INTRODUCTION

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Colonialism and Emasculation of Political and Religious Institutions in Northern Nigeria

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ABSTRACT

Purpose: Colonialism, a phenomenon which has long gone remains an interesting subject of debates especially among the African scholars. This is perhaps, due to the aggressive nature in which colonialism violently altered the evolutionary destiny of the African states. Any study that carefully dig deeply can easily come up with an area of contribution regarding the subject matter of colonialism in Africa. This study specifically explored how colonialism emasculated the political and religious institutions of Northern Nigeria with a view to ascertain the current crisis of identity that the region is facing.

Design/Methodology/Approach: Descriptive analytical design was adopted, thematic analysis and a qualitative content analysis method was used in this study which analyzed critically the various views and dimensions on the role played by colonialism in the emasculation of political and religious institutions in Northern Nigeria.

Findings: The results revealed that Northern Nigeria had a well-articulated and functioning political and religious institutions prior to the emergence of the exploitative colonialism. The British colonialist supervised the destruction of these heritages and replaced them with the alien ones that failed to function well leading to crisis of identity.

Implications/Originality/Value: So it is concluded that colonialism succeeded in damaging the Northern Nigerian heritage and that there must be a reversal towards that indigenous culture and social settings for Northern Nigeria to record a meaningful progress in the 21st century.

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Introduction

Colonialism is the most truncating phenomenon in the African history because it had altered the classes, institutions, structures and systems that were heritage of the Continent and created alien values of the colonialist operation (Ake, 1981). Colonialism is a violence, it came to Africa by violence, it was institutionalised by violence and it was countered in many places through greater spontaneous violence (Fanon, 1972). Through the process of colonialism, the black African was uprooted and misplaced from his culture and inheritance. He could not be placed back to his origin nor arrived at the white man’s destination that he is aspiring to be (Fanon, 1972). Colonialism is the loss of internal political control of Africa by the natives and the takeover of the control of political affairs of the African Continent by the European colonisers in their scramble for domination of global influence (Nkrumah, 1965). However, colonialism is not only the control of political affairs of the African territory. It is linked with economic goal by the Europeans which underdeveloped the African economic, political, historical, social and cultural progress while developing the European counterparts in the process (Rodney, 1976). The Africa’s contact with Europe through colonisation exposed the resources of Africa for exploitation and opened up the African market for European expensive goods. The political independence that was heralded with euphoria of celebration for self-rule was short-lived and was strangled by the external control of the African economy from Europe and America (Nkrumah, 1965). The story of African destiny is incomplete without the mention of the role of colonialism in shaping its religion, institutions (including traditional or royal) and political structures. Before the emergence of colonialism in Africa, there were kingdoms and chiefdoms as well as religious practices and beliefs in addition to educational and social settings. Colonialism affected and influenced most of them in either a positive or negative way (Harris, 1987).

Nigeria is one of the colonies of Britain which was submerged and brought under the control of British by early 1900s after lots of struggles for resistance in both the Southern and Northern parts of the territory (Crowder, 1975). The British in the late 1800s secured the control of many territories in West Africa and that guaranteed for the introduction of colonial government in Gold Cost (later Ghana), Niger-Benue (later Nigeria) and some other places in the Sub-region (Crowder, 1986). The British colonisers captured Lagos by 1869 and advanced into the hinterland of Southern Nigeria and by 1890s, the whole Southern territory comprising of the present-day South East, South South and South West were successfully brought under colonial control (Coleman, 1960). The early 1900s set the foundation for the capture and total control of the Northern territory comprising of the present-day North East, North Central, North West and Federal Capital Territory Abuja (FCTA) by the British colonial government in West Africa (Falola & Heaton, 2008). Prior to the emergence of British colonialism in Nigeria, there were plethora of kingdoms, chiefdoms, societies, organisations, religious practices especially traditional African religion, Islam and Christianity (Dudley, 1976). The British colonialist introduced their own pattern of law, politics and educational institutions different from what were purely obtained in pre-colonial Nigeria. These structures succeeded in altering the Nigerian political, economic, social and cultural structures in modern times (Adamolekun, 1983). Northern Nigeria is the biggest territory and a largest colony of British in West Africa before the 1914 Amalgamation. In 1914, the British Colonial Governor in Nigeria, Sir Frederick Lord Lugard decided to merge the Southern and Northern Protectorates and declared them the Colony of Nigeria (Heussler, 1986). The Northern territory of Nigeria has a centralised administration under the former Fulani Sokoto Caliphate, Kanem Borno, Hausa Kingdom and other kingdoms in Tiv, Nupe, Jukun and others. Islam was established in the North arguably since 10th century AD or even before according to different accounts (Vaughan, 2017). The Northern Nigeria contact with British colonialism altered the faces of the political and religious institutions through the introduction of English Case Law and providing it with supremacy over the native laws as well as the introduction of several colonial policies (Ubah, 2008). This study is an attempt at establishing
the connect or the link between the British colonial rule and the emasculation of the political and religious institutions in Northern Nigeria. This is because the Northern Nigeria is believed according to many historical accounts to have the most organised and enduring political administration before the emergence of colonialism and it has the most lasting and ancient religious practices for many centuries before the coming of colonial rule. However, few years after the colonial contact, these religious and traditional or political institutions were relegated and altered in their structure and influence by the British laws. The spillover effects of the change in Northern political and religious institutions are still palpable in many ramifications in contemporary Northern Nigeria. This calls for a research to investigate the nature of the problem and its dimension. The research adopted many approaches. Oral interview was conducted with some Northern stakeholders selected based on proximity and possession of vital information. Archives on colonial policies in Northern Nigeria were consulted in the Arewa House in Kaduna. Additionally, documented sources were used such as books, journals, internet sources and reports. The data gathered were analysed using content analysis.

The Pre-Colonial Religious and Traditional Institutions in Northern Nigeria

The religious and political institutions in Hausaland can be traced historically up to the beginning of nineteenth century. There were never a united and complex political entity in the Hausaland from 11th century. Several kingdoms such as Katsina, Kano, Zazzau, Daura, Zamfara, Gobir, Bauchi, Jukun, Igala, Ibira, Tiv and other smaller kingdoms in the North struggled for supremacy and control of a larger empire unsuccessfully. One kingdom or state usually supplanted the other in the rivalry. It was the Zazzau under Queen Amina that succeeded for the first time in unifying the larger Hausa kingdom (Adeleye, 1969). Islam was older in the Hausaland than the united Hausa Kingdom. In one of the accounts (Adeleye, 1969), Islam was introduced in Bornu around eleventh century and in Hausaland in fifteenth century. In another account, the date of the introduction of Islam in Borno pre-dated 11th century. It was linked as far back as 7th century AD during the period of Caliph Umar (Oral Interview, October 2020 in Gombe). The contact with the Arab merchants from North Africa in a trade relationship paved the way for the embrace of Islam in the Borno and Hausaland. The kings, their courtiers and their subjects accepted Islam in large number which gradually turned Islam into an official religion of many palaces in Hausaland. (Falola, Mahadi, U homoobihi & Anyanwu, 2014). The strength of the Islamic religious belief, the benefits of writing and reading Arabic and “Ajami” (an Hausa version of Arabic writing), the use of Arabic as lingua franca of diplomatic relationship among the component ethnic groups, external relationship and the versatility of the Islamic laws as a tool for political integration and the respect of identification as a kingdom with an internationally recognised religion all propelled the acceptance and romance of Islam with the ruling class in Hausaland (Adeleye, 1965).

The spread of Islam in Hausaland did not erode the traditional values of Hausaland. The kings had maintained their royal vigour in their palaces and were still obeyed as the rulers of the kingdom. Taxes were continually collected by the kings from farmers and businessmen (Eluwa, Ukagwu, Nwachukwu & Nwaubani, 2013). The Hausaland was politically organised. There were hierarchies of power sharing in the Kingdom. There is the King or the Emir, the Waziri (Vice), Magatakarda (Secretary), Galadima (Chief Protocol), Sarkin Yaki (Commander of Army), Yarima (Prince), Sarkin Fada (Chief of Staff) and several other ranks in a hierarchy with a clear division of labour and responsibilities (Abubakar, 2004). The existence of a centralised and an organised political system in Hausaland motivated the British to introduce the Indirect Rule policy for an easy task of administration (Tamuno, 2004). Islam was practiced but it was limited to a certain extent in terms of pure practice and spiritualism. A mixture of myths and tradition was obtained together with Islamic practice in the Hausaland before the famous Sokoto Jihad of the 19th century (Gbadamosi & Ajayi, 2004). Islam was practiced more in terms of strict adherence in Borno in the 19th century than in Hausaland (Abubakar, 2004).
As a result of the decay in the practice of Islam in the Hausaland, a reform movement emerged in the 19th century under the stewardship of Sheikh Usman Dan Fodio. After his educational sojourn in West African States of Mali, Timbuktu and Songhai, Sheikh Dan Fodio returned home and embarked on a radical preaching against the Habe rulers in Gobir and Sokoto Province for allowing myths and traditional practices to be mixed in the palaces against the pure teachings of Prophetic Sunnah. The response of the Habe rulers against the perceived threat of the Sheikh led to a violent clash which later turned into the famous 19th century Sokoto Jihad (Adeleye, 1965). The Jihad permeated the entire Hausaland and reached down to the Adamawa Province and some parts of Bornu, Ilorin in the Central Nigeria and Niger. Several lieutenants of the Sheikh such as Yakubu in Bauchi, Bubayero in Gombe, Bayero in Kano, Modibbo Adama in Yola and others conquered the parts of Adamawa areas for the Sokoto Caliphate. The consequences of the Jihad led to the political and religious reforms that lasted long until the emergence of colonial rule which introduced some policies that weakened the influence of Islam and Hausa political adventure. Some of these reforms included the installation of the Fulani religious clerics at the helm of political leadership in Hausaland and Ilorin since the Jihad to the present date. Additionally, the Jihad set the foundation for the intensive teaching and practice of Islam in a purified manner. The palaces were turned into a court of jurisdiction for Islamic law. Emirs became judges in the palaces. Islamic scholarship was excellent during the period (Adeleye, 1965). When the colonial rule came into the Hausaland, there was a stiff resistance from the Sokoto Caliphate because of the perceived implication of colonialism. The British colonialist suppressed the resistance until 1902 when the last resistance movement by Attahiru II was surmounted by the West African Frontier Force (WAFF), the British Royal Colonial Force established to capture the West African Territory. The Caliphate administration was halted and British colonial rule was introduced which diminished the powers of the Emirs and Islamic law.

Northern Nigeria Under Colonialism

The British colonialism succeeded in bringing together the various ethnic groups and kingdoms in West Africa under a merger of colonial states. One of them is Nigeria in West Africa where a large geography was merged together to form a colony. However, the British was known for its policy of colonial administration which differs from that of French in West Africa. The British introduced Indirect Rule. The Indirect Rule became more convenient for applicability in Northern Nigeria owing to a centralised existing administrative structure (Crowder, 1986). The British colonial governor himself in Nigeria Lord Lugard mentioned in his message to one of the introduced policies of Native Law in Northern Nigeria that they didn’t came to distort or disrespect the existing administrative, judicial, religious and cultural structures and institutions of Northern Nigeria. Rather, they had come to uphold them and honour them and they shall continue to respect them (Kirk-Greene, 1970). Later developments proved otherwise. Although, the British colonial administration respected the Hausaland heritage in Northern Nigeria and had made some negotiations with the Sokoto Caliphate leadership in some parts of the North, the gradual relegation of the Emirs as subordinate to colonial administrators and politicians succeeded in eroding their ultimate values and positions. Likewise, the deployment of English law and acceptance of Islamic law to continue to operate where it was not repugnant to the modern British law gradually diminished the total and full application of Islamic jurisdiction.
especially in matters of criminal cases (Adeleye, 1965).

Lugard earlier on reiterated that the most concern of the British reforms and laws in Northern Nigeria was political (Kirk-Greene, 1970). On religious issue, they accepted that the Islam was deeply entrenched and the Missionary activities had reached some parts of the North. Since their goal is not religious expansion but political and economic, the British colonialist did not find it expedient to continue with the expansion or propagation of Christianity. Nevertheless, the introduction of Western English schools in Northern Nigeria contributed in the conversion of some parts of Northern Nigeria into Christianity during the colonial era (Abubakar, 2004). In an Archived notes found in Arewa House in Kaduna, a comprehensive British colonial policy in Northern Nigeria was obtained and studied thoroughly by this research including the Duties of Residents, Books Returns and Office Records, the Law and the Courts of Justices of the Protectorate, Notes on Judicial Procedure, the System of Tribute and Taxes, Duties of Political Officers and Miscellaneous, Education, Taxation, Native Courts, the Position of Native Chiefs, Customs, Roads, Currency, Minerals, Titles to Lands, Government Stations, Fulani Rule, Canoe Registration, Cantonment Magistrates, the Native Revenue Proclamation, Native Law in Northern Nigeria, the Use of Armed Force, Native Administration and Forestry (Kirk-Greene, 1970). Perusing through the above laws in detail will arrest this work for so long. However, a succinct analysis of the laws revealed that the structures of the administrative system in Northern pre-colonial Nigeria was severally altered in the proclamation by Governor Lugard. The Emirs and the Emirates were turned into tax collectors and assistants to the political office holders and the colonial administration. Islamic religion which was referred to as the source of law and legal interpretation was placed behind the English law.

It should be noted that the Northern Province of Nigeria came under British influence or control through the conquest by force. The defeat of the Northern army specifically the Sokoto Caliphate weakened the forces of law and order in Northern Nigeria. It has also diminished the powers of the Emirs seriously (Abubakar, 2004). The British conquest grounded the Chieftaincy in Northern Nigeria to its knees particularly during the period of First World War. During the process of the occupation of Northern Nigeria by British colonialist, many Emirs were deposed despite their sacred sanctity during pre-colonial period. By 1906, more than ten Emirs were deposed and replaced by British front men (Abubakar, 2004). This removal of Emirs during colonialism in Northern Nigeria had a sharp effect on Nigerian royal institutions after political independence. The Nigerian politicians followed the style of British and continue to depose Emirs at will without regard to the heritage of the institution. Muhammad Mustapha Jokolo, for instance, the Emir of Gwandu was deposed by the Governor of Kebbi State because of misunderstanding with the former President Obasanjo in 2005. Few days into the 2020, the Emir of Kano Malam Muhammad Sanusi II was deposed by the Governor of Kano Dr. Abdullahi Umar Ganduje on political issues. Earlier in 1962, his grandfather, Malam Muhammad Sanusi I was deposed by the Northern Premier Sir Ahmadu Bello. Many State Governors deposed first class and second class Emirs on their political ambition because of an alleged perceived insubordination as they used to cite for the reason of the action. The removal of many Emirs in Northern Nigeria distorted and confused the traditional political system in the region. The argument that the Emirs were deposed because they refused to cooperate with the British colonialist is not scientific. For instance, it was factually established that Sokoto and Kano wanted to avoid hostilities with the colonialist but Governor Lugard did not make enough efforts to establish peace between them. He rather preferred a forceful conquest to perpetuate British power in the region than negotiation. This is because he knew the position of the Emirs in the heart of the natives. Conquest by force will transfer peoples’ allegiance to the British instead of the Emirs (Abubakar, 2004). Indeed, Lugard was quoted to have said that “the Fulbe Emirs lost by defeat what they had won by conquest” (Perham, 1960). The above statement clearly indicated
that the British colonialist deliberately refused to enter into negotiation with some Emirs in the North during colonial rule especially the Sokoto Caliphate for fear of losing control or allegiance. The Emirs under British rule in Northern Nigeria had little power. All the new Emirs installed by British had to swear an allegiance with Quran and in the name of Allah (SWT) and His Messenger (PBUH) that they will serve his Majesty and to truly serve his Representative the High Commissioner (Abubakar, 2004).

In the judicial aspect, the British did not abolish the Qadis or the judges representing Islamic courts and Islamic laws but they had introduced the English case law and made it supreme over the Islamic law. There is also the Supreme Court in the Protectorate headquarters which has the power of judicial precedence over the native courts in Northern Nigeria (Abubakar, 2004). By interpretation, the Islamic law was not tempered by the British colonial rule in Northern Nigeria but it was systematically and strategically disempowered and relegated to become a second-class law in the land where it was hitherto, the major source of law. Additionally, the British policy of Indirect Rule in the North is a matter of convenience due to shortage of administrative manpower and to cleverly make the natives feel still under the allegiance of their indigenous rulers when in reality, the powers were usurped through the backdoor policies. Colonial administrators even the indigenous ones are revered more by the colonial government than the Emirs. This has a lasting effect on the future destiny that shall befall the traditional institutions in Northern Nigeria. Equally, Islamic religion as the major source of law was faded to the background. Even the attempts to restore the Shari‘ah law as it was found initially during pre-colonial era was not only resisted in the current era but it was also frustrated. The movements by some sects like Izalah and Islamic Movement of Nigeria (IMN), the Shi‘ite to restore the modern version of pure Islamic teaching could not place Islamic law or Shari‘ah courts back to their pre-colonial position. It was seemingly a dead blow that could never be recovered from purposely orchestrated by the colonialist (Oral Interview, October 2020 in Kaduna).

**Colonial Policies on Religious and Traditional Institutions in Northern Nigeria**

The British introduced several policies after the successful control of the Northern Region in 1902 when the Caliphate was finally defeated by the colonial army. The policies altered the pre-existing order of religious and political settings (Last, 1997). The Emirs were subjugated and forced to surrender to the British administrators who became their supervisors and policymakers. Additionally, the Caliphate was not totally abolished but it was weakened behind redemption under the colonial rule in Northern Nigeria (Encyclopedia Britannica, 2019). The institutions of politics and administration that were organised and structured according to the indigenous values and culture were replaced with the strange British system which made governance in favour of the colonialist despite the flexibility of the Indirect Rule policy (Afigbo, 1991). The British colonialist themselves were mesmerised and fantasised with the level of aristocracy, sophistication, organisation, and religious practice in the Sokoto Caliphate during their first contact than the war-torn Southern part of Nigeria (Harvard Divinity School, 2020). The pre-colonial era in Nigeria was a period of historical boom, economic prosperity, political organisation and religious spiritualism and any history that attempts to study Nigeria in its three historical epochs should not forget about the above concept even if it were altered by colonial vicissitudes of policymaking and administration (American Historical Association, 2020). There is no doubt that Islam was secularised or the Northern Nigeria was secularised by the British colonialist through the introduction and reforms of Islamic criminal law in the Provinces where the English law was given an upper hand over the Islamic law in the process (The American Society for Legal History, 2019).

After the successful submission and take-over of the Northern Region by the British colonialist, some changes or policies were introduced. These changes consisted of political restructuring and
religious changes. The Protectorates were divided into Provinces each under a British Resident. The Provinces were further regimented into divisions with each division under the command of the British District Officer who in turn was responsible for the Resident. In this process, most of the Emirates fall under divisions of their own. Gradually, the District Officers overpowered every officer in the District including the Emirs. Like masters over their houseboys, the District Officers turned the Emirs into their subordinates because they were supervising and watching over the affairs of the Emirates as superior officers. The Residents were powerful because they were strengthened with the presence of military in the Districts who helped them in the administration process. Conversely, the natives were not allowed to maintain armies. Thus, in the Northern Provinces, the British created small elites that had power and responsibility over the Emirates. This was alien to the history and culture of Hausaland since centuries immemorable. The Emirs, chiefs and other traditional title holders lost their right to their throne until they became submissive and loyal to the British colonial administration. The powers of the Sokoto Caliphate were finally buried during the colonial era when in 1903, the Caliph Attahiru Ahmadu was killed at Burmi. The qualities and charisma of the institutions of the Caliphate and the Emirate government were greatly undermined and seriously eroded. To worsen the situation, the newly appointed Caliph, Attahiru II was denied the title of ‘Sultan’ purposely. His superintendent role of supervising the Emirs and the Emirates ceased to exist since then (Abubakar, 2004). From the religious viewpoint, the colonial policy in Northern Nigeria was an emasculation of the Islamic religious supremacy in turn for a British supremacy. For instance, in the 19th century, the Caliph was the political head of state or the Caliphate and the religious leader of the Northern community as well as the supreme judge of the Shari’ah whose duties included the appointment of Emirs and the enforcement of Islamic law. By 1903, these powers of the Caliph were gone forever and the Muslim community was left without a leader that can unite their religious and political affairs. The deliberate destruction of the powers of the Caliph and the Caliphate was not a mistake but a reflection of the history because the British were aware of the same structure and its impact on the life of the Muslims from their experience with the Ottoman Empire. It was a targeted and orchestrated movement to forever take over the control of political and economic affairs of the colony. As a result, the new ruler at Sokoto was titled Sultan and just made a first-class Emir whose authority was now confined within the provinces or districts of Sokoto alone. Other rulers were allowed to take over influence in their respective districts. The Caliphate was scattered like the stranded shepherd’s flock of sheep in the jungle. The resultant effects of the decimation of the Sokoto Caliphate was the disconnection of communication flow between the Sokoto and the Emirates in favour of the British. Since the Emirs were each isolated from the Caliphate and each other, they lost control of the will to resist the policies and changes introduced by the British colonialist (Abubakar, 2004). In post-colonial period, the authority of the Caliph or the Sultan was restored under the Jamaatul Nasril Islam with Headquarters in Kaduna but the internal state politics had further created a chasm among the royal institution in modern times.

