

Pakistan

Federalism in Pakistan has been shaped by a tumultuous history characterized by intermittent civil and military rule, domestic violence and interstate conflict since independence in 1947. Pakistan lost a war over the secession of Bangladesh in 1971 and was defeated in four other major international wars.¹ For more than half of its brief existence the military has ruled. The first constitution was adopted in 1956, new constitutions were adopted in 1962 and 1973, with major modifications in 1985 and 2003. In 2013 Pakistan experienced for the first time a transfer of power from one democratic government that had completed tenure to another.

Pakistan lived through three military regimes and four martial laws. The military regimes: Ayub Khan (1958-71), marked by a tendency to “assimilate rather than accommodate” (Siddiqi 2008:4, 81; Prasad-Singh and Kukreja 2014:94); Zia-ul Haq (1977-87), who sought to Islamicize the country and abolished provincial institutions; Gen. Pervez Musharraf (1999-2008), who attempted to liberalize Pakistan (Looney 2008:7). These military rulers often relied on martial law—the imposition of direct military control over normal civilian functions. They ruled by decree, amended the constitution, and often abolished or reformed provincial and local governments (Siddique 2006). The four periods of martial law that affect our coding are i) 1958 to 1962 during General Ayub; ii) 1969 to 1973 during and after the Bangladesh Liberation War; iii) 1977 to 1985 during the military dictatorship of General Zia; iv) and 1999 to 2001, following Musharraf’s coup.

Self-Rule

Institutional Depth and Policy Scope

The Islamic Republic of Pakistan, or Pakistan, is a parliamentary federal republic in South Asia with a population around 205 million (CIA 2017). It is bordered by India to the east, China in the northeast, Afghanistan to the west, Iran to the southwest and the Arabian Sea and Gulf of Oman in the south (CIA 2017). The country has had three capitals since independence: Karachi until 1959, Rawalpindi as interim capital from 1959-1967, and the current capital, Islamabad.

Subnational government has been a political football throughout Pakistan’s independent history. Military leaders have often privileged local over provincial government, and the reverse for democratic leaders. As a result, subnational government has been extremely volatile (Ali 2018; Faguet and Shami 2015; Malik 2019). The first tier consists of provinces (Balochistan, Khyber Pakhtunkhwa [KP],² Punjab and Sindh), one autonomous territory (Gilgit-Baltistan [GB]), and the Islamabad Federal Capital Territory (FCT). From 1947 until 2018 the highest and second intermediate tiers also comprised the Federally Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA), respectively. These were semi-autonomous regions in northwestern Pakistan administered by the center (C 1973 25th Amendment). Under the 31st Amendment to the Constitution in 2018, the FATA merged with KP and the provincial tribal areas merged with their respective provinces (KP or Balochistan).

Azad Jammu and Kashmir (AJK) is a self-governing territory. Since the UN-mandated ceasefire between India and Pakistan over Kashmir, it is administered by Pakistan but its

¹ These include the Indo-Pakistani wars (1947, 1965, 1971), the Kargil Conflict (1999), and the War in the North-West (2004-). Excluding the third Indo-Pakistani War (fought over Bangladesh) and the 2004 war against the Taliban in the north west, all wars have been fought against India over Kashmir.

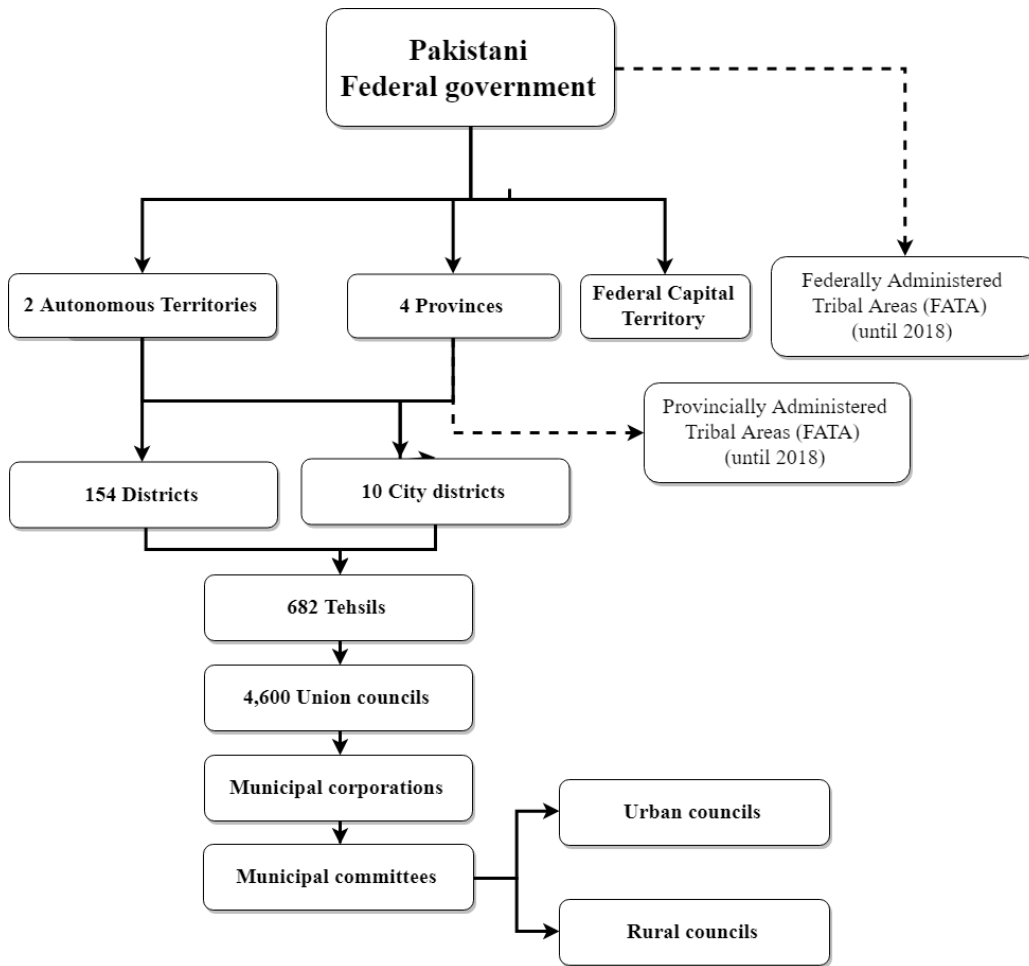
² Formerly the North West Frontier Province (NWFP).

constitutional status within Pakistan is contested. Unlike its counterpart on the Indian side, it has not been formally annexed by Pakistan. The Pakistani constitution appears to implicitly recognize it as a separate state while implying its future accession: “When the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and the said State shall be determined in accordance with the wishes of the people of that state” (C 1956, Art. 203, C1962, Art. 221; C1973 Art. 257). A non-partisan Pakistan-based scholar describes it as “a unique politico-legal territorial entity of unresolved status” (Feyyaz 2011: 9). We opt to include AJK in our coding.⁷

For most of the time, Pakistan has had three intermediate tiers below the provinces: a thin deconcentrated layer of divisions; districts (*zilas*), of which there were some 149 in 2017; and 590 subdistricts (*tehsils* or *talukas* in Sindh) (Government of Pakistan, census 2017). Below are over 8,000 town councils, urban committees, union councils, and village councils as of 2018 (CLGF 2018:167). Pakistan has also five metropolitan areas and, since 2011, several municipal corporations. The evaluation of subprovincial governance is complicated by the fact that in some periods urban and rural governance are organized differently and in other periods they are organized similarly. From 2010, provinces have regained full control over local government, and as result, subprovincial government has tended to diverge (Ali 2018).

We code provinces, autonomous territories, districts, subdistricts, metropolitan corporations, municipal corporations, the FATA, the PATA and the FCT. Municipal corporations were established by the provinces of Sindh, Punjab and Balochistan after the passage of their local government acts in 2013.³ In 2019, the incoming government of Imran Khan dismantled the local government structures in provinces controlled by his party and introduced a new system (Malik 2019: 32). Punjab passed legislation in Spring 2019 that should bring the new system online by the end of the year.

³ There are 11 municipal corporations in Punjab, 9 in Sindh and 4 in Balochistan. The municipal corporations in Punjab include Amritsar, Pathankot, Bathinda, Moga, Hoshiarpur, Jalandhar, Phagwara, Ludhiana, Patiala, S.A.S. Nagar. See lgpunjab.gov.in/cms/statistics.php. In Sindh: Hyderabad, Sukkur and Larkana (UNDP Pakistan, n.d.).



Pakistan was created as a predominantly Muslim state following the partition of British India in 1947. Relative to India, Pakistan was “born in chaos” as it struggled to maintain control over its territory and to form a government (Callard 1957:13; Oldenburg 2010:10). Two wings were separated by 1000 miles of hostile Indian territory (Adeney 2007:102). In the east, East Bengal formed a single province, while the politically dominant western wing was originally divided into nine units, including the three provinces Punjab, Sindh, and the Northwest Frontier province (renamed Khyber Pakhtunkhwa in 2010),⁴ the Baluchistan States Union, the Baluchistan tribal districts, the NWF tribal states (Dir, Amb, Swat, and Chitral), the federal capital area of Karachi, the princely states of Bahawalpur and Khairpur (Callard 1957:155). Pakistan also controlled, *de facto* if perhaps more ambiguously *de jure*, Gilgit-Baltistan (formerly known as the Northern Areas) and Jammu and Kashmir.

1950: Native states of Amb and Nagir Phulra merged with North-West Frontier province. Name of West Punjab province changed to Punjab. At the time of the 1951 census, the divisions were as follows.

Division	Typ	Population	Area (km. ²)
Bahawalpur	s	1,823,125	206,463
Punjab	p	18,828,015	
Baluchistan Districts	d	622,058	347,064
Baluchistan States	s	551,978	
East Bengal	p	42,062,610	141,157
Karachi	f	1,126,417	2,103
North West Frontier	p	3,252,747	101,680
NW Frontier Tribal Regions	r	2,647,158	
Sind	p	4,608,514	146,197
Khairpur	s	319,543	
Total		75,842,165	944,664

Typ: d = district, f = federal capital area,

p = province, r = region, s = state.

Population: 1951-02-28 census (source [2]).Area: Source [1].

1955-10-14: West Pakistan province of Pakistan formed by merging Bahawalpur state, Baluchistan province, Baluchistan States Union, Chitral state, Dir state, Hunza state, Karachi province, Khairpur state, North-West Frontier province, Punjab province, Sind province, Swat state; i.e., all of Pakistan west of India except the Federal Capital territory. Its capital was Lahore. Name of East Bengal province changed to East Pakistan.

1961: Federal Capital territory merged with West Pakistan province.

1967: Capital of Pakistan moved from Rawalpindi to Islamabad.

1970-07-01: West Pakistan split into the provinces of Baluchistan, North-West Frontier, Punjab, and Sind, and the centrally administered area of Islamabad.]

After independence the tribal areas and former princely states were reorganized into special districts ruled directly by the provinces (PATA) or the central government (FATA) (C 1973 Arts. 246, 247), though often with significant autonomy.⁵ This status was constitutionally defined. The

⁴ The four provinces encompassed around 90% of Pakistan’s population in 1950.

⁵ The princely states of Bahawalpur and Khairpur remained autonomous entities within Pakistan till October 1955 when both were merged with the province of West Pakistan.

PATA consisted of four princely states and the tribal areas within today's Khyber-Pakhtunkhwa, Balochistan, and Punjab.⁶ The FATA consisted of 7 tribal agencies and 6 areas along the frontier with Afghanistan. Both the FATA and PATA were governed through a set of laws enacted by the British Raj in 1901, called the Frontier Crimes Regulations. After the 9/11 attacks, the FATA became a major site in the War in North-West Pakistan (2004-present) between Taliban-aligned terrorist groups and the Pakistani and US armies (Waseem 2011a: 9). PATA and FATA were abolished by the 31st Amendment to the constitution in 2018.

The greater Kashmiri region in the far north of Pakistan has been strategically highly sensitive. India and Pakistan fought two wars (1947, 1965) and a limited military conflict (1999) over Kashmir. With the India-Pakistan partition, the bulk of Jammu and Kashmir came under Indian control, but two areas to the west and northwest came under Pakistani control. The Pakistani-administered area houses two regions with special status: Azad Jammu and Kashmir (AJK), a strip of land detached from the larger Indian-controlled Jammu & Kashmir region on its western flank, and the northern-most region of Pakistan, Gilgit-Baltistan (also known as Northern Areas), a huge sparsely populated area in the Himalayas.⁷

Gilgit-Baltistan became part of the greater Kashmir region when the British East India company sold the area (alongside Kashmir, Chamba and Ladakh) to the Raj of Jammu in 1846. The local population never accepted Jammu & Kashmir's rule, and in 1947, the region decided to join Pakistan in contradistinction with the Maharadja of Jammu and Kashmir who opted to join India. However, a UN resolution on the Kashmiri conflict confirmed the pre-1947 status (UNSC Resolution no. 47, 1947; Waseem 2011b: 222; Weightman 2005:193). The region continued to object to being merged with Azad Jammu & Kashmir and demanded separate provincial status within Pakistan. As a result, the area has been in constitutional limbo for decades, and until 2009 it was unrepresented in either the legislature of Azad Jammu and Kashmir (AJK) or Pakistan (Waseem 2011a: 222-23). As of 2009 Gilgit-Baltistan has quasi-provincial status with similar powers and administrative structure as provinces (CLGF 2018:167; Waseem 2011b: 223). Gilgit-Baltistan is the only predominantly Shia territory of Pakistan, though in the past 25 years it has undergone "fierce 'sunnification'" (Waseem 2011b: 223). The area sits at the intersection of four Himalayan nations (China, India, Pakistan, Afghanistan) and is of prime strategic importance to Pakistan (Karim 2009).

Pakistan has also had to contend with Baloch insurgencies (1973-77, 2002-ongoing); Pashtun separatism (1970s); Sindhi regionalism (1980s); and Mohajir mobilization along ethnic lines in Sindh (1990s) (Adeney 2016; Prasad-Singh and Kukreja 2014:100-102).

Provinces

Pakistan has been a federation since independence, but until the early 1970s it was highly centralizing, to the extent that a prominent scholar described this stage as "pre-federalisation" (Waseem 2010: 5). The 1940 Lahore resolution that had been adopted by the Muslim League to demand greater autonomy for Muslim majority states within British India, had used strong

⁶ PATA in KP comprise the districts of Chitral, Upper and Lower Dir, Swat, Buner, Shangla, Kohistan, Kala Dhaka, Malakand, the tribal area by Mansehra district and Amb (Art. 246.(b)(i)). In Balochistan, the FATA includes Dalbandin, the Marri and Bugti Tribal territories (in Sibi district), and the districts of Zhob and Loralai; (Art. 246 (b)(ii)) and the tribal areas in D. Ghazi Khan and Rajanpur districts, in Punjab (Buzdar 2017)

⁷ For an in-depth discussion of the chaotic transition from British rule to independence in the Himalaya region and ongoing conflict in the region, see Warikoo (2009).

federalist and even confederalist language, but after partition, national security pulled the fledgling state in the opposite direction.

Consolidation of the federal state structure came in spurts. From 1947 to 1955 Pakistan was a British Dominion member of the Commonwealth, like Canada or Australia, with a governor general formally appointed by the crown. The governor general presided over the executive and had the authority to dissolve the national assembly (Callard 1957:25; Prasad Singh and Kukreja 2014:75-7). The first governor general, Jinnah, set the country on a centralizing path by empowering the civil service instead of his own political movement (Prasad Singh and Kukreja 2014: 103-136; also Waseem 2010: 3-7).⁸

When Pakistan became independent, it enacted the Government of India Act 1935 as its provisional legal basis until 1956. The Government of India Act laid down a federal system with a pronounced unitary bias (Naseer 2007:7). Each province had a dual government that consisted of an elected legislature and a centrally appointed governor (Punjab Assembly n.d., p.2; Callard 1957). All major legislation by provincial governments from 1935 until the ratification of the 1956 constitution was subject to central government veto through centrally appointed provincial governors (Naseer 2007:5; Government of India Act, Sections 45, 49, 52-54). Balochistan, the federal capital area, and the tribal areas were under the direct authority of the center (Callard 1957:155; Naseer 2007:4-5). The governor general along with centrally appointed provincial governors had discretionary powers to remove federal prime ministers or chief ministers in the provinces.⁹ The Government of India Act (1935, Sec. 93) also authorized provincial governors to act on behalf of the governor general to preempt provincial government (Governor's Rule) if state security could be compromised (Government of India (Amendment) Act 1948, Sec. 92A). The governor general declared Governor's Rule in Punjab (from January 1949 until April 1951), in Sindh (from December 1951 until May 1953),¹⁰ and in East Bengal (from May 1954 until June 1955) (Callard 1957:160).¹¹ **From 1950 until 1955 provinces score 2 on institutional depth because they are subject to the veto of the governor general and of the centrally-appointed governors. During periods of governor's rule that last longer than six months provinces receive 1 on institutional depth.**

From 1947 to 1956 Pakistan struggled to pass its own constitution. A constituent assembly of Pakistan had been formed prior to the declaration of independence following the withdrawal of the representatives from Sindh, East Bengal, Balochistan, West Punjab and the North-West Frontier Province (or Khyber Pakhtunkhwa) from the Indian constituent assembly (Punjab Assembly n.d., p. 2; Callard 1957). Its chief task was to frame a new constitution for Pakistan but

⁸ Muhammad Ali Jinnah, founder of Pakistan and revered as *Quaid-i-Azam* ("Great Leader of the nation"), was governor general until his death a year after independence (Callard 1957:131-3). This was the same position as held by the head of the British administration in India prior to independence, but with augmented powers. According to Callard (1957:131), as a consequence of the decision to appoint Jinnah to the post "the normal conventions of cabinet government had no chance to develop. The *Quaid-i-Azam* could have held any position or none; he would still have retained ultimate authority in his own person... The possibility of instructions proceeding from the cabinet to the Governor-General did not arise; it was, in fact, unthinkable" (Callard 1957:138).

