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Editorial

Dear Readers,

Enormous thanks to Allah SWT the Master of the Whole Universe and the Creator of All; the Pakistan Institute for Parliamentary Services (PIPS) has been yet again recognized amongst the top tier institutes offering academic research in its technical support services to the Hon. Members of Parliament & Parliamentary institutions in the recently published Commonwealth Parliamentary Association (CPA) journal The Parliamentarian.

The National Assembly of Pakistan in close cooperation of the Pakistan Institute for Parliamentary Services (PIPS) held an enthralling "Final Round of all Pakistan Declamation Contest" to commemorate the Golden jubilee of the Constitution of Pakistan (1973-2023) at PIPS Auditorium on April 17, 2023. Honorable Speaker National Assembly / President PIPS Board of Governors, Raja Pervaiz Ashraf graced the occasion as the Chief Guest. The Institute recently published 8th edition of its Youth Guide – Discover the Parliament of Pakistan with support of EU Mustehkam Parlmaan Project implemented by GIZ and PIPS.

This Issue of the PIPS Parliamentary Research Digest includes analytical articles on India's intended violations on Indus Basin Treaty, Israel's extremist politics in addition to an informative peace on Out of School Children. Please do not hesitate to send your feedback or contact for any of our services at research@pips.gov.pk;

Happy Reading!

Muhammad Rashid Mafzool Zaka
Director General (Research)



Honourable Raja Pervaiz Ashraf, Speaker, National Assembly of Pakistan/ President PIPS Board of Governors awarding Certificate to one of the Winners of Final Round of All Pakistan Declamation to commemorate the Golden jubilee of the Constitution of Pakistan (1973-2023) at PIPS Auditorium on April 17, 2023.

ANALYSIS

Indus Water Treaty: Examining India's motives and its impact on Pakistan

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1. Introduction

The South Asian region braces for another spate of regional tensions as India moves towards creating ripples in the Indus Waters Treaty. On January 25, 2023 India sent Pakistan a notice asking for renegotiation of the treaty in the framework of Article XII of the treaty which states that “*the provisions of this Treaty may from time to time be modified by a duly ratified treaty concluded for that purpose between the two Governments.*” As per the Indian reports, the Indian authorities have taken this step in view of the Pakistan’s inability to implement the treaty in the context of the ongoing disputes over Kishanganga and Ratle projects. The notice set the timeframe of ninety (90) days for Pakistan to respond back. Pakistan replied early April that it welcomes intergovernmental negotiations within the existing institutional framework of the treaty (for example the Permanent Indus Commission). The Indian Ministry of External Affairs has replied that they will respond back after due consultation.¹

The notice episode has raised alarm bells in Pakistan as it frequently reflects India’s intention to unilaterally leave the treaty altogether. Though the treaty has faced criticism for compromising the national interest on both sides of border since its signing in 1960 yet it has proved resilience against extreme pressures over the decades. However, legal technicalities rule out unilateral termination of treaty. For example, Article XII stipulates that the Treaty will remain in force “until terminated by a duly ratified treaty concluded for that purpose between the two Governments.” Therefore, exit from this agreement requires consent of both Governments. In the current scenario experts are sensing probable Indian intention to leave the treaty irrespective of legal compulsions, as happened in August 05, 2019 when India unilaterally altered the legal status of disputed Jammu and Kashmir territory.²

Though calls for revoking or renegotiating the treaty are not new especially in India where politicians have often exploited the issue for political mileage, the Hindutva inspired BJP government seems especially averse to the treaty. Indian Prime Minister, Narendra Modi, established a taskforce to revisit the treaty as far back as 2016 in the aftermath of the Uri attack. Reportedly, he then stated that “blood and water cannot flow together.”³ He also temporarily suspended the operations of Permanent Indus Water Commission. All this comes at a time when bilateral relations are at the lowest ebb due to India’s unilateral move to

¹ Basudha Das, “Indus Waters Treaty: India issues fresh notice to Pakistan for modification in water sharing deal,” 27 January 2023, <https://www.businesstoday.in/latest/world/story/indus-waters-treaty-india-issues-fresh-notice-to-pakistan-for-modification-in-water-sharing-deal-367796-2023-01-27>; Mian Ahmad Naem Salik and Neelum Nigar, “Indus Water Treaty: recent developments,” *ISSI Issue Brief*, April 17, 2023, https://issi.org.pk/wp-content/uploads/2023/04/IB_Salik_Apr_17_2023.pdf.