Some of the policies introduced by the British colonial administration in Northern Nigeria were on slavery, justice and taxation. These policies had negative impact on the powers of the Emirs. As earlier observed, Lugard introduced many policies in the Northern Native Administration which were detrimental to the system that was met on ground during the colonial contact and conquest. The British abolished the legal status of the slavery, prohibited slave dealings and declared all children born after the policy as freed sons. In the judicial reform, the British maintained the Qadi system which were in most cases operating the Maliki School of Jurisprudence, they only established the English courts operating at three tiers. Each province had a court of jurisdiction over employees of the colonial government and as well as over the non-indigenes. A Supreme court was established in the protectorates’ capital. In these English courts, the Residents were the provincial law officers for their territories. However, in the Qadi courts, the Residents and the District Officers were not empowered to play a role, they were allowed
access to the records of the proceedings and were directed to ensure that certain canonical punishments such as stoning to death for adultery and amputation of limbs for stealing were not implemented (Kirk-Greene, 1970). Such stringent deterrence of the application of the punitive laws were contrary to the belief, practice and provisions of the Islamic law and religion. It was a call to riot and revolt against the God’s law upon Muslim by aliens who conquered their land forcefully. If the modernity as claimed by the British colonialist will erode or supersede over such laws and punishments, the natives should be allowed to determine that and not necessarily super-imposed upon them. On the issue of taxation policy, Lugard made it unequivocal that the British is sovereign and that it has power over the appointment of Emirs and all officers of state. He further emphasised that the British administration had ultimate right to all lands, the right of legislation and taxation and the liberty to determine the allocation and sharing formula. The customary taxes and tributes such as Kharaj (land tax), Jizyah (poll tax), and aman (trust) ceased to be paid to the Emirs who used to receive them under the Bornu and the Sokoto Caliphate (Kirk-Greene, 1970). In the Middle Belt (an area which today consists of the North Central Nigeria of Plateau, Niger, Benue, Kogi, Nassarawa, Ilorin and Abuja), the influence or the powers of the Northern Emirs was curtailed and the spread of Islam was halted through the creation of small chiefs who were friendly to the British colonialist and hostile to the Fulani dynasty. By about 1920, the British had succeeded in limiting the influence and territory of the Northern Emirs in the boundaries of the Middle Belt to decrease their powers more except in Ilorin which was controlled earlier by the Sokoto Caliphate (Adeleye, 1965).

**Impacts of Colonialism on the Changing Face of Religious and Political Institutions in Northern Nigeria**

Colonialism has played a monumental role in shaping the modern history of Northern Nigeria in terms of influencing the religious and political institutions that were found in the pre-colonial era. The colonialist did not hesitate in creating artificial boundaries neglecting the homogeneity of ethnic, religious, linguistic and geographical identity of the colonised. The Europeans blindly remapped the African Continent carelessly without recourse to political, social and cultural background of the colonies. In essence. The colonialists went ahead to alter them unfavourably for the indigenes (Miles, 1987). There were many attempts to manipulate and make the caricature of the African history and intelligentsia by some European chauvinist in attempting to alter the face of scientific history but that does not hold much water when the negative impacts of colonialism is mentioned. One of such works (Heussler, 1986), had the effrontery to boldly assert that “the Africans made nonsense of their history by leaning much of their problems to colonialism and by overplaying the negative role of colonial rule indicating that it has no any positive impact on Africa”. The work further chides the African intellectual for not recognising and appreciating the role played by the Europeans in the progress of the African Continent. In response to the above prejudices and ethnocentric eulogy, this work asks three questions from the writer of such apology; 1. Did the Africans invited the colonialist to occupy their territory and why did the Europeans used force, cunning and divide and rule to capture most of the African territory? 2. Were the goal of colonialism not for economic and political benefits? 3. Why did the Europeans altered the existing political, religious and cultural structures of Africa isn’t on egocentric feeling of superiority or on what purpose? These questions would be left unanswered by most of the apologies of colonialism except some uncoordinated and disjointed answers that could not satisfy even the writers themselves.

It is believed that one of the effects of colonialism in Northern Nigeria is the unintended transformation of the Empire into colony or political domination and oppression. The colonial encounter in Northern Nigeria depressed the political and religious institutions in the region. Additionally, the social transformation in terms of classes, power holding and religious position had unintended consequences for the Northern Nigeria in terms of its politics and economy.
especially during the inter-war period of economic depression. The economic recovery in Northern Nigerian colony was ushered in with the grassroots revenue offensives which did not augur well with the colony and its natives (Ochonu, 2009). The many challenges and unpalatable changes brought by colonialism in Northern Nigeria led to responses from various classes and groups. Most Northern Nigerian Muslims were constrained by the clear supremacy of colonial rule. In trying to entrench its rule in Northern Nigeria, the British introduced policies that pose great challenges for Northern Muslims. One of these challenges is the military challenges where the British forces found it relishing in using mighty force as against persuasion. This had created several massacres in the region during the conquest. The second challenge is the political issue via the Indirect Rule where the Northern Emirs found it hard to resist or support the second class role accorded to them after the establishment of the colony of Northern Nigeria. The third challenge is the British control of Islam in the North. As many have seen British as patronisers and supporters of Islam during colonialism, it was an inadequate argument to accept that because the British found it comfortable to use Islam to control the majority Muslim subjects and their Emirs in the North under the famous Indirect Rule. One of the ways is the British tax policy in which Lugard stressed that although, Islamic taxation law can be applicable, it was not the source of authority for taxation law under British colonialism. Besides, there were evidences of intelligence gathering against the Ulamaas (Islamic clerics) and Islamic Movements in Northern Nigeria by the British Administration especially on the Sufi order. Furthermore, the Islamic law faced the legal challenges of the British colonialism. Lugard himself narrated that before the colonial take-over in Northern Nigeria, there were native courts in each capital city, and in many of the principal towns, Islamic law is administered by a native judge called the ‘Alkali’ who is usually a person of a great learning and integrity. In some courts, the Alkali has ‘Almajirai’ who learnt under him. In some cases, two or more ulama were invited for judgement while in other cases it is appealed to the higher authorities in more learnt centres. Having found this system, the British went ahead to draft proclamations and introduced English law as well as provincial supreme courts which clashed with the Islamic law and courts (Umar, 2006).

The British colonisation in Northern Nigeria created the foundation for the agents of modernities in the region through the fragmentation of the sacred authority. The former political institutions were submerged under colonialism and in political independence, under the powers and control of the indigenous Nigerian politicians. The religion which was an official source of law and judgement in pre-colonial Northern Nigeria became a second class law under the Shari’ah courts in post-colonial period. The puritanical movement of the Izalah sects in post-colonial Northern Nigeria failed to restore religion into its sacred sanctity as an official legal provisions for judgement (Kane, 2003). Consequently, colonial policies on Islam in Northern Nigeria created a future chasm with the Christian counterparts in post-colonial Northern Nigeria. Evidence supported the fact that the pre-colonial Northern Nigerian Islam lived peacefully with the minority Christians and traditional worshippers before the divide and rule colonial policies which set them apart in later years leading to post-colonial violent clashes and conflicts (Nwachukwu, 2013). The political and religious crises in Northern Nigeria could have been averted if there was no diplomacy of partition by Britain and France in West Africa. Lack of geographical consideration of cultures and identities or deliberate attempt at division led to this policy. The aftermath of such partition is the deepening political and religious crises in Northern Nigeria. The Southern counterparts could not cope or accept the sophisticated complex political and religious organisation of the North and that left the British with the option of slowing and altering the political and religious institutions in the North to reduce the parity in the colony (Hirshfield, 1979). The structure of Northern Nigerian politics, administration and religious institutions were dealt a permanent blow emanating from the single-handed efforts of Lugard during his administration as the Governor of Nigerian Colony. These political and religious institutions were never recovered again even in post-colonial period (Apata, 1990). The British colonial
administration in Northern Nigeria disregard the fact that Islamic legal provisions on certain issues and punishments were God enjoinder and that one cannot forcefully push a believer into disbelief if he feels he is free and at liberty to practice his religion. A Muslim believer who submitted himself for amputation or stoning to death is doing so at his own will. Yet, The British went ahead to sanction and regulate this aspect which weakened the Shari’ah law in the region (Weimann, 2010).

The British could not tolerate opposition from the internal rulers who felt that their mandate of leadership was forcefully robbed in a broad daylight. This created the scenario of deposing some rulers which later was to continue even under the indigenous leadership in the name of politics. While in Yorubaland there was such a provision under the Oyo Kingdom that if the Alafin is deposed, he is expected to go and die, in the colonial period, he is to be vanished which countered the culture of the kingdom. In Northern Nigeria, rulers were not deposed. They either die or they are removed for corruption or they had their throne transferred as a punishment where they would be taken to a less influential emirate instead of their own. It was the colonialist that introduced the issue of deposing kings who had opposed their colonial ambition (Oduwobi, 2003). The resistance to colonial movement and revolutionary defense against the British colonial rule in Sokoto Caliphate was an anticipated defense against the obliteration of the political and religious systems that the colonialist met on ground which were flourishing and prosperous in their operation. The institutions were internally built and were sustained according to natives’ culture and history. However, all the resistances were surmounted by the mightier British force which led to the undesired changes on the part of the Northern Nigerian politics and religion even in post-colonial era (Lovesjoy & Hogerndorn, 1990). It is quite clear that the British did not come to Northern Nigeria just for economic exploitation or political emasculation as some academics are advancing. Neither did they come to civilise or set the foundation of modernising our societies as some of their writers are working hard in vain to make the world believe. Behind the mask of their motive was the subterranean distortions and manipulation of our inherited political institutions and religious practices. They disguised their motive through the Indirect Rule and the creation of Native Administration. They exhibited friendly gesture towards Islam in the North. However, gradually, unnoticed and unable to counter the progress, they keep on introducing laws and proclamations that ensure that the political institutions were subjected to their wish, the religious practices were curtailed and capsized until they became lame in the process. This has affected the current Northern region in its politics, religious practices and economy. We need to look inward and restrategise (Oral interview on October 2020 in Kano).

Conclusion and Recommendation
The study contributes to the existing body of works on Northern Nigeria history particularly under colonial rule which has not received adequate attention it deserves from the Nigerian intellectuals. The study concludes that the Northern Nigerian region’s contact with British colonialism was an obliterating phenomenon that truncated and altered its evolutionary destiny through the creation of classes, institutions and structures that became subservient to British colonialism. In the process, the well-articulated and respected political institutions in Hausaland met by the British were gradually weakened and diminished until they became less relevant except ceremonial. Contemporarily, the royal institution in Northern Nigeria had been turned into an avenue for supporting the politicians and royal regalia only during ceremony. This scenario was created through colonialism. Another vital heritage of the North, Islam as a religion, source of law, judgement and spiritual practices was drowned into coma and dragged into the mud of British colonial administration which it could never slipped from until political independence. By the time of political independence, the Islamic principles and practices were injured to the extent that they could never regain their status as reflected in the pre-colonial Sokoto Caliphate.
To this end, the Northern Nigeria could not continue to lament or cry of history. Action is needed and a prompt one. The society is now a heterogeneous one with multi-religious, multi-ethnic and multi-political settings. Restoring the exact Sokoto Caliphate system is impossible but there is a way of reviving the sanctity of the Northern political and religious institutions. One of them, is the constitutional provision that will make the royal institution in Northern Nigeria independent of the political intervention. The kingmakers and the tenure, appointment and removal of kings should be restored back to the institutions and not politicians to reinvigorate their independence and freedom. Another way of doing it is to refer Nigeria back to parliamentary system in British model where the top three monarchs in the North, West and East and South South can become like the Queen in England in terms of dignity and respect. They may rotate the position as they deem it fit. Additionally, the North still has Shari’ah courts and has the leverage of constitutional application of Islamic law if it wishes. It is high time to reflect on that appropriately.

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Parliamentary Democracy in Developing Countries: Comparative Study of Pakistan and Bangladesh (2008 to 2013)

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**ABSTRACT**

**Purpose:** Parliamentary democracy is one of the unique forms of democracy. It is practiced in various countries of the world successfully. Like Australia, Canada exercises it in very effective manner. Pakistan and Bangladesh both countries are practicing parliamentary democracy. This research paper made comparison between Pakistan and Bangladesh and also find out reasons that weakened the democratic system in both developing countries like non democratic attitude of their political leaders, poverty, corruption, injustices, lack of education, dictatorship and terrorism that destabilized the parliamentary system in both countries.

**Design/Methodology/Approach:** Historiography serves as an ideal approach here, given the subjects of the cases being used in this study. It employs a critical, selective reading of sources that synthesize particular bits of information into a narrative description or analysis of a subject.

**Findings:** In Pakistan parliamentary democracy restores in 2008 and eighteen amendments is the good initiate to strength the democratic trend. In fact, in the first time in the history of Pakistan a democratic government complete it tenure. Politics of reconciliation play very vital role in Pakistan. In contrast, in Bangladesh parliamentary democracy restore since 1991 but the political leaders highly mistrusted each other and involve in corruption activities. Abolishment of caretaker government is another critical issue in Bangladesh.

**Implications/Originality/Value:** Both countries tried to achieve the parliamentary democracy but both countries should struggle more for institutionalization of parliament for strong the parliamentary democracy in both countries.
Introduction

A parliamentary system is a system of democratic governance of a state where the executive branch derives its democratic legitimacy from legislature (parliament) and is also held accountable to that legislature. In a parliamentary system, the head of state is normally a different person from the head of government. In parliamentary form of government, the legislative and exclusive are deeply close to each other. All function of the government is performing by both organs. Such as law making, economical matter, budgetary matter, makes policies for the country and also making decision. Pakistan is a developing country and experience different form of government. Its parliamentary system is bicameral which comprise on National assembly and senate. President is the head of state and head of government is prime minister. Pakistani political system is multi-party system. Democracy is the best form of government. “A system of government by the whole population or all the eligible members of a state, typically through elected representatives”. Parliamentary democracy, “democratic form of government in which the party (or a coalition of parties) with the greatest representation in the parliament (legislature) forms the government, its leader becoming prime minister or chancellor. Executive functions are exercised by members of the parliament appointed by the prime minister to the cabinet. The parties in the minority serve in opposition to the majority and have the duty to challenge it regularly. The prime minister may be removed from power whenever he loses the confidence of a majority of the ruling party or of the parliament.” Parliamentary democracy originated in Britain and was adopted in several of its former colonies. Politics of Bangladesh takes place in a framework of a representative democratic republic, whereby the Prime Minister of Bangladesh is the head of government, and of a multi-party system. Executive power is exercised by the government. Legislative power is vested in both the government and parliament. The Constitution of Bangladesh was written in 1972. Both countries experience parliamentary democracy and have weak political system. Both countries struggle for parliamentary democracy. There are lots of similarities between political systems of both countries. Role of opposition is weak in both countries.

Parliamentary Democracy in Pakistan

Parliamentary democracy is a system of government in which representative of the parliament is directly elected by the people. Prime minister is elected by the member of the parliament. Parliament did many important tasks like law making, policies formulation and it also takes many important decisions of the development of the country. Different types of democracy have been implemented in Pakistan in different phases. During the regime of Ayub Khan (1962), there was presidential democracy in Pakistan.(Khattak, 2016) He presented presidential form of constitution. Presidential democracy is an important form of government in which president is the strongest men of the country. All the power is under the hand of the president. President appoints the members of the national assembly. People are directly elected to the head of the executive. However, president is independent body form the legislative. Democracy took centuries in western countries to make it advance shape. Now, advance level of democracy belonging to the western countries. However, democracy is beneficial for the whole world but there is questions mark on its present status. Until now, democracy contributed many things for the welfare of the western societies (Nation, February 17, 2012). )The evolutions into democracy make possible that common people choice their future leadership. Common man of any state prefers his personal interest while casting vote and choose his leadership. The example can be seen in the recent election of the Donald Trump as the president of US. The result of the presidential election is surprise for many.
While in the third world countries situation is totally change. This system is adopted by many of developing countries without bring any change but it is failed in practices. People have many expectations from their leaders in developing countries. Sometimes these demands are fair and sometime unfair. Political leader makes false promises to nation and spending millions for their victory in election. There are also many other factors like lack of education, corruption, ethnicity, baradarism and crookedness of candidates that can affect the result of election.

Pakistan got independence after the long struggle. After the independence, West and East part of Pakistan was furthered divided into states, Pakistan and Bangladesh. If researchers have a glance over the parliamentary democracy in both the countries: it is not in its original form. After experience of different political systems, Pakistan returned to parliamentary form of government. Its constitution of Islamic republic adopted Federal parliamentary system in 1973. Seventy years in the history of Pakistan, it experienced both political systems (Presidential and Parliamentary).(sayeed, collapse of parliamentary democracy in Pakistan, 2011) However, there was not any fault in any political system but problem was existed in its implication. Furthermore, the ruling classes miss used power and authority.

The presidential system of Pakistan went ahead by the Martial Law Administrator but that was violently oppose by the political elites of the country as they considered that they had the right to rule over the country. There is no doubt, that local body system is significantly important and basic core of democratic system and it provides a nursery of the future leadership. Local bodies system was always introduced in presidential system or dictatorship. In a presidential system, power is transferred to the grassroots level. But in a presidential form of government, the president was commonly ex-military man and does not decentralize the power. It was justified and legitimates their rule. While in Pakistan the elected members of national assembly and provincial assembly were not ready to share their power with political workers on grassroots level. Basically, the responsibility of the members of the parliament is legislation but they are more interested in developing project and corruption. Yet, they are pertaining to their voter for further election. On the other hand, everywhere in the world, developing work remains under the control of local government but in Pakistan despite of fully two tenure of parliamentary democracy the local body system has ignored due to the some political reasons.(Khattak, 2016)

Historical background of parliamentary democracy Pakistan.

Founder of Pakistan Muhammad Ali Jinnah had to be imagined that the newly born country Pakistan should adopt the federal parliamentary democracy but it was misfortunate for Pakistan. Soon after its creation in 1948, Pakistan lost its founding father Quaid-e-Azam. Further, the first Prime Minister of Pakistan, Liaqat Ali khan assassinated in 1951. (sayeed, 2011).

After a long struggle of almost eight years, Pakistan adopted it first constitution of 1956 that was based on parliamentary form. In the constitution of 1956, the true executive power was given to the prime minister and its cabinet and the head of the state president was a ceremonial figure. But unfortunately, military overthrew the government and changed the political system of Pakistan from federal parliamentary system to central presidential system. These military regimes (1958, 1962, and 1969) were not given the chance to flourish the true democracy and adoption of parliamentary system.(Khattak, 2016).

Ayab khan introduced the constitution of 1962 which was totally based on central presidential system. The constitution of 1962 was the brain child of military dictator.(Hussain, 2011) With the passage of time, political leadership and masses stood against the center base policies of Ayub Khan. After the War of 1965, politicians, masses, student federations raised their voice against
the wrong decisions of the regime. After a new martial law of 1969, general elections were conducted and new leadership was emerged in form of Zulfikar Ali Bhutto. While, under the charming leadership of Zulfikar Ali Bhutto, all political parties of the houses adopted the constitution of 1973 that not only change the political system but also re-introduced parliamentary system in the country. But the civilian rule was very short under the parliamentary system. Further, Pakistan national alliance (PNA) alleged that there was an electoral ragging. Military dictator made the base with the help of these allegations, Zia ul Haq threw the government of Z.A Bhutto in 1977. He imposed the martial law in the country and dissolved the parliament of Pakistan and also suspended the constitution. Like other dictators, he had not any respect of the constitution. Zia ul Haq made promise to the people of Pakistan that he would restore the democracy in country and held new election after 90 days but the election was put off for eight years. (Hasan Askari Rizvi, May 2013).

With the help of right wings, he used the parliament as rubber-stamp and passed the 8th amendment. Under the eighth amendment parliament gave the right to the president to dissolve the national assembly and president also had the right to appoint the Chief Services of military, judges and provincial Governors under the Clause 58 2(B). It was only because he wanted to empower the president. Parliamentary system was change into Semi presidential system with the approval of 8th amendment.

General Zia ul Haq died in a plane Crash in August 1988. (Rizvi) This was the new phase of democratic process in Pakistan. Military was seemingly ready to hand over the government of Pakistan to people party in the leadership of Benazir Bhutto under the condition that the PPP would not disturbed the intuitional autonomy of the military but Benazir Bhutto maintained command over the military. Consequently, the government of PPP could not remain for long time. It was dismissed in 1990 because they were failed to deliver and involved in corruption. In the same way, the next tenure was taken over by PML (N) in 1990. In 1993 due to mismanagement and corruption, the government of PML (N) over threw and once again PPP came into power in 1993. (kapur) Likewise, PML (N) regime was over in 1996 with same charges. Both civilian regimes contributed little in the development of the democratic process because both the political parties had the autocratic tendencies. Most of legislation processes during the two democratic regimes were taken in the form of ordinances rather than to formulate a new law. Similarly, consensus-building and dialogs between the government and the opposition made remained at initial stage. That’s why; parliament did not become a strong institution during the civilian government.

Further, in the second tenure Main Muhammad Nawaz Sharif got, somehow, achievements to restore parliamentary democracy (1996 to 1999) with 13th amendment because the amendment reversed the change that was made by the eight amendments which made the President powerful. With new constitutional modification, President needs the advice of the Prime minister before going to take any important action. The change not only reflects the true spirit of democratic norms but also strengthen the parliamentary democracy in the country. (khan, 2009).

Unfortunately, in 1999 the military coup overthrew the civilian government. General Perviz Musharaf was not only imposed martial law and also declared himself as the Chief Executive of the state. General Musharaf dissolved the national Assembly. Furthermore, he suspended the constitution.

On the other hand, this military action was challenged by the PML (N) but there was nothing outlandish the Justice Irshad Hassan Khan justified the military action under the doctrine of Necessary and he legitimized it that President Musharaf action was taken in the best favor of the
There were two main steps under taken by the President Musharaf government which was totally changed the parliamentary form into Mix presidential form. (worth, 2007) First, was the LFO (legal frame work order 2002) and the second was 17th amendment. 17th amendment passed in December 2003 that was revised the thirteen amendment of the constitution. (Muhammad, Arshad, & Waqar, January 2014) This amendment not only affected the parliamentary democracy in the country but also legitimate the military rule. With the help of the amendment non-elected President got the chance to become the elected president with the help of vote of confident he provide the way for the legal frame work order. Furthermore, president had the power to dissolve the national assembly and the provincial Assemblies. Governor had also the right to dissolve the provincial Assembly. (Pakistan, 2003).

The Section 58(2)(b) give the way that the Prime Minister, Cabinet and the legislature performed their job in independent manners that was made parliament body unstable. National Assembly passed only 51 bills during period of five years. In the contrast, it passed 134 presidential ordinances with assent President Musharaf. Parliament did not use for the decision making and the policies formulation. It was used by the dictator to perform their undemocratic norm. In fact, the parliamentary democracy during the period of 2000 to 2007 changed into semi presidential system. In Pakistan decision making authority was vested to the hand of single authority. President Musharaf enjoyed two ranks at the same time, he was the army chief of the staff as well as he was the chief executive of the Pakistan.

In 2005, opposition party became an institution against the President Musharaf. An alliance was formulated against the military dictator and its policies. Like, he suspended the Chief Justice (Iftikhar Muhammad Chaudhry) of Pakistan, banned the media, and also mishandled the Lal Musjidh issue. ARD (Alliance for the restoration of democracy) stood against the President Musharaf. Almost fifteen political parties became the part of ARD. Two major parties Pakistan Muslim League Nawaz and Pakistan People Party were the part of the alliance. These two political parties get in same point and finally in 2006 they were able to prepare a charter of democracy with the concert of both political to restore democratic norms in Pakistan. (Najam, 2006) This charter of democracy was sign in 15 May and get significantly important in the history of Pakistan. Later on, the fifteen political parties also agree to adopt this charter in the All Parties Conference (APC). COD is third important thing in the history of Pakistan as followed the objective resolution and constitution of 1973.

