in those polls can be seen in the following tables:

Table 1
Statement of electoral expenditure
of the political parties in the 9th parliamentary polls, 2008

Name of party (taka)*	Total expenditure
Bangladesher Sammobadi Dal (ML)	5,37,000
BCP	11,98,266
BAL	3,60,26,947
BNP	4,49,50,000
Ganatantri Party	99,000
Bangladesh NAP	11,700
Bangladesher Workers Party	12,35,000
Bikalpa Dhara Bangladesh	17,84,000
Jatiya Party	13,67,000
Bangladesh Jamaat-i-Islami	74,72,408
Zaker Party	4,50,000
BSD	1,61,100
Bangladesh Tarikat Federation	17,29,000
Bangladesh Khelafat Andolon	3,80,000
Bangladesh Muslim League	16,000
National People's Party	3,03,000
Gono Forum	9,95,000
Bangladesh National Awami Party	5,000
Bangladesh Kalyan Party	15,470
Bangladesh Khelafat Majlish	3,36,960
Islami Andolon Bangladesh	2,48,0142

Bangladesh Islami Front	1,66,385
Biplobi Workers Party	64,300

*Approximately one US dollar is equivalent to 70 Bangladeshi Taka
Source: Bangladesh Election Commission, 2010

Table 2
Statement of the 2008 electoral
expenditure of the Bangladesh Awami League

Sector of Expenditure	Amount of expenditure (taka)	Comments
Grant to candidate	00	Nil
Campaigning	1,89,40,815	Leaflets, booklets, posters,
		TV, newsletter, manifesto, etc
Conveyance	67,55,600	Master trainer, polling agent
		Trainer, Zila team, poll office
Public Meeting	61,50,000	Public meeting of senior leaders & video conference
Staff expenditure	14, 66,000	Nov & Dec. 2008
Housing & Admin. Expenditure	27,4463	Nov & Dec. 2008
Misc.	24,40,096	Trainers, Zila team, office expenditure of Nov & Dec.08
Total	3,60,26,975	

Dated: 31 March 2009
Source: Bangladesh Election Commission, 2010

Table 3
Statement of the 2008 electoral
expenditure of the Bangladesh Nationalist Party (BNP)

Sector of Expenditure	Amount of expenditure (taka)
Grant to candidate	12,000,000
Campaigning	18,452,500
Conveyance	6,302,750

Public meeting	1,310,450
Staff expenditure	1,887,250
Housing & admin. expenditure	4,724,550
Misc.	272,500
Total	4,49,50,000

Dated: 31 March 2009
Source: Bangladesh Election Commission, 2010.

Table 4
Statement of the 2008 electoral expenditure of the Jatiya Party

Sector of Expenditure	Amount of expenditure (taka)
Grant to candidate	N.A
Campaigning	3,30,000/-
Conveyance	3,43,000/-
Public meetings	N.A
Staff expenditure	3,76,000/-
Housing & admin. expenditure	N.A
Misc.	3,18,000/-
Total	13,67,000/-

Source: Bangladesh Election Commission, 2010.

Table 5

Statement of the 2008 electoral
expenditure of Bangladesher Communist Party

Sector of Expenditure	Amount of expenditure (taka)
Grant to candidate	5,24,000/-
Campaigning	5,37,305/-
Conveyance	37,248/-
Public meeting	3,246/-
Staff expenditure	—
Housing & admin. expenditure	55,762/-
Misc.	4,705/-
Total	11,98,266

Dated: 30 March 2009
Source: Bangladesh Election Commission, 2010

Table 6

Statement of the 2008 electoral expenditure of
Bangladesh Jamaat-i-Islami

Sector of expenditure	Amount of expenditure (taka)
Grant to candidate	55,95,000/-
Campaigning	13,90,154/-
Conveyance	2,59,779/-
Public meetings	—
Staff expenditure	—
Housing & admin. expenditure (stationery & telephone)	— 14,3,780/-
Misc. refreshment etc.	83,695/-
Total	74,72,408/-

Dated: 30 March 2009
Source: Bangladesh Election Commission, 2010

Table 7
Statement of the 2008 electoral expenditure of Bangladesher Workers Party

Sector of expenditure	Amount of expenditure (taka)
Grant to candidate	3,30,000/-
Campaigning	3,50,000/-
Conveyance	60,000/-
Public meetings	2,95,000/-
Staff expenditure	50,000/-
Housing & admin. expenditure	1,05,000/-
Misc.	45,000/-
Total	12,35,000

Dated: 30 March 2009
Source: Bangladesh Election Commission, 2010

There is always a gap between theory and mode of observance of rules and regulations, especially in countries like Bangladesh. Such gap as well applies with regard to strict adherence to the provisions made in the RPO on the electoral practices and disclosure by the registered political parties and candidates. In the case of the 9th parliamentary election, it was observed that in the pre- and post-poll period honouring the RPO provisions the political parties and candidates submitted their electoral expenditure statements along with accounts reports to the Commission but in a number of cases suspicions were expressed by the quarters concerned regarding their reliability and all-inclusiveness. At the party organization level there had been deficiency in upholding standards in matters of appropriate record keeping of accounts and proper auditing of the financial statements. The parties in Bangladesh are yet to abide by the RPO provisions to make the whole financial process transparent and more lawful. The Election Commission also has not been seen equipped with appropriate devices or remain very prompt or institutionally prepared for its oversight responsibilities and scrutinize or assess the electoral and non-electoral expenditures as well as funding procedures of the parties and their candidates.

