

DEVOLUTION OF POWER IN POLITICAL SYSTEM OF PAKISTAN AND IMPLEMENTATION CHALLENGES

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ABSTRACT

This paper focuses on the fact that Local Government system through devolution of powers is the real solution for the socio-political and economic catastrophe of Pakistan. The ongoing efforts for transferring of power and authority from federal / provincial levels to local governments under 18th amendment are not up to the mark. Devolution is a vital step to strengthen the democratic process and making governance structures more responsive to the needs of the people. In addition to review the history of Pakistan's devolution efforts and recent legislative changes, the paper draws attention to assess the needs of local government and the future of the devolution process. Through comparative GAP analysis we have made an endeavor to throw light on the Local Government's attributes. We have also highlighted the challenges and given the recommendations to improve the Local Government system in Pakistan.

INTRODUCTION

1.1 Introduction

Devolution or decentralization, the statutory delegation of powers from the central government to regional and local governments, aims to make governance structures more efficient and responsive to local needs and socio-economic uplift. Devolution of authority to local tiers of government is particularly vital in heterogeneous countries like Pakistan, where large segments of the population remain marginalized by centralist and patronage based governance mechanisms. Decentralization of power and responsibilities is considered fundamental in achieving true democracy at the grassroots level by policy analysts, researchers

and international financial institutions. Democratic devolution is defined as a strategy that brings service delivery closer to consumers, improves the responsiveness of the federal government to public demands, improves the efficiency and quality of public services and empowers lower units to become more involved. Most importantly, it significantly adds to a democratic culture at the local level. Effective evolution needs to be accompanied by administrative and fiscal decentralization. The recent wave of decentralization in most developing countries preferred a devolutionary form of decentralization.

Local government is a form of public administration that forms the third tier of government system at the grassroots level. Local government is taken as the administration at the lowest level; it is the best place to address local issues, problems and concerns. Only representatives at the local level can be well aware of the local context, culture and local issues and can formulate effective strategies for the welfare and development of the people. Democratic decentralization is defined as a strategy that brings customer service delivery closer, improves the central government's response to public demands, improves the efficiency and quality of public services, and allows lower units to get more involved'.

Pakistan's experience with devolving power under both its military regimes and democratic governments remains lackluster. Since coming into power in 2008, democratically elected governments agreed to devolve power from the center to the provincial level but have not given the desired attention to this important aspect. Despite impediments and threats to the autonomous functioning of local governments, support for devolution is of critical significance to the deepening of democratic structures and institutions along with the cultivation of potential democratic leaders. Until the introduction of the 18th amendment, the system did not focus on Local Governments as a separate tier of the Government with independent authority, power and responsibilities. However, it is constitutionally binding that Local Government elections be carried out and local bodies be formed to run the civic affairs of the country. Studies on the subject reveal that the failure of decentralizing occurs due to inadequate local government framework, ineffective implementation or capture of local government by interest groups or a

combination of these factors. This results in the inadequate delivery of services at the local level and failure to strengthen grassroots democracy.

1.2 Problem Statement

Political system at grassroots level is very important for the growth and maturity of any democracy. In Pakistan this important level of governance has always been a neglected aspect. Contrary, a strong local government provides necessary civic services to the people, which is again almost a non-existent feature in most parts of the country. Therefore, an in-depth study is being carried out to evaluate the progress of devolution of power in Pakistan under different regimes, its progress and the implementation challenges confronted.

1.3 Objectives

- i. To study the history of devolution of power in Pakistan under different governments.
- ii. To determine the implementation challenges confronted by the political system of Pakistan in adopting the 3rd tier of government in true letter and spirit.

1.4 Research Questions

- i. How devolution of power progressed under different regimes in Pakistan?
- ii. What are the challenges faced by the political system of Pakistan in implementing the 3rd tier of government in true letter and spirit.

LITERATURE REVIEW

2.1. **Importance of Decentralization or Devolution:** Decentralization or devolution of power / authority from central to local governments is vital to ensure “good governance”. Proponents of devolution aim to facilitate greater accountability from elected officials and to increase the efficiency and effectiveness of government services by bringing governance mechanisms closer to the citizens (Ali Cheema, Asim Ijaz Khwaja & Adnan Qadir, 2018). Moreover, empowered and well-functioning

local governments can serve a number of broader political economy goals enhancing equity and social equality by restructuring the state to prevent elite led capture and allowing marginalized and otherwise disgruntled segments of society a greater say in governance. Populous and heterogeneous developing countries like ours, need several layers of local governments both for improving the effectiveness of social service delivery and for alleviating the underlying causes of regional, ethnic, and socio-economic issues.