NRO is a piece of formal "Arrangement" between President Musharaf and Benazir Bhutto was informed on October 2007. (Hamid), NRO was played a very vital role for the setup of new political environment in Pakistan and leading the country toward the election of 2008. (Muhammad Rizwan M. A., May 2014).

General elections were held in Pakistan in 18th Feb 2008 and ones again the parliamentary democracy restored in the country. Prime Minister Yousaf Raza Galani used his power very effectively and minimize the part of president Musharaf who failed to achieved the support of the nation but Prime minister alone was not able to sideline the president. Prime Minister Galani and his party leadership put forward the impeachment motion against President Musharaf but before impeachment Musharaf resign from his seat. PPP won majority seats and made the government and PML (N) emerged as the second majority party. In 2008 after the election both political parties sign Murray declaration to make the coalition government in central and provincial level. NFC Award was the biggest achievement to democratic government which gave due share to the provinces. Similarly, ruling government setup constitution reform committee to restore the constitution in it soul. Eighteenth amendment is the biggest achievement of the PPP government. Under eighteenth amendment not only restore the constitution into its original form as well as
strengthen the parliamentary democracy in Pakistan. First time in the history of Pakistan a
democratic government completes its five year and successfully transfer power to one civilian
government to other.

**Parliamentary Democracy in Bangladesh**

Bangladesh got its independence since 1971. Bangladesh was conceived as a parliamentary type of
government under charming initiative of Sheik Mujibur Rehman. This administration transformed into legal rational model with the theory of the office of Prime Minister by Mujibur himself. This system of Government could not continue more than four years. Prime Minister Mujibur Rehman all on a sudden changed parliamentary government into presidential government with dictator tone. His popularity faced downfall. The regime that was initiations of parliamentary democracy become the reason of “the democracy paradox”.(Islam D. M., March 2011) Then the military overtook the government the father or nation had been assassination by the military on 15 august 1975(Datta, 14 may 2003).

The popular civil government was over throw by boldly military cap. Bangladesh runs by civil military bureaucracy for 16 years. During the military rule neither the chance of free and fair election nor the rule by the will of people. During the autocracy rule people of bangles totally hope less even though they were not have the chance to raised their voice again military that create the situation very waste in Bangladesh. At last, a huge up rest and great agitation started against the Ershad rule. Finally, army dictator withdraws from the power and handed over the power to chief justices of Bangladesh Shahabuddin Ahmed.

New democratic setup comes into being in 1991. Bangladesh adopt a parliamentary democracy after a grassroots movement for democratic rule and the fifth parliament of Bangladesh made strong political system and introduced different reforms in country to strengthen the democratic system of Bangladesh.

Parliaments provide the ground for the democratic governess and it is original representative institution of democracy. Although the world returned to parliament system but the developing countries neglects the important of parliament. Developing countries of the third world adopt the parliament system of the advance countries but their elite’s classes disregard the important of parliament. Legislative had provided the important way for change form autocracy to democracy but however their role in the process of democracy make firm has not yet work properly. Consolidation used both the removal of the old system that are not suitable for the working of democratic system and the construction of new building of institution strengthen the rule of democratic. The process of democracy must have three part transparency, accountability and responsiveness’ of governance. These three parts play very vital role for the working of parliament. Parliament is the central site for the strengthen democracy. Many people think that parliament is the conflict resolution place it is very useful institution for the public. Parliament is an institution of country that had the ability to creation and maintained the organization. It provides organizational link with environment.

The parliament of Bangladesh follows the Westminster model where executive members are selected from the parliament they are answerable for it. Parliament of Bangladesh is very importance element of the country. The constitution of Bangladesh is the supreme law of Republics. It gives the immunity power to the parliament, freedom of working, right of meeting, asceticism which is acknowledge the important of secure it superior position in the frame work of governance. It brings the authority to the parliament law making process work but also to regulate its working process but also its members working. There is no need for the approval of any person outside from parliament. Constitution of Bangladesh also ensures the regularity of
parliament. Parliament session must hold within 60 days. The constitutions also give benefit to the parliament and member. Under the article 81(3) of constitution every money related bill when it is provide to president for it approval carry a certificate that under the hand of speaker it is money bill. (Islam D. M.). This type of certificate cannot be challenge in any court.

There are also some limitations of parliament by the constitution of Bangladesh. Legislature working can be review by judicially there are also some check and balance on some arbitrary exercise by the parliament. It also provide important act it confined the role of MP. A MP who elected by nominated party cannot cast vote against its party. In fact, he cannot go against the objectives of the party. The need of this restricted clause maintains the political stability in the early year of Pakistan.

Parliament of Bangladesh was immature in the beginning. In fact, in the start of 1990s there was not stable development in the parliament. Parliament of Bangladesh was predating like other developing countries of third world. From 1971 to 1990 four parliaments could not complete it five years’ term. Furthermore, all four parliaments could resolve by military or civil pressure. None of them could survive only 29 months of its tenure.

Parliament election rigged in two decades and the second and third election of parliament hold under the military dictator. General Zia ul Rehman and General Ershad both run the country from 1974 to 1990, adopted similar policies and try to mobilize people in their own favor in addition they organized political parties like Zia ul Rehman set up BNP (Bangladesh national party) and the other hand, Ershad organized Jatiyo party (JP) both dictators want the support of public from inside and outside of party. (Datta, 14 may 2003).

Parliament politics of Bangladesh started from 1990. When the parliamentary election holds in country the parliament not only, it enjoys the legitimacy and great support of public but also complete it tenure. It was the fifth parliament of the Bangladesh which survives long time as compare to last fourth parliament of country. The Awami league and Bangladesh national parties was the most powerful parties of Bangladesh and both party enjoy it mandate by public Even though fourth out of five vote get by both parties they win the majority seats in country. (Ahmed N.)

There are two important perception of democracy. First is free and fair election and the other is the rule by the will of people. In 1990 election parliamentary election succeed to win the” free and fair election’ but the other important fact was missing “rule by the majority well of people”. (Islam D. M., March 2011) Bangladesh like the other third world countries experience democracy but it fails in practice. Additionally, it faces lot of problem in it country like economic instability, poverty and unemployment. On the other hand, in the beginning Bangladesh prepared it constitution within ten months and it accomplished it 16 December 1972 which was biggest achievement for new born country. Although Bangladesh promise to democracy but there was many difficulties to follow it. UN human right charter also show in it constitution but citizen of Bangladesh clearly sees the defect of parliamentary democracy in Bangladesh by the dictatorship rule in 25 January 1975.

Fifth parliamentary elections of Bangladesh hold under the custodian government of Shahabuddin it was commendation that it was free and fair election. BNP rose as most powerful party of country. On the other hand, Awami league get only 92 seats it was the second largest party of Bangladesh. The biggest achievement of fifth parliament of Bangladesh was the twelve amendment of constitution which was restored the parliamentary democracy in Bangladesh after the 16-year democratic struggle. Beghum khalida Zia came into power in March 1991 her party
got majority seats in the parliament of Bangladesh.

Khailda Zia period was very important in the development of the parliamentary democracy it take almost three to half year to stronger the parliamentary structure of the country. In this period different committee was set up for the check the activities of the ministers these committees were structure wise very powerful but by working it lose it effectiveness. Khailda Zia government passed the antiterrorism act without the participating of opposition party it law became the black law. While the Opposition of that period was not plays an affective role. They were not only boycotts the parliament session but also not played an affective role as opposition as they should do in true democratic system. Opposition boycotted the working of parliament and set the new trend in democratic phase of Bangladesh.

First period of Khailda Zia was face economic crisis because present government fight with economic challenges which was hereditaries of old government. Northern and western side of the realm faced the natural disaster in 1991. Natural disaster destroyed 80 percent crop and thousands of people killed. (Islam D. M., March 2011)

BNP got great development into the economic front but the opposition and other political parties made problem for the government working. Opposition plays a very negative role in the development of parliamentary democracy. They boycotted the working of Fifth parliament of Bangladesh. Opposition was very vocal in their demand or they demanded constitutional guarantee for the care taker government. Also they demanded that all future election should be hold under that supervision of care taker government. Opposition left no option for the BNP to resign from the parliament and hold new election in the country. All the political parties boycotted the election. There was no doubt that BPN win the election and left the country on sixth parliament in January 1996. In that case, it was totally against the thirteen amendments which gives the right that election must be under the supervision of Non-Party care taker government. Consequently, it was dissolved and again nation was force for the seventh parliament in June 1996. (Islam D. M., March 2011).

In next election Awami league was made coalition government with the help of two parties one was Jatiyo party and other was Jatiyo Samaj tantrik Dal (JSD) in 23 June 1996, while the Bangladesh national party (BNP) received 116 seat and emerge as an opposition in the next parliament.

Awami league made coalition government of 44 ministers. Opposition gave very difficult time to Awami league and it was continuously boycott the seven parliament section. Despite all things, Awami league had faced three main challenges. Firstly, she institutionalizes the parliamentary democracy in the country. Secondly, she restores the economic development in the state and lastly, to maintain the law and order situation.

BNP give very difficult time to Awami league as an opposition because they were much depressing with the result of election in August 1997 and were several time boycotted the seventh parliament. Firstly, they refused the proportional representation into the parliamentary committees. Secondly, parliamentary proceedings were coverage by electronic media that temper the government. On the other hand, the speaker of parliament biased against the Treasury Bench members. In spite, all of this in 1998 the Awami league took initiative to stop any deadlock about the office of speaker of assembly. As a result, Bangladesh national party brings up three conditions toward the ruling party. The first condition was they want withdraw from all famous cases on their political leader and law makers. The other condition that they demanded allow to hold a political relies into two streets which were banned by government and the last demand was
that they appeal to reconstruction of the bridge toward the tomb of late Ziaur Rehman furthermore, they were also highlights that the government should withdraw from the temporary bridge which were used by the devoted and tourist in the district of Sylhet. It was a sentimental demand of the supporter of BNP. However, all the demands were not fully rejected by the Awami league altogether for the proposal of speaker. But at the same time they were want to add law makers to the coalition government of Awami league.

These demands had created constitutional issues. During the meeting of BNP and AL being to completion the demand of BNP establish constitution crisis to appoint two law maker of BNP in to cabinet. Accordingly, the clause (1) of articles 70 it is clearly mention in the constitution any MP can lose his/her seat into the parliament if he cast vote against it party which nominated his/her for election. Moreover, the secretary of BNP general Abdul Mannan Bhuiyani blamed that ruling party influences two MPs of BNP into his party favor. That was totally against the tradition of ruling parliament as well as a constitutional contradiction. This tactical move not only weakens the means of parliamentary democracy and set the example for other parties to use such tactical moves.

In contrast, all these things there were two major developments of Awami league. Ganga Water Treaty (Islam M., 2016) Chittagong Hill Tracts .On the other side in its tenure they faced several drawback like corruption, terrorist activities and nepotism. Government used favoritism policy in the department of Public Services commission (PSC). In fact; the college institution became the hub of terrorist activities.

Eighth parliamentary elections hold under the caretaker government headed by Justices Latifur Rehman in first October 2001.(Inge Amundsen, 2012) The election result under the favor of BNP. (Islam D. M., March 2011) Begum Khailda became prime minister for second time she was setup JAMBO cabinet of 60 members which was had 13 states and two deputy minister. Eight parliaments passed fourteen amendment of the constitution on 16 may 2004 and 185 bills of the parliament.(Inge Amundsen, 2012) Fourteen amendments change the retirement age of Supreme Court judges from 65 to 67.(Uddin, 2011) It was critics by the opposition party they oppose the task of government because opposition consider that it is government trick to save the appointment of the justices K.M. Hassan.

According to the opposition party he is the supporter of the ruling party. Since the parliamentary democracy came in to being it became natural phenomena to arrest the member of opposition party that was simply the violation of human right. Further the extra murder charging show the alarming condition.

The Non-party caretaker government was brought up in 1996 with the help of Thirteen Amendment in the constitution. Free and fair election is the most important duty of the Non-Party caretaker government. Three successful elections (1996, 2001, and 2008) were hold under the nonparty caretaker government.(Report, 28 April 2008)Military backed NCG under the leadership of Fukheruddin ruled in country from 2007 to 2008.(Islam D. M., March 2011) It is perform more duty then the caretaker government. During the period of 2007 to 2008 NCG introduced various political and government reforms in the Bangladesh. It was only for made stronger the election commission in Bangladesh and these reforms show the positive result but his minus two policies failed. Fukheruddin wants to kick out the two strong figures (Sheikh Hassina and khailda Zia) of Bangladesh from the political picture and clean up political system from the corruption and nepotism. Due to the influence of two leaders they remain unsuccessful and announce the ninth parliamentary election on 29 Dec 2008.(Prodip, July 2014).
Grand Alliance with three parties wins the majority seats in the parliament. As a result, the ruling parties in a position to make any constitution amendment without any help of opposition party. In the ninth parliamentary years the appointment of the chairmen of 48 parliamentary committees were done but the chairmen ship was given to some senior parliamentarian that had linked with ruling alliance rather than the ministers. In the same way, the opposition party also had two chairmen of the two parliamentary committees but the opposition continues their boycott tradition. Almost 75 percent working day of parliament was boycotted by the opposition party in the first two years of Awami league. Meanwhile, parliament of Bangladesh passed 130 bills in the duration of two years. The Awami league passed the fifteenth constitutional amendment that remained very controversial.

With the new amendment the new election of the country will be held earlier 90 days of the dissolution of the parliament. Election of new parliament will be held on the end of 2013 and start on 2014. During the 90 days period the parliament is not dissolve but it power and function may be decreased under the light of new amendment of the constitution. (Prodip, July 2014) But this amendment not limited the power of the Cabinet of the country.

On 30 June 2011, Jatiyo Sangsad of Bangladesh passed its fifteenth constitutional amendment which introduced various changing in the constitution. (rights, 2011) Under the leadership of Prime Minister Sheikh Hassina abolished the caretaker government system (which holds the free and fair election) with the help of new amendment. The BNP lead coalition not accepted this constitutional change. In fact, they boycott the meeting of parliamentary committee.

Comparison between Pakistan and Bangladesh.

No doubt, Pakistan and Bangladesh practiced the parliamentary democracy which is one of the unique forms of democracy and successfully practicing in various developed countries. But it is not successfully practices in third world countries. Pakistan and Bangladesh is the same example where the parliamentary democracy not flourished strongly. Bangladesh remains part of Pakistan for 21 years that’s why there are many similarities between both states. Both countries have same origin. On the other hand, there are lots of differences between them. Like, Pakistan is a federal state but Bangladesh practices the unitary system. Pakistan experiences weak political system after it independence. It inheriting the parliamentary democracy from British Empire with few changes but its political setup is not much mature to handle the political crisis. Due to weak political system military overthrow the civilian government again and again. It was the failure of political leaders of Pakistan to not prepare the constitution of Pakistan till 1956. No doubt; it is the biggest achievement of Bangladesh to prepare its constitution in the short period of ten months. Both countries experience martial law. Pakistan ruled by four military (Ayub, Yahya, Zia, Musharaf) dictator time to time. Different military dictators in different time change the political system of Pakistan according to personal aims and ambition. They introduced different amendments and reforms that not only destabilized the democratic system of Pakistan but also not flourished the democratic institution in the country same situation in Bangladesh where army took over the charge and introduced different amendments according to their own personal interest. For example, the Ayub khan introduced the central presidential system. In the same way, zia ul haq also introduced eighth amendment that totally changes the nature of political system. In Musharaf period, President Musharaf introduced LFO and 17th amendment that one’s again change parliamentary democracy into presidential system. At last, after the long struggle free and fair election were hold 2008 and new government setup in Pakistan. Bangladesh has same problem, where parliamentary democracy was changed into presidential, semi presidential system and civilian presidential system. In 1991, Bangladesh achieved the parliamentary democracy with the grass root movement.
From 1991 Bangladesh experience parliamentary democracy with many difficulties. In both countries there are two and three families who exchange the power. In Bangladesh zia and Rehman families and in Pakistan Bhutto and Sharif families exchange the power. On the other hand, in both state most of political leader belonging to the landlord families they do not know the really problem and demand of its masses. Power is sifted among these families.

Local bodies system is very important for every democratic system to decentralize the power on local level. Unfortunately, local bodies system was always introduced by military dictator to justify his rule and transfer power to grassroots level. Whenever, civilian government came into power they did not give due attention to local government system. In fact, in Pakistan local bodies system is totally ignored by democratic governments.

Opposition is very important device in any democratic country because opposition party is the second largest party after the government. Role of opposition is to critics every policy of government for the proper working of the government and it provide the alternative policy for the betterment of country. But if researcher sees the example of Pakistan and Bangladesh in both countries the opposition parties not play effective role in Parliament. In fact, in Bangladesh the opposition parties not participated into election and they boycotted the working of parliament session. Similarly, in Pakistan opposition boycott the parliamentary session. The ruling parties not give much importance to the opposition. In the ⁵ᵗʰ parliamentary year of Bangladesh the ruling party not gives attention to opposition. This trend of intolerance was set by BNP and it refused to hold next six parliamentary elections. BNP started the election with unexpected hand-picked parties as they followed the example of dictator Ershad. This was the undemocratic trend which was set by BNP and it showed that BNP had not foresight and maturity in his politics style. As a result, the six parliamentary years live only seven days’ life. Next, the seven parliamentary election hold under the supervision of NCTG and AL win the majority seat it was expected that AL not followed the tradition to ignore the opposition but Awami league did the same trend that was set by previous government. Like, AL did not care the view of opposition during the ordinance making process. Present situation of Bangladesh remains static.

The opposition party remains to boycott the parliamentary working. Same types of politics was done in Pakistan till 2008 military government not give the chance to political parties to participate into law making process although the democratic government had chance but their performance in the parliament was not satisfied. After the election of 2008, the democratic government contribute it role to strength the political structure of Pakistan further it gives the chance to the opposition to flourished in its true nature. In Pakistan in 2008 people party ruled the country with the full support of opposition party (Muslim league nawaz) that’s why; they complete its tenure and successfully transfer power to the civilian government. But after the election the opposition role is remains same they not only boycotted the parliamentary session but also effect the working of parliament by long March and Dharna polices. Opposition can affect the working of parliament by three ways 1) They boycotted the parliamentary session and do hartal and Dharna 2) they remain in the parliament and criticized the working of parliament and give tough time to the ruling party 3) they criticized the ruling party on the ideology base. Leader of both countries involve in corruption. History is witness that political leaders of both counties involve in corruption. From 2007 to 2008 in Bangladesh the Caretaker government arrested many political leaders and party worker involve in corruption actives. Pakistan has same problem, where leaders involve in corruption Swiss cases and panama cases are the example of corruption. In fact, all civilian government involve in corruption, Unfortunately, for both
countries whenever civilian government got chances to rule the country they find to involve in corruption activities.

Pakistan and Bangladesh both belonged to developing country. Where the poverty level is very high many people of both countries live below the line of poverty. Even they do not get two time meals in one day. As a result, they sell their vote to the corrupt leaders for the purpose of money. Further, literacy rate in both counties is very low. People of both countries not fully know their political rights. They don’t know the values of vote and how to use the power of vote. That is the major problem of both counties. Like the other developing countries, in Pakistan and Bangladesh there are gap between the commitments and implication of promises.

Constitutions of both countries give the supreme authority to the parliament to make the budgets and law. Executive organ is accountable to the parliament. In spite, of these powers there is deficit in the performances of parliament. The first real problem in both countries is that there is no problem to take the initial for law making but the actual problem is the lack of real discussion related to proposal of the objectives. The second main problem is that the political leader is not much responsible and accountable to the public. Baradarism and caste system remains very strong in our society. People cast vote on the bases of baradarism. Political leaders of both countries make fake promises during their election campaigns but when they came in power they forget all the promises that they made. For the successful practices of parliamentary system there should be check and balances.

Interim caretaker government is very important for free and fair election and peaceful transfer power to one government to other. In Pakistan after the eighteenth amendment it was good initiative to setup a caretaker government. As a result, in 2013, free and fair election was done under the supervision of care taker government and it was good start for strong the democratic trend in Pakistan. On the other hand, caretaker system establishes Bangladesh in 1996. Three successful elections were held under the supervision of Non-Party care taker government. Power transferred from one to other democratic government but from 2007 to 2008 military backed caretaker government came into power and it performed duties beyond the mandate of caretaker government it was arrested 22000 political worker and political leader who involve in political and economic corruption activates and introduced many constitution reforms in countries and used very popular two minus strategy but it was not get success and soon new election hold in the country Sheikh Hasina win the election and she was abolished the nonparty caretaker government under the order of supreme count of Bangladesh. It was a controversial step taker by Awami league that was not only weakened the democratic system in Bangladesh. New free and fair election is very difficult to hold without the neutral caretaker government. Abolishment of the caretaker government very critical or controversial issues it created the situation more difficult for democratic system.

Pakistan is a Federal state but Bangladesh is unitary state. Legislative system of both countries quiet different Pakistan has bicameral system but Bangladesh has unicameral system. In Pakistan for any law, bill, ordinance need to pass the bill in both house but in Bangladesh there is only one house for law making. For constitutional amendment bill should be passed by two houses with two third majorities with assent of president but in Bangladesh the constitutional amendment bill need two third majority vote of house of nation and with referendum. Both countries have multiparty system. Bangladesh follows the FPTP “First pass the post for election system” but in Pakistan, proportional system is practices. In the same way, consensus-building and dialogs between the government and the opposition made remained at initial stage in both countries. Judiciary should be independence. But in Pakistan and Bangladesh it remained under the great influences of executive branch. The lawyer movement of Pakistan is the good initiatives to
strength the judiciary form any political influences.

Conclusion
Parliamentary democracy of western countries takes centuries to become its present shape. For any political system it is significantly important to work all the institution properly without any influences and under constitutional limit. Pakistan and Bangladesh have facing many problems socially and economically. There is a need to have achieved these things with all these issues. Firstly, Strong political leadership. Secondly, Peoples should know their political rights and values of votes. Thirdly, party’ election should be hold on regular bases and most deserving leadership give the chances to hold the party leadership. Lastly, Corruption free, stable political and economical environment is the essential need of both countries to gain true parliamentary democracy.