Conclusion

Political parties require sufficient resources and funding for effectively running their daily affairs, managing organizational activities, arranging party political programmes, preparing for electoral politics and conducting campaigns. In order to make these matters meaningful, accurate and precise, a transparent finance system is essential and has no alternative. Efficiently establishing a proper political funding culture has indeed been a challenge for any democracy. In consolidated democracies since the middle of the last century different steps and mechanisms have been introduced in political party finance offering state funding and demanding responsibility and accountability of the party organizations by means of legislation and appropriate disclosure regulations. A number of developing democracies have also taken legislative and institutional measures in this respect and employed oversight mechanisms to review the funding, financial and spending process, campaign limits, disclosure, expenditure report requirements and the like. Despite the presence of legal and related provisions, the scenario does not project positive accomplishments in these countries, including Bangladesh.

In Bangladesh until recently there was no law regarding political parties and in the absence of enforcement of existing regulations, the whole matter of financing had been characterized by ambiguity, secrecy, questionable sources of donation, improper means, other corrupt practices and lack of transparency and accountability. The provisions adopted in the recently amended RPO has been a great step forward making registration of political parties with the Election Commission mandatory together with rules on political funding and reporting. However, as observed, owing to the persistence of non-conducive political culture and intra-party structural relations characterized by absence of democratic practice and authoritative control of top party leadership and at the same time weak supervision of the regulating authorities and watchdog agencies translating the legal measures into reality has been difficult.

In Bangladesh, in order to construct a proper political funding system commensurate with good governance and sound democratic order the following measures deserve special consideration:

In the context of questionable fund-raising and campaign funds of parties, it is imperative to offer public funding for parties to equalize the opportunities for all parties and candidates. A system of state funding as such for political parties can be introduced for assisting the parties to meet their election expenses and other regular expenditures. This is necessary for making party functioning accountable and that in turn can

contribute largely to the organizational capabilities of the parties, reduce gaps in electoral campaigns of the competing candidates, democratize the nomination process, curb political opportunism and ensure transparent financial procedures.

Regarding state funding it is advocated that a certain portion of the national budget should be allocated for financing the parties and the parliamentary structures can be involved in this process and thus the public accounts committee assisted by the office of the comptroller and auditor general can have the responsibility to examine the audited accounts of the political parties. Since legal sources of income and state assistance can help check private interests seeking to buy influence within the parties the process of funding should be as transparent as possible.

State funding should be made available to those parties receiving certain percentage of votes in the general elections. The parties eligible for state funding should also be given minor tax advantages and media assistance. Public grants and direct funding can also be considered for electoral purposes. Similarly, party support, secretariat and logistic support can be an additional offer. Like in Britain, indirect funding in the form of free postage for party candidates, free use of halls and broadcasting facility can be introduced. Parties should also receive assistance for holding their conventions and other intra-party functions.

The Election Commission and authorized institutions should have appropriate mechanisms to guard against any violation of the RPO by the parties and candidates. The relevant authority should be empowered to stop the use of unaccounted or black money and should verify the income and expenditure. Relevant structures within political party organizations also need to be strengthened in order to supervise their own financial activities, prevent financial misdemeanours, and comply with the requirements of professional record keeping, accounting, auditing and reporting. Additional important steps are: external monitoring of party accounts and audit procedures; open acceptance of donations from business organizations and individuals with proper receipts; publication of audit reports that should be available for open inspection; and disseminating information through the internet and websites.

Concerted activism of the civil society, citizen groups and their organized movements can be an instrumental in pressurizing the political parties to implement the RPO measures of disclosure and accounts procedures. These significant forces can thus provide impetus for reforms from within the party organization and from outside. Unless party structures are democratic in nature and financially responsible they

can hardly contribute to the institutionalization of democracy. Regular conduct of research activities and holding of seminars on party affairs including structural reforms in political finance are required. Strict sanction measures, periodic review, and constant public oversight by the external stakeholders including the civic bodies and the media can play a significant role in guarding against any illicit financing. Application of ethical standards in political financing is greatly needed. Advancing effective legislation on political funding by the relevant strata is imperative. Increasing role of the representative bodies, more specifically the parliament and its standing committees, and proper judicial structures are essential requirements for mitigating corruption of various sorts in political funding and for blocking the infiltration of plutocrats in party affairs and politics.

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