2.2. History of Delegation of Power in Pakistan

i. Pre-Independence Era

- a. The history of local government in this area goes back to the middle of the second millennium BC. When the Aryans first introduced the system of local government in the Indian subcontinent. The local government system in India was very extensive compared to other parts of the world. Afterwards, a comprehensive local government system was being practiced in the Subcontinent under the Mughal Empire.
- b. The British administration formed municipalities in 19th century, although they were never substantively empowered, had extremely circumscribed functions and were dominated by appointed officials. It was the deputy commissioner (DC), a district level representative of the central bureaucracy, who acted as the principle organ at the local level during the colonial era. However, the rise of the nationalist movement during the early 20th century led to increased demands for greater political space at the national and provincial levels, little consideration was paid to the need for enhancing political ownership of government at this level (Nadeem Malik & Ahsan Rana, 2019).

ii. Post-Independence Era

- a. **General Ayub's Government:** After independence, the first serious focus on local governments was given under the martial law of 1958, which emphasized the need for representative politics at the local level while disbanding central and

provincial level assemblies. The Basic Democracy Ordinance 1959 established new local governments. The Basic Democracy Ordinance of 1959 established new local governments. General Ayub Khan dissolved the parliament of his elected government in 1959 and restored the local government as the only representative level of government. His aim was to manage the center and develop loyal leadership at the local level. General Ayub later he introduced the Local Government Ordinance of 1960. It included a rating system with four interconnected levels. The lowest levels were union councils contained selected members. The members of the Union Council elected the Chairman Among themselves; some senior members of the local government were indirectly elected by these directly elected members and some government members nominated by the government. Overall, following the colonial legacy, local governments came under the control of the bureaucracy. At the district and divisional level, the Deputy Commissioners and Chief Commissioners (Bureaucrats), respectively, had the power to revoke any action or decision taken by the local councils.

- b. **Regime of General Zia Ul Haq:** Another military led government under General Zia Ul Haq revived the local government system from 1977 to 1988. Like General Ayub, General Zia undertook political centralization at the federal and provincial levels while instituting electoral representation at the local tier. In fact, local governments continued to lack constitutional protections, and their creation / maintenance remained at the whim of provinces, which retained suspension powers (Nadeem Malik & Ahsan Rana, 2019).
- c. **Democratic Governments 1988-99:** During the democratic period from 1988 to 1999, four democratically elected governments came to power, but none focused on the local government system. They preferred to rely on provincial elites using their local patronage system to keep them in power.

- d. **General Musharraf's Rule:** The next time Pakistan experimented with devolution was under General Pervez Musharraf. His decentralization was also a strategy to legitimize centralized power, as he did not transfer power from the federal level to the provinces and instead focused on the creation of local governments across the country. Yet the Local Government Ordinance (LGO) 2001 passed early in his tenure was quite ambitious in scope. LGO-2001 not only grants constitutional rights to local government, it also allocates a significant proportion of seats in local government to women (33%) and, to a lesser extent, to minorities, religious and other marginalized communities (such as farmers and workers). It also generated avenues for the direct involvement of citizens in the process of social service delivery through the formation of citizen community boards, which worked with local governments to execute community development projects. In order to give strength to the system, huge resources were allocated for building the capacity of local bodies officials and elected representatives, to finance participatory projects in LGO-2001. However, political parties continued to view those developments with suspicion.
- e. **Democratic Era:** Local government elections were due to be held again in 2009, but following the 2008 general election the mainstream political parties agreed to postpone the elections till the local government system would be amended. The local governments were then disbanded in July 2009 by the government led by the Pakistan People's Party (PPP), and the bureaucracy stepped in to run things until the local governments can be re-established (Nadeem Malik & Ahsan Rana, 2019).