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Single Story Sellers Everywhere: Deconstructing Media Reportage on Banditry in Nigeria

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ABSTRACT

**Purpose:** The media has been described as the fourth estate of the realm because of the huge role it plays in information dissemination and education. However, when the media peddles narratives to make and or mar one group, the media loses its role ethos and principle of balance and neutrality. Therefore, this work attempts to interrogate imbalance media reportage on the issue of north/south divide on banditry.

**Method:** The work is qualitative and employs extant literature as its main source.

**Findings:** The work found out that the media reports the same incidences in different parts of Nigeria in different tones, when violent crimes occur in the north it is simply referred to as banditry but whilst it happens elsewhere, it is called other less derogatory names that do not qualify the extent of the crimes committed.

**Implications/Originality/Value:** The work recommended among other things that the media must uphold its principles of balanced journalism and help peddle narratives that bind rather than divide.

Introduction

It is been said that before truth puts its pants on, a lie would have already made it way around the world (Sharyl 2017). The media has been described as the fourth estate of the realm because of the important role it plays in todays’ world. Indeed, the world is dominated by both print and electronic media, and our perception of reality is increasingly moulded by media-driven
narratives. Documentaries and feature films teach us tales about ourselves and the society we live in. In the guise of hyperbole and satire, television responds to us and delivers us "reality." Daily existence is transformed into a story via print journalism. Advertisements tell stories about our desires and fantasies (Helen, 2005).

Although, we live in a world of cultural, socio-economic and political polarization, the 21st century has been described as a period of accelerated digital and technological revolution where the mass media is primarily saddled with the ethical responsibility of informing the public through balanced reportage that will help citizens make informed decisions about the goings-on in their societies. The media is also responsible for the revival of critical conversations that promote and enhance a healthy democracy and good governance.

Helen opined that the media now controls the production and consumption of narratives across the globe. She argues that the stories that seem most natural are the ones that we've become familiar to from the media and that individual preference of what to watch and listen to is hugely limited by what is available and the content media houses make available out there. (Helen, 2005) As our choices are limited to only what is whispered into our ears thereby allowing us to act upon what is been said to us most times without recourse to the other side of the narrative.

With the debate of balanced reportage on the rise, it is pertinent in the paper to state unequivocally that there is no media outfit that is not “Pro or Anti” something. With a single click of the mouse, information can easily travel across the globe with an incredible speed of light, creating in its wake a huge pool of armchair analyst, vested interest and sophisticated story tellers who would go the extra mile to sell and spread any kind of news be it true or false. Therefore, media bias has become an integral, as media outlets present news reportage, political programmes and talk shows that only serves the interest of their pay master's or those who have the money to spread their own side of the story. Buttressing this, Sharyl strongly argues that politicians, corporations, and other special interests have enlisted the help of media professionals. We give them free reign on the current story. We allow them to have a monopoly on the opinions we seek out and quote. Political commentators are plastered all over the press, not presenting independent viewpoints but rather serving their masters. We've hired political operatives as consultants and pundits, and we've even hired them as reporters, anchors, and editors in our newsrooms. We've turned into an eager recipient and disseminator of daily political propaganda. We call it fair because we invite both sides to feed us. In many ways, several media organisations have devolved into more than just thinly veiled propagandists (Sharyl, 2017).

Helen brilliantly corroborated the Sharyl’s position when she argued the economics of the media. She opined that the economic function of the media to maximize profit like other businesses, undermines the essence and idea that media narratives have some kind of innate or universal structure common to all humanity. To her, media narratives become simply a way of selling something and the economics of the media industry determines its output generally (Helen, 2005). The media industry in Nigeria is not far fetched from its counterparts across the globe, in that, like most media outfits, they stand for or against something.

To the authors of this paper, the Nigerian mass media has an exceptional reputation for being embarrassingly bias. To subject this to intellectual interrogation for those who might seek to counter this papers standpoint, the authors have chronicled media reportage on the Fulani and or people of northern extraction while juxtaposing incidences across the Niger and the sensationality and approach of the media. Indeed, the media in the country with the exception of the few who aspire to balance their reportage has to a great extent succeeded on the one hand in shredding the image of a particular group (Fulani) and have profile them as those with the exclusive prerogative to violence, banditry and terrorism, the media has brilliantly pitched the Nigerian public against
them, because of the many gory things said about the Fulani, the average Nigerians now see anything Fulani as synonymous violence.

On the other hand, when similar criminal atrocities are carried out in other parts of the country, they are almost always tagged with a different nomenclature, depending on what media outfit is writing or reporting the crime, they find other adjectives to use such as hoodlums, thugs and unknown gunmen. The argument of this paper is that a crime is a crime and the nomenclature of such crimes should not be determined by place or the people, ethnicity or the religion of those committing such crime. There should be no room for disguising crime in any form. Criminals should be given the same tag irrespective of their political, region, religion or ethnic affiliations.

It is unfortunate that the concept of African authenticity has been enveloped by the imperialist tendencies. As even telling stories today has not escaped our copy and paste syndrome. The western media for example, never refer to white terrorist groups in America and or Europe as terrorists, they are either referred to as militias or white supremist groups.

Ghida (2021) for instance posited that between the periods of 2014 to 2020, there has been two thousand eight hundred and five (2805) mass gun shootings across the United States. In 2020 alone, more than twenty thousand (20,000) Americans lost their lives to mass shooting. This groups have recked monumental havoc and continue to do so (Ghida, 2021). The question that comes to the mind is; what differentiates these seemingly armed violent groups from the violent attacks carried out by bandits or terrorist groups? Their modus operandi may differ but they all have the same objective and a common goal which is to kill, maim, instill fear on innocent and unarmed citizens or to destabilize democratic governments.

Suffice to say, media reportage of violence in Nigeria has clearly shown that most media outlets in Nigeria are not driven by a mission to genuinely inform the public, stimulate a critical, healthy and balanced conversation. The Nigerian media is deeply driven by a pre-determine outcome. One begins to wonder, is our accessibility to news media really helping societies become better informed or do the content of the media serve as stimuli to violence, heighten suspicions and further balkanized Nigerians along ethnic and religious line? This paper intends to interrogate this question and make suggestions for that would benefit the Nigerian media community.

**Conceptualization of Some Key Terms**

**Banditry**
The term "banditry" refers to the presence or prominence of armed robbery or other forms of violent crime. It entails the use of force, or the threat of force, to intimidate someone with the intention of robbing, raping, or killing them. Banditry is a crime committed against people. It has long been a popular kind of criminality, as well as a source of violence in modern countries (NigeriaWatch cited in Ahmed, n.d). Banditry is a concept in which one person's terrorist is another person's freedom warrior.

**Terrorism**
The United States Department of State's definition of terrorism, published in 1983, is still one of the most extensively used definitions today. It reads: “terrorism is premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience” (Sinai, 2008:9). Similarly, the United States’ Federal Bureau of Investigation (FBI) defines terrorism as “the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population or any segment thereof, in furtherance of political or social objectives” (Shanahan cited in Ziyanda 2018).
Militias

Within a state, a militia is an equipped sub-state force that conducts security and governance tasks (Stathis, 2006). A militia's main purpose is population control, particularly the formation of local rule in a given area (Adrian 1966). States and insurgent organizations can build or co-opt it, or it can emerge as a competitor to both.

There's no guarantee that militias, especially those recruited from ex-insurgents, won't start fighting the government again in the future. As John Mueller points out, militia “may be troublemakers: rowdy, disobedient, and rebellious, sometimes committing illegal acts while being on (or off) duty that can be damaging or even detrimental to the military organization.” Most crucially, militia members may be hesitant to stand and fight when their lives are in peril, and militia members may desert when self-preservation and opportunity meet, according to Mueller (citing Seth 2012).

Media Bias

Ideology and spin are two high-level types of media bias that Mullainathan and Shleifer define as news outlets' intentions while creating articles. If an outlet biases stories to support a particular point of view on a topic, it is said to have ideological bias. If the media is attempting to generate a memorable tale, there is likely to be spin bias. A generally accepted second definition of media bias separates three types: coverage, gatekeeping, and statement. The visibility of issues or entities, such as a person or a country, in media coverage is referred to as coverage bias. Gatekeeping prejudice, also known as selection bias or agenda bias, refers to how media outlets choose which news to report on and which to ignore. Statement bias, sometimes known as presentation bias, refers to how articles report on ideas. For example, editorial slant impacts the quantity and tone of a newspaper's coverage of a presidential candidate, resulting in a well-observed prejudice in the US elections. (Mullainathan and Shleifer, as quoted by Felix, Karsten, and Bela in 2018).

Media Literacy

The ability to think critically about media content is referred to as media literacy. The idea of media literacy can be traced back to the period of yellow journalism where newspaper organizations were just scrambling for readers without recourse to facts. Media literacy, as defined by the National Association for Media Education, is the capacity to use all types of media to access, assess, analyze, act, communicate, and create. 2020 (CMAC).

What, exactly, is a smear?

Depending on whom you ask. One person's smear is another person's truth. In simple terms, it's an attempt to sway public opinion by spreading an exaggerated, sensational, and destructive story. Often, the purpose is to kill ideas by destroying the people who are best at articulating them. What you may not know is that a lot of this manipulation is done through methods that are utterly invisible to the average consumer. Sponsored forces create ingenious, covert methods to change the whole information landscape in unexpected ways. Their intention is to deceive you. To appear random, public thoughts are methodically planned (Sharyl, 2017).

Historical Background of Banditry

In order to understand the media reportage of banditry, it is imperative to take an historical path to understanding the bandit media relation. Banditry has a rich and lucrative history throughout south Asia and despite continued anti banditry efforts, the problem of banditry persists in India presently (Dmella cited in Suleiman and Balkisu, 2020).

Banditry has become a security challenge in Africa where bandits have continued to ravage the
horn of Africa, east and central Africa and the trans-Saharan trade routes from Niger Republic all the way to Libya (Aregbesola cited in Suleiman and Balkisu, 2020). Banditry has prevailed in sections of Chad and surrounding Lake Chad, and it is also prevalent in portions of Southern Africa (Aregbesola). The prevalence and severity of banditry in West Africa has contributed to a rise in regional instability, posing a threat towards the subregion's regional integration (Abdullahi, cited in Suleiman and Balkisu, 2020).

Banditry in Africa is characterized by the maiming, murdering, and indiscriminate damage of property, and hence has a clear link to cattle rustling (Rufa'i, 2017:8). Because most herders will do anything to prevent their herds from being rustled, the bandits use force and Small Arms and Light Weapons (SALWs) to ensure that cattle is stolen effectively (Addo, 2006:7) As a result, the use of force during livestock theft is classified as banditry and a dynamic working pattern of crime.

Banditry, according to Anka (2017), may be traced back to over four decades of conflicts involving established farmers and nomads herding groups who roam the high plains of northern Nigeria, primarily in the North West geopolitical zone in states like Zamfara. Banditry in Zamfara State began in 2009 and became more prevalent in 2011, particularly after the general elections. Banditry has disproportionately afflicted people in Nigeria's northwest states of Zamfara, Kaduna, Niger, Sokoto, Kebbi, and Katsina. Approximately 21 million individuals in these states have been exposed to insecurity as a result of banditry (Ahmed n.d).

Since 1999, the scale and severity of violent crime against people, such as murder, rape, and robbery, has increased across Nigeria's six geopolitical zones. The ubiquitous tendency of armed robbery in the country, which in effect parallels the African experience, demonstrates this. The salient lesson therefore, is that banditry is not a new phenomenon as treated in the Nigerian media as a recent occurrence. Criminality and violence is not alien to any part of the country and should be addressed as such. Banditry has historical context within most societies in the African sub region.

Deconstructing Media Reportage

Media stories do not exist solely to entertain us, as customer, by telling us stories to amuse us or by providing us with services and a variety of options from which to choose. They are built to support the vast economic empires that control the majority of media channels, with the goal of profiting from the commodification of media products and the tales they can convey (Helen, 2005). It is important to note here that, there is no media outfit that is pro-nothing, every media outlet is pro-something.

Every news media by its very nature and establishment has supreme expertise in the act of propaganda and brainwashing of the public, since the public want to hear or read more of scandal, the Nigeria media have excelled in this regard. On daily basis we hear on radio, read articles on newspaper or watch news and tv programmes that constantly fuel our curiosity and feeds us with half-truth just to keep us perpetually glue to such media channels and desire for more and more. Sometimes, the intention of media content producer is to create mass hysteria to further strengthen political polarization, ethnic and religious bigotry just to satisfy their audience and the pay masters. Sharyl brilliantly argued that the ability to execute a character assassination becomes more pivotal than any other singular campaign strategy. Operatives spring into action, exploiting the latest technology and tactics. Smears now figure prominently in almost every mainstream news publication. Reporters pursue sordid narratives with the fervor. Smears become embedded in the fabric of our everyday existence. So common, we barely flinch at the most audacious claims. With public skepticism of the news media at an all-time high, a cynical public
turns to other sources of information, making it simpler to dupe. Smears and fake news thrive in this environment, which is bereft of morals. It’s no longer a stretch for news consumers to believe that the press is covering up important stories or is in the tank for corporate and political interests (Sharyl, 2017).

**Media Bias on Violence Reportage in Nigeria: A Chronicle of Newspaper Coverage of Banditry and Related Crimes: Below is a chronicle of the pattern of media reportage on incidences of violent attacks and Media Description of the Acts**

<table>
<thead>
<tr>
<th>Source</th>
<th>Headline</th>
<th>Perpetrator</th>
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<tr>
<td>Dailytrust.com Jan 16/2021</td>
<td>How Katsina became hotbed of banditry: Dailytrust</td>
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**Understanding Media Effects**

Mass media strengthen democracy, while democracy depend on people voting. Voting largely depends on people being informed. Therefore, news media keeps the public informed. Politicians and media giants understand this secret but the news media is also hugely susceptible to the pressures of marketplace. The media needs the trust and money of its readers to subscribe. To gain this, the media uses any means "necessary". It’s not a surprise therefore that, campaigns rely heavily on talk programs and news coverage, and our political leaders communicate with the public via the media, press conferences, and political speeches. Hence, scapegoating and political campaigns are now centered on television. Republicans spent two-thirds of their budget on television ads for George Bush in 1992 (Elizabeth, 2008).
The concept of media effects is simple to grasp. It is self-evident that anything that takes up so much of our money and time has a big impact on our lives. The average person is awake for approximately 20% of the time, watches roughly 7 hours of television each day at home, and listens to the radio for approximately 22 hours per week (Elizabeth, 2008). Lippmann stated in 1922 that mass communication may become the foundation for people's worldviews. Similarly, Laswell thought of mass communication as a tool for deception and social control. He identified the following media-related effects: (a) the impact of media violence on violent behavior, (b) the effect of media images on the social construction of reality, (c) the effects of media bias on stereotyping, (d) the effects of erotic and sexual material on attitudes and objectionable behaviors, and (e) how media forms affect cognitive function and style (Elizabeth, 2008).

In this regard, Sharyl accurately observed that the voting public is constantly bombarded by a plethora of storylines, some of which are founded on grains of reality and others which are entirely made up for the audience. Trump was called several names, some of the names include: racist, crooked, liar, cheat, white nationalist, socialist, womanizer, misogynist, corrupt, xenophobic, homophobic, Islamophobic, anti-immigrant, basket of deplorables, fraudster, loser, alt-right, deluded, dangerous, mentally ill, pay-for-player, and tax cheat. 2016 campaign shattered all records in the smear department, aided by ideologues, sleazy political operators, and dark Internet firms looking for clicks (Sharyl, 2017).

The Need for Media Literacy
The smear is a pliable creature with no loyalty or remorse. It's content to serve as a weapon for the government, corporations, special interests, and political parties. Everyone wants to be the master of it. However, some people are far better at it than others. The smear artist, a character assassin motivated by passion, ideology, and money, enters the picture. The smear industry is endless and extremely profitable. It has quietly grown into one of Washington, D.C.'s top white-collar industries. Thousands of people have become wealthy as a result of it. It's quickly becoming one of our most important global exports (Sharyl, 2017).

We are living in an age defined by media technology, for many of us the majority of our waking hours is largely centred around interacting with the media. From checking our emails, charting on other social media platforms to retiring to our tv after a long day of work. The Media is everywhere, on our phones, laptops, tablet, tv, radio, gas station even in the hospital. The media has become a common place that we do not often think about the messages communicated to us through these platforms.

One of the biggest casualties is nonpartisan investigative journalism. The PR spinmeisters, corporate collusion, and political flacks have made it increasingly difficult for good reporters to do independent reporting on important topics. Good reporters hate what’s happened to the news. The unsettling predominance of "transactional journalism" has paved the way for covert coordination between journalists and special interests. As a result, separating fact from fantasy might be difficult. Even self-proclaimed truth tellers and fact-checkers have been co-opted. We are left extremely vulnerable as corporations and political operatives jockey for control, they have found uncanny success in exploiting news organizations, quasi-news outlets, and brokers of so-called fake news to lend legitimacy to their efforts. As citizens, it is important therefore that we carefully evaluate where the message is coming from and always remember that the message is created by someone trying to communicate something to the public. Citizens should also realize that a content producer(s) is paid by somebody, or organization. It is important that content consumers ask these questions, who's is trying to communicate to them and take a closer look at where the media message is coming from.
More so, as consumers of news content, we should always analyze the main ideas of the message. Citizens should be increasingly fascinated about what is not said or what doesn’t fit in (what is "economically" said) to analyse is to try to make sense out of the message. It is important to identify what the creator is trying to say to you as the reader/ audience. More so, how did you act after receiving the information? Most people will immediately swing in action. Citizens should not hurriedly accept what is presented as the only available fact. It is the responsibility of both the creator and receiver of media content to first verify news information before sharing. In addition, citizens should be circumspect when sharing media message with others: How do we share what we have seen, heard or read with friends and family.

Do we do that in person, post on Facebook or just retweet without mulling over the content and thereby helping media creators spread fake news or hate? Citizens should responsibly create media content to share with others. In summary, being media literate is about thinking critically about media message we consumed. Ask questions about the media we interact with and being aware about how we participate in the creation of media.

**Conclusion**

Scholars and ordinary citizens alike have come to the realization of the power and essence of the Mass media. The media since it gained prominence have proven it mantle, the reason the media has been accorded the fourth place in the hierarchy of estates in the realm after the three major apparatuses of government. It is important that the media must understand the power it has and must try to uphold the sanctity, ethos and principle of neutrality and of balance reportage at all time. The Nigerian media as an de facto instrument of state must wake up to its neutral role and must inform the public without biases and sentiments.

The Fulani are a people like all people within the Nigerian geography, they do not have the monopoly of violence, their actions must be reported when it goes against state laid down dictums like all other members of the Nigerian state, they should not be allowed to alienated and ostracized within the state as these feelings breeds natural discontent, a case not too far away is the Igbo who have become great agents of division and secession because of the place they feel the Nigerian state has positioned them. News reportage on issues of crime and in this case Banditry must not be reported along ethnic or religions lines, they should be reported as crimes and as crimes alone, a people must not be reported to be seen as those with the monopoly to commit a particular kind of crime and banditry whether in the north or south should be reported as such.

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Role of Political Instability in Attracting FDI Inflow to Pakistan

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ABSTRACT

Purpose: The purpose of this study is to recognize the impact of key determinants of overseas direct asset in case of Pakistan, based on annual information covering the period of 1981-2018.

Design/Methodology/Approach: After checking for still of the sequence, the technique of ARDL is used for estimation of long run parameters estimates and error alteration instrument for short run dynamics.

Findings: The results of the study indicate that politically stable environment and long term policies are necessary to attract foreign investors. furthermore, investment profile of any government also matter for direct asset in the country as the study conclusions reveal that marketplace size as well as domestic investment are positively related to foreign direct investment while taxes have negative association with overseas straight investment in the case of Pakistan.

Implications/Originality/Value: The most important factor for FDI inflow to Pakistan is interest rate or ease of doing business which has negative sign means inverse relation exists between the two variables.

Introduction

Developing countries are facing a lot of financial problems, but the main problem is that they have the lack of national savings to improve their investment. To expand their investment they need stability in foreign capital, but this strategy would be only applicable in open economy. The inadequacy of domestic saving, the foreign capital flow is used to finance the domestic investment in open economy. Flow of capital contains foreign direct investment as well as indirect investment. Foreign direct speculation is different from straight speculation like as
portfolio flows while the indirect investment refers to that investment which mentioned in the list of stock exchange in the form of equities, bonds and shares etc. The Classical School of thoughts defined foreign direct investment as, physical investment of one state build the factory in to another state. Agiomirgianakis et al. (2003) defined foreign direct investment as; the performance of international companies due to capital flow. Therefore, the features which affect the performance of multinational companies might affect the direction and magnitude of foreign direct investment. Whenever the trade openness increased it will increased the economic growth because the country will able to create such environment which attract the foreigner investor (Surge et al. 2008). While in case of Nigeria, trade openness and market size do not affect the FDI in long run but in little run inflation positively affect Foreign Direct Investment (Abubakar, 2013).

The importance of flows of foreign direct investment of rising countries is captured in many literatures. In rising nations the inflows of Foreign Direct Investment was recorded almost zero during the period of pre-liberalization. Conversely, strong Foreign Direct Investments are evidenced in the era of post liberalization. FDI is depend on the many factors which included Population growth, Inflation rate, the volume of export and the tariff impose on export (Khan, & Nawaz, 2010). Trade openness, labor force participation, and monetary enlargement have an optimistic impact on FDI, even as the political stability and exchange rate have a unenthusiastic impact on FDI (Rabbia, 2010). Terrorism, inflation rate, and exchange rate of a country have a pessimistic influence on FDI (Afza, & Anwar, 2014).