⁹ The governor general could invoke the Public and Representative Office Disqualification Act of 1949 (also known as PRODA) to disqualify persons for misconduct (Callard 1957; 163).

¹⁰ During governor's rule in Punjab and Sindh the chief minister was dismissed, and new elections prepared (Callard 1957:160).

¹¹ These are the only three instances of governor's/president's rule in our coding.

it also acted as Pakistan's first federal legislature (Callard 1957:78; Kamran 2009:259).¹² In 1954, a proposal for a new constitution was tabled containing strong checks and balances that would curtail the power of the governor general. Backed by the army, governor general M. Ghulam Muhammad dissolved the constituent assembly in response, but illness pushed him out of power two years later (Callard 1957:141).¹³

Pakistan ratified its first constitution in 1956 after Izkander Mizra replaced Ghulam and called a second constituent assembly (Bains 1956: 210). This Constitution provided for a hybrid parliamentary-executive system. The government was collectively responsible to a unicameral legislature, but the president had the discretion to appoint and dismiss ministers as well as appoint the prime minister from the members of the National Assembly. The most significant change was the introduction of a two-unit federal system that established parity between East Pakistan and West Pakistan in the national assembly. For this purpose, the provinces and various princely states in West Pakistan were merged into one mega-unit (the so-called One Unit system; Baxter 1974:1077; Siddiqui 2008:76) with Lahore as its capital. This arrangement was in effect from 1956 until July 1970 (Akber Kundi and Jahangir 2002:26-7).¹⁴

The constitution was short-lived. In October 1958, Mizra imposed martial law and this was followed by a coup by General Ayub Khan weeks later (Singh 2018), who proceeded to dissolve provincial governments until 1962.¹⁵ Ayub appointed a constitutional commission in 1960 and, finally, ratified a new constitution in June 1962 while extending martial law (Cheema et al. 2003:6; Punjab Assembly n.d.). This constitution was markedly more centralized than its 1956 precursor. It created a strong presidential system that concentrated extensive powers in the hands of the president, who could issue ordinances when the assembly was not in session, declare an emergency, dissolve or prorogue the assembly, and had "unfettered authority" to appoint federal ministers, provincial governors and supreme court judges (Siddique 2008: 77; Siddique 2006: 631; Naseer 2007:8). This presidentialism was also extended into the provinces where the governors rather than the assemblies were the main repositories of power (C1962, Art. 80; Prasad-Singh and Kukreja 2014: 80). The constitution did not include fundamental rights and it institutionalized the role of the military in politics by providing that for twenty years, the president or the defense minister must have held the rank of lieutenant-general in the army (Bajoria 2010). It also reined in provincial powers (see below), and significantly, the name of the country was changed from a

¹² The Assembly was also empowered to amend the interim constitution "to bridge the gap between independence and the proclamation of the Islamic republic" (Callard 1957:101). It passed 44 acts between 1948 and 1954, each amending or supplementing the Government of India Act or the Indian Independence Act. Many of these acts were of substantial importance, such as the Delimitation of Constituencies (Adult Franchise) Act of 1951 (Callard 1957:101).

¹³ The dissolution of the assembly was challenged by the president of the assembly in the case *Federation of Pakistan v. M. T. Khan*, where the federal court sided with the governor general (Callard 1957:146). The court held that the prerogative of dissolution of the constituent assembly must continue to exist since it was granted by the 1935 Government of India Act and had not been removed by the terms of the Act (Callard 1957:146).

¹⁴ The One-Unit system was an attempt by a Punjabi controlled West Pakistan to neutralize the numeric demographic majority of East Bengal as well as to preempt rising nationalism among the minority ethnic groups in West Pakistan. At the time, Bengalis made up about 54% of the population; Punjabis dominated the western wing with 28% of the overall population, Pashtuns 6%, Sindhis 5%, Urdu speakers 3%, and Balochis 1%. The One Unit scheme was pushed through by ordinance by the governor general in 1955 and then included in the 1956 constitution (Adeney 2007:105; Siddiqi 2008:76; Wazeem 2011:213).

¹⁵ But he revived local government as the only representative government tier under the Basic Democracies Ordinance of 1959 and the Municipal Administration Ordinance of 1960 (Cheema et al. 2003:6).

Federal Republic of Pakistan to the Republic of Pakistan. Similar to its predecessor, the constitution stipulates that Pakistan consists of two provinces (C1962 Art. 1(2(a))).

Both the 1956 and 1962 constitutions created relatively weak provincial government (Singh 2018; Prasad-Singh and Kukreja 2014:94; Siddiqui 2008: 77-8). Under the 1956 constitution provinces had a centrally appointed governor as the executive, a provincial assembly as the legislature, a cabinet of ministers, and a chief minister “to aid and advise the governor in the exercise of his functions” (C1956 Arts. 70, 71, 73,76). The governor had the power to appoint a chief minister “most likely to command the confidence of the majority” of the legislature for the legislature from amongst the members of the provincial assembly (C 1956 Art. 71(3)). The authority of the provincial assembly was subject to central veto. For one, provincial governors could send a provincial bill to the president for rejection (C1956 Art. 90(2.b)). Moreover, in case of an inconsistency between central and provincial legislation, “the federal law, where passed before or after the provincial law, shall prevail” (C1956, Art. 191(4)). And finally, presidents or governors could use federal preemption if the president believed that “the government of a Province cannot be carried on in accordance with the provisions of the Constitution”¹⁶ (C1956 Art. 193(1)). Contrary to the earlier period though, federal preemption is limited in duration: provincial governments can only be suspended for two months by the president or for up to six months if approved by the national assembly (C1956 Art. 193(2); Callard 1957:162).

The 1962 constitution further chipped away at provincial autonomy. Like its predecessor, central law prevails over provincial law if there is a conflict (C1962 Art. 134). The provincial governor holds the executive power in the province. He is appointed by the president and exercises his power in accordance with the “constitution, the law and the directions of the president” (C1962 Art. 80) rather than the provincial assembly. The governor cannot veto provincial legislation; if a conflict arises between the governor and the provincial assembly about a bill or any other matter, either the governor or the speaker of the assembly can refer it to the national assembly for a decision (C1962 Art.77 and Art. 73(2)-(5)). Only the preamble makes reference to the federal character of Pakistan, and given the concentration of power in the president and in centrally appointed provincial governors, experts categorize the system as quasi-unitary (e.g. Prasad-Singh and Kukreja 2014: 81; Siddique 2008).

Ayub’s government lasted for most of the decade. However, opposition in East Bengal led by the Pakistan Muslim Awami League was building. A chief Bengali demand was the right of their legislature to appoint their own governor which would break the hold of the president over provincial governance (Siddiqui 2008:77). The center resisted (Choudhury 1969:111). This prompted a mass uprising in East Pakistan in 1969. In 1970 Ayub handed over power to General Yahya Khan, who abrogated the constitution, repealed the Two-Unit System (West Pakistan Repealing Ordinance of June 1970), and called the country’s first nation-wide elections (alongside provincial elections) for December 1970. The national elections were won by the East-Pakistani Awami League, but the general refused to appoint their leader as prime minister (Adeney 2007:110; Kumar Sharma, Hassan and Behuria 2019:9). War broke out which, ultimately, led to the secession of East Bengal (Adeney 2007:110; Prasad Singh and Kukreja 2014:82). In 1973, a Pakistan reduced to its West Pakistan wing would finally pass the constitution that remains in place, albeit amended several times, till today.

¹⁶ Or the governor under the direction of the president (C1956 Art. 193(1)).

Martial law was lifted in May 1972, and an interim constitution was passed which allowed the newly elected provincial governments to resume business from 1972. Yahya Khan's constitution lasted only a few months, but the re-partitioning of West Pakistan stuck. The Ordinance of June 1970 did not only partition West Pakistan into its constituent provinces and territories, but also merged Baluchistan and the Balochi states into a single province (Nishtar and Gauhar 2018: 92-3; Khalid 2013:205; Interim Constitution of Pakistan 1972, Art. 281). From 1970 (until present) we code Balochistan as a separate province, and we also start coding Punjab, Sindh and Khyber-Pakhtunkhwa as provinces (again) instead of East and West Pakistan.

The two provinces East and West Pakistan score 2 on institutional depth from 1956 to 1958, 1 for 1959-1961 (martial law), 2 for 1962-1969 (new constitution). From 1970, we again code the original component provinces, which score 1 for 1970-1972 (martial law), and 1 for 1972-73 (provisional constitution).

We now move to policy scope for provinces until the partitioning of Pakistan in 1973. The 1935 Government of India Act and the 1956 constitution granted provincial assemblies extensive legislative power. The 1935 Act contained three lists: exclusive powers for the center (List I), exclusive powers for provinces (List II), and concurrent powers (List III) (Government of India Act 1935). Provinces could legislate in areas such as police, public order, courts, welfare, education, elections, local government, health, communications, water, agriculture, trade and others (1935 Government of India Act; Bajoria 2010). Similarly, the Fifth Schedule of the 1956 Constitution lays out exclusive competences of the federal government,¹⁷ exclusive powers of the provincial governments, as well as concurrent competences. The Provincial List has 94 items, including public order (not the military), police, prisons; land and property relations, agriculture and fisheries, shipping, ports, trade and commerce within the province, railways; water and irrigation, electricity, gas, vehicles; pensions, professions; theatres, cinemas, public health, libraries, education (including universities); local government (C1956 5th Schedule, Provincial List). Unlike the 1935 Act, the 1956 constitution provided provinces with residual powers (C1956, Art. 109; Khan 2005; Mushtaq 2009; Bains 1956:211).

The 1962 constitution reduced provincial policy scope substantially. Both the concurrent and provincial list of powers were deleted, and the list of exclusive powers for the federal government is long (C1962, Third Schedule). The central government can also legislate “for the whole or any part of Pakistan with respect to any matter not enumerated in the Third Schedule” in the name of the national interest, which can pertain to national security (including economic and financial stability), planning or coordination, or uniformity across the territory (C1962, Art. 131 (2)). So while provinces are in principle responsible for anything outside the Third Schedule (Art. 133), this competence is much constrained by the central government's power to override on the force of Article 131 (2). We follow scholarly assessment that notes a substantial contraction in provincial policy autonomy by downgrading policy scope from 3 to 2 (see e.g. Siddique 2008: 78).^β

Provinces had extensive authority over economic, cultural-education, welfare, and local government under the 1935 Act and the 1956 Constitution. Under the Two-Unit scheme, East and West Pakistan score 3 on policy scope for 1956-58, 0 for 1959-61 (martial law), 2

¹⁷ The Federal List includes defense; foreign affairs; citizenship; trade and commerce; currency; public debt; stock exchanges; insurance and corporations; major ports; posts and telecommunications; industries; mineral oil and natural gas (C1956 Fifth Schedule, Federal List, 1-30).

for 1962-1969 (1962 constitution). From 1970, the original provinces are restored, and they score 0 under the martial rule of General Yahya Khan (1970-1973).

Pakistan after partition

The 1973 constitution (ratified in August) created a centralized federal system with a bicameral parliament and dual executive (Baxter 1974:1074; Oldenburg 2010:134; Prasad Singh and Kukreja, 2014:76).¹⁸ Provincial governments also had a dual government with a governor appointed by the president and a chief minister elected by the assembly (C 1973, Art. 101). Provincial power is subject to central veto, so we continue to code 2 on institutional depth. Art 232 and 233 give the president the authority to assume power in the provinces in the event of national or provincial emergency, and while such rule is in itself not unusual in a federation, this power has been used regularly to suspend unfriendly provincial governments (Prasad Singh and Kukreja 2014: 83). On the other hand, the center's right to veto provincial bills was scrapped; the governor can only delay passage (Art. 116).

From 1977 until December 1984 General Zia placed Pakistan under martial law (Renfrew 1985). Provisional Constitutional Order (1981) dissolved the constitution and provincial assemblies but introduced elected local governments (Shahid 2015:122; Adeney 2007:114; Prasad-Singh and Kukreja 2014:84).

In 1985 public unrest and pressure from Pakistan's Western donors persuaded Zia to restore constitutional order, but not without strengthening his hand by passing the Eight Constitutional Amendment that provides the president the power to dissolve both national and provincial assemblies (Siddique 2006: 628-9). (Yasmeen 1994:575). Provincial elections took place in late 1985 and provincial self-government was reinstated in January 1986 (Yasmeen 1994:575). After Zia's death in a plane crash in 1988 the country returned to civilian rule until 1999.¹⁹

A new cycle of martial law began in October 1999, when Gen. Musharraf led a military coup spurred by the Kargil War, ethnic violence in Sindh, and civic unrest throughout the country (Rashid 1999:410-2). Martial law lasted until 2002. A Provisional Constitution Order abolished the constitution and dissolved representative bodies, and at the same time, Musharaff devolved powers to local governments at the expense of the provinces (ICG 2004:3; Faguet and Shami 2015; ICG 2004:3). National and provincial elections were held in October 2002, and provincial rule was restored from 2003.

Musharraf resigned in August 2008. Democratic rule was restored, and so was provincial power while local government devolution was rolled back. The 18th Amendment, passed in April 2010, abolished the concurrent list in Schedule IV of the 1973 constitution, and transferred most of these powers as well as residual powers to the province (Prasad-Singh and Kukreja 2014:88).²⁰

¹⁸ The 1973 constitution has been amended 25 times as of 2019, including the 8th Amendment which empowered the president to dissolve the national assembly; the 13th Amendment which reversed the 8th Amendment; the 17th Amendment which revived the 8th Amendment again; the 18th Amendment which returned the government to a parliamentary republic and defined any attempt to subvert or abrogate the constitution as an act of high treason (C1973 8th, 17th and 18th amendments).

¹⁹ In May 1988, Zia had again declared martial law that suspended government at federal and provincial level, but his death in a plane crash a few months later reversed this. Since martial law lasted less than six months, our coding does not reflect it.^β

²⁰ The 18th Amendment turned the office of the president into more of a ceremonial figurehead who represents the unity of the republic and must act on the advice of the prime minister or the cabinet, such advice being binding (Nishtar and Gauhar 2018:93)

Provinces score 2 on institutional depth for 1974-1977 (Bhutto civilian rule), 1 for 1978-1985 (Zia martial law), 2 for 1986-1999 (Zia/civilian rule), 1 for 2000-2002 (Musharraf military rule), and 2 from 2003-18.

We now move to provincial policy scope after partition. Like its predecessor, the 1973 Constitution did not contain a provincial list of powers, but it reintroduced a concurrent list (47 subjects) alongside a federal list (67 subjects) (C 1973, Schedule IV) (Baxter 1974:1081). The federal government has exclusive authority over the military, external affairs, trade, nationality, citizenship and naturalization, migration, currency, foreign exchange, pensions, as well as over a range of matters where national standards are deemed desirable such as national highways and strategic roads, railways, and industrial development (C 1973, 4th Schedule). The concurrent list includes a.o. criminal law, civil law, family law, epidemics, environmental policy, labor relations, electricity, the educational curriculum, islamic education, tourism, and even boilers! Federal law takes precedence over provincial law in case of a conflict (Art 143). Provinces regain residual powers: “a Provincial Assembly shall, and Parliament shall not, have power to make laws with respect to any matter not enumerated” in the Federal or Concurrent Legislative Lists (C 1973, Art. 142(c)). Provincial policy scope has increased compared to the 1962 constitution, but since key levers of economic development are on the exclusive federal list, we keep the score at 2. Provinces have relatively broad powers in cultural-education policy; welfare; as well as local government and police (not mentioned), but not in economic policy.^β

This federal-provincial division of labor remained broadly unchanged over the following decades, but scholars note that the federal government used its concurrent powers to chip away at provincial authority (Prasad-Singh and Kukreja 2014: 84ff; Adeney 2012: 547).

Provincial discontent with federal usurption became a chief impetus for a constitutional revision in 2010 after Musharaff stepped down. The 18th amendment is the most comprehensive reform since the 1973 constitution. The concurrent list in Schedule IV was abolished and the vast majority of powers were transferred to the provinces, though an exclusive provincial list was not reintroduced.²¹ The reformers also shortened the Federal List, devolving some powers to the provinces, chief among which is that control over natural resources (including oil and gas) is now shared equally by the federal government and the relevant provincial government (Prasad-Singh and Kukreja 2014:88). Other subjects from the federal List are placed under the purview of the federal-provincial intergovernmental body, the Council of Common Interests (CCI), which was strengthened. Provinces retain residual powers. Our coding reflects the stronger authority of provinces over economic development alongside their greater power in culture and education (including Islamic education) and welfare (Adeney 2012:548; Waseem 2011:224). The federal government retains exclusive authority over immigration, citizenship, and the right of domicile. The 18th Amendment also made some changes to finance and borrowing, though Pakistan remains fiscally relatively centralized (Ghaus-Pasha 2011:15-6). From 2010, provinces score 3 on policy scope.