2.3 Devolution Process under 18th Amendment

- a. Pakistan was created by joining different territories and some autonomous states. The main aim of the emergence of Islamic Republic of Pakistan was to keep the federation strong. However, since then social in-justice has been prevailing as the

federation could not pay due attention towards socio-economic development. Moreover, a demand was being evolved to gain provincial autonomy by the stakeholders specifically Sindh and Balochistan. At last under the government of Pakistan Peoples Party, 18th Amendment was approved with the consensus of all main stream democratic political parties in 2010. Basically, this process was about to restructure the main governance system of the country and to enhance the supremacy of Parliament. In this amendment 102 articles were modified and 47 provincial subjects were devolved from federal to provincial level.

- b. Undoubtedly, there is a huge impact of 18th amendment towards the political stability in the country. The main example of Balochistan is so obvious, that so many politicians from Balochistan are in the main stream politics. The basic purpose of introducing the 18th amendment was the equal distribution of all resources among the provinces on the basis of their population (Prof. Dr. Razia Musarrat, Ghulam Ali & Muhammad Salman Azhar, 2012).
- c. This significant amendment has strengthened the Parliamentary form of government and the restored the actual face of the democracy. While, the main Presidential powers have been devolved to Prime Minister even the powers of dissolving the assembly were given to the Parliament. After the election, if the President do not summon the session, the National Assembly will as a rule conduct its first session within 21 days. However, the role of holding the referendum has also been granted to the parliament and a joint session will precede it. The President works as a head of the state and will be informed with matters regarding external and internal as well as legislative matters. After the expiry of the tenure of existing assembly the election will be held within 90 days.
- d. The procedure of the appointment of judges remained quite complex since the creation of Pakistan, however, after the 18th amendment a free and fair judicial commission has to be constituted for the nomination of judges. A very positive

development is a joint committee with the representation from both government and opposition leaders, authorized for the appointment of judges.

- e. Another old problem regarding identification of different ethnicities across the Pakistan was addressed in this amendment. More importantly, the demand of people from Pashtun areas regarding their identity by changing the name of province from North Western Frontier Province (NWFP) to Khyber Pakhtunkhwa (KP), so an amendment brought to change in article 1 and it was also approved by the Parliament. Another demand from the south region of Punjab was to create a Saraiki province to address the cultural identity problem as well as the equal distribution of resources (Razia Sultana, 2021). In this regard, a parliamentary commission was established having all the stakeholders from that region. The purpose was to create a consensus among all the political parties, but unfortunately this issue has been used as a political card and every political party is doing blame game and point scoring instead of addressing the core issue.

2.4 Aftermath of 18th Amendment: It has been 12 years that most of the federal subjects have been devolved to the provinces and they are responsible for the making policies regarding health, agriculture, education and tax & excise etc. As per the basic theme of 18th amendment, after the decentralization of federal powers towards provinces, there is an obligation of the provinces to devolve relevant powers to the local governments in order to put into practice the real essence of 18th amendment as well as decentralization of NFC award. However, this important aspect is still lacking (Sajida Begum, Muhammad Imran Ashraf & Waseem Ishaque, 2018).

2.5 Devolution under Democratic Governments: The 18th amendment devolved significant power from the federal to the provinces and was lauded as a necessary step to overcome Pakistan's authoritarian legacy of excessively centralized governance. The amendment also required the creation of local governments by the provinces to bring government closer to the people (although it did not specify the framework / time-frame for execution). The lack of a

constitutionally mandated time-frame delayed local government elections. Balochistan passed its Local Government Act in less than a month after parliament passed the 18th Amendment Act, but the remaining provinces took another three years to do so. Lack of political will among ruling political leaders in the other three provinces delayed local elections for even longer, until they were ordered by the Supreme Court. KP held local elections in May 2015, while Punjab and Sindh held their elections in late 2015. However, even after these elections, the provinces did little to facilitate the process of making the local governments truly functional. By early 2016, owing to long delays in the transfer of power and funds to local governments, the Supreme Court again ordered the provinces to speed up the transfer of authority to the local governments (Syed Mohammad Ali, 2018).

2.6 Present Situation: If we observe the efforts of previous government with regards to devolution, the half-hearted intent can be seen. Most of the local government representatives did not even have offices to work from. Local government system remains ignored by yet another elected government. After taking over the government by coalition alliance no major effort has been made in this regard. However, local bodies’ elections are being conducted in different areas in phases.