During the period of 1980’s the restraints on foreign direct investment reduced by several countries and most of the countries provide subsidies for the attraction on foreign capital (Aitken & Harrison, 1999). Taxes and location of the business have negative impact on FDI (Gastanaja, et al. 1998). The low cost of production (the taxation policy) in the home country are an incentive for the foreigner firms. The price factor consists of the capital relative wage rate, transport expenses, as well as the economic incentive in form of tax by the host state (Root and Ahmed, 1979). Some studies suggested that Labor force participation plays a very important role in FDI in developing countries. According to Hussain, & Kimuli, (2012) increase in labor force will cause to increase FDI. The major sources of the attraction of FDI are educated peoples and sophisticated labor force (Ismail, & Yussof, 2003). FDI has an optimistically association by means of Population increase, rate of Exchange, Economic growth and inflation. If a country fetch the stability in exchange rate than obviously they will attract the foreign investor (Rashid, M. et al. 2013). According to Azam, & Lukman, (2010) Foreign investors are encourages for the domestic investor to create a political and economic stability environment. Along with these policy changes, a surge of noncommercial bank private capital flow to developing economies occurred in 1990s. Meyer (2003) stated that foreign direct investments have full-grown at slightest double as quickly as buy and sell throughout 1990s. Similarly the effect of trade rate actions on FDI flow is rather fine reached subject, while the magnitude and direction of pressure is far beginning sure. According to Froot and Stein (1991) that the decrease of the crowd money should add to FDI into the congregation country, and on the contrary an increase in the value host money should decline FDI. While the study of Edal and Tatogu (2002) establish so as to exchange rate has negative impact on FDI. The approval of exchange rate has a negative impact on FDI, because it influences the price of assets in that country (Love and Lage-Hidalgo, 2000). According to the study of Shah and Ahmed (2003), that FDI is positively relative with GDP, GNP and export in Pakistan. Whenever FDI increase then it will directly affects the investment outflows, while negative impact on current account in case of Pakistan (Jaffri, et al 2011). Foreign direct investment has positive impact on Dictatorship, financial enlargement and trade openness (Minhas & Ihsan, 2015).
The major plan of the present study is to investigate for the key features responsible for the low inflows of FDI to Pakistan since last few decades. This present study will contribute to the literature as it uses new methodology for empirical investigation of the time trend. In case of Pakistan no research study has used Engel and Granger approach to inspect the key factors hindering in the way of FDI inflow to the state, so this study will make donation in the sense as it uses new methodology to confirm the connection among the financial variables. This study supposes that FDI is significantly predisposed by the gross domestic product (proxy for market size), domestic investment, taxes, Political instability, as well as price rises rate as well as interest rate. Based on previous literatures, this study uses FDI as response variable, and the market size or output level, domestic investment, inflation and taxis as independent variables. Through this study we will try to answer the question that, is following instability matter for foreign invest in any economy like Pakistan.

Material and Methods
This revision is due to time sequence secondary data converting the era of 1981 to 2018. The statistics for all variables has been collected form Handbook of statistic a magazine of the state Bank of Pakistan except Polity which is taken from World Governance Indicators (WGI). Based on the previous literature this study concluded that different research studies investigated different variables to find the influence of them on the FDI inflow to Pakistan, but the consequences ambiguous. Moreover, previous studies used dummy variable to inspect the influence of political instability on FDI, in case of Pakistan political instability index is used in some research studies, but their results are inconclusive. The study by Minhas, A., and Ahsan, A., (2015) Rehman, et. al.(2008) & Azam, & Lukman, (2010) obtained contradictory results. So in the light of the on top of mention studies this study an effort to answer the question that how supporting unsteadiness as well as other social and economic factors effect FDI inflows to Pakistan. This study will utilize the following model.

\[ \ln FDI = \alpha + \beta_1 \ln GDP + \beta_2 \ln R + \beta_3 \ln INV + \beta_4 \ln TAX + \beta_5 \text{Polity} + \mu_t \]

(1)

Where,

- \(\ln\) = natural logarithm
- \(FDI\) = Foreign Direct Investment,
- \(GDP\) = Gross Domestic Product (market size)
- \(INV\) = Domestic Investment
- \(R\) = Prevailing interest rate in the economy
- \(TAX\) = Taxes
- \(\text{Polity}\) = Political instability index (A proxy for regime)
- \(\mu\) = white noise error term
- \(t\) = for time period

We anticipate that the coefficient of GDP and investment would be helpful. The coefficient for taxes Political instability and interest rate would be negative.

Unit Root Test
Past literature also suggests us some other test to check stationary in data. The present study consists of five variables and used Augmented Dickey Fuller (ADF) test to make sure the unit root in information. According to Gujarati (2007) ADF test is frequently used for time series data. The specification and hypothesis of unit root are given below:

\[ \Delta y_t = \beta_0 + \beta t + \gamma y_{t-1} + \alpha \sum_{i=1}^{p} \Delta y_{t-i} + \mu_t \]

(2)
The testing of hypothesis depends upon the coefficient value of dependent variable. In the above equation $\gamma$ represents coefficient value of dependent variable. The alternative and null hypotheses of the test are given below:

Null hypothesis: $\gamma = 0$, (unit root)

Alternative hypothesis: $\gamma \neq 0$, (no unit root)

The null hypothesis will be discarded and the substitute supposition will be conventional if the coefficient value is greater than zero. When we accept the alternative hypothesis then it means that the sequence of data is still at level. Similarly, the acceptance of null hypothesis at level then it means that the variables are integrated at first order or in simple words the data is non stationary at level.

**Co-integration Approach**

As then unit root analysis, we can carry on with Co-integration tests. We are paying attention in the extended run connection between FDI and its major determinants. Co-integration analysis is an appropriate method. For the purpose, we employ the Engle and Granger (1987) estimation technique. Engle and Granger (1987) suggest three steps for test of Co-integration. First, confirm that the every variable in representation is of the same order. Second, if the variables are of the same order, we should have to regress FDI in present case on constant and explanatory variables by ordinary least square (OLS). Third, test that the residuals from regression in stage-2 are of integrated zero order i.e. I (0) by using the greater than before dickey fuller examination. If the residuals are stationary at level, this linear combination can be understood as a long run equilibrium association.

**Results and Discussion**

**Unit Root Results**

The unit root is tested for variables under consideration. Before judgment of co-integration it is significant to check the stationary among variables. For this purpose ADF test is used to make sure stationary in time series data (to make sure whether the variables are motionless or non-stationary). The null hypothesis of the test is supposing to unit root in the sequence while the option hypothesis resume to no unit root. If the null hypothesis is rejects then it means that the variables are stationary. Table 2 shows the consequences of ADF test at first difference as well as at level

<table>
<thead>
<tr>
<th>Variable (in log)</th>
<th>At level</th>
<th>At first difference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>test-statistic</td>
<td>p-values</td>
</tr>
<tr>
<td>FDI</td>
<td>-2.79</td>
<td>0.2103</td>
</tr>
<tr>
<td>GDP</td>
<td>-2.31</td>
<td>0.4157</td>
</tr>
<tr>
<td>INV</td>
<td>-2.72</td>
<td>0.2329</td>
</tr>
<tr>
<td>TAX</td>
<td>-2.19</td>
<td>0.4753</td>
</tr>
<tr>
<td>R</td>
<td>-2.21</td>
<td>0.4652</td>
</tr>
<tr>
<td>Polity</td>
<td>-1.32</td>
<td>0.3256</td>
</tr>
</tbody>
</table>
Note: The *, **, & *** represents the level of significance at 1 percent, 5 percent and 10 percent respectively. The series regression equation include for intercept and trend. * If we exclude for the intercept and trend in regression then INV is significant at 1 percent after first difference. #The regression of R only includes for the intercept.

Table 1 represents the results of ADF test at the first difference and at level for the variables i.e. R, FDI, GDP, INV, and TAX. The results of ADF test stated that all the variables are non stationary at level. On the other hand, it’s become stationary at first difference at 1%, 5% and at 10%. It is obvious from the above results that all variables are included at first order at level as well as integrated zero order at first dissimilarity. Therefore, literature suggested using of Engel-Granger approach of co integration.

Co-integration Results
Person financial time sequence may not be stationary, but there may be belongings of linear mixture among them. This way that non-stationary financial time sequence may generate stationary relations if they are co integrated. As told earlier, for this we test unit root of regression residuals. If residuals exhibit no unit roots, the variables in model are said to be co integrated. Therefore, the specified regression equation (1) is predictable using normal OLS. The consequences are reported in Table 6.2.

Looking at the results in Table 6.2, it is obvious that in long run the output level and domestic investment affects foreign direct investment positively in Pakistan. The coefficient of GDP is important at 10 percent level of implication. The 1 percent change in output will guide to boost 2.87 percent foreign direct investment of the country. The coefficient of domestic investment is significant at 5 percent level of consequence as well as the coefficient value is 1.46 which is elastic. Contrary, the coefficient value of taxes is negative of value -0.32 and significant at 5 percent level of significance. The variable of interest polity which is negatively related which FDI. However, the effect of R is significantly negative. The value of R-square is 0.98 which indicate that the representation explain 98 percent difference in FDI. The higher value of F-statistic reveals that the model in overall is significant. The Durban-Watson test value is 1.75 which supports no autocorrelation in the model.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>Std. Error</th>
<th>t-Statistic</th>
<th>Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td>C</td>
<td>-53.195</td>
<td>12.523</td>
<td>-4.2476*</td>
<td>0.0002</td>
</tr>
<tr>
<td>LNGDP</td>
<td>2.8755</td>
<td>1.4118</td>
<td>2.0367***</td>
<td>0.0516</td>
</tr>
<tr>
<td>LNINV</td>
<td>1.4577</td>
<td>0.6879</td>
<td>2.1190**</td>
<td>0.0434</td>
</tr>
<tr>
<td>Polity</td>
<td>0.6144</td>
<td>1.2571</td>
<td>3.0241**</td>
<td>0.0501</td>
</tr>
<tr>
<td>LNTAX</td>
<td>-0.3253</td>
<td>0.1316</td>
<td>-2.4703**</td>
<td>0.0201</td>
</tr>
</tbody>
</table>
Table 6.3: ADF Test Results on Residuals

Null Hypothesis: RESID02 has a unit root
Exogenous: Constant
Lag Length: 4 (Automatic based on SIC, MAXLAG=7)

<table>
<thead>
<tr>
<th>Augmented Dickey-Fuller test statistic</th>
<th>t-Statistic</th>
<th>Prob.*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>-4.465832</td>
<td>0.0016</td>
</tr>
</tbody>
</table>

Test critical values:

- 1% level: -3.699871 ---
- 5% level: -2.976263 ---
- 10% level: -2.627420 ---


Table 6.3, it is obvious that the t-Statistic is considerable at 1 percent level of significance. Engle and Granger (1987) suggest that the results will not specious if the residuals from integrated series are stationary at level. Further, states that the sequence are then said to be co-integrated. Thus, the residuals are stationary at level at 1 percent. Based on results, conclude that the residuals are stationary as well as confirm the long run relationship in model. The residuals are also plotted in figure for more visible look (see Figure A1 in Appendix)

Error Correction Representation
This section of analysis focuses on the results for short run elasticity estimates and error
correction coefficient. The error correction model consequences are reported in Table 6.5 as given:

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>Std. Error</th>
<th>t-Statistic</th>
<th>Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td>C</td>
<td>-0.2175</td>
<td>0.1430</td>
<td>-1.5208</td>
<td>0.1414</td>
</tr>
<tr>
<td>DLNGDP(-1)</td>
<td>8.0712</td>
<td>2.9579</td>
<td>2.7286</td>
<td>0.0117</td>
</tr>
<tr>
<td>DLNINV</td>
<td>0.4793</td>
<td>0.7927</td>
<td>0.6046</td>
<td>0.5511</td>
</tr>
<tr>
<td>DLNTAX</td>
<td>-0.2457</td>
<td>0.1596</td>
<td>-1.5392</td>
<td>0.1368</td>
</tr>
<tr>
<td>DLNR</td>
<td>-0.6142</td>
<td>1.4827</td>
<td>-0.4142</td>
<td>0.6823</td>
</tr>
<tr>
<td>DPOLITY</td>
<td>0.4728</td>
<td>0.5102</td>
<td>1.3071</td>
<td>0.4728</td>
</tr>
<tr>
<td>ECT(_{t-1})</td>
<td>-0.8780</td>
<td>0.1789</td>
<td>-4.9062</td>
<td>0.0001</td>
</tr>
</tbody>
</table>

The difference variables coefficient represents the short run effects in the representation. The coefficient of error correction term (ECT) is used to measure for the speed of adjustment in the representation. It is obvious that the coefficient of lagged GDP is significant at 5 percent. The other variables are looking insignificant in the error correction model. However, the coefficient of residuals lagged value is significant at 1 percent and of value -0.88. The negative value of ECT less than 1 also validates co-integration in the model. The error correction term coefficient indicates that the foreign direct investment after short run divergence return to its long run
balance with speed of 88 percent per annum.

**Conclusion**

The most important factors of the modern globalized world are foreign direct investment (FDI). Any country of the world which has a large amount of FDI would consider in high economic growth and stable countries. The FDI in developing countries is useful in the contraction of gap between saving and investment. The decision taking against spreading out the business of multinational companies to other countries on the bases of little cost of productivity, high effectiveness, easily accessibility of raw material and the expectation about the market size. FDI also provide the economic benefit to countries like as; the new technologies and its related knowledge will move from highly industrial nations to other developing countries. It also increases the human capital in term of training of manpower etc. Mostly, Developing countries are trying to attract the foreign investors. Pakistan is also experiences of developing countries which taking the effective policies for FDI.

The present study investigated empirically the main determinants of foreign direct investment (FDI) in case of Pakistan. Annual time series data is utilized during the period of 1981 to 2018. For unit root ADF test is functional to test stationary in data. Co-integration techniques are used for the propose to estimate the long run affiliation between the variable of interest and also used Error correction (EC) techniques to analyzed the impact of independent variables on dependent variables. The long run consequence of the study shows that FDI has direct impact on output level and domestic investment. Tax model expressed resulted that taxes are negatively correlated and the Nominal interest rate is negatively associated with FDI. The results of the output level showed that one per cent increase in output level would cause to increase FDI by 2.8 per cent in long run. Similarly, one per cent increase in domestic investment would cause to increase FDI by 1.4 per cent. Positive sign of political instability index show positive association with FDI in Pakistan. it is due the fact that the country received a high percentage of inflow in the regime of dictatorship up to 3 percent of GDP, and afterward it begin to decline and dropped down to 0.31 percent. Furthermore, the historical background of FDI inflows to Pakistan also shows that during the regime of dictatorship more foreign investors take interest to invest in different sectors due to the surety of the government long term policies and the duration moreover, mostly dictators take interest to invite foreigner to invest rather to improve their own business. Due to all these facts the sign of political instability is positive. On the basis of the consequences of this study the subsequent advices are optional for the long-run financial profits of FDI in Pakistan:

- Policy makers should provide conducive and friendly environment to foreign investors to attract more FDI.
- The government of Pakistan should increase its output level and domestic investment to attract FDI.
- The government should decrease taxes and provide opportunities to foreign investors through ease of doing business.
- On the basis of the results of this study it is suggested that political workers must take interest to give opportunity to foreign investors in order to enhance economic growth and take the advantages of FDI.

**References**


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Re-Thinking Models of Judicial Appointments in the Superior Courts of Pakistan: A Quest for a Better Model

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ABSTRACT

Purpose: Since the inception of the notions of separation of powers and judicial independence, different judicial systems across the globe have devised various models of judicial appointments to meet the standards of the concepts of separation of powers and judicial independence.

Methodology: In general, three moles of judicial appointments namely the politicised, the judicialised and the institutionalised models have been used in different jurisdictions.

Findings: In Pakistan, since its independence, all these three models have been practiced, however none of these could help to achieve the required standards of judicial independence. The causes of failure perhaps rooted in the attitudes and intentions of the constitutional players rather than internal flaws of these three models.

Implications: This article analyses the pros and cons of these models of judicial appointments and the causes of failure of these models in provision of independent and trustworthy judiciary in Pakistan and then proposes a better model with further improvements for judicial appointments in Pakistan.

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Introduction

The judicial appointments system has a central position in judicial independence. The fact that the judicial selection procedures for apex courts are generally embedded in the constitutional laws of countries also acknowledges and legitimises the high status of judicial appointments in those countries’ constitutional arrangements (Garoupa and Ginsburg 2009, 103; Clarke 2009, 49; Hayo and Voigt 2010, 4-5; Phillips 2011; Roth 2012, 1; Mehsood, Khan and Shah 2017, 26). Once judges are appointed it is very difficult to remove them, irrespective of whether their appointment was on merit only or due to political considerations (Legg 2004, 48-49). The Supreme Court of Pakistan has highlighted the importance of judicial appointments in the following words: "The independence of the Judiciary is inextricably linked and connected with the constitutional process of appointment of Judges of the superior Judiciary" (Al-Jihad Trust v
Federation of Pakistan 1996, 324).

Models of Judicial Appointments
In some jurisdictions, particularly in common law jurisdictions, judges are selected from the lines of senior lawyers in the bars. They are often appointed by the executive, which means political domination in the appointment process. In some jurisdictions, the candidates undergo an election process after their initial appointment. In some other jurisdictions, like those with a civil law basis, candidates with certain qualifications appear in competitive exams to become judges and then progress to the higher ranks (UNODC 2006, 11). The diversity of these selection methods suggests a lack of agreement on the best mechanism for judicial appointments which can secure judicial independence (Goldschmidt, Olson and Ekman 2008, 455-56).

Shetreet (1987, 766-67) suggests that judicial appointment procedures can be classified in two ways. First, the system can be identified and categorised on the basis of the nature of its process, or, more specifically, whether the system is based on appointments through elections or appointments through selections, or a mixture of both. The second classification can be made on the basis of who makes the selections: the Executive, the Legislature or the Judiciary, or a mixed participation of these institutions in the selection process. Every system has an appointing authority, either the president or the prime minister or the monarch himself. Officially, the final decision in each system lies in the hands of the appointing authority, as is the case in the USA. However, in some systems, especially those in which the appointing authority is bound to act on the advice of the selecting authority, the appointing authority plays only a ceremonial role and the actual decision-making power remains in the hands of the selecting authority, as is the case in the UK, Pakistan. In some jurisdictions there also exists a recommending authority, which presents a list of the selected potential candidates for each seat, and the selection authority chooses a suitable candidate from the list (Gill 2012, 8-9). Generally, we can classify judicial appointments systems into three fundamental categories: Politicised Model, Professionalised Model and Judicialised Model.

Politicised Model of Judicial Appointments
The politicised model is based on a political mechanism with minimal involvement from judicial and legal circles. This model allows judicial appointments to be made by the head of the executive or a minister with the portfolio of law and justice without any involvement of the judicial branch or legal fraternity, as was the case in England prior to the CRA 2005, or may be subject to approval by the legislature, as in the USA. The executive may carry out consultations with certain quarters, such as using a selection panel convened by the executive, and these consultations may either be formal or informal (Roth 2012, 5-6). The executive authority may also gather secret information about the candidate from legal and judicial circles, but that information has no binding effect on the executive. If a culture of honesty and integrity prevails in the society then this system enjoys the benefit of trustworthy information about the qualities and capabilities possessed by the candidates (Jowell 2010, 2-3). However, in this system the consultations are made by a somewhat closed group of elite politicians and senior persons from the legal profession. Therefore, the model carries the risk of self-selection or "cloning" in the process of assessment and the selection of appointees, with the result that a candidate may have the qualities required or prescribed for selection but might fail to inspire the incumbents because he might not possess those qualities which are usually associated with them (Davis and Williams 2003, 819, 835). Another primary disadvantage associated with this model is that no matter how detached the appointees are in practice, they cannot get rid of the perception of bias because they will have been appointed by the executive’s representative without using an open and lucent procedure (Jowell 2010, 3). It is already perceived that governments in power consider this authority to be an instrument of influence for their policies and political strategies (Office of the High Commissioner for Human Rights 2003, 116; Roth 2012, 15). This system can work only in
societies where the social and democratic norms and respect for judicial independence are so entrenched that it would be highly improbable for the executive to decide otherwise than on merit. In societies with fragile democracies like Pakistan, this system might be exploited by the executive in its favour.

However, Evans and Williams (2008) believe that the executive should hold absolute power to make judicial appointments because of its political accountability against its decisions. Justice Ronald disagrees, and has argued that: "Political accountability may be present in theory, but in practice is largely illusory, since the effects of a sub-optimal appointment are usually not clear until the Attorney-General responsible has moved on or the Government has lost office" (Quoted in Sackville 2008, 20). If the politically affiliated persons are appointed as judges, then how can we expect fair judicial decisions, and how can this fault be redressed through appealing to political accountability? Wallace (2001, 242) answered by arguing that if judges are appointed by politicians, then by ensuring their independence after appointment we can expect them to deliver judgments which are free of any kind of considerations other than the law. This proposition may be true in theory, but in practice the situation is different. Judges are human beings and they possess their own personal and political views. When they are appointed on account of their political ideology, then the risk that they follow the ideology of their appointers in their judgments cannot be completely ruled out. Eventually, control of judicial appointments in the hands of the executive affronts the concepts of separation of powers and judicial independence (Cameron 1990, 67; DCA 2003; Stevens, 2004; Jowell 2010, 3).

In another form of politicised model, judicial appointments are made by the executive subject to approval by parliamentary majority. This system is applied in the USA where the US President appoints a Federal Judge subject to confirmation by a simple majority vote in the US Senate. The Senate scrutinises the appointments through public hearings and approves or disapproves these. Likewise, in Germany the political parties nominate a candidate for judicial appointment and the German House of Parliament approves the nomination by a two-thirds majority. This model legitimises the process of judicial appointments by involving legislative approval. However, in the US only a simple majority is involved in affirmation; hence there may be element of approving candidates deemed favourable to a particular ideology. These candidates might feel themselves bound to pass judgments which satisfy the political ideology of their approvers (Winterton 1987, 198; Jowell 2010, 4). Madison (n.d) defended this model in the US by arguing that the life tenure shields judges against any sense of dependence on, or pressure from, the political parties in the senate; however, this argument has been rebutted as was explained above. Jowell (2010, 4) considers the model in Germany more reliable and free from any perception of bias because it involves a two-thirds majority in the Parliament. However, this system may also be subject to doubts when a party gets a two-thirds majority in the parliamentary elections, giving it free rein to choose what it deems to be suitable judges.