Provinces score 2 on policy scope from 1974-77, 0 from 1978-1985 (martial law), 2 from 1986-1999 (civilian rule), 0 for 2000-2002 (martial law), 2 for 2003-2009 (civilian rule under Musharraf), and 3 for 2010-2018 (post-18th amendment).

²¹ As a result, 15 ministries and 17 divisions of the federal government were devolved to the provinces (Ghaus-Pasha 2011:7; Adeney 2012).

Autonomous Territories – AJK and Gilgit Baltistan

Pakistan and India fought a war over Kashmir from 1947 until a ceasefire brokered by the United Nations in 1949. The Indian part of Jammu and Kashmir became an autonomous state within India (until its standardization in 2019), while the area under Pakistani occupation was partitioned in two regions: Azad Jammu and Kashmir (AJK), and the Northern Areas (known since 2009 as Gilgit-Baltistan) (IDSA 2011:9). The territories of AJK and Gilgit-Baltistan, also known as “Pakistan-administered Kashmir,” are nominally autonomous regions under the administration of Pakistan, though with vastly different powers. AJK has its own interim constitution (since 1974), parliament, prime minister, high court, and president. Gilgit-Baltistan was under direct central rule until 2009.

The 1949 Karachi Agreement divided government functions between the Pakistani government, the provisional AJK government (which had been installed in 1947 with Pakistani support), and the Muslim Conference party, which had been the political organization on the Pakistani side of the war. The national government retained exclusive powers over defense, negotiations with the UN Commission for India and Pakistan (UNCIP), foreign policy, publicity in Pakistan and abroad, relief and refugees, and control over Gilgit and Ladakh (1949 Karachi Agreement, Appendix II, Section III.A). Domestic affairs within AJK were divided between the government and the Muslim Conference. The AJK government was to have broad authority over: “(i) Policy with regard to administration in Azad Kashmir, (ii) General supervision of Administration in Azad Kashmir, (iii) Publicity with regard to activities of the Azad Kashmir Government and its administration, (iv) Advise to H.M. ... [on] negotiations with UNCIP,” and (v) Development of economic resources of A.K. area.” The Muslim Conference would be responsible for political organization (1949 Karachi Agreement, Appendix II, Section III.B and C; Kumar Sharma, Hassan and Behuria 2019:4; Shekhawat 2007:146). The expectation was that this would be a transitory arrangement until a referendum would settle the fate of Jammu and Kashmir. Until now (May 2020), no referendum has been held.

In the initial years the “provisional” AJK government appears to have been directly controlled by the Pakistani government through its Ministry of Kashmir Affairs, which appointed the president of AJK (Shekhawat 2007:145-6; Kumar Sharma, Hassan and Behuria 2019:5-6) and in subsequent years solidified central control by amending the Rules of Business that governed the AJK government (for details, see Ershad 2006:4; Kumar Sharma, Hassan and Behuria 2019:7; IDSA 2011:11-2). **AJK government scores 1 on institutional depth and 0 on policy scope from 1950 to 1959.**^β

In 1959 Ayub Khan instituted martial law and banned political activity in Pakistan and AJK (Mahmud 2006: 113; Burma Sharma, Hassan and Behuria 2019:7). He installed a new AJK president in May 1959 (Sharma, Hassan and Behuria 2019:7; Mahmud 2006:113). In 1961 Khan extended his Basic Democracies Act to AJK, which legislated partyless elections of local bodies circumventing provincial government, and under which the AJK president and a newly created AJK Council were indirectly elected by various directly elected local bodies (Mahmud 2006:113). From 1961 to 1969, the state council’s legislative powers were heavily circumscribed since it could not undertake any legislation without the prior consent of the Pakistani-appointed chief advisor and no law could take effect without his direction (Mahmud 2006:114). **We judge the oversight of the Pakistan government as equivalent to direct control, and we continue to score 1 on institutional depth and 0 on policy scope for 1960-1969.**^β

Pakistani control over AJK created a deep rift between Pakistan and the Kashmiri political class, which led among others to violent demonstrations in AJK's chief city, Muzaffarabad (Mahmud 2006:115). When Ayub was replaced by Yahya Khan in March 1969, AJK gradually acquired autonomy (Sharma, Hassan and Behuria 2019:9). Yahya Khan allowed direct elections for AJK in 1970, including seats allocated for refugees, and authorized the 1970 Azad Jammu and Kashmir Government Act (Mahmud 2006:115; Sharma, Hassan and Behuria 2019:8; Feyyad 2011: 14). The Act granted the assembly extensive legislative powers and the right to remove the AJK president by a two-thirds majority (Sharma, Hassan and Behuria 2019:9).⁹ The government of the autonomous territory of AJK was also given authority over Kashmiri citizenship (Sharma, Hassan and Behuria 2019:9). We recognize this by allocating, for a brief time, the maximum score on policy scope.⁷

The 1974 Interim AJK Constitution (enacted in 1975) was intended to consolidate this division of powers, but the creation of a new overarching joint body, the AJK Council, constrained AJK self-governance. The "interim" constitution has been amended thirteen times, most recently in 2018 (Sharma, Hassan and Behuria 2019: 9). The 1974 constitution resembles in substance the 1973 constitution of Pakistan (Feyyaz 2011). AJK now obtains a parliamentary form of government modeled after the Westminster system (Mahmud 2006: 116). The president is the constitutional head and the PM, supported by a council of ministers, is the chief executive (AJK Interim Constitution 1974 Arts. 5, 12-15). The unicameral AJK assembly elects both the PM and president. AJK legislation does no longer require prior approval by the Ministry for Kashmir, but the AJK government continues to remain subject to central government veto. One lever is the provision that the government's authority should be exercised so as "not to impede or prejudice the responsibilities of the government of Pakistan" (AJK Interim Constitution 1974, Art. 19 (2)(b)). A second is that the AJK constitution also gives the federal government the power to dismiss an elected government in AJK (C1974, Art. 53). Third, and the most substantial lever is the joint Azad Jammu Kashmir Council, which is composed of thirteen members--five nominees from the prime minister of Pakistan, six elected by the AJK assembly, Pakistan's prime minister and the president of AJK plus the Pakistani minister for Kashmiri Affairs as ex officio member. It is presided by Pakistan's prime minister. It can override or substitute the AJK government: the AJK government is to "secure compliance with the laws made by the Council" (Art. 19 (2) (c)). Furthermore, the authority of the Council "shall be exercised, in the name of the council, by the chairman" [i.e. the prime minister of Pakistan] "who may act either directly or through the secretariat of the council" (Mahmud 2006: 118). The council's decisions are final and not subject to judicial review (Mahmud 2006: 118).

In terms of policy scope, defense, currency, external affairs (including trade and foreign aid) remain with the Pakistani government (C 1974, Art. 31(3)). The rest is divided between the AJK assembly and the Council. However, the Council has the upperhand in that the constitution reserves significant exclusive competences to it, which are enumerated in the Third Schedule. These include electricity and hydro power, tourism, population planning, banking and insurance, stock exchange, telecommunication, economic coordination, highways, oil and gas, nuclear energy, industrial development, borrowing, population planning and social welfare, census, railways and air traffic, tourism, customs duties and various taxes, and finally, citizenship and immigration (AJK Interim Constitution 1974, Art. 31 (2) (a) and Third Schedule). The Council also appoints the High Court and Supreme Court judges, the chief election commissioner, the auditor general, and the top bureaucrats in the AJK government. The AJK government has residual powers (C 1974, Art. 31 (2) (b)), including local government, some cultural-educational, welfare,

and economic powers, as well as citizenship and residency. State subjects (sic) of AJK do not automatically have Pakistani citizenship, though court jurisprudence has shown leniency in extending Pakistani citizenship to AJK subjects who move to Pakistan or move abroad (Nazir 2016). However, the extensive powers in the hands of the Council have allowed Islamabad—through its grip over the Council—to run “a parallel government” (Sharma, Hassan and Behuria 2019: 11; see also Feyyaz 2011: 15-17; Mahmud 2006: 118-20). Both legally and in practice policy autonomy of the AJK government appears to be more constrained than for standard provinces. We reflect this competitive authority by constraining policy scope to 2, even while its range of policies is quite broad.

Between August 1977 and June 1985, the elected government was suspended under Article 53 by General Zia and replaced by a military government. The AJK government was reinstated in June 1985 after elections.

The interim constitution was revised in 2018, with ratification in August, through the Thirteenth Amendment. The chief changes concern the status of the Council and a rewritten Third Schedule. The Council is now described as advisory: “The Council shall have an advisory role in respect of matters and subjects, referred to in sub-Article (3) of Article 31 and in respect of the responsibilities of Government of Pakistan under the UNCIP Resolutions,” which are concurrent powers in Part B. Article 31 rearranges the division of labor such that the powers of the AJK government appear now more similar to those of Pakistan’s provinces, and potentially more wide-ranging given its additional power over citizenship. The third schedule contains two lists. The first part is an expanded list of 32 exclusive powers for the government of Pakistan, which absorbs powers of the previous Council list on large infrastructure (post & communications, aircraft, highways), nuclear energy, insurance and corporation regulation, economic planning, customs and corporation tax, surveys, but also encompasses new items such as foreign educational exchange, and libraries and museums (C1974, amended in 2018, Third Schedule A). Part B contains concurrent powers whereby the AJK government can legislate “with the consent of the government of Pakistan” (Art. 31 (3)), including railways; electricity, oil and gas; economic planning; regulation of medical and other professions; curriculum and educational standards, higher education, and research; public debt; various crossborder cooperation including on contagious diseases, police, crime etc. The AJK government has residual powers (Article 31 (2)) as well as competence over citizenship and residency for “state subjects” in its territory.

There is considerable divergence in views on the significance of the revision.²² Initial political reactions in AJK laud it as a major step towards autonomy, in particular because of the reduced role of the Council. However, the constitutional language appears to leave considerable room for the federal government to control policy over strategic economic as well as cultural sectors. Hence, we conservatively increase the widening scope in regional competences from 1 to 2 as from 2019.⁷

Azad Jammu Kashmir scores 2 on institutional depth and 4 on policy scope for 1970-1974 (1970 Government Act), 2 and for 1975-1977, 1 and 0 for 1978-1984 (martial law), and 2 and 1 for 1985-2018 (2 and 2 from 2019).

²² See e.g. <https://www.thefridaytimes.com/who-rules-azad-jammu-and-kashmir/> (Aug 17, 2018, downloaded May 2020).

In contrast to Azad Jammu Kashmir, **Gilgit-Baltistan**—the other, and geographically much larger, part of Pakistani-administered Kashmir, was under direct central rule from 1947 to 2008. As with AJK, none of Pakistan’s constitutions lists Gilgit-Baltistan as Pakistani territory.²³ In the 1949 Karachi Agreement (sub-clause 8, sec. 3), the AJK government ceded administrative control of Gilgit and Baltistan to Islamabad, and there were no provisions made on representation or autonomy for the Gilgit people (Kumar Sharma, Hassan and Behuria 2019:5; Waseem 2011:222; Hussain 2009:2). Under Appendix II of the agreement, the Government of Pakistan retains authority over “all affairs of the Gilgit and Ladakh areas under the control of the Political Agent at Gilgit [modern day Gilgit-Baltistan]” (1949 Karachi Agreement, Appendix II). The Ministry of Kashmir Affairs and Northern Areas (MKANA) administered Gilgit and the adjoining areas under the Frontier Tribal Regulation (FTR), also called the Frontier Crimes Regulation, with a civil servant combining judicial and administrative powers (Lambah 2018: 3; Hussain 2009: 3).

In 1970 the territory of present-day Gilgit and Baltistan became a separate administrative unit under the name Northern Areas, and over the following years, some representational system was built in steps. In 1974, Ali Bhutto lifted the infamous FTR, destroyed the power hold by local traditional elites, and established the Northern Areas Council elected by direct adult franchise (Hussain 2009:4), a 16-member body that advised the **Resident Commissioner**, who governed the combined area virtually unchecked (Kreutzmann 2008: 209; Asia Reptot 2007: 9). The council had very few powers and remained subservient to the MKANA (Lambah 2018; Behera 2007).

In 1994, the Advisory Council was converted into the ‘Northern Areas Council’ under the Legal Framework Order (1994), which served as the Basic Law for the area until 2009 and was supplemented by the Northern Areas Rules of Business (NARoB). Under the 1994 LFO, the NALC did obtain weak legislative powers in 49 areas: while it could propose bills, these bills needed assent from the chief executive to become law. The federal government retains the right to extend any federal or provincial law to the territory, and it can legislate freely on topics not in the LFO. Federal law prevails over NALC law. The executive is mostly centrally controlled: the three-person team consists of the chief executive (a minister in the federal government), the deputy chief executive (DCE, the region’s highest elected official and leader of the Northern Areas Legislative Council), and the chief secretary (the region’s most senior civil servant appointed by Islamabad). The power appeared to lie with the first and third person, and the DCE exercises only powers expressly delegated to him by the chief executive (ICG 2007: 11). The chief executive can prorogue, summon and dissolve (with federal consent) the council.

In a 1999 landmark judgment, the Supreme Court of Pakistan declared that the people of the Northern Areas are “citizens of Pakistan, for all intents and purposes” and as such have constitutionally guaranteed fundamental rights that “entitled [them] to participate in the governance of their area and to have an independent judiciary to enforce, inter alia, the Fundamental Rights.”²⁴ In that same year, the Northern Areas Council was enlarged to 36 members of whom 24 directly elected, and renamed into the Northern Areas Legislative Council (ICG 2007). We conceive this as a highly constrained form of non-deconcentrated government, and we follow scholarly assessment (and the Supreme Court of Pakistan) in judging it to fall just short of an ID

²³ Pakistan has been wary about deeper integration of Gilgit-Baltistan on the grounds that it would prejudice its international position on Kashmir (Bhattacharjee 2015:2).

²⁴ In this verdict on May, 1999, the Supreme Court condemned “the dictatorial and colonial system at work in Gilgit and Baltistan, where the chief executive, the minister of Kashmir Affairs, appointed by the government of Pakistan, enjoys more powers than even the British Viceroy did before partition” (Behera 2007:183).

score of 2.^β **Institutional depth scores 1 and policy scope 0 for 1950-2008, but we recognize the gradual deepening of representation (1,0 from 1974, and 2,1 from 1994).**

The Gilgit-Baltistan Empowerment and Self-Governance Order of 2009 set a significant step towards devolution. It granted Gilgit-Baltistan a province-like status, with an elected legislative assembly, and a dual government consisting of a chief minister and cabinet accountable to the Assembly and a joint federal-GB Council. There is also a federal-appointed governor (GB 2009 Order, Art. 21), who can delay but not veto decisions by the cabinet or chief minister (Art. 21(1)). The Council—akin to the AJK Council—with equal representation of members from the federal government and Gilgit-Baltistan but chaired by the prime minister of Pakistan (Part V, Art. 33) wields extensive powers, including exclusive powers over the Third Schedule (essentially the concurrent and federal lists for provinces) (Art. 47 (2)(a)); Hussain 2009:7). The Assembly has exclusive powers over 61 items on the Fourth Schedule, including land, agriculture, professions, environment; libraries, museums, theatres; social work, public health; courts, public order and prisons, local government. Gilgit-Baltistan's new status is also anchored in Pakistan's constitution (Art. 258), which departs from Pakistani practice to refrain from implying sovereignty over the Kashmir area. The 2009 reforms were opposed by local groups who claimed the federally selected council continued to dominate over the elected assembly (Khan 05/19/2018; Unrepresented Nations and People's Organisation 2016; Waseem 2011:223).

A revised Order of May 2018 abolishes the joint federal-GB Council and replaces the joint and GB lists with competences with a single list of exclusive federal competences. Part I of the federal list contains 62 items including naturalization, citizenship, and migration alongside many other economic, educational, cultural and social matters that are unilaterally legislated by the Pakistani government (Gilgit-Baltistan Order 2018, Part VII and Schedule III, part I). The list is longer and more comprehensive than that for provinces. Part II of Schedule III contains a short list pertaining taxation, which are decided by the federal government in consultation with the governor and chief ministers. One point of progress for the GB assembly is that it can now pass legislation regarding minerals, hydropower, and tourism. The GB assembly also obtains residual powers (Art. 60 (2)(c)). Observers disagree on whether the new division has strengthened or weakened GB policy autonomy (Kumar Sharma et al. 2019),^γ and we come down on a draw. Gilgit-Baltistan continues to have no representation in the Pakistani national parliament. **Gilgit-Baltistan scores 2 on institutional depth and 2 on policy scope from 2009-2018.**

Federal Capital Territory

After independence, Karachi was the capital until Ayub built a new capital in Rawalpindi closer to the headquarters of the armed forces. Rawalpindi was the interim capital from 1960 until 1967 (with Dhaka the legislative capital for 1962-67). Islamabad became the capital from August 1967 (Weightman 2011:187; Wajdi 1960:355).

Until 1980, the Federal Capital Territory (FCT) was under direct presidential control through a chief administrator (C 1956, Art. 211(2)). In 1960, the federal government set up the Capital Development Authority (CDA) to administer the development of Islamabad and assume responsibility for municipal services (CDA ordinance 1960; Murtaza and Rid 2016:29-30). The federal government could dissolve the CDA and transfer its assets and liabilities to any other agency (Murtaza and Rid 2016:30; CDA 1960 Art. 52(1)).