2.7 Existing Local Government System of Pakistan: Pakistan is a federal republic with three levels of government: federal, provincial and local bodies. Local government is protected by the constitution in Articles-32 and 140A. Presently, the local government systems in each province have variance. Both (urban and rural) local governments have two or three tiers in all provinces less Khyber Pakhtunkhwa (KP), where councils are not identified as either urban or rural. Province wise detail is given as under:-

Province/ Region	Metro- politan Corpo- rations	District Municipal Corpora- tions/ Municipal Corpora- tions	Municipal Committ- ees	Town Committ- ees	District Councils	Tehsil/ Town Councils/ Union Committees	Union Councils	Village/ Neighbo- urhood Councils
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Punjab	1	11	182	-	35	-	4015	-
Sindh	1	9	36	148	24	351	1175	-
KP	-	-	-	-	25	70	-	3339
Balochistan	1	4	57	-	32	-	635	-
ICT	1	-	-	-	-	-	50	-
Total	4	24	275	148	116	421	5875	3339

2.7.1 **Punjab:** Local government tiers and number of representatives are given as under:

- i. Metropolitan Corporation - 1
- ii. Municipal Corporation - 11
- iii. Municipal Committees - 182
- iv. District Councils - 35
- v. Union Councils - 4015

Province/ Region	Metropolitan Corporations	Municipal Corporations	Municipal Committees	District Councils	Union Councils	Total
Chairman / Vice Chairman	274	460	-	3281	-	
General	1644	2760	3587	19686	-	
Women	548	920	657	6562	6562	
Peasants & Workers	274	460	215	3281	3281	
Youth	274	460	182	3281	3281	
Non-Muslims	274	460	222	3281	3281	
Total	3288	5520	4863	39372	16405	69448

2.7.2 **Sindh:** Local government tiers and number of representatives are given as under:

i.	Metropolitan Corporation	-	1
ii.	District Municipal Corporation	-	9
iii.	Municipal Committees	-	36
iv.	Town Committees	-	148
v.	District Councils	-	24
vi.	Union Committees	-	351
vii.	Union Councils	-	1175

Province/ Region	Metropolitan Corporations	District / Municipal Corporations	Municipal Committees	Town Committees	District Councils	Union Committees	Union Councils	Total
Chairman / Vice Chairman	02	18	72	296	48	702	2350	
General	209	351	602	984	1175	1404	4700	
Women	69	116	201	332	389	702	2350	
Peasants/ Workers	10	19	40	148	58	351	1175	
Youth	10	19	40	148	58	351	1175	
Non- Muslims	10	19	40	148	58	351	1175	
Total	310	542	998	2056	1766	3861	12925	22478

2.7.3 Khyber Pakhtunkhwa (KP): Local government tiers and number of representatives are given as under:

i.	City District Councils / District Councils	-	25
ii.	Tehsil / Town Councils	-	70
iii.	Village / Neighbourhood Councils	-	3339

Province/ Region	District Councils	Tehsil / Town Council	Neighbourhood Councils	Union Councils	Total
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General	1017	1017	3891	20118	
Women	343	349	1008	5994	
Peasants & Workers	62	89	504	2997	
Youth	62	89	504	2997	
Non-Muslims	62	89	504	2997	
Total	1546	1633	6411	35103	44693

2.7.4 **Balochistan:** Local government tiers and number of representatives are given as under:

- i. Metropolitan Corporation - 1
- ii. Municipal Corporation - 4
- iii. Municipal Committees - 57
- iv. District Councils - 32
- v. Union Councils - 635

Province/ Region	Metropolitan Corporations	Municipal Corporations	Municipal Committees	District Councils	Union Councils	Total
Chairman / Vice Chairman	02	08	106	64	1270	
General	58	167	820	636	5489	
Women	19	55	272	212	1774	
Peasants & Workers	03	08	57	40	635	
Youth	03	08	57	40	635	
Non-Muslims	03	08	57	40	635	
Total	88	254	1369	1031	10438	13180

2.7.5 **Islamabad Capital Territory (ICT):** Local government tiers and number of representatives are given as under:

- i. Metropolitan Corporation - 1
- ii. Union Councils - 50

Province/ Region	Metropolitan Corporation	Union Councils	Total
Mayor / Dy Mayor	4	-	
Chairman / Vice Chairman	-	100	
General	50	300	
Women	17	100	
Peasants & Workers	03	50	
Youth	03	50	
Non-Muslims	03	50	
Technocrat	01	-	
Total	81	650	731

ANALYSIS

3.1 Challenges for Local Government System

Despite many imperatives for devolving power to well functioning local governance structures, the ability of the current devolutionary setup (in the backdrop of 18th amendment) to function effectively continues to face several challenges, particularly in the areas of capacity and revenue generation, and effective social service delivery.