Pakistan has a chequered history of judicial appointments. Different rulers have adopted different tactics to control judicial appointments according to their own choices. Since its independence Pakistan adopted various models of judicial appointments. (Waseem 2012, 24; Ibrahim 2010, 2). The Constitution of Pakistan, of 1956, adopted a politicised model for the appointments of High Courts and Supreme Court Judges. The president had the authority to appoint the Chief Justice of Pakistan, while all other Supreme Court Judges were to be appointed by the president after consulting with the Chief Justice of Pakistan. The Chief Justices of the High Courts were to be appointed by the president after consulting with the Governor of the relevant province and the Chief Justice of Pakistan, and in case of appointments of other High Court Judges, the Chief Justice of the concerned High Court would also be consulted. The same model was adopted in Pakistan’s subsequent Constitutions, of 1962 and 1973.
Quite surprisingly, a different procedure was adopted for the appointment of the Federal Shariat Court Judges. According to Article 203-C (2) of the Constitution of Pakistan 1973, the Chief Justice and other judges of the court were to be appointed solely by the president whilst he was not bound to consult anyone. It is noteworthy that the question of whether or not the president was bound to act on the advice given by the Chief Justice of Pakistan during the consultation process was not made clear in any of Pakistan’s three Constitutions (Haq 2011, 16). As a matter of practice, the president formerly simply conveyed the names of the proposed judges to the Chief Justice, and this process was called a consultation. If the Chief Justice had a dissenting opinion on a proposed candidate, the president used to ignore that dissent (Iqbal 2012, 18). Hence, the president had sole authority over judicial appointments irrespective of the condition of consultation with the Chief Justice (ICG 2004, 7). The fact that the president was not required to justify why he had not followed the advice of the Chief Justices, created a negative image of the neutrality and impartiality of the appointments system. The appointments in the superior courts were contaminated by political and personal motives. The want of impartiality and transparency in Pakistan’s judicial appointments provided a full opportunity to the executive to bring the judiciary under its influence (Siddique 2011, 2; Blue, Hoffman and Berg 2008, 12). Khan (n.d, 2) argued that in fact, the appointment system itself was not defective; rather, the personal interests and ulterior motives of the persons who had the authority to make appointments led the system towards failure. The clarification offered by Khan is not appealing. The system can be argued to have had an inherent flaw in its lack of transparency. The concentration of appointment powers in only one person without instant checks and balances has full potential for misuse, especially in Pakistan’s fragile democracy.

This concentration of power in the hands of the executive brought forth negative ramifications. In 1962 Ayub Khan appointed Manzor Qadir, who was at that time serving as a minister in his cabinet, as Chief Justice of the West Pakistan High Court (Shah and Shah 2008, 183; Mian 2004, 36, 163). He appointed another judge who was a parliamentarian and had casted his vote in favour of Khan on a sensitive issue (Khan 1997, 179). He used to personally interview candidates for the seats of superior court judges, and it was his common practice to accept or reject candidates based on his own personal liking or disliking of them (Khan 1999, 114). Similarly, during his premiership, Zulfiqar Ali Bhutto appointed lawyers as judges who were, prior to their appointments, active members and office bearers of his political party. The motive behind these appointments was that they would be loyal to him and protect his interests and objectives (Shah and Shah 2008, 185; Mehsood, Khan and Shah 2017, 26). Similarly, General Zia and General Musharraf selected only judges who agreed to sanction their Provisional Constitutional Orders (PCOs) and Legal Framework Orders (LFOs). These appointments were clearly in violation of the merit principles which require only persons of integrity and impartiality to be appointed as judges.

Judicialised Model of Judicial Appointments in Pakistan
The "judicialised model" is based on the process of consultation with judges or legal experts. In this model, despite the fact that the executive has formal power over appointments, the real power rests in the hands of the consultees (Khan and Shah 2003, 22). Gibbs (1987, 43-44) argues that the main feature of consultation in this system might be defeated by the executive. The executive may ignore the advice given in the consultation process. However, in various jurisdictions the executive makes judicial appointments which are subject to a meaningful consultation with the head of the judiciary or the chief of the concerned court (Lee 2010, 371). This model prevents a dishonest government from the appointment of judges according to its will (Mehmood 2020). The view that judges should play their role in the process of appointments to ensure judicial independence is generally accepted at international level. Nevertheless, some also hold an
opposite view that considers judicial involvement in the appointment process to be inappropriate. For instance, Mahon (As quoted in Winterton 1987, 200-201) has argued that judges may evaluate the practicing skills of advocates; however, they cannot judge their judging abilities. Even if someone agrees with Mahon’s argument, this does not mean that the political branches of a state can better judge the judging abilities of the potential candidates. Irrespective of the advantages of the judicialised model, there is a drawback in it which is similar to that of politicised model. The consultation process may give way to the collegial control of the Chief Justice, especially when the Chief Justice is not politically accountable. That is why even in this system, the framers of a constitution have to believe that those who are consulted will act in the national interest rather than according to their own personal political interests (Lee 2010; Gee 2017). The politicised and the judicialised models stand on opposite poles with one commonality, which is that both tend to grant hegemony to one institution or person in the judicial appointments process.

Articles 177 and 193 of the 1973 Constitution of Pakistan provided that the Chief Justices and other Judges of the Supreme Court and High Courts shall be appointed by the president after consultation with the Chief Justice of Pakistan. According to Article 48 (1), the president shall act in accordance with the advice of the cabinet or the prime minister. Further, the Article states that the president was empowered by the 1973 Constitution to require the cabinet or the prime minister to reconsider their advice, but if the advice was reconsidered he was then bound to follow it. However, sub-clause (2) of the same article also declared that notwithstanding clause (1), where the president was empowered to act in his discretion, he could do so and this act could not be questioned on any grounds. Articles 177 and 193 do not specify whether the president shall act on the advice of the prime minister as articulated in Article 48(1) or will act in his discretion under article 48(2). In 1996, Miss Bhutto claimed that the president was bound to act upon her advice, whilst the president insisted that the appointment of judges was at his discretion, and he was not bound to act on the advice of the prime minister (Mullally 2009, 41-42). Prime Minister Sharif presented a unique solution to the problem that the president considered recommendations by every senior official - the Chief Justices of the Supreme Court and High Courts, and the prime minister himself and accommodated all. Every constitutional player therefore got his near and dear ones appointed as judges (Khan 1997, 181). This was an other blatant violation of the merit principle originated by the prime minister.

During her second tenure, Benazir had another dispute with President Laghari over the appointments of judges of the superior courts. The president sent a reference to the Supreme Court for its opinion about the presidential power, while making judicial appointments, to act at his discretion or acting on the advice of the prime minister (Bray 1997, 323). The Supreme Court declared that there was no conflict between Articles 48, 177 and 193 of the Constitution, and added that the president was bound to follow the advice of the prime minister in making judicial appointments in the High Courts and the Supreme Court (Al-Jehad Trust v Federation of Pakistan 1997, 84). However, in both situations the power of appointment remained in the hands of the executive.

Miss Bhutto attempted to appoint judges of her own choice based on favouritism and nepotism. She manoeuvred to gain control of the judiciary by advising the president to appoint as many as 24 ad hoc judges of the Lahore High Court who had strong affiliations with her party (Khan 1997, 181; Bray 1997, 323). The legality of these appointments was challenged before the Supreme Court of Pakistan in the first Al-Jehad Trust v Federation of Pakistan case; this case was also known as the “Judges case”. The Supreme Court in its landmark judgment declared these appointments invalid and formulated certain rules for future appointments. This judgment was not challenged in a review petition before the Supreme Court, hence it attained finality and
governed future judicial appointments in superior courts until the 18th Constitutional amendment in 2010. The crux of the judgment was that the discretionary power held by the president for judicial appointments was restricted and he was bound to follow the advice of the Chief Justice of Pakistan. The Supreme Court declared that the Articles of the Constitution providing for consultation should be read and interpreted in such a manner that makes these consultations "effective, meaningful, purposive, consensus oriented, leaving no room for complaint of arbitrariness or unfair play and involving participatory consultative process between the consultees". The court further declared that the opinion of the Chief Justice of the Supreme Court and the Chief Justice of the relevant High Court regarding fitness and suitability of the proposed candidate should not be rejected unless very sound grounds of rejection were recorded in writing by the president/executive. Mian (Para a) noted that if a candidate is found to be unfit for such an appointment, then the president cannot appoint him as a judge according to the spirit of the Constitution.

The court further held that the acting Chief Justice cannot be a consultee; hence, consultations with the acting Chief Justice cannot fulfil the constitutional requirement of consultation except where the permanent Chief Justice has failed to resume his functions due to continuous illness within 90 days from the date of his sick leave. The Court held that the most senior judge of a High Court has a legitimate expectancy of being considered for appointment as a Chief Justice of that High Court and this rule may only be ignored in the presence of concrete reasons recorded in writing by the president (Para d). This judgment reflected the judgment of the Indian Supreme Court which was passed in 1993 (Supreme Court Advocates - on - Record Association v Union of India 1993). Almost the same issues, along with the interpretation of a consultation clause in the Constitution in binding terms, were discussed by the Indian Supreme Court with the same observations. The Chief Justice Sajjad Ali Shah, being motivated by the Indian Judgment, thought it incumbent to restore judicial independence by sterilizing judicial appointments from political contamination. In his judgment, Shah admitted that "[w]e have to make reference to India time and again for the reason that before the partition it was one country, hence the problems which we are facing today in the present era, are more or less common" (Al-Jehad Trust v Federation of Pakistan 1996, Para 70).

The situation of the superior judiciary in Pakistan at the time of the admission of the petition of the Al-Jehad Trust was not satisfactory. The Supreme Court and the High Courts were filled with ad-hoc or acting judges. Both the Chief Justices of the Lahore High Court and the Sindh High Court were transferred to the Federal Shariat Court for next two years. Three out of the four High Courts were functioning under Acting Chief Justices, and public confidence in the independence of the judiciary was deteriorating (Mian 2004, 176-177). The judgment was warmly welcomed across the board in Pakistani society, except in government circles (Waseem 2012, 24; Jen, and Abeyratne 2020). Hassan (2007) argued that the independence of the judiciary had been strengthened by the judgment. Though the judgment had positive effects on the independence of the judiciary by insulating judicial appointments from political intervention, there was also some valid criticism of it. Seervai (2013, 2964), a renowned expert on Indian Constitutional law, harshly criticised the judgment of the Indian Supreme Court and expressed the view that the judgment "bristle[d] with almost every fault which can be committed in a judgment". This criticism could be applied with the same force on the judgment of the Supreme Court of Pakistan, which was almost a reproduction of the Indian judgment in terms of matter and effect (Noorani 2012). Hamid Khan commented on this judgment that it had an inherent defect as the judges were personally interested in its outcome (Khan 2009, 599). In 2000, the Malaysian Court of Appeal adopted a different interpretation of the term "Consultation", and declared that "Consultation" is not equivalent to "Consent". There is a difference between the two terms; a Consultation means to refer a matter for opinion or advice (Dato’ Seri Anwar Bin Ibrahim v Public Prosecutor 2000,
Another flaw in the judgment was that it stayed silent on the issue of differences of opinion between the consultees. There have been some examples of such differences in the judicial history of Pakistan. Justice Cornelius, when he was the Chief Justice of Pakistan, did not agree often with the opinion of the Chief Justice of the West Pakistan High Court (Rizvi 2005, 1317). Moreover, another flaw in this judgment is related to the possible deceptive intent of the Chief Justice, Sajjad Ali Shah. The judgment declared the seniority principle binding for appointments of the Chief Justices of the High Courts but did not elaborate that this principle would also be applicable to the appointment of the Chief Justice of the Supreme Court (Mian 2004, 181). Sajjad Ali Shah had himself been appointed as Chief Justice of Pakistan by bypassing three senior judges in violation of the forty-year-old precedent that the most senior judge is appointed as the Chief Justice of Pakistan (Khan 2009, 595). However, just two years after the passing of this judgment, he fell prey to his own judgment. Following an episode of tension with his colleagues coupled with conflict with the government, Shah’s fellow judges of the Supreme Court passed a judgment invalidating his appointment on the grounds of the principle of seniority set in the Al-Jehad Trust case (Asad Ali v Federation of Pakistan 1998, 161). The court declared that the principle of seniority set for the appointment of the Chief Justice of a High Court applies with more force in the appointment of the Chief Justice of the Supreme Court (Para c). In compliance with this judgment, the government withdrew the notification of his appointment as the Chief Justice of Pakistan (ICG 2004, 7).

The practical outcome of these judgments was that the Supreme Court arrogated the power of Appointments in the superior judiciary to itself (Lee 2010, 386). Justice (R) Fakhruddin G. Ibrahim (2010) argued that when an appointment was approved by the Chief Justice, it became binding on the executive to appoint that person except in exceptional cases, where the prime minister could record the reasons for his disagreement. In such cases the Chief Justice could review the appointment; however, primacy still rested with the Chief Justice. This judgment rendered the role of the executive in judicial appointments as ceremonial. Though the transformation of the system of judicial appointments in Pakistan from politicised towards judicialised was considered a positive step, this change had its own ramifications (Mullally 2009, 37). The system of consultation lacked transparency because of its secrecy, thereby resulting in mistrust towards the system and the rise of suspicions of corruption and nepotism within the legal community. The root cause of mistrust in this new format was the collegial control wielded by the Chief Justice. In theory, the Chief Justice was equal to his colleagues but in reality he was above all because of his administrative control over the judicial institutions (Khan and Shah 2003, 21). The concentration of power in one person with regard to judicial appointments was a matter of concern as it could weaken judicial independence rather than strengthening it. The Chief Justice could become susceptible to immense political pressure for the sake of making favoured judicial appointments (Mullally 2009, 42). Lee (2010, 386) argued that "[t]he notion of judges appointing judges is however one that skews the separation of powers and also the doctrine of judicial accountability. It is a model which is not deployed in most countries". According to the Indian Judges case, the Chief Justice of the Supreme Court had to consider the views of two of the most senior judges of the Supreme Court though he was not bound to follow their advice (Supreme Court Advocates - on - Record Association v Union of India 1993, 702). Even the Indian Judges case was criticised as it again brought a lack of transparency because of collegial control (Lee 2010, 386). In the Pakistani Judges case the Chief Justice was not required to consider any advice, and was equipped with the unqualified power of judicial appointments. Hence, the same criticism applies with even more force in relation to the Pakistani Judges case.

Despite the transfer of power towards the Chief Justice there was a strong perception that there...
had been instances of political interference. Miss Bhutto strongly opposed the judgment and even ridiculed it, both in and outside Parliament (LaPorte 1997, 119). A few days after the pronouncement of the judgment, the government appointed a judge in the Supreme Court and a Chief Justice of the Sindh High Court without consulting the Chief Justice of Pakistan (Shah 2009, 6). Similarly, Sharif in his second term was unhappy with the names of two out of the five candidates suggested by the Supreme Court. He tried to resist the recommendations of the Supreme Court by using different tactics, however due to the president’s intervention he was compelled to notify the names recommended by the Supreme Court (Hussain and Khan 2012, 88-89). Likewise, during Musharraf regime, the executive, while ignoring the seniority principle, bypassed Chief Justice Falak Sher of the Lahore High Court and elevated two junior Lahore High Court Judges to the Supreme Court. Mrs Justice Fakhar-un-Nisa Khokhar, who would have been the first female Chief Justice of the Lahore High Court, was also bypassed, and a junior judge, Iftikhar Hussain Chaudhary, a brother of the Governor of Punjab, was appointed as Chief Justice instead. The Chief Justice of the NWFP High Court, Shakirullah Jan, was elevated to the Supreme Court despite the fact that the Chief Justice of Pakistan had recommended Iftikhar Hussain Chaudhary for elevation (ICG 2004, 9).

Taken together, the various instances of elevation against recommendation show that at times the consultation process became meaningless in the face of the power of the executive or key players in the judiciary. The more powerful among the executive and judicial heads used their discretion in judicial appointments. During fragile democratic regimes, the Chief Justices used their sole discretion, and during military regimes, the military heads did the same. Even democratic governments made judicial appointments without consultation and claimed that consultation had taken place, whilst on the other hand the concerned Chief Justice denied that any consultation had actually taken place. The executive also showed reluctance to initiate the process of judicial appointments and kept key judicial appointments pending for longer periods in the hope of being able to choose their favoured candidates (Ibrahim 2010).

Professionalised Model of Judicial Appointments in Pakistan

The "professionalised model" is based on a system of independent judicial appointment commissions who make appointments from a pool of eligible candidates either directly or through competitive exams. In this model, although the final appointment is made by the executive, it possesses minimal or no discretion to deviate from the list finalised by the commission (Jowell 2010, 4-5). A judicial commission is, by tradition, a civil law institution; however, it has gradually gained popularity as a key element of reform in common law jurisdictions (UNODC 2006, 11). The composition of commissions varies across different jurisdictions. However, the most popular model seems to be a balance between members of the judiciary, political institutions and of the legal profession and civil society (Gee 2012, 132). The main focus remains that the political branches should not dominate in the composition of judicial commissions (Hlmann and Kunz 2011, 323). The logic behind the formation of judicial commissions is that because of the high value of judicial appointments in maintaining judicial independence, the process cannot be left exclusively in the hands of the executive or the parliament (Bell 2003). This fact was acknowledged by Article 4 of the Judges’ Charter in Europe, which declared that judicial appointments should be made exclusively subject to "objective criteria designed to ensure professional competence" (E AJ 1997). According to the Charter, judges should be selected by an autonomous body substantially represented by judges. There should be no external and, especially, political influence in the process of judicial appointments.

However, Gee (2012, 132) disagrees with the above point of view and suggests that judicial selection cannot be protected from politicisation because the courts have authority of
accountability over the political institutions. Hence, the transfer of the power of making judicial appointments from political institutions to judges does not provide immunity for the process from political considerations. He warns that the de-politicisation should not go to such extremes that the system lacks democratic legitimacy. Gee’s perspective would have some substance if the judicial commission was comprised only of judges, because this type of commission would transfer the monopoly on judicial appointments from the executive to the judiciary. Jackson (2012, 72) goes one step further and argues that placing the power of judicial appointments in the hands of the head of the executive alone may bring more transparency and accountability into the system of appointments compared to the selection of judges through commissions. He further argues that judicial appointments through commissions comprising members from different backgrounds may cause accountability to be diminished.

The criticism by Gee and Jackson seems to be slightly emotional rather than rational. The appointment of judges based on merit instead of political patronage is the central feature of a reliable judicial appointments procedure. The averment that this target can be achieved while appointments are under the exclusive control of the executive is becoming hard to sustain (Malleson 2004, 104). The model of a judicial appointments commission does not absolutely rule out the involvement of the political branches in the selection process. This model involves all the important players in a constitutional system, and an example of it is the Judicial Appointments Commission in England. All three state organs including civil society and the legal fraternity have the chance to share in the process of judicial appointments and contribute their specific knowledge and expertise. The most prominent advantage of this model is that no individual or single organ of state can dominate and manipulate the judicial appointments process. Therefore, the model contains political and judicial legitimacy in a more transparent and comprehensive way. This type of model can therefore be declared the best model to follow for judicial appointments.

Even after the implementation of a judicialised model for judicial appointments in Pakistan, the lack of transparency and the ongoing tussle between the executive and the judiciary over judicial appointments continued. This resulted in deliberations regarding possible further refinements to the current system (Cotran and Lau 2005, 34-35). There was almost a unanimous demand for the establishment of a judicial appointments commission to make appointments in the superior courts (IBA 2008, 18; Hassan 2010). For instance, Lee (2010) suggested that "[t]o bolster trust and public confidence in the judicial institution, the most appropriate step which would ensure an appropriate role for the executive and the judiciary is the establishment of a judicial appointments commission". The International Bar Association Human Rights Institute (2007) in its report on Pakistan suggested that to ensure transparency there should be a judicial appointments commission with representation from all the provincial and federal stakeholders to avoid the hegemony of any single branch.

In 2010, a new Article, 175A, was added in the Constitution the 18th Constitutional Amendment. This amendment abolished the direct role of the prime minister and the president in judicial appointments and the appointment process was channelled through a Judicial Commission and a Parliamentary Committee. For appointments in the Supreme Court the commission was to be comprised of the Chief Justice of Pakistan as Chairman, two of the most senior Supreme Court Judges, a former Chief Justice or a former Supreme Court Judge to be nominated by the Chief Justice of Pakistan after consultation with two member judges, for a period of two years, the Federal Law and Justice Minister, the Attorney General and a senior Supreme Court advocate to be nominated by the Pakistan Bar Council for two years. The total number of the members was therefore seven, out of whom three were serving Supreme Court Judges, one retired Supreme Court Judge, one politician, one advocate and one Attorney General. For appointments in the
High Courts, four more members were added to the Commission. These members would be the Chief Justice and another senior judge of the concerned High Court, the Provincial Law Minister and a senior advocate to be nominated by the concerned provincial Bar Council for a period of two years. For the appointment of a Chief Justice of the High Court, the most senior judge would be replaced by a former judge to be nominated by the Chief Justice of Pakistan after consultation with the two member judges from the Supreme Court. For the appointment of Federal Shariat Court Judges, its Chief Justice and the most senior judge would be included in the Commission. If the appointment being made was for a new Chief Justice then the senior judge would be replaced in the manner similar to that of the High Court. The Commission would by its simple majority recommend to the Parliamentary Committee one candidate against each vacancy. The Parliamentary Committee would be comprised of eight members in total: four members from opposition benches (two from the Senate and two from the National Assembly), and similarly, two members from each house from the treasury benches. Within fourteen days, the Committee would accept a recommendation with a simple majority or reject it with a two-thirds majority and in the case of its failure to do so, the recommendation would automatically be accepted. In the case of rejection by the Committee, the Commission would send another recommendation, and finally, the Committee would forward the recommendation to the president for appointment. Another important and notable change brought about by the 18th Amendment was the appointment of the judges of the Federal Shariat Court through the same process.

These changes caused fresh controversy, as there were divergent responses from the intelligentsia of Pakistani society (Hussain and Kokab 2011, 88). Some believed it was a positive move because it replaced individuals with institutions (Waseem 2012, 25-26). The previous role of the president was substituted with the Parliamentary Committee and the role of the Chief Justice was substituted with the Judicial Commission (Habib and Zahraa 2012). The inclusion of representatives of the legal fraternity in the Judicial Appointments Commission was also welcomed because the positive input of the Bar was also desirable (Khan and Shah 2003, 25). According to Hasan Askari (2010), the self-acquired power of the Chief Justice with regard to binding consultations was neutralised with the establishment of a judicial commission.