² Ahmer Bilal Soofi, “India’s notice,” *Dawn*, 18 February 2023; Daniel Haines, “India and Pakistan are playing a dangerous game in the Indus Basin,” *USIP*, February 23, 2023, <https://www.usip.org/publications/2023/02/india-and-pakistan-are-playing-dangerous-game-indus-basin>.

³ John Vater, “The Indus Waters Treaty: Prospects for India Pakistan Peace,” ISAS Working Paper no. 345, 23 June 2021, <https://www.isas.nus.edu.sg/wp-content/uploads/2021/06/WP-345.pdf>.

illegally annex the occupied Jammu and Kashmir. Despite severe criticism from all quarters, Indian government is moving forward with its policy to integrate the disputed territory in the mainstream through all means including demographic changes and political engineering. By holding the G20 meetings in the disputed territory, the Indian government is portraying a state of normalcy in the territory that it has illegally occupied.

This paper provides insights into the water disputes between India and Pakistan in the context of the latest notice India has served to Pakistan for renegotiating the Indus Waters Treaty.

2. Historical Background

The roots of Pakistan-Indian transboundary water conflict lie in the unwarranted partition plan of the subcontinent. The Radcliff Award which provided details of partition in term of drawing boundary lines between the two countries was fraught with inherent discrepancies which deprived Muslims of their due territorial share in the newly found independent State of Pakistan. At the outset, the partition plan was announced with a delay of a couple of days i.e. from 12 August to August 17, 1947. In order to thwart the potential accession of princely state of Jammu and Kashmir, a Muslim majority state ruled by a Sikh Maharaja Hari Singh, with Pakistan the partition plan made substantial changes in the placement of Gurdaspur district, Ferozepur and Zera sub-districts.

Furthermore, the boundary line which cut across the province of Punjab was drawn in a manner which placed Pakistan in a disadvantageous position by awarding the comparatively developed portion comprising the central Punjab to India. The drawing of boundary line culminated into water dispute as it cut across Ravi and Sutlej rivers. Strategic head works located at Madupur and Ferozepur were awarded to India, while they were responsible for irrigating Muslims populated areas. All this resulted in Pakistan getting more dependent on India for continuation of canal system which provided livelihood to millions of people in those areas.⁴

The Muslims apprehended the inherent conspiracy in the Radcliff award and the injustice done to them in the partition plan at the time of its announcement. A water crisis was certainly inevitable. In view of the situation, Pakistan and India entered into the Standstill Agreement in December 1947 which ensured smooth flow of water to Pakistani areas without hindrance till March 31, 1948. As the deadline passed, Indian blocked the waters flowing into Pakistan on April 01, 1948 which affected no less than 1.7 million acres of crop. This was the beginning of water dispute between the two countries which continues even today despite the endurance of the Indus Waters Treaty. India has consistently exploited its water superiority as an upper riparian state to cripple Pakistan's economy which largely depends on agriculture based on irrigation system of Indian basin.⁵

3. The Indus Waters Treaty (IWT)

Pakistan, India and the International Bank for Reconstruction and Development (commonly known as the World Bank) signed the Indus Waters Treaty on September 19, 1960 after series of negotiations spanning nearly a decade. The agreement gave exclusive rights, with some exceptions, over eastern rivers – Ravi, Beas, and Sutlej – to India, and the western rivers – Indus, Jehlum, and Chenab – to Pakistan. Though the international community widely hailed the agreement as a milestone in the transboundary

⁴ Iqtidar H. Siddiqui, *Hydropolitics and water wars in South Asia*, (Lahore: Vanguard Books, 2013), 6-8.