- i. **Institutional Incapacity within the Provinces:** Whenever any country is going to decentralize its governance system, there is dire need to build institutional capacity to govern. After 18th amendment, many ministries transferred from central to provincial level without any prior ground work. Same is the case with devolution of powers from provincial to local tier.

- ii. **Devolution without Solution:** This is another serious challenge hindering the decentralization process. Therefore, the situation is still vague even after completion of 12 years of commencement of this devolutionary process.
- iii. **Revenue Generation Issues:** Effective local governments cannot exist without substantive fiscal and administrative devolution. They also need capacity development to enhance their responsiveness and effectiveness. The issues of capacity and revenue generation are interlinked, the increased capacity of local governments can enable them to raise more of their own resources; the greater availability of their own resources in turn increases their capacity to more effectively address the needs of their constituencies. However, there are limited means available for local governments to generate resources, as well as limited capacity to effectively utilize the resources available to them.
- iv. **Service Delivery:** There is an immense unmet need for more effective delivery of social services across the country, with vast segments of the population lacking adequate health and education services and basic infrastructure for clean water and sanitation. Local representatives have the potential to be more responsive, accessible, and accountable for improved social services to the citizenry than upper tiered politicians based in provincial and federal assemblies. The varied tiers of the local government system can also help make the distribution of social services more equitable as well and, in turn, ease the problems of resource grab and asymmetrical development.
- v. **Mechanisms to Ensure Accountability:** There has to be a comprehensive accountability mechanism to monitor the devolving fiscal powers to local governments.
- vi. **The Issue of Representation:** Most democratic systems struggle with balancing the influence of majority and the preservation of minority interests to prevent their marginalization. While Pakistan has small religious minorities, many other marginalized groups in the country in fact comprise a significant proportion of the population. The

local government system must accommodate these marginalized segments of society through quota based appointments.

- vii. **Devolution and National Integrity:** After the implementation of 18th amendment, it has been observed that rather competing each other in a positive manner, provinces give excuses, like, the lack of resources, financial insecurity, balance of power and authoritative control and so on. But, having a state with different cultural and regional dynamics it is necessary that there should be a national integrity for a prosperous and autonomous state. This can be achieved once the lowest tiers work as per their mandate.
- viii. **Training Standards of Local Officials:** The local government procedures are multifarious and complicated. Mostly the political representatives at this level lack requisite familiarization with rule / regulations and education about their job.
- ix. **Involvement in the Projects:** There is no proper involvement of local government representatives in development projects. Therefore, they remain secluded and non-productive.
- x. **Direct Participation of Citizens:** There is no direct formal involvement / participation of the population in routine matters at local level, which can be a very productive forum.

3.2 Gap Analysis

Devolution of power in the political system is the true spirit of democracy, however, all the provincial governments remained hesitant to let their own power devolve further to lower tiers. Politicians at the higher tiers of government seem to prefer relying on their existing top-down, patronage-based networks to dealing with another tier of intermediaries at the municipal level. They also feel threatened by the empowerment of another tier of governance, which could, in turn, lead to the emergence of new political leadership, may threaten the structures and legacies of existing political parties. Even though local governments are formed on a party basis,

politicians at the national and provincial levels still feel compelled to dominate local elected representatives.

Like the mainstream political parties, the federal and provincial bureaucracies have also been reluctant to embrace the idea of devolving power to local government representatives. It has been observed that voters also value members of the national (MNAs) and provincial assemblies (MPAs) more than their local government representatives, mostly because the MNAs and MPAs are vying to provide resources and services that lower tiers of government cannot.