In 1980, limited representative local government was introduced for districts and union councils as part of Zia's local government reforms (Murtaza and Rid 2016:31). Zia also established the Islamabad Capital Territory Administration (ICTA), which assumed responsibility for agriculture, industry, development, health, local government, rural development, and police (Murtaza and Rid 2016:31). In 2010, a third administrative body, the Capital Administration and Development Division (CADD), was created to take up those functions that had been previously carried out by the federal Ministries abolished as a result of the 18th amendment (Murtaza and Rid 2016:31). The CADD's chief functions included social welfare, education, health, and population (Murtaza and Rid 2016:31; CADD website).

The Islamabad Capital Territory Local Government Act (ICT-LGA) 2015 established overarching representative government for the first time for Metropolitan Corporation of Islamabad (MCI) (ICT-LGA 2015 Art. 9(1)).²⁵ While union councils within the area are directly elected, the Metropolitan council is indirectly elected – composed of union council members plus reserved seats for social categories (MCI) (Murtaza and Rid 2016:32; ICT-LGA 2015). Under the Act, all functions and personnel and functions of the CDA, the CADD and the ICTA are absorbed by the ICT government.²⁶ Under Art. 73(1) of the LGA, the MCI acquired primarily competences on infrastructure, economic development, and utilities; it has no significant competences on culture, education or social services, nor does it have competence on local government (except coordinating union councils), own institutional set-up, police or residual powers (ICT-LGA 2015 Art. 73(1), Third Schedule; Murtaza and Rid 2016:35). Similar to the pre-2010 role of provincial governors, Art. 63(5-8) of the LGA creates the post of chief officer, a federally appointed civil servant, to ensure “adherence by the Metropolitan Corporation to all laws, policies and oversight framework” of the federal government (Art. 63(8)). Moreover, under Article 92(2) the federal government “may provide guidelines and render advice [to the MCI] for achieving the objectives of Government policy and for promoting economic, social and environmental security of the Capital Territory.” The federal government can also dissolve the MCI (Art. 99) and “issue directions to a local government and the local government shall be bound by such directions” (Art. 93(1)).²⁷ While these constraints on the self-governance of the FCT are serious, we judge the FCT to meet the bar of “non-deconcentrated government subject to central government veto.” **From 1950 until 2014 the FCT scores 1 on institutional depth and 0 on policy scope, and 2 and 1 for 2015-2018.**

FATA and PATA

The Federally Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA) have been under direct rule by the federal and provincial government, respectively, since Pakistan independence (C1973 Art. 247). They merged with the neighboring province Khyber Pakhtunkhwa in 2018 (C1973 32nd Amendment). FATA was governed primarily through the 1901

²⁵ The ICT-LGA is a parliamentary Act and not a constitutional amendment, which means that a simple majority in parliament can change the status (Murtaza and Rid 2016:34)

²⁶ In September 2018, the federal government dissolved the administrative body of the federal capital on September 2018, through a notification that merged the 27 departments and directorates working under the agencies with the relevant federal ministries. This transferred the CADD and ICTA to the Ministry of the interior (Express Tribune 09/20/2018).

²⁷ Art. 93(2) stipulates that “where the situation demands immediate action and the local government fails to comply... the Government may direct the [chief] officer... to take such action as the situation may necessitate.”

Frontier Crimes Regulation, which concentrates powers in the Ministry of States and Frontier Regions. Acts of Parliament were only implemented upon instruction of the president (EASO 2015:24). Similarly, provincial laws needed the governor's approval to be implemented (EASO 2015:25). **FATA and PATA score 1 on institutional depth and zero on all other dimensions until their abolition in 2018.**²⁸

Divisions, districts, and subdistricts

India and Pakistan inherited their local government structure from the British (Murtaza and Rid 2016:16). Local government consisted of a complex array of rural and urban governments at lower tiers, and districts and divisions at upper tiers (ICG 2004:3). Unlike India, which revived the *panchayat* system, Pakistan has only intermittently settled on representative institutions at subprovincial level (Murtaza and Rid 2016:16). The country experimented with three local governance systems during its three military dictatorships: Ayub Khan (1960a), Zia-ul-Haq (1980s) and Pervez Musharraf (2000s) (Ali 2018:2). During civilian rule, local governance was disempowered (Murtaza and Rid 2016:16). As some scholars note, “the history of Pakistan shows a paradoxically countercyclical pattern for local democracy” (Cheema, Khan, Myerson 2010: 1). The 18th amendment, passed under a democratic government, which constitutionally entrenches local decentralization and democracy, was envisaged to break that pattern, though the jury remains out (Ali 2018; Malik 2019).

After independence, divisions and districts were under direct control of the federal government through centrally appointed district commissioners and divisional commissioners (Ali 2018:2; Kalia n.d.: 3).²⁹ Pakistan's first attempt to develop local governments occurred under General Ayub Khan (ICG 2004:3; Taj and Baker 2018: 12). The Basic Democracies Ordinance of 1959 complemented with the Municipal Administration Ordinance of 1960 set up a four-tier hierarchical system. The ordinance had two key features: first, it prohibited political parties, and second, it introduced direct elections for the lowest tier—some 3400 union councils, which combined five or more villages of 10,000-15,000 people each—and indirect elections for any higher tier (Mellema 1961; Murtaza and Rid 2016:17).³⁰ Besides serving on the local councils, the Basic Democrats constituted the electoral college that sent representatives to the higher tiers – tehsils, districts, and divisions, where they served alongside officials nominated by the government (Cheema, Khan, and Myerson 2010: 1; Cheema et al. 2005: 6; Nadvi and Sayeed 2004; Malik 2019: 29). The BD system was incorporated in the 1962 constitution (Murtaza and Rid 2016:17).

Two-thirds of the union councils were directly elected while the rest were nominated by local bureaucrats (Mellema 1961:10-11; Sayeed 1961:251).³¹ Union council members elected their chairpersons, who became ex-officio members of the next higher level, the tehsil (Mezzera, Aftab and Yusuf 2010:6), and the remainder were local bureaucrats or centrally appointed members

²⁸ The one exception to this is the score for law making, for which the FATA scores 2 since it counts with representation in Pakistan's upper house after the passing of the 1973 Constitution.

²⁹ District commissioners had vast powers to veto legislation made by any local government in that district, as well as to determine the policy direction of the local bodies (Gauhar 1996; Sumrin n.d.).

³⁰ The BD reforms further divided the country into 80,000 wards (single member constituencies of 1,000 to 1,200 people each) to elect a “Basic Democrat” on a non-party basis (ICG 2004:3).

³¹ Nominations to the union councils were done by the heads of departments of Police, Education, Irrigation, Public Works and Revenue at the tehsil and thana levels, who separately recommend names of suitable persons to the Deputy Commissioners (Sayeed 1961:251).

(Hussain 2004; in Murtaza and Rid 2016:17; Mellema 1961:11-15; Musarrat 2012:126-8). This structure was replicated at the higher tiers, the district and divisional councils (Mellema 1961:14-5; Murtaza and Rid 2016:17). A centrally appointed commissioner and a deputy commissioner headed the divisional and district councils, respectively.

Hence the bureaucracy had a strong presence in all government bodies above the union councils (Sayeed 1961:252). While between half and two-thirds of the councils consisted of indirectly elected persons, the commissioner and deputy commissioner appointed bureaucrats to fill up the rest of the seats (Sayeed 1961:252) and they chaired the council. The commissioners had the authority to suspend resolutions passed by local bodies (Friedman 1960 in Cheema, Khwaja and Qadir 2003:6; Cheema et al. 2005:6; Mezzera, Aftab and Yusuf 2010:6). Hence while we recognize the introduction of partially elected assemblies at tehsil, district, and division tier and some modicum of self-governance, governance above the union council appears subject to a heavy central veto, or as Cheema et al. (2005: 6) note, “the system was under the bureaucracy through ‘controlling authority’ vested in the DC, Commissioner and the Government for different tiers.”^β

District councils were assigned 28 obligatory and 70 optional functions along with powers to levy minor taxes (Art. 33 and Schedule IV of the 1958 Basic Democracies Ordinance). These functions related broadly to development, including education (public school, cultural activities, libraries), social welfare (homes, asylums, orphanages, homes, etc.), economic welfare (agriculture, protection of crops, distribution of fertilizers, agricultural credit), public works, communications, and public health (Schedule IV of VDO; Sayeed 1961:252; Rizvi 1973:241). The primary task of divisional councils was to coordinate and supervise local governments (Basic Democracies Ordinance 1958 Art. 35(1)), recommend developmental schemes and review local progress (Art. 35(1)a-c; Sayeed 1961:253). **From 1950-1969 divisions, districts, and subdistricts score 1 on institutional depth and 0 on policy scope.**

The BD system was abolished in 1970 with the fall of Ayub Khan and not restored under Bhutto’s civilian government (Cheema et al 2010: 1). While the 1973 Constitution recognized the importance of elected local government as well as special representation for peasants, workers and women (C1973 Art. 32), federal legislation did not follow through (Ali 2018:3).³² Control over local government reverted to the provinces; we reflect this in the coding. **Districts and divisions score 1 on institutional depth and 0 on policy scope from the martial law in 1970 until they are restored by the Zia military government in 1979 (first elections).**

Zia’s military regime reintroduced elected governments at district and subdistrict level. The chief change compared to Ayub Khan is that all council members are elected (Cheema, Khan and Myerson 2010:2; Cheema et al. 2005: 34; Ali 2018:3). Zia centralized federal and provincial government while shifting provincial powers to the subprovincial level and introducing elections (Musarrat 2012). Unlike Ayub who bypassed provinces, Zia used provincial governors and administrators (military men) to supervise local government (Murtaza and Rid 2016:18). He separated administration (deconcentrated) and decision making (elected and decentralized), and rural and urban government. He also abolished divisional councils (but kept the administration),

³² Bhutto’s two initiatives to revive local governments, the People’s Local Government Ordinance of 1972 and the People’s Local Government Act of 1975 were never implemented. These legislations abolished the direct representation of the bureaucracy in local governments and instead provided for direct representation of all members (including chairpersons) of all tiers of local government (Kalia n.d.)

and installed councils at the lower tiers (Cheema et al. 2005: 34; ICG 2004; Murtaza and Rid 2016:18).

Centrally administered provincial administrations could veto local decisions and suspend local governments, so the controlling hand of central government remains heavy (Local Governance Ordinance 1979 Secs. 12, 13; Kali n.d.: 2; Murtaza and Rid 2016:18). Still, compared to the BD system, more powers were devolved to districts and subdistricts. The chief responsibility of these local councils was to “manage small-scale public welfare and development (water supply, sanitation, maintenance and management of hospitals and schools)” (ICG 2004: 4). However, much of the heavy lifting in terms of policy making and service delivery continued to be controlled by deconcentrated provincial bureaucracies (Cheema et al. 2005: 16). We interpret this to encompass relatively weak economic and socio-cultural levers of development for tehsils and districts, which is reflected in a policy scope of 1.^β There was also some financial devolution by allowing districts and subdistricts to levy local taxes and set the rate (ICG 2004: 4; Murtaza and Rid 2016:18). Bureaucratic control diminished as a result of the separation of administration and decision making in distinctive institutions, and appointed officials were barred from sitting in the councils (Murtaza and Rid 2016:19). We judge these changes as indicators that districts and subdistricts can be conceived as decentralized subject to central veto.^β **Districts and subdistricts score 2 on institutional depth for 1979-1988 and 1 on policy scope. Divisions score 1 and 0.**

Zia’s local government system was in place from 1979 until his death in 1988. After the restoration of civilian government in 1988, tensions between elected provincial and local tiers over who controls and dominates local patronage resulted in the suspension of elected local bodies and their replacement, for the most part, with unelected, provincially appointed administrators (Cheema, Khan and Myerson 2010:2). **Divisions, districts and subdistricts score 1 on institutional depth from 1989 to 2000 and 0 on policy scope.**

Local non-party elections were reinstated in 2001 by the Local Government Ordinance (LGO) of Gen. Musharraf (Ali 2018:3), which was then incorporated into separate provincial Local Government Ordinances (Murtaza and Rid 2016: 19).³³ These LGOs reconstituted an integrated three-tier local government structure made up of union councils, tehsil, and districts (Taj and Baker 2018:3; Anjum 2001:847). The Musharraf reform a) abolished the distinction between urban and rural governance, b) integrated administration and elected government by ensuring that the administration reports to the council, c) introduced indirect elections for district and subdistrict councils as well as their heads (mayors or nazim), and d) transferred competences (and resources) from the province to districts and tehsils (Cheema et al. 2005; Faguet and Shami 2015). **Musharraf also abolished divisions from 2000-2008.**

Only union councils and their leaders –nazims (mayors) and naib nazims (deputy mayors) were directly elected. Union council nazims became members of their district council, and their deputies constituted the core of the tehsil council. These councils were then complemented with elected representatives of social groups (peasants/ workers, women, minorities). Each council elects its own nazim. District and subdistrict councils could still be dismissed by the provincial governor, and provincial chief ministers could remove district nazims with the approval of the provincial assembly on vague grounds such as the nazim “acting against the public policy or

³³ After 9/11 many international donor agencies threw their weight behind the Local Government Ordinance. Consequently, enormous resources were allocated for capacity building of local government officials and elected representatives (Ali 2007; Ali 2018:3).

interest of the people or being guilty of misconduct” (Murtaza and Rid 2016:19). Hence, **districts and subdistricts score 2 on institutional depth for 2001-2008. Divisions score 0 for 2000-2008.**

The Musharraf reform transferred many provincial functions alongside their administrations and personnel to districts and subdistricts. Districts had primary responsibility for the provision of public services with economies of scale, including education (from literacy to secondary and vocational schooling), health care (from primary care to hospitals); community development (including sports and culture); district roads, energy utilities; information technology; agriculture, environment (Peterson 2002: 6; Anjum 2001: 849). Districts also assume a coordinating role vis-à-vis *tehsil* governments and become the primary locus for funding allocation. *Tehsils* were chiefly concerned with the delivery of small-scale public goods: planning and land use, housing, utilities (water, sanitation, smaller roads, fire fighting, parks), and local permits and traffic regulation (Anjum 2001: 850; also Peterson 2002: 6). Even as the Local Government Ordinance reassigned some key provincial functions—education, health, and road construction—to (primarily) districts, it did not expressly take away policy making authority from the provinces (Peterson 2002: 2-3) and at the same time, it obfuscated hierarchical relations between districts and provincial governments (Faguet and Sami 2015: 30-31). Control over local government remained a provincial competence. This would make it possible for provinces to claw back control after Musharraf stepped down. **Districts score 2 on policy scope for 2001-2008. Tehsils’s competences appear more circumscribed to economic policies, and we score 1.**^β

After Musharraf stepped down in August 2008, local elections foreseen for 2008 were canceled. The government put Musharraf’s local government system on hold and the bureaucracy stepped in. In 2010, the 18th constitutional amendment inserted a constitutional commitment to local elections and decentralization but left implementation to the provinces: “Each province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local government (C1973, 18th amendment, Art. 140A). However, the constitution did not specify a framework or time frame, and this has delayed devolution. And since Local Government Acts are created by provinces and not by the center, the system is not uniform. Balochistan ratified its LGA in May 2010; the other three provinces passed LGAs in 2013 (Ghaus-Pasha and Bengali 2105:248). Lack of political will among political elites in the provinces delayed local elections until they were ordered by the Supreme Court (Malik 05/12/2016; Ali 2018:3-4). By early 2016, owing to long delays in the transfer of power and funds to local governments, the Supreme Court ordered the provinces to speed up the process of devolution (Malik 2016; Ali 2018:4). **Local governments reverted to deconcentrated outposts of the provincial governments in 2009 and score 1 on institutional depth and 0 on policy scope until 2010 in Balochistan, and until 2012 in Punjab, Sindh and Khyber Pakhtunkhwa.**

All Local Government Acts opted for party-based elections, but most imposed a framework that was “excessively deferential to provincial government” (Malik 2019: 32). For example, the chief minister of Khyber Pakhtunkhwa may issue directives “in public interest” to a mayor or district council chairman for implementation (Khyber Pakhtunkhwa LGA 2013 Art. 58). Similarly, the provincial government of Punjab “may, from time to time, give policy directions and fix objectives for the effective, transparent and efficient undertaking of functions by a local government” (Punjab LGA 2013 Art. 23(1)). Moreover, local governments in Punjab “shall perform functions listed in Part 1 of the Third, Fourth and Fifth Schedules in such a manner and to such extent as may be directed by the government” (Punjab LGA 2013 Art. 23(2)). Districts in

Sindh enjoyed more autonomy from provincial intervention and directives until the Third Amendment of the Sindh LGA in 2016, which brought the language in line with that in other provinces: the provincial government “shall exercise general supervision and control over the Councils directly or through Regional Directorates of Local Government to ensure that their activities conform to the purpose and provisions of this Act” (Sindh LGA (Third Amendment) 2016 Art. 2(1)). Furthermore, in three of the four provinces (Sindh, Balochistan, Punjab), the dual structure –deconcentrated administration alongside elected government—reminiscent of Zia’s 1979 Local government ordinance was brought back, and rural and urban government were again treated separately. Khyber Pakhtunkhwa’s Act retains unified governance in keeping with the 2001 Local Governance Act (Kalia 2019: 5). **Districts in all provinces score 2 on institutional depth following the passage of their local government acts.**

In terms of policy scope, the LGA of Punjab differs in some ways from the rest of the provinces. Unlike other provinces, the Punjab province has recentralized part of health and education into provincially appointed task-specific Health and Education Authorities, which weakens the policy scope of districts and metropolitan corporations in the province (Punjab LGA 2013, Chapter XI; see also Malik and Rana 2019). This is reflected in a smaller policy scope for districts and municipal/ metropolitan corporations in Punjab (for other provinces, see Khyber Pakhtunkhwa LGA 2013, Art. 18 and First Schedule (Part A); Punjab LGA 2013 Schedule II, Part II; Balochistan LGA 2010, Fifth Schedule). **Following the passage of their LGAs, districts in three provinces score 2 on policy scope and 1 in Punjab.**

KP is the only province that maintains elected tehsil government. Balochistan, Sindh and Punjab abolish urban tehsil government. Districts constitute the highest rural tier, and metropolitan and municipal corporations constitute the highest urban tier. SO PLEASE NOTE THAT FROM 2010/2013 DISTRICTS NEED TO BE PRORATED AGAINST URBAN MUNICIPAL CORPORATIONS AND METROPOLITAN AREAS.