There was also some strong criticism of these changes from the legal and political community (Hashmi 2018, 10). Ijazul Haq (2010), a former federal minister, declared the amendment "an insinuation and disguised move". He believed that the changes were dangerous, with the potential to politicise highly important national institutions. Hamid Khan believed that the ways in which the procedure of judicial appointments had been changed would result in huge meddling in judicial appointments by the executive and Parliament (Khan n.d). Though the legal community had reached an agreement that a system, like that introduced by the 18th Amendment, should be adopted, they had reservations about the limited representation of the legal fraternity in the selection process. They expressed the view that the inclusion of political institutions in the selection process on a larger scale could be construed as an attack on judicial independence (ICJ 2011, 8-9; Cheema 2016, 458; Ahmed 2017, 497). Mahboob and Rizwan believed that the new process would politicise judicial appointments at both stages. A judge would have to win the confidence of the judicial commission and then he would have to gain the favour of the majority of the Committee. They expected that at both of these stages the votes would be cast on a political basis and that it would also become public. The public would perceive these appointments as politically motivated. They also criticised the condition of the most senior judge being appointed as a Chief Justice, arguing that this meant that the only criteria for this most senior appointment would be length of service instead of arguably more relevant criteria such as competency and performance (Hussain and Kokab 2011, 88). The Parliamentary Committee was armed with the power of veto against the recommendation of the Commission (Lunn and Thompson 2012, 19). However, despite the fact that the possibility of executive capture could not
be ruled out and the courts were likely to strongly resist these changes, the changes would bring "transparency and meritocracy" to the system of judicial appointments, a prerequisite for an independent and respected judiciary.

Segments of society unhappy with these changes in the appointment process, including the Supreme Court Bar Association, challenged these changes in the Supreme Court of Pakistan in the Nadeem Ahmad v Federation of Pakistan case (2010). The petitioners asserted that these changes in the appointment procedure were against the principle of judicial independence, and against the "basic model" and salient features of the Constitution. The petitioners raised serious concerns over the formation and symmetry of the Commission and the veto power given to the Parliamentary Committee. The court agreed with the reservations of the petitioners and recommended that the number of the most senior Supreme Court Judges should be increased from two to four; that the Committee should give sound reasons for the rejection of any nomination; and that in such cases, nominations would be sent back to the Commission for reconsideration. If the Commission after reconsideration reiterated the same verdict, then it should become final and the president should implement it accordingly. The court further recommended that the in camera proceedings of the Committee should be recorded in detail. The court was also aware that it could be blamed for breaching the sovereignty of Parliament; hence it tried to clarify its position by stating:

“By making this unanimous reference to the Parliament for re-consideration, we did not consider the sovereignty of the Parliament and judicial independence as competing values. Both the institutions are vital and indispensable for all of us and they do not vie but rather complement each other so that the people could live in peace and prosper in a society which is just and wherein the rule of law reigns supreme… We had two options; either to decide all these petitions forthwith or to solicit, in the first instance, the collective wisdom of the chosen representatives of the people by referring the matter for reconsideration. In adopting the latter course, we are persuaded primarily by the fact that institutions may have different roles to play, but they have common goals to pursue in accord with their constitutional mandate.”

(Para 14)

The court, while admitting the good faith of Parliament behind the incorporation of these amendments, did not give its final verdict and chose instead to pass an interim order to demonstrate that it respected the legislative authority of the Parliament (Para 13). Many commended this judgment as the court showed judicial restraint and did not challenge the parliamentary authority by fully embracing the basic model and declaring the amendment null and void (Iqbal 2010; Kalhan 2013, 80, Dhawan 2020, 194). After making these recommendations, the court referred the matter back to Parliament to make further amendments in the appointment procedure keeping in view the recommendations of the Supreme Court (Nadeem Ahmad v Federation of Pakistan case 2010, Para 13).

This series of events was unique in the judicial and constitutional history of Pakistan in that a constitutional amendment was challenged in the Supreme Court by different segments of society and the court accepted these petitions for adjudication (Khan n.d; Jon and Thompson 2012, 9). The adjudication over the merit of a constitutional amendment was not per se an extraordinary issue. For instance, it is not unusual that the courts may test a constitutional provision to verify whether or not it violates human rights law or the obligations of a state under international law. However, in this case the Supreme Court expressed its desire that its views should be given priority over the decisions of Parliament, a stance which can become objectionable under the principle of "nullus iudex in causa sua" (Jon and Thompson 2012, 9). The Pakistani Parliament possessed all the necessary powers to pass any constitutional provision with only one condition:
that it should not violate the limits prescribed by Allah. However, the judges were inclined to challenge the legislative authority of the Parliament by connecting the notion of judicial independence to the basic model of the Constitution. Following the judgment, the Pakistani Parliament agreed to accept most of those recommendations before it passed the 19th Constitutional Amendment. However, the recommendation of the Supreme Court specifying that if the Judicial Commission reiterates the recommendation rejected by the Parliamentary Committee it shall become final, was not accepted by the Parliament. The rejection of this recommendation did not impair judicial independence; rather, if it had been accepted, it would have disturbed the balance of power set in place by the creation of the Judicial Appointments Commission and Parliamentary Committee, and resulted in a judicial supremacy over the country’s elected institutions.

Although the demand of the Supreme Court to have the final say in the process of judicial appointments was rejected by Parliament, the Supreme Court did not give up its attempt to gain control of judicial appointments. Soon after the 19th Amendment, the Parliamentary Committee rejected nominations for four Lahore High Court and two Sind High Court Judge appointments. These rejections were challenged in the Supreme Court of Pakistan in the Munir Hussain Bhati v Federation of Pakistan case (2011). The court declared that the rejection of the nominations by the Committee was justiciable and could be subjected to judicial review. The court declared that the Committee did not have sufficient institutional expertise to object to the findings of the Commission about the professional competence, legal insight, judicial expertise, worth and antecedents of the proposed candidates. Justice Jawwad S. Khawaja in his concurring judgment preferred judicial supremacy over judicial appointments. For justification of his view he relied upon the previous two judge’s cases and the theory of judicial independence as the touchstone of the Constitution. Thus, the court repelled the grounds of rejection, set aside the order of the Committee and ordered the government to implement the recommendations of the Judicial Commission. Apparently, the effect of the judgment was to give supremacy to the Commission; however, in practical terms the Supreme Court regained its commanding authority over judicial appointments which it had possessed prior to the 18th Amendment. The Court virtually annulled the effects of the 18th and 19th amendments through this judgment, because the role of the Parliamentary Committee in judicial appointments process became meaningless and purposeless (Ali and Jan 2018, 58). Like its Indian counterpart, the court construed that the judicial independence is based in gaining control of judicial appointments and ignoring the need for the existence of checks and balances in the appointment process (Nelson 2018, 334). Cyril Almeida (2010) pointed out after the Court’s judgment on the 18th Amendment that it meant that there had been practically no change to the previous appointment procedure. The Chief Justice of Pakistan would retain his key position in the appointment process and if Parliament rejected any nomination made by the Commission, the grounds for their rejection would be justiciable by the Supreme Court. Thus the move of the Supreme Court was widely criticised by informed circles of Pakistani society (Naqvi 2011; Jahangir 2011; Siddique 2011, 26-27; Cheema 2015, 197). This attempt of the judiciary to gain hegemony over judicial appointments and the harsh criticism of the situation suggests that the judicial appointment system is still not working satisfactorily. This fact became more visible when a member of the Parliamentary Committee criticised the ineffectiveness of the Committee and the Judicial Appointments Commission, by claiming that 126 judicial appointments had been made by Chief Justice Ch. Iftikhar on the basis of nepotism (Malik 2013). The role of the parliamentary committee as prescribed by the 18th and 19th Constitutional Amendments could have played a check and balance role in case the Judicial Commission selected some candidate based on grounds other than merit criteria. As discussed above, the potential benefits of a check and balance role of the Parliamentary Committee were rendered meaningless by the transfer of judicial appointments powers absolutely back in the hands of the Supreme Court. This dilemma can be resolved by introducing a new constitutional
amendment to restore the check and balance role of the Parliamentary Committee according to the spirit of the 18 and 19th Constitutional Amendments.

Conclusion
Pakistan has experienced politicised, judicialised and professionalised models of judicial appointments. Irrespective of the type of model implemented, the executive has generally been keen to appoint politically affiliated and subservient judges, and those judges were keen to appoint their own relatives and allies. The politicised model failed due to the lust of the executive to fill judiciary with its likeminded judges. Similarly, the judicialised model generated rift between the judiciary and the executive. The lack of transparency and the collegial control of the chief justice created mistrust on the judicial appointments through this system. The newly-adopted professionalised model was considered a good step towards the restoration of public confidence in the process of judicial appointments. However, the Supreme Court has reversed this model back into one more resembling a judicialised model through its judgment. The institutionalised model can provide better and trustworthy judicial appointments, however to achieve this target the hegemony of the Chief Justice over judicial appointments should be removed by making the role of the Parliamentary Committee meaningful and purposeful, as was intended in the 18th Constitutional Amendment.

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Legal, Administrative and Judicial Framework in Pakistan to Combat Tax Evasion and Money Laundering: An Analytical Study

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ABSTRACT

Purpose: The main objective of this research paper is to look at Pakistan’s legal, administrative, and judicial framework in terms of countering money laundering and tax evasion. Money laundering and tax evasion are two financial crimes that have been linked, either directly or indirectly, to one another. Money laundering was formerly solely associated with the crimes of narcotics trafficking and terrorism financing. At present, it has been also associated with tax evasion.

Methodology: The framework regarding tax evasion and money laundering is varied. In Pakistan, two different mechanisms exist to combat both crimes. This article analytically studies the parliamentary statutes and ordinance, the working of investigating and prosecuting agencies and judicature structure concerning tax evasion and money laundering in Pakistan.

Findings: This article concludes that the problem of tax evasion and money launder are causing financial instability in Pakistan. There is an urgent need of revamping the current tax administration to detect tax evasion and frauds.

Implication: this article recommends potential reforms in the existing legal, administrative and judicial framework to control and curb both crimes more effectively.

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Introduction
In the modern global economic system, tax is a major source of revenue for every country. A state cannot provide public services to its citizens if they try to avoid or evade taxes and launder money. Tax evasion and money laundering cause loss of revenue as well as impacts the flow of money. It may also jeopardise a nation's economic integration and social progress. In the new economic system, citizens voluntarily pay their taxes on their incomes from services and profits.
from businesses.

Tax evasion is a worldwide issue, and Pakistan is no exception. The rate of tax evasion in Pakistan is much greater than the rate of revenue collection. Pakistan has been forced to rely on external debt due to tax evasion. Pakistan has struggled to develop and update its tax revenue management system since its inception. Consequently, in comparison to certain other South Asian nations, Pakistan's "tax to GDP" ratio is incredibly low (Kamal, 2021).

Pakistan has also been included to the Financial Action Task Force's grey & blacklists multiple times owing to failures in combating money laundering and tax evasion. To get out of the grey list of this international watchdog agency, Pakistan is fighting on multiple fronts that include money laundering and its predicated offences such as terror financing, corruption, cybercrimes and also smuggling (Babar, 2021).

The issue of money laundering is causing loss Pakistan's economy a loss of billions of dollars every year. According to a study released by the US State Department in 2017, trade-based money laundering costs Pakistan more than $10 billion per year. The money launderer uses a legitimate trade company to cover their illegal profits from their illicit means in this form of money laundering (Iqbal, 2017).

The primary objective of this article is to conduct an in-depth analysis of the issue of money laundering and tax evasion in Pakistan, which is exacerbated by legal ambiguities in the legislative, administrative, and judicial framework. Furthermore, it also looks into the historical evolution of laws related to both crimes. Additionally, it critically analyzes the provisions relating to tax evasion in Income Tax Ordinance, 2001 and other relevant laws.

Further on, it explores into provisions related the offence of money laundering under “Anti-Money Laundering Act”. Moreover, this article also critically examines the functioning of different administrative agencies combating both crimes. It also discusses the existing judicial structure concerning both crimes. Finally, this study also emphasizes the need for reforms in the legislative, administrative, and judicial framework to fight both crimes more effectively.

The Problem of Tax Evasion and Money Laundering in Pakistan
Informal economy and evasion of tax have been major source of concern in Pakistan. The persistently low tax base, low tax elasticity, and buoyancy, as well as the resulting growing fiscal deficit, are causes for concern. Not only economists, but also sociologists, political leaders, policymakers, nongovernmental organizations, and the public, have recently expressed strong interest in the scale of Pakistan's underground economy and tax evasion (Iqbal, 2012).

Pakistan's substandard taxation is primarily due to tax evasion. Tax dodging isn't exactly a new issue in Pakistan. The informal economy and tax evasion are intimately connected to the state's economy, and also the trouble is now only getting worse. The overall amount of tax evasion in 1973, according to some figures, was around 1.5 billion rupees. The amount had climbed to 152 billion rupees by 1996. The government is losing 7 billion rupees a day due to tax evasion, according to a 2012 study by Pakistan's National Accountability Bureau (Kamal, 2019).

As tax evasion is a predicate offence of money laundering, the person involved in tax evasion moves its money originated from tax evasion to another place. People who evade taxes attempts to hide it from the authorities by employing different money laundering techniques. According to a research conducted by "US State Department's International Narcotics Control Strategy", trade-based money laundering costs the global community tens of billions of dollars
each year, with China, Russia, Mexico, and India accounting for the top four sources of illicit money outflows. As a result of this activity, Pakistan loses roughly 10 billion dollars every year (Zahid, 2019).

The "Financial Action Task Force", the world's anti-money laundering regulator, also wants its member nations to address strategic flaws in their anti-money laundering, anti-terrorist financing, and anti-proliferation funding programs. If a country fails to meet these requirements, it is put on the FATF's "jurisdiction under enhanced surveillance," or "grey list." On these lists, states agree to correct their strategic vulnerabilities within a set time period. Under the grey list, FATF and its regional organizations continue to collaborate with a number of countries and report on their development. Due to its weak anti-money laundering regulations, the FATF has put Pakistan on its grey and blacklists numerous times. In order to get off the FATF grey list, Pakistan is fighting tax evasion, money laundering, terror financing, corruption, smuggling, and cybercrime (FATF, 2021).

Functioning of Tax Administration in Pakistan

In a democratic society, tax is a cost of living that citizens must pay to fund economic growth and planning. It is the government's taxation of commodities, companies, individuals, and communities to raise money in the land. Pakistan's federal tax structure is similar to that of other countries. Pakistan's tax collection is a major economic issue. Bad management in tax offices, inappropriate conduct by tax officials, confusing and confusing tax rules, a lack of public education about the tax system, misuse by the tax authorities, and, most significantly, individual's reluctance to pay taxes all contribute to the dysfunctional tax system (Nadeem, 2020).

The foundations of Pakistan's major tax administration body, the Federal Board of Revenue, dates all the way back to 1924, when the Central Board of Revenue was established by 1924 Act of Central Board of Revenue. A full-fledged “Revenue Division” in 1944 was created by Ministry of Finance. The Administrative Reform Committee proposed that the FBR be placed to the Finance ministry on August 31, 1960, and this structure lasted until August 31, 1960. In 1974, the Board and its functions were improved even further. As a result, the ex-officio Chairman of the FBR, Secretary Finance, was relieved of his duties, and the position of the Chairman was created. After the FBR Act was passed in July 2007, the CBR was renamed the FBR (FBR, 2021).

Pakistan's tax administration is lacking in highly educated, experienced, well-trained, and impartial tax officials. The Federal Board of Revenue is extremely corrupt, deceptive, and unwilling to cooperate. Similarly, taxpayer's tax assessment collusion with tax authorities encourages tax evasion. Because of their discretionary authority, tax officers are very likely to collude with taxpayers in return for bribes and other benefits. Furthermore, in order to increase revenue, Pakistani governments suggest tax amnesty and incentives. Tax evaders and money launderers profit from these opportunities (Awan, 2014).

Historical Evolution of Laws relating to Tax Evasion and Money Laundering

The Income Tax Act of 1922 is the foundation of Pakistan's tax laws. This act was embraced and applied across Pakistan after independence, except for a few special areas. In 1979, some new complexities arose, including tax evasion. The Income Tax Ordinance of 1979 was approved and went into force on July 1, 1979, to counter tax evasion and fake tax records (Qazi, 2009).

Tax Ordinance 2001, which repealed the Income Tax Ordinance of 1979, was enacted in 2002. On July 1, 2002, the Ordinance took effect. There are 241 sections, 13 chapters, and 7 schedules
in this Legislation. This legislation takes precedence over all other income tax laws in Pakistan. This legislation applies across Pakistan, with the exception of the ex-FATA zones, since Article 246 and 247(3) of the Pakistani Constitution prohibit the execution of any law approved by Parliament (Qazi, 2009).

Pakistan's anti-money laundering legislation, likewise, has a short history. Pakistan has struggled with money laundering since its inception, and it is still unable to effectively fight it, as well as related crimes like tax evasion and terror financing. When Pakistan established the Financial Monitoring Unit in December 2007, it declared money laundering to be a crime. The Pakistani Parliament passed the Anti-Money Laundering Ordinance in 2007. Following that, Parliament passed the Anti-Money Laundering Act 2010, also known as the AMLA, in 2010 to more effectively combat money laundering (Recorder, 2017).

**Legislative Framework: Income Tax Ordinance, 2001 and Anti Money Laundering Act, 2010**

Income Tax Ordinance 2001 oversees income tax collection and regulates the offences relating to tax evasion. It prescribes methods of detection of hidden income of tax payers. This ordinance expressly declares evasion of tax as an offence. However, it must be noted, however, that Income Tax Ordinance of 2001 lacks a definition of that word "tax evasion." The ordinance does not include a word that would clarify the components of the tax evasion offence. This statute's primary objective is tax collection, and it specifies only a limited number of taxable income of individuals and corporations. It provides criteria and process of collection of taxes and procedure for resolution of any dispute arising during tax collection. The Ordinance is not primarily concerned with the source of income of an individual or a company. The Ordinance does not contain any provisions that could enable the tax officials to further scrutinize the source of income of a person.

Overseas money inflows into Pakistan are dealt with in Section 111 (1) of Income Tax Ordinance. "Unknown earnings or assets" are governed by Section 111 (1) of Income Tax Ordinance. The amount would be levied to an individual's tax liability if he fails to explain to the Commissioner the presence and source of funding ascribed to his income statement, any valued item, or any loss experienced. Clause (1) of section 111, on the other hand, does not applicable to any overseas financial transactions performed via legitimate methods up to a limit of 5 million rupees, according to section 111 (4).

In the context of the preceding section, this article says that this provision of the Income Tax Ordinance, 2001 facilitates money laundering in Pakistan. This allows for the unchecked entry of illicit funds into Pakistan. This also jeopardises Pakistan's efforts to combat money laundering and remove the country off Financial Action Task Force's grey list. It is also damaging the efforts of diplomatic authorities to get into treaties with Tax Havens, who will certainly object to such laws and will not show a willingness to agree with Pakistan. Therefore, it would be very essential to repeal such a provision that is allowing illicit money into Pakistan.

Sections 192 to 200 of Income Tax Ordinance, 2001, include measures relating to the crime of tax evasion. If the amount of income tax avoided exceeds Rs. 10 million, Section 192 allows an individual to be prosecuted for making a false statement after scrutiny. Whereas provision 194 applies to unauthorised use of a National Identity Card Number when volume of evaded tax is more than “10 million” rupees.

Furthermore, s.192 deals with the concealment of any transaction, sale, reception, or manufacture
of any entities that the tax is due. It is not particularly concerned with type and source of business that is concealing the audit trail, revenues, or manufacturing that is subject to taxation. Therefore, if a person is involved in money laundering as well as tax evasion, he will only be prosecuted for the offence of tax evasion under this section. Therefore, this article suggests that there is a need for amendment in the above-mentioned to prosecute the person involved in both crimes.

In a landmark judgement titled “CIT v Ely Lilly & Others” (2009), Supreme Court declared that "authorities in Pakistan have continued to fail to regulate any tax structure that has been adequately debated and passed by parliament," referring to lawfulness and utility of Income Tax Ordinance, 2001. The 2001 Income Tax Ordinance was inadequately drafted, and it has been changed over 2000 times in previous decade, resulting in numerous litigation and misunderstandings.”

On the other hand, the Anti-Money Laundering Act of 2010 focuses on identifying and prohibiting the mechanism by which assets obtained through criminal activity are transferred to a normal financial system and banking. Its main concern is a criminal enterprise. Section three of AMLA defines the word "money laundering" as follows:

- If an individual does any of the following, he or she is accused of money laundering:
  - Acquire, utilize, hold, conceal, or shift any asset that has been received as a result of a criminal activity.
  - With knowledge that the asset would be the product of a criminal activity, covers or conceals the source, position, mobility, and type of the asset, including its genuine title.
  - Owns or holds the property on behest of someone who knows it is the product of a crime, or colludes to do so.

The term of money laundering set out in Section 3 of AMLA, 2010 is quite broad and encompasses every aspect of the money laundering offence. However, the phrase "predicate crime" is not defined under this Law. A predicate is an offence that is a source offence for money laundering. The criminal proceeds (known as predicate offences) of any other crime are laundered through the process of money laundering to get benefit from such illegal money (Britannica, 2021). For instance, tax evasion has been declared as a designated predicate offence for money laundering by FATF in 2012 (FATF, 2012). As a result, this article underlines the need of Anti Money Laundering Act of 2010 outlining all predicate offences.

The legislation on penalty is included in section 4 of the Act, as well as the minimum term for laundering money is 1 year, with a maximum term of ten years. A penalty of up to one million rupees may also be imposed on the individual. Any asset utilized in the laundering scheme may be seized as well. As per this article, the minimum sentence per "section 4" is insufficient for a serious offense like laundering money. Lawbreakers are more likely to flee court and secure bail if the minimum sentence is applied. As a result, this essay proposes for a three-year minimum penalty for laundering money.

Suspicious Transaction Reports, or STRs, are specified in Section 7 of the AMLA. This report discusses any suspicious transaction or sequence of transactions that include dirty money obtained through illegal activity, transactions that appear to have no apparent lawful intent or transactions that involve terror funding. Banking Institutions are supposed to submit reports of any fraudulent transactions under this clause by reviewing the individual's FBR information. When there has been a suspicion of the associated violations under Schedule of the AML Act, 2010, STRs must always be notified.

The effective execution of section 7 of the Anti-Money Laundering Act, however, is dependent
on Pakistan's banking sector's cooperation, according to this article. Pakistani banking institutions are notorious for their confidentiality. In Pakistan, banks are allowed by law not to reveal any financial information about their customers. The law forbids them from disclosing any information about their clients' transactions (Haq, 2019). These restrictions are incorporated into sections 5 and 6 of the Banker's Books Evidence Act, 1962, section 33A of the Banking Companies Ordinance, 1962, and the State Bank of Pakistan's Regulations, section 9 of the Protection of Economic Reforms Act, 1992, sections 46A, 46B of the State Bank Act, 1956, and section 5 of the Foreign Currency (Protection) Ordinance, 2001 (Haq, 2019). Thus, it is highly recommended that to amend these laws to reduce the level of bank secrecy in Pakistan and to strictly deal with the suspicious transaction in Pakistan.