The reasons of failure to decentralize the authority include inadequate local government framework, ineffective implementation or capture of local government by interest groups or a combination of these factors. The gaps analyze is given as follow:

- i. Institutional incapacity and lack of effective coordination between the federal government and provinces.
- ii. The matter is highly politicized and lack of will by democratic governments to devolve power to this tier.
- iii. Rift between provincial and local officials having different political affiliations.
- iv. Deficiency of resources with local governments.
- v. Lack of involvement of citizens in local government system..
- vi. Conflict between bureaucracy and elected politicians.
- vii. Requirement of training of the local representation.

CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

The concept of decentralization or devolution is very renowned in the progressive countries. They have believed that unless there is no decentralization, it is completely impossible to develop the socio-economic standards of the country. Devolution or decentralization is a vital step for strengthening the democratic process and making governance structures more responsive

to the needs of the people. In comparison to federal and provincial governments, local government is more accessible, more sympathetic, and quicker to respond to local needs. As a result, services are underserved at the local level and grassroots democracy is not strengthened.

4.2 Recommendations

Pakistan's local governments are due to face another election cycle, and general elections are also around the corner. As the 2023 general elections draw nearer, many independent observers feel that a centralizing dynamic is reasserting itself, with mainstream party machines shifting their focus on winning seats in the national and provincial assemblies. The antagonism that exists between rival parties, coupled with the fact that provincial governments yield significant power over local governments, means that local governments will again experience a squeeze of funds and further encroachment on their authority.

Still, the fact that the 18th amendment to the constitution explicitly recognizes the need for Pakistan to have local governments, together with the active interest the Supreme Court took in ensuring that local government elections take place, is an encouraging precedent. Some of the recommendations in this regard are given as under:

4.2.1 Federal Level Institution to Oversee the Devolution Process: Devolution will only take root in all provinces with standardization if there is a central coordination mechanism. So that all local governments devolve power to similar administrative levels and that local governments are appointed for similar tenures. The National Reconstruction Bureau, established by the Musharraf government as an independent federal agency to formulate LGO-2001 and oversee its implementation, was dissolved in 2011. It must be made without prejudice to the principles of provincial autonomy as set forth in the 18th Amendment to the Constitution.

4.2.2 Provision of Financial Resources Required to Serve the Constituents: Local governments currently have immense unmet financial needs. Local governments also need the authority to generate their own sources of revenue.

4.2.3 Mechanisms to Ensure Accountability: The process of devolving fiscal responsibility to local governments needs to be managed with caution. Financial devolution must be accompanied by financial oversight. It is thus important to supplement existing accountability mechanisms, using third-party and citizen audits of local governments.

4.2.4 Meaningful Role of Local Governments in the Projects: Local governments in large cities do not recognize the need for a separate authority to manage the transport system and other local government functions, but the creation of organizations such as the Punjab Mass Transit Authority (PMTA) has allowed local governments to integrate with provincial level programs. The involvement of local governments in state-led programs is a more noteworthy and promising idea. But in any case, local governments need to ensure that they have real financial and decision-making power in these partnerships, not just token stakes.

4.2.5 Need for Better Trained Local Officials: The enormous capacity limitations of existing local governments must also be addressed, not just to improve the performance of municipal governments but because these tiers of government serve as incubators for future provincial and national leaders. While donor agencies are working in some provinces to build capacity, there is need for creating sustainable institutional mechanisms for capacity building across all the provinces.

4.2.6 Citizen Engagement at the Grassroots Level: Provincial local government acts need to create platforms for enabling community engagement with local governments, such as the Citizen Community Boards formed under the LGO 2001. These entities would also need continuous support and technical assistance, which could be provided through civil society organizations, with local support.

4.2.7 Social Audits can play the crucial role towards the success of local government system. These audits are done by comparing Government data with actual ground realities. Local governments with their limited scope turns out to be a positive element as, the population of that area can volunteer to report the ground realities.

4.2.8 **Balance of power and authority** among various administrative actors is essentially required i.e. elected member, civil bureaucracy working at the level of local government.

4.2.9 **Reserved Seats to be Occupied by the Marginalized Groups:** Provincial officials need to amend local government acts as necessary to allow candidates indirectly elected for reserved seats to be able to act on behalf of their constituencies rather than remaining dependent on patronage or bound to the agendas of the politicians who nominated them.

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