Metropolitan corporations/City districts and municipal corporations

The Karachi Metropolitan Corporation (KMC), in the province of Sindh, is the oldest local government institution in Pakistan with roots tracing back to the 1850s (Wajdi 1991:355). The City of Karachi Municipal Act of 1933 transformed it into a municipal corporation which it stayed (except for a brief time in the mid-1970s) until 1980.

Zia’s decentralization reforms in 1979 motivated the creation of the Karachi metropolitan corporation (Murtaza and Rid 2016:18). The corporation had a council and a mayor elected by the chairmen of (directly elected) union councils.³⁴ However, the provincial governments retained significant veto powers and had the authority to dissolve metropolitan government (LGO 1979 sec. 12 and 13; Murtaza and Rid 2016:18; Cheema, Khawaja and Qadir 2006; Sindh Local Government Ordinance 1979, Art. 26(2) and 27). In terms of policy scope, the metropolitan corporation had authority over local services such as sanitation, infectious diseases, water services, drainage, and public works (Sindh LGO 1979, Schedule II Parts 1 and 2). **For 1980-1988 metropolitan corporations score 2 on institutional depth given that they were subject to provincial veto, and 1 on policy scope due to their limited powers on public health and sanitation.**

³⁴ Metropolitan corporations were headed by an elected nazim (mayor) and a centrally appointed district administration head, the District Coordination Officer (DCO) (Anjum 2001:848).

The federal government took over metropolitan corporations through centrally appointed officers until 1999, and in 2000, Musharraf abolished Karachi as a metropolitan corporation and partitioned it into self-governing city districts (Ali 2018:3; Cheema, Khan and Myerson 2010:2). The big metropolitan areas of Karachi, Lahore, and Quetta all became a set of city districts, with elected councils led by a mayor and broad powers in planning, economic development, public health, education, agriculture, community development, finance and planning, information technology, public roads, sanitation, and water services (Murtaza and Rid 2016:6). City governments were replaced by municipal corporations and metropolitan corporations in 2010 in Balochistan and in 2013 in all other provinces (Balochistan LGA 2010; Punjab LGA 2013; KP-LGA 2013; Sindh LGA 2013). **Metropolitan corporations score 1 on institutional depth and 0 on policy scope from 1989 to 2000, and 0,0 between 2001 and 2008.**

Following the ratification of local government acts by the provincial legislatures of Balochistan (in 2010), Punjab (2013), Sindh (2013), and Khyber Pakhtunkhwa (2013), the provinces restored government at the city level in all four provincial capitals (Balochistan LGA 2010; Punjab LGA 2013; Sindh LGA 2013; KP-LGA 2013). Metropolitan corporations replaced city districts for the provincial capitals, and municipal corporations were established for the largest cities in Punjab, Sindh, and Balochistan (other than the provincial capitals). Currently, the most populous urban areas have metropolitan corporations – one for each of the provincial capitals of Punjab, Sindh, and Balochistan; and two for Gilgit-Baltistan – and one city district in Khyber Pakhtunkhwa (with similar powers and organization as the metropolitan corporations) (Balochistan LGA 2010; Punjab LGA 2013; Sindh LGA 2013; KP-LGA 2013).³⁵ In addition, the urban areas of Punjab, Sindh and Balochistan are divided into 24 municipal corporations, which have populations generally over 250,000. **The municipal corporations have similar administrative structure and legislative powers as metropolitan corporations.**³⁶

Each metropolitan government consists of a council made up of chairmen from the union councils, and a mayor, elected by the council (Punjab LGA 2013 Art. 15; KP-LGA 2013 Art. 8; Balochistan LGA 2010 Arts. 7, 14; Sindh LGA 2013 Art. 18(4)(c)).³⁷ Provincial governments retain veto, suspension, and other administrative powers over metropolitan corporations similar to their control over other local governments. Under the local acts of Balochistan (2010) and Punjab (2013), for example, the provincial governments retain authority to exercise general supervision and control over the metropolitan governments, including the authority to inspect, audit accounts, issue directives, dissolve the administrative body and remove office bearers (Balochistan LGA 2010 Arts. 123-129; Punjab LGA 2013 Arts. 119-126; CDIP 2019:11). Similarly, the local act of Khyber Pakhtunkhwa (2013) authorizes the provincial government to exercise general supervision and control over the local government including through the inspection of local councils, the suspension of mayors, control over budget, and by issuing “directives in public interest” (KP-LGA Art. 58. See also Arts. 54-65). An amendment to the Sindhi LGA in 2016 authorizes the provincial government to “exercise general supervision and control over the [local governments] directly or through Regional Directorates... to ensure that their activities conform to the purpose and

³⁵ The metropolitan corporations are Lahore in Punjab, Karachi in Sindh, Quetta in Balochistan, and Skardu and Gilgit for Gilgit-Baltistan; the city district is Peshawar in Khyber Pakhtunkhwa.

³⁶ There are 11 municipal corporations in Punjab, 9 in Sindh and 4 in Balochistan. The municipal corporations in Punjab include: Amritsar, Pathankot, Bathinda, Moga, Hoshiarpur, Jalandhar, Phagwara, Ludhiana, Patiala, S.A.S. Nagar. See lgpunjab.gov.in/cms/statistics.php. In Sindh: Hyderabad, Sukkur and Larkana (UNDP Pakistan, n.d.).

³⁷ KP does not have municipal or metropolitan corporations, but one city district, Peshawar.

provisions of this Act” (Sindh LGA (Third Amendment) 2016 Art. 2(1)).³⁸ Therefore, **the three metropolitan corporations and the Peshawar city district score 2 on institutional depth following the provinces’ ratification of the LGAs** (Balochistan in 2010, Gilgit Baltistan in 2014, and the other provinces in 2013).

The metropolitan corporations in Punjab have more powers than other city governments in Pakistan.^β The 2013 Punjab LGA vests the Lahore metropolitan corporation with significant authority over economic and social & cultural policies: economic development, building control and land use, agriculture, solid waste and sewerage collection, environment; primary, elementary and secondary education, health care, population welfare, libraries, social programs; as well as some competences on public security (Punjab LGA 2013, Art. 21(a) and Third Schedule). All other metropolitan governments in Karachi, Quetta and Peshawar have municipal-level public service powers (see KP-LGA 2013 First Schedule; Balochistan LGA 2010; Sindh LGA 2010 Schedule II). In KP, the city district of Peshawar has powers over public transport, water, sewage, public security, waste management, environmental regulation, master planning, urban design, cultural sites, housing development (KP-LGA 2013, Art. 8 and First Schedule, Parts A and B). Sindh, similarly, empowers the metropolitan corporation with authority over planning, roads, coordination of inter-district activities, medical colleges, public safety, and special development programs (Sindh LGA 2013, Schedule II, Part I). **From 2013, the Lahore metropolitan corporation in Punjab scores 2 on policy scope with its powers in economic policy, cultural-education policy, public security and welfare provision. All other metropolitan corporations score 1 on policy scope.**

Azad Jammu Kashmir has its own arrangements for local government. We have no information about the state of affairs until 1990.^α From 1990 the AJK Local Government Act provides for elected councils at various tiers; only district councils meet our population criterion. These councils are indirectly elected from among directly elected members from union councils (AJK-LGA 1990 Art. 9). Districts are primarily coordinating venues for some 99 functions enumerated in Schedule IV of the Act ranging from education, utilities, health to infrastructure (AJK-LGA 1990 Arts. 25, 29, Schedule IV). A provincially appointed chief executive officer “performs such functions and exercises such powers as may be prescribed” (Art. 38) suggesting a firm central hand on executive powers. Local elections are chronically rigged (though held regularly), and we have no information on the actual functioning of district governments in AJK. Lacking information we choose to score these districts conservatively as deconcentrated but endowed with an indirectly elected council. **AJK districts score 0,0 before 1990 and 1 on institutional depth and 0 on policy scope for 1990-2018. Gilgit-Baltistan’s districts and metropolitan corporations do not meet our population criteria.**³⁹

³⁸ If the government believes that a council is not able to run “property and efficiently,” it can suspend the authority of the council for up to six months (CDIP 2019:11).

³⁹ Since 2014, GB has its own Local Government Act, which divides the upper local tier into two metropolitan corporations (Gilgit and Skardu) and ten districts (Gilgit-Baltistan Local Government Bill 2014 Arts. 6, 13, 14). Metropolitan councils are directly elected; district councils are indirectly elected and consist of representatives from the tehsils (also indirectly elected) and from the metropolitan councils within the district plus reserved seats for social categories (GB-LGA 2014 Art. 13). District councils and metropolitan corporations have relatively limited authority over localized utilities and public goods such as roads, disaster management, land use and zoning, and some social services (GB-LGA 2014 Ch. VIII Arts. 79-80). Metropolitan corporations can also make decisions on public security, sewage, waste management, libraries and cultural sites (GB-LGA 2014 Ch. IX Art. 84).

According to the Islamabad Capital Territory LGA passed by the National Assembly in August 2015, local governments in the ICT “shall consist of Union Councils and Metropolitan Corporation,” so we do not code districts, divisions or municipal corporations within the ICT. **We do not code districts for the ICT for all years.**

Coding:

All federal bodies score 1 on institutional depth and 0 on all other dimensions

Governor’s rule: Punjab in 1950, Sindh in 1952, and East Bengal in 1955.

East & West Units:

ID: 2 for 1956-58, 1 for 1959-61, 2 for 1962-69

Policy scope: 3 for 1956-58, 0 for 1959-61, 2 for 1962-69

Provinces

Institutional depth: 2 for 1950-1955; 0 for 1956-1969; 1 for 1970-73; 2 for 1974-1977; 1 for 1978-85; 2 for 1986-99; 1 for 2000-2002; and 2 for 2003-2018.

Policy scope: 3 for 1950-1955; 0 for 1956-1973; 2 for 1974-1977; 0 for 1978-85; 2 for 1986-99; 0 for 2000-2002; 2 for 2003-09, and 3 for 2010-18.

Azad Jammu and Kashmir

Institutional depth: 1 for 1950-1969; 2 for 1970-1977; 1 for 1978-1984; 2 for 1985-2018

Policy scope: 0 for 1950-1969; 4 for 1970-1974; 1 for 1975-1977; 0 for 1978-1984; 1 for 1985-2018; 2 from 2019.

Gilgit-Baltistan

Institutional depth: 1 from 1950-2008; 2 from 2009-2018

Policy Scope: 0 from 1950-2008; 2 from 2009-2018.

Federally Administered Tribal Territories (FATA)/ Provincially Administered Tribal Territories (PATA)

Institutional depth: 1 for 1950-2018; Policy scope: 0 for 1950-2018

Islamabad Capital Territory (ICT)

Institutional depth: 1 from 1950- 2014; 2 from 2015-2018

Policy scope: 0 from 1950-2014; 1 from 2015-2018

Divisions

ID: 1 for 1950-1999, 0 for 2000-2008, and 1 for 2009-2018; PS: 0 for 1950-2018

Districts:

ID: 1 for 1950-78; 2 for 1979-88; 1 for 1989-2000; 2 for 2001-08; 1 for 2009-10 (below after 2010)

PS: 0 for 1950-78; 1 for 1979-88; 0 for 1989-2000; 2 for 2001-08; 0 for 2009-10 (below after 2009)

Districts in Punjab:

Institutional depth: 1 for 2011-12; 2 for 2013-2018

Policy scope: 0 for 2011-12; 1 for 2013-18

Districts in Sindh:

Institutional depth: 1 for 2011-12; 2 for 2013-2018

Policy scope: 0 for 2011-12; 2 for 2013-18

Districts in Balochistan:

Institutional depth: 2 for 2011-18

Policy scope: 2 for 2011-18

Districts in Khyber Pakhtunkhwa (KP):

Institutional depth: 1 for 2011-12; 2 for 2013-2018

Policy scope: 0 for 2011-12; 2 for 2013-2018

Districts in Azad Jammu Kashmir (AJK):

Institutional depth: 0 for 1950-1989; 1 for 1990-2018

Policy scope: 0 for 1950-2018

Subdistricts (tehsils)

ID: 1 for 1950-78; 2 for 1979-88; 1 for 1989-2000; 2 for 2001-08; 1 for 2009-10 (below after 2010)

PS: 0 for 1950-78; 1 for 1979-88; 0 for 1989-2000; 1 for 2001-08; 0 for 2009-10 (below after 2009)

Subdistricts in Punjab:

Institutional depth: 1 for 2011-12; 0 for 2013-2018

Policy scope: 0 for 2011-18

Subdistricts in Sindh:

Institutional depth: 1 for 2011-12; 0 for 2013-2018

Policy scope: 0 for 2011-18

Subdistricts in Balochistan:

Institutional depth & Policy scope: 0 for 2011-18

Subdistricts in Khyber Pakhtunkhwa (KP):

Institutional depth: 1 for 2011-12; 2 for 2013-2018

Policy scope: 0 for 2011-12; 1 for 2013-2018

Karachi Metropolitan Corporation (Sindh)

Institutional depth: 2 1980-88, 1 for 1989-2000; 0 for 2001-12; 2 for 2016-18

Policy scope: 1 for 1980-88; 0 for 1989-2012; 1 for 2013-2018

Lahore Metropolitan Corporation (Punjab)

Institutional depth: 2 for 2013-2018

Policy scope: 2 for 2013-2018

Quetta Metropolitan Corporation (Balochistan)

Institutional depth: 2 for 2011-2018

Policy scope: 1 for 2011-2018

Peshawar City District (KP)

Institutional depth: 2 for 2013-2018

Policy scope: 1 for 2013-2018

Municipal Corporations (Baluchistan)

Institutional depth: 2 for 2011-2018

Policy scope: 1 for 2011-2018

Municipal Corporations (Sindh & Punjab)

Institutional depth: 2 for 2013-2018

Policy scope: 1 for 2013-2018

Fiscal Autonomy

Provinces

Pakistan's fiscal system has been highly centralized. The federal government raises 90% of all tax revenues. Provincial governments are dependent on federal transfers through the National Finance Commission Awards, which form about 80% of provincial revenue, on average (Mezzera, Aftab

and Yusuf 2010:16). Overall, federal revenue collection remains remarkably low (less than 1% of Pakistan's population files for taxes, well below 5% for India or 16% for Argentina (Ahmad and Best 2012; CIRP and CPDI 2012; Lopez-Calix and Touqeer 2013:3, 6).

Prior to 1956, provinces did not have the constitutional power to set taxes. From 1956, provinces had autonomy over minor taxes. The Fifth Schedule of the 1956 Constitution allocates tax authority alongside policy authority, and all major taxes were on the Federal list (List I), including duties of customs (including export duties); duties of excise; corporation taxes and taxes on income other than agricultural income; estate and succession duties in respect to property other than agricultural land; taxes on sales and purchases; taxes on fares and freights; taxes on mineral oil and natural gas" (C1956 Fifth Schedule, no. 26). Meanwhile, the Provincial List (List III) gave provinces the right to set the base and rate of minor taxes such as taxes on agricultural income and on the capital value of agricultural land (71); stamp duty (73); estate duty in respect of agricultural land (74); taxes on lands, buildings, mineral rights, electricity, advertisements, vehicles, newspapers, animals and boats, tolls, luxury goods, alcoholic liquors, opium, medicine and other narcotics (no. 75-85, 88); taxes on professions, trades, callings and employments (86). **From 1950 to 1955 provinces score 0 on fiscal autonomy. Units score 2 from 1956-1958 as they gained the power to set the base and rates of minor taxes with the ratification of the constitution. Due to the martial law during Ayub units score 0 on fiscal autonomy from 1959-1961. (Between 1956 and 1969 provinces in West Pakistan were merged into a single Unit West-Pakistan.)**

Both the 1962 and 1973 constitutions give provinces powers to tax. The 1962 Constitution gives provinces authority to impose taxes “on persons, callings, or employments, and no such Provincial Law shall be regarded as imposing a tax on income” (C1962 Art. 141). Similarly, the 1973 Constitution allows provincial assemblies to set the rate of taxes on property, professions, and agricultural income. (C 1973 Art. 163)). Since they have the ability to set the base and rates of minor taxes, **provinces score 2 on fiscal autonomy for all years for which the constitution was in effect from 1963 to 2009 (excluding years of martial law).**

With the enactment of the 18th Amendment in 2010, provinces gain authority over a major tax: they can now set the base as well as the rate of the VAT tax on services and of the capital gains tax on properties (C1973, 18th Amendment, Schedule IV, entry 49 and 50; Ghaus-Pasha 2011:7-8; Anwar Shah 2012: 20, 21). **Provinces score 4 from 2010.**

AJK, Gilgit Baltistan and the Islamabad Capital Territory

The Third Schedule of the AJK 1974 Constitution allocates taxation powers to the Council list, including the authority to set base and rate of income taxes (entry 42), taxes on corporations (43), capital value of assets (except for capital gains taxes) (44), taxes on the production capacity of any plant, machinery or undertaking (45), terminal taxes on goods or passengers by railway or air (46), and customs and export duties (41) (AJK Interim C1974). It excludes agricultural income (42) and capital gains tax (43) from the list and does not mention other taxes, and on the force of scholarly assessment that “AJK government’s powers are limited to utilization of local revenues generated within the territory itself,” we infer that AJK had in principle the authority to set the base and rate of minor taxes.^a It is unclear whether the AJK government had this power from 1950.^a The 2018 Thirteenth amendment to the interim AJK constitution transfers “all taxes including income tax” to the AJK government (C1974, Thirteenth Amendment, Art. 31(5)); customs duties and corporation tax are now on the exclusive federal list. **AJK scores 2 for all years after the**

ratification of the 1974 constitution, except during martial law, and it scores 0 before. From 2019, AJK scores 4.