**Administrative Framework**

This article examines the present administrative framework for money laundering and tax evasion in order to emphasize the capabilities and duties of various money laundering and tax evasion investigative and prosecution authorities.

D.G. I&I is the primary investigating authority in case of tax evasion in Pakistan. It works under the supervision of the Federal Board of Revenue. It was established under Sales Tax Act, 1990. This authority is headed by the Director General Intelligence and Investigation. He is appointed by the FBR. This agency performs various functions including investigation of fiscal crimes. The key functions include:

- Link with all of the country's databases.
- To fight against non-filing or under-filing of tax returns, data is cross-matched.
- Taking care of any complaints referred by the FBR Chairman
- One of its main responsibilities is to perform any preliminary investigation, as recommended by Board, to prevent loss of revenue.
- To gather information on tax avoidance and tax evaders' collusion with tax collectors, financial scam, and revenue outflows.

Since it wasn't permitted to deal with situations in which an individual was accused with the both money laundering and tax evasion, this agency has previously failed to investigate tax evaders and others involved in tax scams and frauds. Meanwhile, it is now registering complaints under the 2010 Anti-Money Laundering Act. The FBR has recorded 120 total cases under Anti Money Laundering Act 2010, including income of around Rs. 88.4 billion, in order to meet with FATF requirements (Haider, 2020).

The Anti-Money Laundering Act, 2010 explains an investigatory or prosecution institution as “National Accountability Bureau”, “Federal Investigating Agency”, “Anti-Narcotics Force”, and other “agency”, as defined in section (2) Interpretation’s clause (j) (j). Those authorities are in charge of handling money laundering, as defined in section 3 of the act, and every other offense. Another administrative authority related to fiscal crimes is constituted under section 6 of AML, 2010 is Financial Monitoring Unit. This is an autonomy body that is empowered by Federal government to makes independent decisions. The Federal Government appoints a Director-General who heads FMU. The key functions of FMU includes:

- It has the authority to request suspicious transaction reports from any financial institution.
- It has the authority to seek any documentation or financial related information to an unusual activity from any person or organization, and also to instruct any investigative agency to undertake an inquiry or investigation into the suspected transactions under any applicable legislation.
• It does have the power to work with foreign intelligence services to provide financial input regarding offences committed under this law and to represents Pakistan on a worldwide level.
• It is authorized to take database of any other agency for national security reasons.

Role of “Financial Intelligence Unit” is crucial in combating both tax evasion and money laundering. It enables disparate fiscal crime investigating and prosecution departments that perform various roles to exchange information to combat these crimes. Linking all of the FMU's databases under the AMLA and the FBR’s databases under the Federal Board of Revenue Act of 2007, maybe extremely useful in capturing tax evaders who are also involved in money laundering.

This article, on the other hand, claims that the current administrative framework for combatting money laundering and tax evasion is ineffective and that its power is not centralised under one body. The power of these investigating agencies including FIA, Nab, and D.G. I&I are scattered. These all agencies operate under different laws and different jurisdictions. Their statutes do not recognize these crimes as primary investigation target.

On a limited scale, there is cooperation between various crime investigating agencies dealing with tax evasion and money laundering, however this coordination fails because these agencies operate under different laws. This article suggests that, there is a need of establishing a special investigating agency in order to apprehend, prosecute, and successfully convict the tax evaders and money launders. This new agency should be equipped with all modern-day technology, well trained staff and reasonable funding.

Judicial Framework
The current tax appellate mechanism is inefficient, outdated, and utterly ineffective, with a lot of incompetence and long wait times. The budgetary conflicts between the state and the taxpayers must be resolved quickly for the system to function properly. It necessitates a thorough reorganization and redesign. A four-tier appeal structure is in place under Pakistani tax laws (Bukhari, 2019).

Sections 192 to 200 of Income Tax Ordinance of 2001 explain the restrictions against tax evasion. A "special judge" is assigned within section 203 of "Income Tax Ordinance" to prosecute such offenses. The "Federal Government" also determines geographical authority as well as judges’ numbers. Under section 185 of "Customs Act of 1969" the "Federal Government" may also proclaim that a special court would be established to prosecute breaches of the decision.

Money laundering is not specified as a felony in Income Tax Ordinance or Schedule to the Income Tax Ordinance, according to this article. As a consequence, Special Judge court will not be allowed to hear the case. When a person is accused of both money laundering and tax evasion, case gets more problematic since the charges cannot be brought in the very same court.

As a consequence, the judicial system set up by the Income Tax Ordinance of 2001 and the Sales Tax Act of 1990 is insufficient. There is no court's system in place to deal with situations of tax evasion. Tax evasion, like any other crime, has a negative impact on the economy and social values of a country. It will not be enough to appoint a "Special Judge" to prevent tax evasion. Pakistan's judicial system urgently needs to be revamped, with "National Tax Courts" being established aim of providing immediate justice to the nation's lawful and genuine tax paying citizens while also trying to punish tax evaders.
Similarly, Anti-Money Laundering Act does not create a separate judicial system to hear money laundering matters. The Courts of Session is given authority to trial the crimes outlined in Act under Section 20 of AMLA. The Courts of Session's power is established under Code of Criminal Procedure of 1898.

The AMLA, 2010, section 20(a) authorises a court other than a Session Court adjudicating a predicated crime (tax evasion) of laundering money to additionally trial money laundering crime. This creates a direct relationship between money laundering courts and tax evasion and money laundering courts.

Section 21 of Act declares all crimes punished under the AMLA non-cognizable and non-bailable. According to Section 21, judge may only take cognizance of a complaint submitted by investigating officer and any other official authorised. The investigating officer or any other authorised official, on the other side, first should acquire clearance from the appropriate regulatory authority before submitting a charge against a financial company or an individual accused of money laundering.

The above-mentioned clause, according to this source, merely needs a government employee to be a complainant and forbids a private individual from reporting the crime. Furthermore, when a state official becomes a complainant in these cases, the impartiality and integrity of the trial process are expected to be undermined.

The courts under AMLA, 2010 are of ordinary nature. The biggest issue with these courts is that they are in charge for prosecuting the predicate crime of money laundering, which is handled by other similar courts. This article argues that creating two separate courts for same purpose is both waste of time and resources. Therefore, there is a need of well-structured judicial setup in order to try a person involved in tax evasion and money laundering. As a result, this well-structured judicial system led by Pakistan's Supreme Court will be only serving the state's and people's best interests.

Conclusion and Recommendations
This article concludes that the problem of tax evasion and money launder are causing financial instability in Pakistan. There is an urgent need of revamping the current tax administration to detect tax evasion and frauds. Legislators and reformers must pay close attention to the current legal, administrative, and judicial system. The current system's ability to combat tax evasion and money laundering is hampered by a number of legal complexities. These legal loopholes make it difficult for the state to prosecute these wealthy criminals. These criminals are still able to get away with their crimes by exploiting legal flaws.

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Implementation of Juvenile Justice System Act 2018: Prospects and Challenges for Pakistan

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ARTICLE DETAILS

ABSTRACT

Purpose: This paper develops a framework for analyzing the practical implementation of Juvenile Justice System Act 2018, and bottlenecks which are being faced by the juvenile during the process of trial before the court of law. Few areas need to be examined while determining the practical implementation of this act, as its procedural requirements have not been yet followed in the field. This paper aims to identify those obstructions which are necessary to be dealt with iron hand in order to ensure the full implementation of the act.

Design: Qualitative content analysis method has been used to analyze the various factors, which are responsible for the failure to implement the said act.

Findings: Findings on the topic suggest that even at the stage of registration of first information report, the age of juvenile is neglected and loopholes continues till the conclusion of trial. The crux is that in order to avoid the exploitation of juvenile offender during trial, the Provincial and Federal Governments should play their role to ensure that procedural requirements are met as envisaged by the said act.

Implications: The practical and firm implementation of Juvenile Justice System Act 2018, competent authorities and requisite institutions should realize their role.

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Introduction

In order to build the topic in its true sense, it is necessarily to understand the background of the enactment of Juvenile Justice System Act 2018. So in order to elaborate that which law has been
prevailed before this act. And the relevant circumstances that convinced the legislature to enact the new one. Firstly, Criminal Procedure Code 1860, has provided the specific provision (section 497) regarding the bail of juvenile offender (Pakistan Penal Code, 1860). In which it has been provided that court will look into the age of minor offender while granting the bail. Secondly, under Article 25 of the constitution (Constitution of Pakistan 1973), it has been given that state should protect the juvenile whether he is victim or offender. Other related laws which dealt with the juvenile delinquency are Reformatory Schools Act 1897, The Punjab Borstal Act 1926, The Sindh Children Act 1955 and The Probation of Offenders Ordinance 1960. Then Juvenile Justice System Ordinance 2000 was promulgated (Ali Khan, 2018). And all the proceedings related to juvenile including bail and probation were dealt under that law. Afterwards, the honorable Lahore High Court had observed in one of its judgment (PLD 2005 page 16) that Ordinance 2000, does not deal with all requirements of juvenile. And therefore, it had directed the legislature to enact the new law. And now this law is dealing with the trial of juvenile offender altogether. As it is the new law, therefore its interpretation is under consideration and practical measures are still lacking, as far as the field is concerned. Courts of the law are delivering judgment keeping in view the new law, but there are still bottlenecks, which are needed to be overcome. Therefore, when special law is enacted, all other laws will not be prevailed. But Juvenile Justice System Act, 2018 has given protection to the Criminal Procedure Code 1860, as no separate procedure has been provided in the Juvenile Act, except the few provisions. It means the basic procedural requirements remain the same (Ali Khan, 2018). In a nutshell, we can say that Juvenile justice System Act 2018, has provided a far better system to deal with the juvenile offenders and it will be implemented in its true sense, then rehabilitation and social integration of the juveniles would be done in a much better way.

Under the said Act, child means a person who has not attained the age of 18 years. JJS Act 2018 has categorized the criminal offences into distinct categories (KLR Publications, 2019). First of all, Minor offences, for which the maximum punishment provided under the Pakistan Penal Code, 1860 is imprisonment for up to three years with or without fine. Meaning thereby, a juvenile will be granted bail in minor offences by juvenile court, either with or without surety bonds. Secondly, there are Major offences, meaning thereby an offence for which maximum punishment provided under the Pakistan Penal Code 1860 is imprisonment for more than three years and may extend to seven years with or without fine. Bail shall also be granted in major offences with or without surety bonds by juvenile court. Third category is of the Heinous offences (KLR Publications, 2019) it denotes to the type of offence which are so gruesome and harmful as to threat to public morality and peace, for which punishment provided under the Pakistan Penal Code 1860 is death or imprisonment for life or imprisonment for more than seven years with or without fine. A juvenile of less than sixteen years of age is entitled to bail in heinous offences, but a bail is on discretion of court if juvenile is more than sixteen years of age. There is provision of legal assistance to every juvenile. Accordingly, every juvenile or child victim of an offence shall have the right of legal assistance at the expense of the State. It is mandatory to inform him about his right of legal assistance within 24 hours of taking him into custody (KLR Publications).

Furthermore, there is provision of observation homes. Meaning thereby that juvenile is to be in observation homes after being arrested being apprehended by police. The same provision shall be invoked after obtaining remand of the juvenile. There should also be Juvenile rehabilitation centers, for the purpose of keeping the juveniles there, instead of in jail. A juvenile who has been convicted, shall be kept in the said premises till the completion of period of imprisonment or until he attains the age of 18 years. They are constituted for the purpose of providing vocational
training to juveniles (KLR Publications, 2019). Further, JJS Act 2018 has provided a mechanism to determine the true age of offender by the police through ossification test. Medical and birth certificates will be also given weight-age. There is another provision that is Diversion. It does not require to resort to judicial proceedings in order to determine the responsibility of juvenile. The social, cultural, economic, psychological and educational background, of the juvenile will be looked upon. The mater can be referred to the Juvenile Justice Committee, either on behalf of victim or juvenile for disposal through diversion. Diversion can only be resorted to if the age of the juvenile is not more than 16 years. Under the process of diversion, sentence of community service may also be included. Oral or written apology may also be demanded. The time limit to decide the case is one month by the juvenile justice committee. It may also issue directions to the rehabilitation Centre, to comply with provisions of providing social welfare and social integration to the juvenile. The juvenile justice Committee shall comprise of the Judicial Magistrate, who is invested with the powers under section 30 of Criminal Procedure Code, including public prosecutor and social welfare. Furthermore, there should be Separate challan and trial of juvenile offenders. As it is not allowed by law to charge and try the juvenile together with an adult person. The personal appearance of juvenile may be dispensed with if the circumstances requires the joint trial (KLR Publications). The identity of juvenile is required to be kept secret unless permission of court is seek for special purpose. The act also entails the penalty for the publisher who acts otherwise. Furthermore, juvenile may be also be released under the supervision of probation officer (KLR Publications, 2019). And he is under duty to submit his report, whenever required by the court. There is also provision regarding disqualification. Removal of disqualification attached with conviction. A juvenile offender convicted under the provisions of JJS Act 2018 shall not be disqualified for the purpose of future endeavors. After thoroughly examining the provisions of JJSA and background, its practical implementation will be analyzed and related obstacles will be scrutinized.

**Bottlenecks in its Practical Implementation**

Firstly, at the stage of registration of first information report, the police always fails to determine the exact age of offender (Coleridge & Ghulam Qadri, 2006). They simply put the juvenile under the category of 16 to 18 years of age by his physical appearance, without going for the ossification test, as envisaged by the law. Even, medical test is not being done in this context. Secondly, there exists no separate juvenile courts for the trial of juvenile offenders, except the one established at judicial complex Lahore (Coleridge & Ghulam Qadri, 2006). Furthermore, session judges are being entrusted with the cases. As they are already over-burden with other lot many tasks. Another loophole is that female juvenile offenders are being investigated by the male officers. Sexual abuse of the juveniles is at the rise. There is also lack of rehabilitation centers at the district levels. And it is clear violation of the provisions of JJSA. There has not been constituted any juvenile justice committee, since the enactment of the act. Bail discrimination also exists. Furthermore, there is a need to enact the new rules of business, as old ones have been abolished after the repeal of old act. These rules need to be re-enacted as per provisions of new law. It is a dismay state of affairs that neither provincial federal government has provided the adequate and sufficient funds to cope up the needs of the new law (Coleridge & Ghulam Qadri, 2006). However, Pakistan is signatory of the Convention on Rights of Child (CRC), but in field implementation is lacking at very point. Though, the CRC has not fixed the minimum age for criminal liability, but it has been left upon to the states to fix that age limit that is not too low. It is provided in CRC that every state should ensure the correct and feasible measures to protect the child, in every aspect (Happold, 2006). Rome Statute is also being violated, in the sense that it provides the customary international law to protect the best interest of child (Happold, 2006).

Furthermore, In Pakistan, there are laws who are treating the juvenile delinquency but the basic
infrastructure doctrine and system is not developed yet. There are institution who are dealing with the said cause but they are very less in number. For example, there are hardly two to three borstal schools in the province of Punjab (Government of Pakistan, 2009). And the rehabilitation centers which are already constituted, are not equipped with the sufficient tools to bring the child back into the society. There condition is very deplorable and the environment is not convincing at all. Up till today, the Borstal institutions are regulated by the jail manuals, and they need to be regulated under Borstal Act, to ensure their credibility (Government of Pakistan, 2009). There has not been provided any threshold in a country to keep the record of juvenile offenders. There are no periodical reports available that show the official juvenile offenders data.

**Absence of Coherent Policy**

Though the requisite law is present in the form of JJSA but there is no well-organized policy regarding the juvenile justice system, in order to align it with the international standards. It is required so that the management of the relevant authority is to bee guided by its main principles (Sajjied, 2009). The well cogent policy in any system helps the seat bearers to implement the law in an effective way. This requisite policy needs to be in accordance with the international standards. For example, it is has been provided in the CRC that juveniles should be treated equally and that they should not be discriminated on any ground. Violence in any form against the juveniles is prohibited in the said convention (Sajid, 2009).

**Other Key Challenges**

The awareness in police regarding the juvenile delinquency is at minimal level. While apprehending the juvenile, they even ignore the statutory provision to determine the age of the offender. They simply make guess of the age by physical appearance and put him under any category of age, which is very fatal for the fair trial of juvenile during the process of trial (Fassidudin, 2010). The practice is prevalent amongst police. Secondly, torture and violence during the apprehension by the police is another dilemma. Juveniles are also subjected to sexual abuse in the hands of police and only the right guidance awareness can nullify this treatment. Therefore, different training programs need to be conducted on juvenile delinquency in order to abreast the police with the latest knowledge and international instruments, on the subject. A separate investigation teams need to be formulated, who only deals with the matters of juvenile delinquency.

Police are further required to adopt the process of diversion and to impose the fine or other such monetary compensation, where minor offence is committed by the child. It has been observed that sometimes in certain cases, police deliberately avoid to determine the age of offender, and so that they may not indulge in the given legal process and requisite procedures. They even do not mention the age of juvenile on the required slip (Fasuddin, 2010). Accused had undergone trial before the court of law, on the basis of school leaving certificate. The burden to prove that he was child and below 18 years of age, rested on the offender, which he had failed to discharge. On conducting medical test, fact came into limelight that he was 20 years of age, and that did not fall under the juvenile’s category. The observation which had been made by the session court regarding the age, while dealing with the bail, was not given priority over the said medical report. And the offender was sent to trial before the additional session court (2001 YLR Page 276). Hence, age should be determined at the time of registration of first information report by the police, to avoid any lacuna during the trial.

Furthermore, if one looks into the role of prosecutors in the cases of juveniles, then it also not satisfactory on that front. They lack the basic expertise in order to tackle the various issues related to juvenile. There are no specialized prosecutors in the given field and they are accustomed to treat the juvenile as an adult.
Another important provision in the JJSA is regarding the probation. Unfortunately, judicial officials even fail to understand the probation system, due to lack of adequate awareness. When the probation order is made, the juvenile is normally subjected to the labor, which falls under the category of child labor. And during that period, no formal education is provided to the child, and this practice is detrimental to his rights (Shafiq, 2010). Further, it has been explicitly provided in JJS Act that the government in consultation with the concerned high court shall designate juvenile court for one or more session’s divisions within a period of three months from the commencement of this Act. And that it shall be notified in the official gazette. But separate juvenile courts are still not established in every district of Pakistan. And this is very alarming situation at hand. It is observed that the trial judges have been inclined to give weight to Saza Slip. Even the factor of determining age at the stage of trial is neglected by the judges (Warraich, 2020). They tend to ignore this important factor if the juvenile is involved in the commission of heinous offence. The role of Research Reclamation and Probation Department (RPD) is also not anticipatory in this behalf. As it is the focal point of the juvenile justice system. So it needs to adopt the active approach (Shafiq, 2010).

Furthermore, due to the lack of adequate funds and space, juvenile offenders are being kept in the ordinary jail, where hardened criminals are already present. Hence, chances of juvenile to mix up with the adult convicted offenders may also turn them into habitual criminals. All these crucial factors have been contributed towards the failure in the implementation of JJSA 2018, since its very enactment up-till now.

**Absence of Veracious Mechanisms**
The reliable mechanisms marked a great deficiency in the practical implementation of JJSA. The burning question in this scenario is that who would be responsible for the management of technical schools and observation homes for juveniles? These include issues such as who will provide and manage this observation home? What are the basic infrastructure requirements for these kinds of vocational training institutes? Whether these would be attached to some parent department or they would be established at different localities? All these questions need exploration at hand and require a deep concern by the relevant authorities.

**Need to Enact New Business Rules**
There is an immediate need to enact the new rules of business to tackle the challenges which are being faced in the practical implementation of JJSA, 2018. Only after these necessary enactments, the provision of relevant budget, establishment of adequate rehabilitation centers and other basic facilities could be made possible. In this perspective, political commitment is needed from the high ups, otherwise the fate of new act would be the same as of Juvenile Justice System Ordinance, 2000. The new rules besides other factors may give the ray of hope, that JJSA would be implemented in true spirit. In a consequence, the juvenile justice system is rarely beneficial to those for whom it was enacted. As it failed to protect juvenile offenders. They have not been given proper and due course of law to file an appeal even, in case of convictions. In turn, all these loopholes directly violates the main theme of international law related to the juvenile offenders. The matter at hand needs the instant remedy.

All these factors have been contributing towards the hindrances, which occurred only due to the pathetic process, which is being followed during the trial of the juveniles in Pakistan. And it is the burning question after the enactment of new law, that how and when these lacunas would be fulfilled by the appropriate and relevant authorities. These bottlenecks have been contributing harshly towards the failure in the practical implementation of JJSA.

**Role of Associated Agencies**
The department of police, probation services, prosecution, courts, and observational institutions are the main touchstones of the juvenile justice system. But juvenile justice policy should need to
consider the other important components and associated agencies of the juvenile justice system as well. The Social Welfare Department and Probation Reclamation department, should play their utmost role utilize their services for different vocational program. The Ministry of Human Rights, print and electronic media, Ministry of Law and other agencies related closely with criminal justice should be given due attention and upper hand in policy making.

Conclusions and Recommendations
Though a law for the juvenile offenders is present in the form of Juvenile Justice System Act, 2018. But perfect theoretical framework is of no use without practical implementations. It has provided the guidelines but those are not followed in their true spirit. The true imposition of any act in given system cogitate its inspirations towards the accepted international standards worldwide. The dormant role of all the institutions related to juvenile delinquency can be wakeful if proper policy on the subject will be formulated, that will guide all the stakeholders in their requisite role. Some of key needed measures to be adopted in this context are the provision of adequate funds by the relevant authorities, constitution of juvenile courts particularly with purpose of handling matters related to children’s criminal liability. There is also need to establish as much borstal schools for the juveniles as per requirement. Reforms need to be brought in the police and law enforcement agencies as well, so that they may be able to handle the said matter with efficiency. Probation officers need to understand their role, in true sense. They need to be aware about the fact that juveniles should not be subjected to child labor under their supervision. They should ensure the provision of formal education to the juveniles during the period of probation. Judicial officials should also play their role by indicating the loopholes in the police investigation, during the process of trial.

It is the need of the hour that Pakistan should take practical steps towards the formulation of cohesive policy on the juvenile justice system. Only well-organized and well-integrated policy on the said issue can influence the stakeholders. Central and provincial governments should play their role by releasing the adequate funds at the local and district level. Only balanced approach between the institutions can save the situation from further deteriorating. All the relevant institutions should cooperate with each other to make this legal system a better one for juvenile offenders, by acting in the best interest of juveniles.

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