⁵ Siddiqui, *Hydropolitics and water wars in South Asia*, 51-54.

water disputes, it faced severe criticism at domestic level in both Pakistan and India due to the compromise each side had to render in order to reach an agreeable settlement. The stated rationale for the agreement is “attaining the most complete and satisfactory utilization of the waters of the Indus system of rivers and recognizing the need, therefore of fixing and delimiting ... the rights and obligations of each in relation to the other” Besides preamble which enunciates the broader objectives of the agreement, the treaty comprises of twelve articles as follows:

1. *Article I – Definitions*
2. *Article II – Provisions Regarding Eastern Rivers*
3. *Article III – Provisions Regarding Western Rivers*
4. *Article IV – Provisions Regarding Eastern Rivers and Western Rivers*
5. *Article V – Financial Provisions*
6. *Article VI – Exchange of Data*
7. *Article VII – Future Cooperation*
8. *Article VIII – Permanent Indus Commission*
9. *Article IX – Settlement of Differences and Disputes*
10. *Article X – Emergency Provisions*
11. *Article XI – General Provisions*
12. *Article XII – Final Provisions*

The rest of the treaty text consists of eight annexures and appendices. While the treaty established a viable mechanism for water sharing through mutual cooperation between India and Pakistan, a rigorous dispute settlement mechanism has provided the treaty essential stability that is why it was able to endure extreme pressures in the bilateral relations. The dispute resolution mechanism comprises of three-stage hierarchy. Firstly, a matter of disagreement between the two sides is first raised at the Permanent Indus Commission which includes representatives from both countries. If not resolved amicably at this stage, the matter is referred to neutral expert, a highly qualified engineer. The Court of Arbitration is the final and „highest stage which is established if a matter of difference evolves into a dispute. The Court of Arbitration consists of seven members including two representatives from each country and the rest of three to be agreed upon by both parties.

The construction of mega-hydroelectric projects envisioned by the treaty is one of the most significant characteristic of this treaty which is commended on both sides. Termed as replacement works, these projects opened the gates of both countries to high-tech engineering under the guidance of international experts soon after independence. Under this scheme Pakistan built Mangla dam on Jehlum river and Tarbela dam on Indus river, besides two hydro power stations, six barrages, 400 miles long eight link canals, and 2500 tubewells. The financing for these projects came from World Bank administered Indus Basin Development Fund (IBDF) a consortium of seven countries, including: Australia, Canada, Germany, New Zealand, Pakistan, USA, and UK. The Fund was worth USD 900 million, out of which USD 640 million contributed by the seven participating countries, USD 174 million provided by India, and USD 60 million provided by the World Bank Group.⁶

⁶ Siddiqui, *Hydropolitics and water wars in South Asia*, 66-68.

4. Major Water Disputes Post-1960

Though the Indus Waters Treaty provided a broader stability in Pakistan-India water relations, disputes began emerging as India quick started some controversial projects on the rivers covered under the treaty.

- i. **Sallal Hydroelectric Power Project:** This was the first project built by India over Chenab river, 45 miles upstream of Marala, which invited objection from Pakistan due to treaty violation. Pakistan received information about the project in 1974. Resultantly, its six low-level outlets and overall height of spillway gates of 40 feet were found created beyond the scope allowed under the terms of the treaty. Pakistan's objection culminated into bilateral consultations leading to April 1978 agreement which addressed Pakistan's concern.
- ii. **Baghlihar Hydroelectric Power Project:** Situated on Chenab river 80 km above sallal project, it was approved in 1996 and construction work began in 1999. The dam retained the storage capacity of 0.321 MAF and power generation capacity of 450 MW. After getting onsite inspection in October 2003, Pakistan objected to its spillways design. As the Permanent Indus Commission fell short of resolving the matter, Mr. Raymond Lafitte of Switzerland was appointed as neutral expert to decide the matter. He endorsed Pakistan's position. The plant began operating on October 10, 2008. India violated the treaty later on by obstructing water flow from Chenab to fill this dam.
- iii. **Wuller Barrage (Tulbul Navigation Project):** Situation 2 km north of Srinagar, the project was launched in 1985 in clear violation of the Indus Waters Treaty. The project was strategically significant for its capacity to alter water flow in canal system of rivers allocated to Pakistan under the treaty. Pakistan's protest culminated into suspension of this project in 1987.
- iv. **Kishanganga Hydroelectric Power Project:** The 330 MW project has been controversial due to its design as well as "diversion of flow of one tributary to another against the spirit of the Indus Waters Treaty." The controversy surfaced in November 1988 when India started constructing tunnel near Kanzalwan on Neelum River to divert water flow into the Wuller Lake. The dispute is pending in the Court of Arbitration.
- v. **Ratle Hydroelectric Project:** This 850MW project was inaugurated in 2018. India is building this project on Chenab River in sheer violation of Indus Waters Treaty.⁷ In wake of Indian Prime Minister's attempt to change the status of Illegally Indian Occupied Jammu and Kashmir (IIOJK) on August 5, 2019 in addition to worsening oppression of Muslims and other minorities living in India, the intention to start construction of Ratle dam on Chenab River with an objectionable design only complicates worsened India-Pakistan relations. Pakistan has raised four objections on the issue of the design of the Ratle Hydropower plant being constructed on the Chenab River:

"Pakistan wants India to maintain a free board at one meter whereas India wants to keep it at two meters. In addition, India wants to keep the pondage of twenty four (24) million cubic meters but Pakistan wants the pondage to be of eight (08) million cubic meters. Pakistan also wants the intake of the project to be raised by up to 8.8 meters and its spillways should be raised by up to 20 meters".⁸

⁷ Azhar Ahmad, "Indus Waters Treaty: a dispassionate analysis," *Policy Perspectives* 8, no. 2, (July-December 2011), 73-83.

⁸ "Controversial Kishenganga and Ratle hydropower projects: WB to hand over projects papers to arbiters, neutral experts on Nov., 21st," *The News*, November 17, 2022.

5. Climate Change and Indus Water Treaty (IWT)

While the treaty has faced domestic criticism in both Pakistan and India, and the calls for revoking the treaty have been raised from time to time, Pakistan needs to move quickly to engage all local stakeholders including but not limited to the Water Resources Ministry and comprising Pakistan's commissioner of Indus Waters as well as the Attorney General's Office, in addition to think tanks and the Parliamentary committees to study every aspect of the controversial Ratle Hydropower Project being planned by India on Chenab. In August 2021, a Parliamentary Committee of India published a report encouraging the government to revise the treaty in light of climate change impacts as they stand today. For the first time, the need for revisiting the treaty has been established on scientific grounds. With varying degrees, both Pakistan and India are water stressed countries and vulnerable to climate change impacts. Indus rivers get water from glaciers which have been depleting rapidly. The fast growing population on both sides of the border further constrains the availability of water to meet demand.⁹ Though the notice forwarded to Pakistan on January 25, 2023 is based on technical grounds with regard to dispute over hydroelectric projects, climate change issue has already been raised in this regard and will probably surface again at some point in future. Therefore, studies should be conducted before hand in order to analyze the linkage between the Indus Waters Treaty and climate change impact.

6. Conclusion

The current India move on Indus Waters Treaty is unprecedented in the more than six decades history of the transboundary water agreement between the two South Asian neighbors. If the issue gains momentum with Indian efforts to move ahead in this direction, it will have far reaching implications for Pakistan. Given the national importance of the issue at hand the government must leave no stone unturned. The situation demands wider deliberations including all major political forces in order to develop a national consensus for future navigation. Research-based think tanks must quickly ponder on the issue. A parliamentary committee established for that matter may serve to provide a dedicated forum for political forces to deliberate the issue in a coordinated manner. Moreover, the national, regional and global environment at this juncture is certainly very different as compared to 1960 when the treaty was signed. Besides the geopolitical environment, the realities of modern world in terms of economic, demographic, environmental as well as social dynamics should be well kept in view once the treaty comes under scrutiny for renegotiation. Most importantly, the situation with regard to Kashmir dispute has completely changed especially after August 05, 2019 and the attempt to develop Ratle dam on Chenab with pondage of 24 million cubic meters is not acceptable to the national interest of Pakistan. Therefore, the legal intricacies in the matter must not be ignored. Last but not the least, the wider regional scenario with regard to transboundary water sharing, for example the state of water issues between India and China and Nepal, is another major stream of analysis which will serve to enrich the discussion at hand.

⁹ Athar Pervaiz, "India, Pakistan cross-border water treaty needs climate change revision," September 16, 2021, <https://www.nature.com/articles/d44151-021-00036-8>.