Prior to 2009, Gilgit-Baltistan had no authority to set taxes. The Gilgit-Baltistan Order in 2009 grants authority over minor taxes including agricultural income and property tax (Gilgit-Baltistan Order 2009, Schedule IV, 31, 35; Order 2018, Schedule III – these taxes not mentioned on the Federal List). **Gilgit-Baltistan scores 0 for fiscal autonomy from 1950-2008, and 2 from 2009-2018.**

The ICT-LGA 2015 enabled the metropolitan corporation to set the base and rates of minor taxes. These taxes include fees for tax on licenses, sanctions and permits; tax on professions, trade, callings and employment; tax on sale of animals; toll tax on roads, bridges and ferries maintained by the metropolitan corporation; as well as any other tax or levy authorized by the provincial government (Murtaza and Rid 2016:37; ICT-LGA 2015 Art 91-2). **The ICT scores 2 on fiscal autonomy from 2015-2018.**

Districts, Metropolitan Corporations, Municipal Corporations, Divisions

Divisions, districts, and subdistricts had extremely limited taxation powers until General Zia's military rule. Ayub's regime had provided them with some local taxation powers (Murtaza Rid 2016: 17), but since the local government was heavily constrained by the appointed district commissioners, this taxation autonomy was moot.^β This changed in 1979, when, as part of his local government reform, Zia devolved more meaningful taxation power to districts and subdistricts, including the tax (octroi) on the import of goods and animals, tax on the annual rental value of buildings and roads, and tax on the transfer of immovable property. The most important of these was the octroi, a tax on goods imported into municipal limits for production or consumption, which became the biggest source of revenue for urban councils contributing on average 50-60% of these councils' income (Cheema et al. 2005: 10, note 16; ICG 2004: 4, note 13; Murtaza Rid 2016: 18). The federal government abolished the tax in 1999 to eliminate a barrier to inter-district trade (Cheema et al 2005: 10, note 16.).

Districts and subdistricts regain control over some minor taxes (but not the octroi) under Musharraf's local government reforms of 2001. Districts can levy an "education tax" and a "health tax," a tax on vehicles other than motor vehicles, and a tax on land; subdistricts can charge a tax on the transfer of immovable property, and a property tax on annual rental value of buildings. However, the bulk of their funding comes from grants: districts receive grants from the province through its formula-based Provincial Finance Awards, which it then parcels into grants for the tehsils (Punjab 2001 Local Government Ordinance, Schedule II; Cheema et al. 2005: 852; also Charlton et al. 2002 for an assessment). Districts and subdistricts do not appear to have the power to set the base for the tax (Punjab 2001 LGO, Arts. 116 and 117), and hence we score 1.

Divisions score 0 on fiscal autonomy for all years. **Districts and subdistricts** score 0 on fiscal autonomy for 1950-1978, 1 for 1979-1988, 0 for 1989-2000, 1 for 2001-2008, and zero for 2009-2010.

From 2010, provinces diverge in how they regulate fiscal autonomy. In KP, districts retain some nominal authority to raise taxes but it is subject to the consent of the provincial government (KP 2013 LGA, Art. Art. 30 (c), Art. 42 (1)) and it seems to preclude increasing taxes – the district can only reduce, suspend, abolish or exempt taxes (Art. 42 (c)). *Tehsils* hold on to the property tax, for which they can set the rate (but not the base) (Art. 44). Districts in KP score 0 for 2011-2018, tehsils score 0 for 2011-2012, and 1 for 2013-2018. In Balochistan, districts and municipal

corporations lose discretion to set the rate of local taxes (Balochistan 2010 LGA, Art.112 and 113), and score 0. Punjab allows a local government to levy a tax subject to (fairly stringent) ex-ante government vetting (Punjab 2013 LGA, Art. 115), and it also allows metropolitan municipal corporations (but not districts) to determine a higher rate of property tax (Art. 116). Districts and municipal corporations in Punjab score 1. Districts and municipal/ metropolitan corporations in Sindh maintain limited tax autonomy within conditions set down by the provincial government (Sindh 2013 LGA Ch X, Art. 96 and 97.)

The Karachi Metropolitan Corporation was the first metropolitan authority vested with taxation powers. According to the 1979 Karachi Local Government Ordinance (LGO), the metropolitan corporation could set the rate of taxes on the transfer of immovable property, the export of goods from the area, motor vehicles, boats, advertisements, entertainment, public utilities, drainage, water, professions, trades and callings (Karachi LGO 1979 Schedule V, Part I).

Municipal corporations in Punjab, Sindh, and Balochistan have similar taxation powers as the metropolitan corporations (see Balochistan 2010 LGA Second Schedule Part III; Punjab LGA 2013 Third Schedule Part III; Sindh LGA 2013 Schedule V Part II). Therefore, **municipal corporations score 1 on fiscal autonomy from 2013 (but 0 for Balochi municipal corporations).**

Coding:

Provinces/ Units: 0 for 1950-55; 2 for 1956-58 (for units); 0 for 1959-61 (for provinces & units); 2 for 1962-69 (for units); 0 for 1970-73; 2 for 1974-77; 0 for 1978-85; 2 for 1986-99; 0 for 2000-02; 2 for 2003-09; 4 for 2010-18.

Azad Jammu and Kashmir: 0 for 1950-74; 2 for 1975-77; 0 for 1978-84; 2 for 1985-2018; 4 from 2019.

Gilgit-Baltistan: 0 for 1950-2008; 2 for 2009-18

Federally & Provincially Administered Tribal Territories (FATA & PATA): 0 for 1950-2018

Islamabad Capital Territory; 0 for 1950-2014; 2 for 2015-18

Divisions: 0 for 1950-2018

Districts: 0 for 1950-78; 1 for 1979-88; 0 for 1989-2000; 1 for 2001-08; 0 for 2009-10

Districts in Punjab: 0 for 2011-12, 1 for 2013-2018

Districts in Sindh: 0 for 2011-15, 1 for 2016-18

Districts in Balochistan and KP: 0 for 2011-18

Districts in AJK: 0 for 1950-2018

Subdistricts: 0 for 1950-78; 1 for 1979-88; 0 for 1989-2000; 1 for 2001-08; 0 for 2009-10

Subdistricts in Punjab, Sindh, Baluchistan: 0 for 2011-18

Subdistricts in KP: 0 for 2011-12, and 1 for 2013-18

Metropolitan/municipal

Karachi MC (Sindh): 1 for 1980-88, 0 for 1989-2000; 0 for 2001-12; 1 for 2013-18

Lahore MC (Punjab): 1 for 2013-2018

Quetta MC (Balochistan): 0 for 2011-2018

Peshawar City District (KP): 0 for 2013-2018

Municipal Corporations (Baluchistan): 0 for 2011-2018

Municipal Corporations (Sindh & Punjab): 1 for 2013-2018

Borrowing Autonomy

All three of Pakistan's constitutions (1956, 1962, 1973) allow provinces access to borrowing on domestic or international markets: "upon the security of the Provincial Consolidated Fund within such limits, if any, as may be determined by Act of the Provincial Legislature, and to the giving of guarantees within such limits, if any, as may be so determined" (C1956 Art. 116(1); C1962 Art. 140(1); C1973 Art. 167; see also Shah 1997: 524). However, if provinces owe debt to the federal government, they cannot raise a loan without the federal government's prior consent (C1956 Art. 116(3); C1962 Art. 140(2); C1973 Art. 167 (3)). This has been interpreted as a 'hard budget constraint' (Gaush Pasha 2011: 39, 51). Since all provinces have traditionally been heavily indebted to the federal government, we score this as equivalent to prior authorization by the central government. The borrowing situation before the 1956 constitution is unclear, and we code conservatively zero.

Borrowing powers were strengthened with the 18th Amendment of 2010. This provides provinces with better access to domestic or foreign borrowing subject to limitations imposed by the National Economic Council, a body with a strong provincial influence (C1973 Art. 167 (4)). From 2010, we upgrade the score from 1 – ex ante approval – to 2 – borrowing under certain conditions. **Provinces score 0 for borrowing autonomy from 1950 to 1955, 1 from 1956 until 2009, and 2 from 2010-2018. They score 0 on borrowing autonomy for all years under martial law and governor's rule.**

Gilgit Baltistan has no borrowing autonomy. The 2009 Order places borrowing on the Council List (Third Schedule, 3.) and 2018 Order places borrowing of money on the security of the GB consolidated fund on the federal list (Third Schedule, Part I, 6.). **GB scores 0.**

Since 2015, the Islamabad Metropolitan Corporation may borrow with prior government consent (2015 ICT-LGA, Art 87). There are no provisions for the FATA or the PATA to raise loans.

Public finances for Azad Jammu Kashmir are consolidated in two funds, one controlled by the Council (Art. 37) and one controlled by the Assembly (Art. 37A). It appears from the language that both entities may borrow: "all loans raised by the government, and all moneys received by it in repayment of any loan ... shall be regulated by Act of the Assembly or, until provision in that behalf is so made by rules by the President" (Art. 37A (1) and (3).) While "the Assembly" and "the President" refer to AJK officials, the central government's control through the Council leads us to interpret this restrictively as ex ante control.^a Again, we have no information on the legal situation preceding 1975, but we know that the provision about the AJK Consolidated Fund was only inserted in 1975. **Therefore, AJK scores 1 on borrowing autonomy for 1975-2018, except under martial law, and it scores zero before. With the weakening of central control over AJK government as from 2019, it is appropriate to interpret Art. 37A as consistent with a score of 2 – post-hoc central government control.**

Until 2010 districts and subdistricts were not allowed to borrow. This is, for example, explicit in the 2001 Local Government Ordinance (Anjum 2001: 853). Since 2010, these rules are set by the province, and none of the four provincial governments (Punjab, Sindh, KP or Balochistan) allows districts, municipal corporations, metropolitan corporations and divisions to borrow either domestically or internationally (Punjab LGA 2013; Balochistan LGA 2013; Sindh

LGA 2013; KP-LGA 2013; Ali 2018:5; Taj and Abdullah 2017:209). **Districts and metropolitan corporations across Pakistan score 0 for all years.**⁴⁰

Coding:

Provinces/ Units: 0 for 1950-55; 1 for 1956-58 (units); 0 for 1959-61 (for provinces & units); 1 for 1962-69 (for units); 0 for 1970-73; 1 for 1974-77; 0 for 1978-85; 1 for 1986-99; 0 for 2000-02; 1 for 2003-09; 2 for 2010-18.

Azad Jammu and Kashmir: 0 for 1950-74; 1 for 1975-77; 0 for 1978-84; 1 for 1985-2018; 2 from 2019.

Gilgit-Baltistan: 0 for 1950-2018

Federally & Provincially Administered Tribal Territories (FATA & PATA): 0 for 1950-2018

Islamabad Capital Territory: 0 for 1950-2014; 1 for 2015-18

Divisions, districts, subdistricts, MC: 0 for 1950-2018

Districts: 0 for 1950-2018

Representation

The 1935 Government of India Act provided the legal foundation for the establishment of governments in the provinces. At the time, the executive power in provinces was predominantly vested in a centrally appointed governor (appointed by the president), who selected his ministers along with a chief minister amongst members of the provincial legislature. Prior to the independence of Pakistan from British India, provincial legislatures were directly elected (Kamran 2009:256-7; Government of India Act 1935, Fifth Schedule). When Pakistan gained independence in 1947, provincial legislatures were made up of legislators elected in 1945 while Pakistan was still part of India (Kamran 2009:257). After independence, the provincial assemblies were directly elected in 1951 in Punjab and the NWFP, 1953 in Sindh, and in August 1954 in East Bengal (Kamran 2009:257; Punjab Assembly n.d.).⁴¹ Provincial Assemblies ceased to exist from October 1955 through 1970 with the adoption of the One Unit system (Punjab Assembly n.d., Kamran 2009:257; C1956 Art 104; Siddiqi 2008:76). Executive power is conceived as dual, but with a strong bias in favor of the centrally appointed governor.^β The provincial assembly was directly elected.⁴²

With the passage of the One Unit plan, East Pakistan (Bengal) held elections in August 1955 following a year of Governor's Rule (Punjab Assembly, n.d.);⁴³ West Bengal had its first elections in May 1956. Both assemblies were abolished with the proclamation of martial law in October 1958 (which lasted until the end of 1961). After Ayub's Basic Democracies (BD), provincial legislatures become indirectly elected by 40,000 "basic democrats" from local bodies, in 1962 and again in 1965 (C1962 Arts. 70-2). The 1962 constitution also strengthens the hand of the governor, who is now the sole executive power: "The executive authority of a province is vested in the governor of the province and shall be exercised by him, either directly or through officers subordinate to him is vested in the governor, in accordance with this Constitution, the law

⁴⁰ This may be about to change. The 2019 Punjab LGA sets the door ajar for its districts to borrow money "for certain purposes ...with the previous sanction of the [provincial] Government" (Punjab LGA Amendment 2019 Art. 139).

⁴¹ Direct elections for provincial assemblies were first introduced by the Government of India Act of 1935, (Fifth Schedule) and remained the method for assemblies until Pakistan ratified its first constitution in 1956.

⁴² See the Punjab Assembly website <https://www.pap.gov.pk/en/members/past-members>

⁴³ See the Punjab Assembly website <http://papmis.pitb.gov.pk/en/members/past-members/provincial-assembly-of-west-pakistan-1956-1969/west-pakistan-second-synopsis-post>

and the directions of the President” (Art. 80). The governor may (but does not have to) appoint elected MPs to his cabinet (in concurrence with the president) (Art. 82). These conditions seem sufficiently restrictive to score the executive as centrally appointed.^β

After the fall of Ayub Khan in 1970, the One-Unit system is abolished. The provinces of Punjab, Sindh, Balochistan and NWFP are restored and direct provincial and national elections are held, but due to the secession war with East Pakistan, the assemblies only meet for the first time in May 1972 (Punjab Assembly, Seventh Provincial Assembly Synopsis).⁴⁴

The 1973 constitution restores the dual executive. On the one hand, a centrally appointed governor is described as “the executive authority of the province” (C1973 Art. 129). On the other, his authority is balanced by a cabinet which shall “aid and advise the Governor” (130 (1)). The cabinet is elected from the assembly and headed by a chief minister “who is likely to command the confidence of the majority of the members of the provincial assembly” (Art. 130 (2)). The power of the cabinet vis a vis the governor has been progressively strengthened over the years, and the 2010 constitution now seems to tilt the balance clearly in favor of the cabinet: “the Governor shall act in accordance with the advice of the cabinet” (C1973, 18th amendment, Art. 105) and when the governor is absent, he is replaced by the Speaker of the House (rather than, previously, a civil servant) (Art. 104). His role has become largely ceremonial, and we conceive of the executive as predominantly controlled by the cabinet which is accountable to the elected assembly from 2010.^β

Provinces score 2 on assembly and 1 on executive for 1950-55, 2 and 1 for 1956-58 (Two-unit), 0 and 0 for 1959-61, 1 and 0 for 1962-69, 0 and 0 for 1970-71, 2 and 0 for 1972-73, 2 and 1 for 1974-77, 0 and 0 for 1978-84 (martial law), 2 and 0 for 1985 (assembly elections in February), 2 and 1 for 1986-99, 0 and 0 for 2000-2002 (martial law), 2 and 1 for 2003-2010, and 2 and 2 for 2010-2018.⁴⁵

Islamabad Capital Territory, AJK and Gilgit Baltistan

The Islamabad Capital Territory was under central rule until 2014 (during Zia’s rule, urban districts in the ICT had a representative council and some authority (1979-1988)) (Murtaza and Rid 2016:32). Since 2015, the Metropolitan Council of Islamabad (MCI) has an indirectly elected council (Islamabad Capital Territory LGA 2015, Arts 12(1) and 17(1)-(2)). This council elects its mayor and deputy mayor (on a single ticket) who have executive authority (Art. 63(2)). Their authority appears constrained by a centrally appointed Chief Officer, who “shall be responsible for ensuring adherence by the MCI to all laws, policies and oversight framework of the government” (Art. 63 (8)). We interpret this as dual government. **The ICT scores 0 on assembly and 0 on executive for 1950-2014, and 1 and 1 for 2015-2018.**

Azad Jammu Kashmir had no elected governance until the early 1960s. In 1961 Ayub Khan extended his Basic Democracies Act to AJK, whereby the AJK president and a newly created AJK

⁴⁴ See <http://papmis.pitb.gov.pk/en/members/past-members/provincial-assembly-of-the-punjab-1972-to-date/provincial-assembly-seventh-synopsis-post>

⁴⁵ Also see <http://papmis.pitb.gov.pk/en/members/past-members/provincial-assembly-of-west-pakistan-1956-1969/west-pakistan-fifth-synopsis-post> .Due to martial law, assembly elections were held on February 1985 and on November 2002 (Punjab Assembly (Web); Provincial Assembly of Khyber Pakhtunkhwa (Web)). See <http://papmis.pitb.gov.pk/en/members/past-members/provincial-assembly-of-the-punjab-1972-to-date/provincial-assembly-ninth-synopsis-post> or <https://www.pakp.gov.pk/about-assembly/an-overview/>

Council were indirectly elected by local bodies (Mahmud 2006:113). The president shared executive power with the chief advisor appointed by the Pakistani Ministry of Kashmir, who need to endorse any executive order by notification (Mahmud 2006: 114). Our coding reflects dual government. The Azad Jammu and Kashmir Government Act of 1970 introduced adult franchise for the legislative assembly and presidential elections according to the one person, one vote principle. After passing the AJK Interim Constitution of 1974, the Prime Minister was elected by the members of the legislative Assembly, but he now shares executive power with the AJK Council, which is chaired by the prime minister of Pakistan and composed of an equal number of Pakistani and AJK office holders.

It should be noted that electoral competition in AJK takes place under the long shadow of Pakistan's wish to incorporate AJK. The interim constitution stipulates that "no person or political party in AJK shall be permitted to propagate against, or take part in activities prejudicial or detrimental to, the ideology of the State's accession to Pakistan" (Art. 4.2). Candidates who refuse to sign a declaration supporting this provision are routinely denied the right to contest (Shekhawat 2007). We reflect this in our coding by downgrading assembly from 2 to 1, apart from the brief period in the early seventies.

AJK scores 0 assembly and 0 on executive for 1950-1960, 1 and 1 for 1961-1969, 2 and 2 for 1970-1973, 1 and 1 for 1975-77, 0 and 0 for 1975-85 (martial law), and 1 and 1 for 1986-2018.

Gilgit-Baltistan (named Northern Areas until 2009) obtained representation before decentralization. Until 1973, the Ministry of Kashmir Affairs and Northern Areas (MKANA) administered the area. In 1974, a directly elected Northern Areas Council was created that advised the federally-appointed Resident Commissioner (Kreutzmann 2008: 209; Asia Reptot 2007: 9). In 1994, the Council was reformed into the 'Northern Areas Council' and endowed with legislative agenda setting powers in 49 tightly circumscribed areas (Legal Framework Order (1994 and Northern Areas Rules of Business (NARoB). While it could propose bills, each bill required assent from a three-headed executive that includes the leader of the legislative assembly (ICG 2007: 11).

In 2009, the Gilgit-Baltistan Empowerment and Self-Governance Order creates a fully-fledged elected legislative assembly with exclusive legislative power of an enumerated list of competences (GB 2009 Order Art. 47 (32)(b)), and a chief minister and cabinet accountable to the Assembly (GB 2009 Order, Art. 22 (3)). There is also a federal-appointed governor who can delay, but not veto, legislation (GB 2009 Order, Art. 21). A parallel government stream is centered around the joint federal-GB Council, which unifies legislative and executive power on everything on Schedule III (GB 2009 Order, Art. 33(12) and Art. 47(2)(a)). Each legislature/ executive is responsible for its own list of competences. Since the joint Council is a hybrid between a self-governing body and an intergovernmental body, we conceive this as a continuation of dual executive government.^β The Order was comprehensively revised in 2018. The Council was abolished, and part of its competences were devolved to the GB legislature/cabinet and another part centralized in the federal executive. The governor position was retained in a primarily ceremonial role. **Gilgit-Baltistan scores 0 on assembly and 0 on executive for 1950-1973, 1 and 0 for 1974-1993, 2 and 1 for 1994-2008, 2 and 1 for 2009-2017, and 2 and 2 from 2018.**

Divisions, Districts, subdistricts and City Districts/Metropolitan Corporations

After independence, divisions, districts, and subdistricts were under direct federal control through the centrally appointed district commissioner and divisional commissioner (Ali 2018:2; Kalia n.d., 3).

The Basic Democracies scheme led to indirect elections for division, district, and subdistricts in late 1959 (Musarrat and Ahzar 2012:125), which is reflected in our coding from 1960. The chairpersons of directly union council members sat on the tehsil councils, and a minority consisted of local bureaucrats and appointed members selected by the centrally appointed district commissioner (for a breakdown of elected and appointed officials, see Chema et al. 2005: 33; Mellema 1961:11-15; Hussain 2004; in Murtaza and Rid 2016:17). This structure was replicated at district and divisional level (Mellema 1961:14-5; Murtaza and Rid 2016:17). The tehsil, district and divisional councils were chaired by a bureaucrat, which reinforces our conjecture that at each tier executive power is controlled by a centrally appointed commissioner.^β **From 1950-1959 divisions, districts, and subdistricts score 0 on assembly and 0 on executive, and 1 and 0 for 1960-1969.**

Local governments were reestablished during the military dictatorship of Zia ul-Haq (Murtaza and Rid 2016:18; Cheema, Khawaja and Qadir 2006). **Zia abolished divisional councils in 1979 and since then they have been under the direct control of centrally appointed administrators. Therefore, divisions score 0,0 for executive and legislative representation from 1979 to 2019.** Moreover, Zia's district and city district councils were made up of centrally appointed district commissioners as well as the chairpersons from both rural (tehsil councils) and urban areas (municipal committees) (Cheema, Khwaja and Qadir 2003:8). This system was in place from 1979 until Zia's death in 1988. After the restoration of civilian government in 1988, however, local bodies were suspended and governed by provincially appointed administrators (Cheema, Khan and Myerson 2010:2). **Districts and city districts score 0,0 on representation for 1970-1979; they score 1 on assembly and 0 on executive for 1980-1988; 0,0 again for 1989-2000.**

District and subdistrict governments were reestablished by Musharraf in 2000. The councils are indirectly elected, and the chief mayor (nazim) is elected among his peers (Taj and Baker 2018:3; Anjum 2001:847; Ali 2018:3; Cheema, Khwaja and Qadir 2003:14). The district council consisted of all union council *nazims* (chairpersons) in the district (Murtaza and Rid 2016:19); the subdistrict council of all union council naib nazims (deputy chairs). There is no longer dual government: the district officer is accountable to the elected chair of the council. **Districts and subdistricts score 1 on assembly and 2 on executive for 2001-2008.**

After Musharraf's ousting, the 2008 elections were postponed (Keefer et al., 2003:11; Murtaza and Rid 2016:19). Local government was dissolved from 2009 and the bureaucracy stepped in (Ali 2018:3). The 18th amendment of 2010 also required the creation of local government by the provinces, though again, it did not specify an overarching framework or time frame to do so (Ali 2018:3). Pakistan did not have functional local governments for several years after democracy returned to the country in 2008 (Ali 2018:3). Lack of political will among political elites in the provinces delayed local elections until they were ordered by the Supreme Court (Malik 05/12/2016; Ali 2018:3-4). Provincial governments reestablished local government elections (for union councils) with their Local Government Act (LGA) in 2010 in Balochistan, and in 2013 for the other provinces. Balochistan and KP had their first party-based local elections in the first semester of 2015, while Punjab and Sindh did so towards the end of 2015. **Districts and**

subdistricts score 0,0 on representation for 2009-2014 in Balochistan and KP, and for 2009 to 2015 in Punjab and Sindh.

From about 2015, the rules governing representation diverge from province to province. KP district councils, the Peshawar city district, and the tehsil councils are directly elected, and the councils elect their *nazim* mayor (KP LGA 2013 Art. 74). Executive authority is vested in the *nazim* mayor (Art. 11(2) and 21 (2), who has the authority to monitor and supervise the administration. **Districts, subdistricts, and Peshawar City district in KP score 2 and 2 from the first elections (2015).**

In Balochistan, tehsils were abolished. District councils, the Quetta metropolitan corporation, and municipal corporations are indirectly elected from 2015 (Balochistan 2010 LGA, Art. 13(1)), and each body has an indirectly elected mayor or chairman as the executive (Balochistan 2010 LGA, Art 63). The chairman shares this authority with the administration, which is appointed by the province (Art. 69).⁴⁶ **District councils in Balochistan score 0 for assembly and 0 for executive for 2011-2015, and 1 and 1 from the first elections (2015).**

Tehsils were also abolished in Sindh and Punjab. Both hold indirect elections for their district councils (Punjab 2013 LGA, Chapter IV 14; Sindh 2013 LGA, Chapter III (6)). Municipal corporation and metropolitan corporation councils are also indirectly elected (Punjab 2013 LGA, Chapter IV 15; Sindh 2013 LG, Chapter III (4) and (7)). Executive power is dual in Punjab: “For each local government, except a Union Council and an Authority, the Government shall appoint a Chief Officer and such number of other officers as may be prescribed” who “shall be responsible for ensuring adherence by the local government to all laws, policies and oversight framework of the Government in the prescribed manner” (Chapter VI, 64 (5) and (8)). We also judge executive power to be dual in Sindh, which has included similar language in its GLA (Chapter VII, Art. 87 and 88): **District councils and metropolitan/ municipal corporations in Punjab and Sindh score 0 and 0 for 2011-2015, and 1 and 1 for 2016-2018.**

We now move to subprovincial government in the special autonomy regions. Districts were established in AJK in 1990 and in 2014 in Gilgit-Baltistan. Similar to other districts, they consist of all elected chairmen from each union councils in the district, who elect a chairman and vice chairman as the executive head of the province (AJK LGA 1990 Arts. 9(1), 9(3); GB-LGA 2014 Art. 13). District councils in **Azad Jammu Kashmir** are indirectly elected (from union councils). Elections are regularly rigged, and a centrally appointed executive officer appears in charge of executive decision making. We opt to code the executive as centrally controlled.^a Districts un GB fall below our population criterion.

Coding:

East & West Units:

Assembly: 2 for 1956-58, 0 for 1959-61, 1 for 1962-69

Executive: 1 for 1956-58, 0 for 1959-69

Provinces

Assembly: 2 for 1950-1955; 0 for 1956-71; 2 for 1972-77; 0 for 1978-84; 2 for 1985-99; 0 for 2000-02; and 2 for 2003-2018.

Executive: 1 for 1950-1955; 0 for 1956-73; 1 for 1974-77; 0 for 1978-85; 1 for 1986-99; 0 for 2000-02; 1 for 2003-09; and 2 for 2010-18.

Azad Jammu and Kashmir

⁴⁶ New elections were due to take place by December 2018 but they have been postponed (Kakar August 2019).

Assembly: 0 for 1950-60; 1 for 1961-69; 2 for 1970-77; 0 for 1978-84; 1 for 1985-2018; 1 from 2019.

Executive: 0 for 1950-60; 1 for 1961-69; 2 for 1970-74; 1 for 1975-77; 0 for 1978-84; 1 for 1985-2018

Gilgit-Baltistan

Assembly: 0 for 1950-73; 1 for 1974-93; 2 for 1994-2018

Executive: 0 from 1950-1993; 1 for 1994-2017; 2 for 2018

FATA and PATA: 0 and 0

Islamabad Capital Territory (ICT): 0 and 0 for 1950-2014, and 1 and 1 for 2015-18

Divisions: 0 and 0 for 1950-59, 1 and 0 for 1960-69; and 0 and 0 for 1970-2018

Districts:

Assembly: 0 for 1950-59; 1 for 1960-69; 0 for 1970-78; 0 for 1989-2000; 1 for 2001-08; 0 for 2009-10 (below after 2010)

Executive: 0 for 1950-2000; 2 for 2001-08; 0 for 2009-10 (below after 2009)

Districts in Punjab: 0 and 0 for 2011-15, and 1 and 1 for 2016-2018

Districts in Sindh: 0 and 0 for 2011-15, and 1 and 1 for 2016-2018

Districts in Balochistan: 0 and 0 for 2011-14, and 1 and 1 for 2015-18

Districts in Khyber Pakhtunkhwa (KP): 0 and 0 for 2011-14; 2 and 2 for 2015-2018

Districts in Azad Jammu Kashmir (AJK): 0 and 0 for 1950-1989, and 1 and 0 for 1990-2018

Karachi Metropolitan Corporation (Sindh):

Assembly: 1 1980-88, 0 for 1989-2015; 1 for 2016-18

Executive: 0 for 1980-2015; 1 for 2016-18

Lahore Metropolitan Corporation (Punjab): 0 and 0 for 2013-15, and 1 and 1 for 2016-18

Quetta Metropolitan Corporation (Balochistan): 0 and 0 for 2011-14 and 1 and 1 for 2015-18

Peshawar City District (KP): 0 and 0 for 2013-14, and 2 and 2 for 2015-18.

Municipal Corporations (Baluchistan): 0 and 0 for 2011-14 and 1 and 1 for 2015-18

Municipal Corporations (Sindh & Punjab): 0 and 0 for 2013-15, and 1 and 1 for 2016-18

Subdistricts (tehsils)

Assembly: 0 for 1950-59; 1 for 1960-69; 0 for 1970-78; 1 for 1979-88; 1 for 1989-2000; 1 for 2001-08; 0 for 2009-10 (below after 2010)

Executive: 0 for 1950-2000; 2 for 2001-09; 0 for 2009-10 (below after 2010)

Subdistricts in Punjab, Sindh and Balochistan: 0 and 0 from 2011

Subdistricts in Khyber Pakhtunkhwa (KP): 0 and 0 for 2011-14 and 2 and 2 for 2015-18

Shared-Rule

Law making

The 1956 and 1962 Constitutions established a unicameral legislature. With the 1973 constitution, the national parliament (*Majlis-E-Shoora*) became bicameral: the Senate providing equal provincial representation, and a more powerful lower chamber, the National Assembly, providing popular representation.⁴⁷ The prime minister is elected by the National Assembly.

The Senate has an equal number of seats for each province plus representation for the FATA and for the Federal Capital (but not Gilgit-Baltistan). Today's senate has 104 members: 23

⁴⁷ These seats reserved for women and minorities' representatives are allocated proportionally to parties with more than five per cent of directly elected seats.

for each of the four provinces of which four women, four technocrats, and one non-Muslim; eight for FATA; and four from the capital. Provincial senators are indirectly elected by the provincial assemblies (using proportional representation) for staggered six-year terms; the senators for FATA and the capital are appointed by the president. This set-up was created in 1973—initially with 45 seats—to bring the relations among the provinces on equal footing (C1973 Art. 59, 59(1)(a) to 59(1)(f); Khan 2017:150).⁴⁸

The senate is weaker than the House, the following ways: (a) it has no control over money bills (Art. 73 (1); (b) the House can outvote the Senate through its numerical preponderance (currently 272 vs. 104 members) in case of disagreement on a legislative bill (in a joint session of the houses, a majority of those present and voting can pass the bill) (Art. 70(3); and (c) the Senate cannot take part in votes of confidence (Art. 91; Baxter 1974:1082; Wazeem:2011:217). The Senate though has the same legislative powers as the house (Art. 70 and Schedule IV).

Provinces score 0 on lawmaking for 1950-1973, and 0.5 (unit of representation), 0.5 (regional governments designate representatives), 0.5 (provinces have majority), and 0 (restricted powers) for 1974-2018, except under martial law when they score 0. FATA and the Islamabad FCT score zero because their representatives are selected by the federal government.

Gilgit-Baltistan has no representation in the Senate nor does its government have consultation rights on legislation that may affect the region. The GB joint council, which was operational between 2009 and 2018, concerns legislation for the region – it appears not to be a venue for the federal government (or parliament) to consult AJK representatives on national legislation that may affect the region. **GB scores 0 on multilateral and bilateral law making.**

Azad Jammu Kashmir has no representation in the Senate nor does its government have consultation rights on legislation that may affect the region. The AJK Council created under the 1974 interim constitution handles legislation for the region, and it is not a venue in which the federal government (or parliament) consults AJK representatives on national legislation that may affect the region. **AJK scores 0 on multilateral and bilateral law making.**

Coding:

Provinces: 0 for 1950-1973; 1.5 for 1974-1977; 0 for 1978-1985; 1.5 for 1986-1999; 0 for 2000 to 2002; 1.5 for 2003-2018

FATA and the Islamabad FCT: 0

Gilgit-Baltistan: 0 for 1950-2018

AJK: 0 for 1950-2018.

Executive Control

There were no routine meetings between the central government and subnational government officials until 1973.

⁴⁸ In 1977, during the martial law regime of Gen. Zia, the number of senate seats was raised to 63 and then to 87 in 1985. In 2003 the 17th amendment increased the membership of the national assembly to 342, including 272 directly elected members, 60 reserved seats for women and 10 for minorities. It also expanded the senate to 100, with 22 seats for each province, 8 seats for FATA and 4 seats for Islamabad (Waseem 2011:217).