ANALYSIS

Protests-ridden Israel in wake of extreme right-wing politics

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Abstract

The occupational state of Israel on Palestinian territory has been grappling with political turmoil in recent years primarily due to its extreme right-wing politics besides so-called claims of being a secular democratic society. The intensification of extreme right-wing politics has caused widespread protests and divisions within the Israeli society. Recently, the right-wing coalition government led by Prime Minister Benjamin Netanyahu has introduced a judicial overhaul for which the protests are observed all over Israel. This paper discusses the underlying causes of the protests especially the recent episode of judicial overhaul, analyzes the political and social implications of the protests in Israel in the context of extreme right-wing politics and the potential consequences for the future of Israelipolitics.

1. Introduction:

Israel was claimed in 1948 over Palestinian territories as a secular democracy for the Jewish community.¹ It has a long history of political and social conflicts, particularly in relation to the Israeli-Palestinian conflict. In recent years, however, Israel has been facing a different kind of internal conflict, characterized by protests and social unrest. Benjamin Netanyahu served as the longest-tenured Prime Minister of Israel, who is chairman of Likud party. Prime Minister Netanyahu's coalition government is believed to be extremist right wing government,² as the ministries are given to such people who are either extreme nationalists or religious, or politically right wing people from other parties.³ This growth of extreme right-wing politics in Israel has caused a deepening divide between different groups within Israeli society. The policies of the current government, led by Prime Minister Benjamin Netanyahu, have been widely criticized for their divisive and exclusionary nature.⁴ In 2018, Israel passed the controversial "Nation-State Law", which declared Israel to be the Jewish nation-state⁵ and downgraded the status of Arabic language. This move was a significant factor in triggering the protests.

The coalition government plans include the widespread seizure of the occupied West Bank, the annulment of pro-LGBTQ+ laws, the elimination of laws defending women's rights as well as minority rights, and easing up the guidelines of Israeli police and military involvement. Israel is once again going through protest-like situation due to the recent judicial reforms introduced by the extreme right-wing government.⁶ Independent analysts believe that it is clearly an attempt to allow unparalleled authority to military for oppression of local Palestinians in their majority areas in the camouflage of conservative politics.

¹ Shimon Shetreet, "World Conference against Racism-Durban, Freedom of Religion in Israel", *Israel Ministry of Foreign Affairs*, August 20, 2001, https://web.archive.org/web/20130424041502/http://www.mfa.gov.il/MFA/MFAArchive/2000_2009/2001/8/Freedom%20of%20Religion%20in%20Israel

² Rob Picheta et al., "Benjamin Netanyahu sworn in as leader of Israel's likely most right-wing government ever," *CNN*, December 29, 2022, <https://edition.cnn.com/2022/12/29/middleeast/israel-benjamin-netanyahu-swearing-in-intl/index.html>

³ Hades Gold, "Netanyahu informs Israeli president he has formed government," *CNN*, December 21, 2022, <https://edition.cnn.com/2022/12/21/middleeast/israel-netanyahu-government-intl/index.html>

⁴ Shalom Lipner, "Netanyahu's Coalition Isn't Built to Last: Expect High Sparks within and Fragile Prospects for Israel's Incoming Government," *Atlantic Council*, 2023, <http://www.jstor.org/stable/resrep47254>

⁵ Knesset, "Basic-Law: Israel - The Nation State of the Jewish People," *Government of Israel*, 2018, <https://m.knesset.gov.il/EN/activity/documents/BasicLawsPDF/BasicLawNationState.pdf>

⁶ Bethan McKernan, "What are the Israeli protests about and what happens next?" *The Guardian*, March 27, 2023.

2. Judicial Overhaul in Israel:

The Israeli judicial system has been a foundation of its democratic framework since occupation. The judicial system in Israel is established on a combination of common law and civil law traditions and is composed of three main branches: the Supreme Court, district courts, and magistrate's courts. The Supreme Court is the highest judicial body in the country and serves as both an appellate and constitutional court. These all are part of Israeli Judicial Authority which is an independent department.⁷

In recent years, there has been growing political pressure on the judiciary, particularly from right-wing politicians who believe that the Supreme Court has overreached its authority in interpreting the country's laws and Constitution. They are seeking to limit its independence and influence. This pressure has manifested in various forms, including attempts to limit the court's jurisdiction, reduce the number of Supreme Court judges, and change the appointment process.⁸

On January 11, 2023, the government of Israel published draft bill on bringing some changes in the judicial system of Israel, mainly related to changes in judicial appointment process and limiting the power of judicial review of Knesset legislation by High Courts.⁹