Since 1974, the Council of Common Interests (CCI) exists as an intergovernmental body, but federal interests prevail over provincial interests.⁴⁹ It was created in the 1973 constitution to “formulate and regulate policies in relation to the matters enumerated in Part-II of Federal Legislative List (FLL)” (C 1973, Art. 154 (1)). The body’s composition is 50-50 provincial-federal: the four provincial chief ministers (heads of the provincial assemblies), and Pakistan’s prime minister plus three members nominated by the prime minister (usually cabinet members) (C 1973, Art. 153(1), Art. 154(2)). Decisions are taken by majority (Art. 154(2)) and they appear binding. However, two provisions tilt the balance of power to the federal level. First, if either a provincial or federal government is dissatisfied with a Council decision, it can appeal to the national Parliament in joint session “whose decision shall be final” (Art. 154 (5)). Since the House has more than double the number of representatives as the Senate, federal interests prevail over provincial interests. Second, the constitution authorizes Parliament in joint session to “issue directions through the federal government to the Council generally or in a particular matter to take action as Majlis-e-Shoora may deem just and proper and such directions shall be binding on the Council.”

Hence, while the body provides a venue for provincial governments to be informed or consulted about federal and national decision making, the final decision is taken by the federal government.

Until 2010, the Council met only 11 times in 37 years (three times in the mid-1970s, seven times in the 1990s, and once in 2006). Since 2010 (18th Amendment), it is mandatory for the Council of Common Interests to meet once every 90 days (C 1973 Art. 154(3)). From July 2010 until November 2017, the CCI held 23 meetings. After a thirteen-month hiatus the CCI met again in December 2019.

The Islamabad FCT, FATA, PATA, Gilgit-Baltistan, AJK, districts and city districts do not have representation in the Council of Common Interest or similar negotiating bodies such as the National Economic Commission or the National Finance Commission (Iqbal 2019).

From 1975, the AJK has nonbinding **bilateral executive control** by sending about half of the delegates to the Azad Jammu Kashmir Council (C1974, Art. 21), which takes decisions on a range of policies in the Third Schedule (including large-scale infrastructure and utilities, economic regulation on banking, insurance and stock exchange, economic and industrial development, oil, gas, and nuclear energy, population planning and social welfare, and citizenship and immigration etc. (AJK Interim Constitution 1974, Art. 31 (2) (a) and Third Schedule). AJK representatives cannot veto decisions because they lack a majority and because the chairman, who is the prime minister of Pakistan, has the authority to act on behalf of the council. From 1975 we code 1 when there is no martial law. The Joint GB Council, which was operational between 2009 and 2017, functioned in a similar way.

Provinces score 0 on executive control for 1950-1973, and 1 from 1974-2018 except during martial law. AJK scores 0 for 1950-1974, and it has nonbinding bilateral executive

⁴⁹ A second intergovernmental body is the National Economic Council, which consists of an equal number of provincial and federal representatives. Created by the 1973 constitution, its role was strengthened in 2010 and its composition was tilted in favor of provinces by mandating two members from each province, including the chief ministers, against four federal members appointed by the prime minister (Shah 2012: 17). It has oversight responsibility over national economic policies, and in that capacity advises federal and provincial governments on financial, commercial, social and economic policies (C1973, 18th Amendment, Art. 156). This includes also setting conditions for provincial borrowing. The Council reports to both houses of parliament.

control from 1975-2018 except during martial law. GB scores 0 for 1950-2008, and it has nonbinding bilateral executive control from 2009-2017. FATA, PATA, districts, subdistricts and municipal corporations do not have executive control from 1950 through 2018.

Coding:

Provinces: 0 for 1950-1973; 1 for 1974-1977; 0 for 1978-1985; 1 for 1986-1999; 0 for 2000-2002; 1 for 2003-2018

AJK(bilateral): 0 for 1950-1975, 1 for 1975-1977, 0 for 1978-1984, 1 for 1985-2018

Gilgit Baltistan. (bilateral): 0 for 1950-2008, 1 for 2009-2017, and 0 for 2018

Fiscal Control

Revenue sharing is the dominant form of intergovernmental fiscal relations for financing operating expenditures in Pakistan, with roots in the British colonial period (Mustafa 2011).

There was no regular intergovernmental consultation preceding the 1973 constitution. The 1973 constitution set up the National Finance Commission (NFC). The NFC's chief task was to come up every five years with a formula-based distribution of income, sales, capital gains, wealth, and customs and excise taxes between the center and subnational government ("the NFC award"). The NFC proposes both the proportion of the federal revenues that should go to provinces, and the criteria for the distribution (Shah 2003; Nabi and Shaikh 2010). The proposal is submitted to both the provincial and national assemblies, but the final decision is taken by the president (C1973, Art. 160). The NFC is composed of federal and provincial finance ministers, the federal finance minister and one additional member from each province (C1973, Art. 160(1); Shah 2007: 517). It is presumed to make recommendations by consensus. The NFC had "a chequered history, with many instances of either not meeting, or meeting and not achieving a consensus view" (Shah 2007: 517). Over nearly three decades of existence the NFC published its recommendations only twice (1991 and 1997), and since 1973, there have only been five NFC awards, the seventh and last one in 2010. The implementation of the Award is monitored by the federal ministry of finance, which publishes annual reports. The NFC is not a body that meets regularly, and hence it does not provide provinces with routinized access to deliberate financial allocation.

The AJK Council does not seem to engage with *national-level* financial allocation that may affect the region; it only makes decisions on taxation within the region and on the use of development funds. The same is true for the GB Council.^b

Coding:

All jurisdictions score 0.

Borrowing Control

There were no routinized meetings regarding borrowing between the provinces and the federal government until 2010. However, the constitutional revision of 2010 strengthened the Council of Common Interests, and it added to its competences "supervision and management of public debt," (Schedule IV, Part II, 8) excluding federal public debt and foreign loans (Schedule IV, Part I, 10). The Council of Common Interests enables consultation and information, but it does not provide provinces with a veto. From 2010, we code 1 for provinces.

AJK, the FATA, and Gilgit-Baltistan have no borrowing control.

Coding:

Provinces: 0 for 1950-2009, and 1 for 2010-2018

AJK, FATA, and Gilgit-Baltistan: 0 for all years.

Constitutional Reform

Under the Government of India Act 1935 provinces had no input in constitutional reform. This changed with the 1956 constitution. Article 216 of the 1956 constitution provides that it may be unilaterally amended or repealed by an act of parliament if such a bill counts with the support “of not less than two-thirds of the members of that Assembly present and voting, and is assented to by the President.” However, “if such a bill provides for the amendment or repeal of any of the provisions [pertaining to the provinces or its powers], it shall not be presented to the President for his assent unless it has been approved by a resolution of each Provincial Assembly, or if it applies to one Province only, of the Provincial Assembly of that province” (C1956 Art. 216(1)). Therefore, each provincial assembly could veto provisions that affected all provinces and each province could veto a provision that affected only itself, and hence, provincial assemblies score 4 on multilateral and bilateral constitutional reform from 1956 to 1958.

The 1962 constitution did away with the constitutional veto for provinces. A constitution “may be amended by an Act of the Central Legislature” with two-thirds of the votes or, if president and parliament cannot agree on the text, the president can put the parliament’s bill to a referendum with the electoral college (C1962, Art. 208, 209). Provinces can only veto changes to their boundaries (C 1962 Art. 210). Therefore, provinces score 0 for 1962-1973.

The 1973 constitution restores a collective provincial veto over constitutional change. An amendment requires the approval of two-thirds of the members of the Senate. An amendment may originate in either House (C 1973 Art. 239(1)), but each House needs to endorse it by at least two-thirds of its members before it is presented to the president for assent (Art. 239(2-3)). An amendment that would alter the boundaries of a province requires the assent of at least two-thirds of the provincial assembly of that province (Art. 239(4)). **Provinces score 3 on multilateral constitutional reform from 1974 to 2018, except for periods of martial law.**

Gilgit-Baltistan, Islamabad FCT, and FATA do not have constitutional control.

Azad Jammu Kashmir has bilateral control over constitutional reform, which can be interpreted as either full or partial.^β The 1949 Karachi agreement did not envisage change – after all, the partition of Kashmir in one area controlled by Pakistan and another by India was meant to be temporary. However, the constitution of Pakistan stipulates that the relationship between Pakistan and AJK “shall be determined in accordance with the wishes of the people of that State” (C 1956, Art. 203, C1962, Art. 221; C1973 Art. 257). In the spirit of the Karachi agreement, these “wishes” would be in the shape of a referendum. From this perspective, AJK would score 3 on constitutional reform. The provisions are less tipped in favor of AJK with respect to the interim Constitution. The procedure is set out in Art. 33 of the Constitution. The initiative for an amendment may come from either the Council or the Assembly. The president then summons a Joint Sitting of Council and Assembly, and if the bill is passed by a majority of the votes, it is presented to the president for assent. The big hitch is that if the reform touches Art. 31 (division of powers), Art. 33 (amendment procedure), or Art. 56 (laying out Pakistan’s responsibilities), the government of Pakistan must provide prior consent. Since the three provisions are central in

defining the relationship between Pakistan and AJK, we weigh them heavily when scoring constitutional reform, hence the score of 2.^β

While the rules are less explicit for the period preceding the interim constitution, scholarly discussion suggests that also before 1975 the consent of the government of Pakistan was essential, and in many cases, the government was the driver of changes in the Rules of Business (Mahmud 2006: 111-12; Sharma, Hassan, Behuria 2019: 11). Legally, every change required promulgation by the President of AJK, but until 1970 oversight by the Pakistan government over both the legislature and the presidency was equivalent to direct control (see above). We start scoring limited AJK control over bilateral constitutional reform after the 1970 Azad Jammu and Kashmir Government Act was passed, which lifted direct control by the central government. **Hence AJK scores 0,0 for 1950-1969, and 0,2 from 1970 (except for military rule during 1978-84).**

Gilgit-Baltistan appears to have no control over constitutional reform. The 2009 Order gives sole authority to amend the Order to the government of Pakistan (GB 2009, Art. 93) and no court—whether in GB or in Pakistan—“shall call into question or permit to be called into question, the validity of this Order” (Art. 95(2)).⁵⁰ The 2018 Order contains no such explicit provisions, but there is also no mention of consultation.^α **We score 0 on constitutional reform.**

Coding

Provinces: 0 for 1950-55; 4 for 1956-58 (units); 0 for 1959-73; 3 for 1974-77; 0 for 1978-85; 3 for 1986-99; 0 for 2000-02; 3 for 2003-2018.

AJK: 2 for 1950-2018 (bilateral), except for 1978-1984 (martial law).

Gilgit-Baltistan: 0

⁵⁰ The 2018 Order that replaced the 2009 Order was written by the federal government, albeit informed by a report from the GB Assembly and after gaining the advice of the Minister for Kashmiri affairs. It was approved by the federal cabinet and endorsed by the National Security Council, and finally promulgated by the local Legislative Assembly (Kumar Sharma et al. 2019: 199-201). The final Order diverged significantly from the recommendations in the GB Assembly’s report, which provides further indication of the limited influence—informal as well as formal—by GB on its own status.

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		Institutional depth	Policy scope	Fiscal autonomy	Borrowing autonomy	Representation		Self-rule
						Assembly	Executive	
Two units (West and East)	1956-1958	2	3	2	1	2	1	11
	1959-1961	1	0	0	0	0	0	1
	1962-1969	2	2	2	1	1	0	8
Provinces	1950-1955	2	3	0	0	2	1	8
	1956-1969	0	0	0	0	0	0	0
	1970-1971	1	0	0	0	0	0	1
	1972-1973	1	0	0	0	2	0	3
	1974-1977	2	2	2	1	2	1	10
	1978-1984	1	0	0	0	0	0	1
	1985	1	0	0	0	2	0	3
	1986-1999	2	2	2	1	2	1	10
	2000-2002	1	0	0	0	0	0	1
	2003-2009	2	2	2	1	2	1	10
	2010-2018	2	3	4	2	2	2	15
Azad Jammu Kashmir (AJK)	1950-1960	1	0	0	0	0	0	1
	1961-1969	1	0	0	0	1	1	3
	1970-1974	2	4	0	0	2	2	10
	1975-1977	2	1	2	1	1	1	8
	1978-1984	1	0	0	0	0	0	1
	1985-2018	2	1	2	1	1	1	8
Gilgit-Baltistan (GB)	1950-1973	1	0	0	0	0	0	1
	1974-1993	1	0	0	0	1	0	2
	1994-2008	1	0	0	0	2	1	4
	2009-2017	2	2	2	0	2	1	9
	2018	2	2	2	0	2	2	10
Federal Capital Territory (now: Islamabad)	1950-2014	1	0	0	0	0	0	1
	2015-2018	2	1	2	1	1	1	8
FATA	1950-2018	1	0	0	0	0	0	1
PATA	1950-2018	1	0	0	0	0	0	1
Divisions	1950-1959	1	0	0	0	0	0	1
	1960-1969	1	0	0	0	1	0	2
	1970-1999	1	0	0	0	0	0	1
	2000-2008	0	0	0	0	0	0	0
	2009-2019	1	0	0	0	0	0	1
Districts	1950-1959	1	0	0	0	0	0	1
	1960-1969	1	0	0	0	1	0	2
	1970-1978	1	0	0	0	0	0	1
	1979-1988	2	1	1	0	1	0	5
	1989-2000	1	0	0	0	0	0	1
	2001-2008	2	2	1	0	1	2	8
	2009-2010	1	0	0	0	0	0	1
Districts in Punjab	2011-2012	1	0	0	0	0	0	1
	2013-2015	2	1	1	0	0	0	4
	2016-2018	2	1	1	0	1	1	6
Districts in Sindh	2011-2012	1	0	0	0	0	0	1
	2013-2015	2	2	0	0	0	0	4
	2016-2018	2	2	1	0/	1	1	7

Districts in Balochistan	2011-2014	2	2	0	0	0	0	4
	2015-2018	2	2	0	0	1	1	6
Districts in Khyber Pakhtunkhwa	2011-2012	1	0	0	0	0	0	1
	2013-2014	2	2	0	0	0	0	4
Districts in AJK	2015-2018	2	2	0	0	2	2	8
	1950-1989	0	0	0	0	0	0	0
Districts in Gilgit-Baltistan (below population criterion)	1990-2018	1	0	0	0	1	0	2
	1950-2018	0	0	0	0	0	0	0
Subdistricts	1950-1959	1	0	0	0	0	0	1
	1960-1969	1	0	0	0	1	0	2
	1970-1978	1	0	0	0	0	0	1
	1979-1988	2	1	1	0	1	0	5
	1989-2000	1	0	0	0	0	0	1
	2001-2008	2	1	1	0	1	2	7
	2009-2010	1	0	0	0	0	0	1
Subdistricts in Punjab	2011-2012	1	0	0	0	0	0	1
	2013-2015	0	0	0	0	0	0	0
Subdistricts in Sindh	2011-2012	1	0	0	0	0	0	1
	2013-2018	0	0	0	0	0	0	0
Subdistricts in Balochistan	2011-2018	0	0	0	0	0	0	0
Subdistricts in KP	2011-2012	1	0	0	0	0	0	1
	2013-2014	2	1	1	0	0	0	4
	2015-2018	2	1	1	0	2	2	8
Karachi Metropolitan Corporation (Sindh)	1980-1988	2	1	1	0	1	0	5
	1989-2000	1	0	0	0	0	0	1
	2001-2012	0	0	0	0	0	0	0
	2013-2015	2	1	1	0	0	0	4
	2016-2018	2	1	1	0	1	1	6
Lahore Metropolitan Corporation (Punjab)	2013-2015	2	2	1	0	0	0	5
	2016-2018	2	2	1	0	1	1	7
Quetta Municipal Corporation (Balochistan)	2011-2014	2	1	0	0	0	0	3
	2015-2018	2	1	0	0	1	1	5
Peshawar City District (KP)	2013-2014	2	1	0	0	0	0	3
	2015-2018	2	1	0	0	2	2	7
Municipal Corporations (Baluchistan: 4)	2011-2014	2	1	0	0	0	0	3
	2015-2018	2	1	0	0	1	1	5
Municipal Corporations (Sindh: 9 & Punjab: 11)	2013-2015	2	1	1	0	0	0	4
	2016-2018	2	1	1	0	1	1	6

		Law making						Executive control		Fiscal control	Borrowing control		Constitutional reform		Shared rule	
		L1	L2	L3	L4	L5	L6	M	B		M	B	M	B		
Two units (West and East)	1956-1958	0	0	0	0	0	0	0	0	0	0	0	4	0	4	
	1959-1973	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Provinces	1950-1955	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
	1956-1958	0	0	0	0	0	0	0	0	0	0	0	4	0	4	
	1959-1973	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
	1974-1977	0.5	0.5	0.5	0	0	0	1	0	0	0	0	0	3	0	5.5
	1978-1985	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	1986-1999	0.5	0.5	0.5	0	0	0	1	0	0	0	0	0	3	0	5.5
	2000-2002	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2003-2009	0.5	0.5	0.5	0	0	0	1	0	0	0	0	0	3	0	5.5
	2010-2018	0.5	0.5	0.5	0	0	0	1	0	0	0	1	0	3	0	6.5
Islamabad FCT	1950-2018	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
FATA	1950-2018	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Azad Jammu & Kashmir	1950-1969	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
	1970-1974	0	0	0	0	0	0	0	0	0	0	0	0	2	2	
	1975-1977	0	0	0	0	0	0	0	1	0	0	0	0	2	3	
	1978-1984	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
	1985-2018	0	0	0	0	0	0	0	1	0	0	0	0	2	3	
Gilgit-Baltistan	1950-2008	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
	2009-2017	0	0	0	0	0	0	0	1	0	0	0	0	0	1	
	2018	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

National legislature has: L1=regional representation; L2=regional government representation; L3=majority regional representation; L4=extensive authority; L5=bilateral regional consultation; L6=veto for individual region. Total for shared rule is either multilateral (M) or bilateral (B).

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