The proposed amendments are:

- i. The judicial committee responsible for selecting and appointing the judges is composed of serving judges, Knesset members, government ministers and representatives from Israel Bar Association and the agreement on appointment of judges must be needed between these groups.¹⁰ The proposed amendment by the government is to seek change in the arrangement of the judicial committee, awarding most of the vote to the representatives of the government in order to control the appointments of the judges.¹¹ This overhaul will give ruling coalition of majority of that committee and that will allow them appoint like-minded judges on the bench.
- ii. Limiting the authority of the Supreme Court, which was to instruct and give rulings against the legislature, and the executive, the proposed amendment requires a full bench consisting of judges of the Supreme Court to oversee any case in which the legitimacy of regular legislation approved by the Knesset is considered, and eighty percent of them must rule for the annulment of such legislation.¹² This explicitly prohibits the Supreme Court from exercising judicial review of basic laws.

⁷ Government of Israel, "The Israeli Judicial Authority," *Government of Israel*, updated October 06, 2022, https://www.gov.il/en/departments/about/about_the_judiciary_authority

⁸ Amichai Cohen and Yuval Shany, "The Fight Over Judicial Appointments in Israel", *Lawfare*, February 16, 2023, <https://www.lawfareblog.com/fight-over-judicial-appointments-israel>

⁹ Jeremy Sharon, "Levin unveils bills to remove nearly all High Court's tools for government oversight", *The Times of Israel*, January 11, 2023, <https://www.timesofisrael.com/levin-unveils-bills-to-weaken-top-court-enable-laws-to-be-immune-to-judicial-review/>

¹⁰ Denis Guest, "Israel's Appointment of Judges", *An Examination of Judges in Israel and the United States*. (University of Nevada, Order No. 1591353, Reno, 2015), Pg. 31-35, <https://www.proquest.com/dissertations-theses/examination-judges-israel-united-states/docview/1696775020/se-2>

¹¹ Dialogues, "The Proposed Judicial Overhaul from an Israeli-Palestinian Perspective, with Josh Ruebner," *Georgetown Journal of International Affairs*, April 03, 2023, <https://giia.georgetown.edu/2023/04/03/josh-ruebner-on-the-proposed-judicial-overhaul-in-israel/#:~:text=The%20proposed%20judicial%20overhaul%2C%20as,much%20greater%20power%20to%20parliament.>

¹² Gila Stople, "The Israeli Government's Proposed Judicial Reforms: An Attack on Israeli Democracy," *Constitution Net Organization*, February 16, 2023, <https://constitutionnet.org/news/israeli-governments-proposed-judicial-reforms-attack-israeli-democracy>

- iii. Override clause is included in the amendment. This will allow a simple majority of Knesset, which is 61 of 120 lawmakers, to override the decisions taken by the Supreme Court on the legitimacy of law.¹³
- iv. The proposed amendment aims to change the appointment of the Attorney General from a professional appointment to a politically chosen one. The Attorney General's advice, which is currently obligatory for the government, will become non-binding. This will allow ministers to independently choose and dismiss their Attorney Generals and decide whether to follow their legal opinions or not.¹⁴

On 13th March, 2023, Knesset voted on the controversial amendment in the first reading in order to weaken the Supreme Court and thus the justice system of Israel. It was approved by 61 lawmakers and opposed by 51 members in the first of three obligatory votes to pass it into a law.¹⁵ But the government could not vote further for the amendment as the protests arose in different parts of Israel against the proposed amendment. Prime Minister Netanyahu himself announced the delay in judicial overhaul plan on March 27, 2023.¹⁶

3. Reasons for the Judicial Reforms:

Reportedly, Prime Minister Netanyahu coalition partners said that this judiciary overhaul is necessary in order to balance out the court. They say that the court is dominated by the rules. The court needs to check on its powers because it's essentially blocking the will of the people.¹⁷ Some right wing experts believe that the reasons for judicial reforms are:

- i. **Politicization of the judiciary:** According to two Israeli scholars, the justices, who were not chosen by the people of Israel, were perceived by the public as utilizing their preference and individual "agenda" to interfere with the economic and defense policies of the elected bodies of the government, the Knesset and the Cabinet.¹⁸ Some people argue that the Israeli judiciary has become politicized, with judges being appointed based on their political affiliations rather than their qualifications and merit. This, they claim, has undermined the independence and impartiality of the judiciary, leading to a lack of trust in the judicial system.
- ii. **Lack of diversity:** There are concerns that the Israeli judiciary lacks diversity, with a disproportionate number of judges being of Ashkenazi Jewish descent. The current scenario is problematic and, by definition, undermines the legitimacy of the legal system and makes it vulnerable for those who seek to weaken it. A significant number of judges belong to the same communities in Israeli society, speak the same dialect, and essentially share the same appearance.¹⁹ This lack of diversity led some the right wing experts to view it as a reason of judicial overhaul.
- iii. **Lengthy legal proceedings:** Some experts believe that the Israeli judicial system is slow and inefficient, with legal proceedings taking years to resolve. This has already led to calls for reforms to streamline the legal process and reduce the backlog of cases. The recent judicial reforms have

¹³ Jeremy Sharon, "Justice Minister unveils plan to shackle the High Court, overhaul Israel's judiciary," *The Times of Israel*, January 04, 2023, <https://www.timesofisrael.com/justice-minister-unveils-plan-to-shackle-the-high-court-overhaul-israels-judiciary/>

¹⁴ Sharon, "Plan to shackle high court," pg. 3.

¹⁵ Noa Shpigel, "Israel's Judicial Coup | Israel's Knesset Passes Three Bills Aimed at Enfeebling Top Court in First Reading," *Perma.cc*, March 13, 2023, <https://perma.cc/HSM5-FDFQ>

¹⁶ Bethan McKernan, "Israel: Netanyahu announces delay to judicial overhaul plan," *The Guardian*, March 27, 2023.

¹⁷ Bill Chappell and Daniel Estrin, "Here's why Netanyahu's court overhaul, now on hold, brought Israel to the brink," *NPR Organization*, March 27, 2023, <https://www.npr.org/2023/03/27/1166200532/israel-civil-war-netanyahu-court-control>

¹⁸ Ariel L. Bendor and Zeev Segal, "The judicial discretion of justice Aharon Barak," *Tulsa L. Rev.* 47 (2011): 465, Pg. 476, <https://digitalcommons.law.utulsa.edu/cgi/viewcontent.cgi?article=2823&context=tlr>

¹⁹ Yair Assulin, "No to Override, Yes to a Diverse Court," *Haaretz*, January 15, 2023, <https://www.haaretz.com/opinion/2023-01-15/ty-article/.premium/no-to-override-yes-to-a-diverse-court/00000185-b13c-d348-a7dd-fbfe48470000>

no point in improving this very problem, but experts believe they might speed up the proceedings if there is involvement from the Knesset.

- iv. **Transparency and accountability:** Some people argue that there is a lack of transparency and accountability in the Israeli judicial system. This includes issues such as the selection process for judges and the handling of complaints against judges.²⁰ The right wing politicians believe that the judicial reforms will ensure the transparency of judicial proceedings due to Knesset involvement.

However, the neutral and left wing experts from Israel as well as the world believe that the judicial reforms are introduced in order to control the judiciary. One of the major problems of this whole overhaul is that it is been advanced by the Prime Minister Netanyahu himself. Question arose that why Netanyahu long being a defender of the court has proposed the judicial overhaul to curb powers of judiciary. The answer given by experts is clear that Netanyahu is on trial for corruption, accused for deception, breach of trust and taking bribes in a series of scandals involving tycoons and rich acquaintances.²¹ The Prime Minister Netanyahu had been looking for an escape route from the trial. This judicial overhaul would be best suited for him if it gets passed. As a result of judicial overhaul, the coalition government headed by the Prime Minister Netanyahu will possibly select sympathetic judges in order to get away from the trial and get a clean chit for future.²²

4. Implications of Judicial Reforms:

After the introduction of the right wing judicial reforms, people started protests in Israel. The protestors believe that this step will suppress the judiciary of Israel hence undermining the democracy of Israel.²³ These protests have really exposed the long held divisions in the Israeli society between its secular side and religious, conservative sides.

a. Political Implications:

The protests in Israel have had significant political implications. The government's response to the protests has been criticized for being heavy-handed and authoritarian. The police have been accused of using excessive force against protesters, and there have been reports of arrests and detentions of protesters and journalists.²⁴ These actions have raised concerns about the erosion of civil liberties and democracy in Israel. The protests have also exposed deep divisions within the Israeli society. The protesters come from a wide range of backgrounds and political affiliations, united by their opposition to the policies of the government. However, there are also those who support the government's policies and view the protests as a threat to the stability of the country.

The current political climate in Israel is highly charged, and the protests have only served to exacerbate tensions. The government's response to the protests has been criticized for being divisive and confrontational, rather than seeking to address the underlying issues. This has led to further polarization and a breakdown in communication between different groups within the society.

²⁰ Ran Lachman, "How resilient is the Israeli Integrity System? National Integrity System Assessment – Israel, 2013 Strengths, Sustainability and Challenges" *Transparency International Israel*, 2014, Pg. 7, https://images.transparencycdn.org/images/2014_NIS_Israel_Executive_Summary_EN.pdf

²¹ Tia Goldenberg, "What's driving the players behind Israel's legal overhaul?," *AP News*, March 02, 2023.

²² Goldenberg, "Players behind Israel," pg 6.

²³ "The Fight for Israel's Democracy Continues," *The New York Times*, April 01, 2023.

²⁴ Bethan McKernan, "Scores arrested on Israeli day of protest as parliament passes judicial changes," *The Guardian*, March 23, 2023.

The President of Israel, Isaac Herzog, has urged the government to cease the judicial overhaul for the sake of the Israelis.²⁵ The opposition had been opposing the proposed amendment from the first day. Critics believe that the judicial overhaul will damage the only institute which is providing checks and balances on the legislature of Israel, hence harming the independence of judiciary.²⁶

b. Social Implications:

The protests in Israel have had significant social implications. The demonstrations have brought together people from different backgrounds and political affiliations, united by a common cause. The protests have created a sense of community and solidarity among the protesters, who have come to see themselves as part of a larger movement for change. However, the protests have also exposed deep divisions within Israeli society. The divisions are not just political but also ethnic and religious. The protests have highlighted the marginalization of certain groups within Israeli society, such as the Arabs and the ultra-Orthodox Jewish community. These groups have often been excluded from mainstream political discourse and have not had their voices heard.

The protest demonstrated by Israelis following the judicial overhaul has caused the Prime Minister Netanyahu to delay the vote on the judicial overhaul. The pressure from Israeli society is huge. As a result, Prime Minister Netanyahu has also met with the opposition and tried to convince them of the proposed amendment. However, no result has been obtained from these meetings so far.²⁷

5. Conclusion:

The protests in Israel in the wake of extreme right-wing politics have brought to the surface deep-seated political and social tensions. The protests have exposed the flaws in the current political system and the need for reforms. The government's response to the protests has been criticized for being heavy-handed and authoritarian, leading to further polarization. The judicial overhaul in Israel has significant implications for the country's democracy. The proposed changes would limit the independence of the judiciary and reduce its ability to act as a check on the executive. Critics argue that this would undermine the fundamental principles of democracy, including the separation of powers and the rule of law. The government argues that the changes are necessary to restore balance and ensure that the judiciary does not overreach its authority. The protests against the proposed judicial overhaul in Israel reflect a growing concern among citizens and legal experts about the potential impact of the changes on the independence and integrity of the judiciary. However, the implications of the proposed changes will continue to be closely watched, both within Israel and internationally, as they have the potential to significantly impact the country's democratic framework.

²⁵ "Israel's president calls for halt to judicial overhaul after mass protests," *The Guardian*, March 27, 2023, <https://www.theguardian.com/world/2023/mar/27/israels-president-calls-for-halt-to-judicial-overhaul-after-mass-protests>

²⁶ Hadas Gold, "A threat to democracy or much-needed reform? Israel's judicial overhaul explained," *CNN*, March 27, 2023, <https://edition.cnn.com/2023/03/25/middleeast/israel-judiciary-netanyahu-explainer-intl/index.html>

²⁷ Amir Tal and Rob Picheta, "Netanyahu announces delay to Israel judicial overhaul plans amid huge protests," *CNN*, March 27, 2023, <https://edition.cnn.com/2023/03/27/middleeast/israel-judicial-overhaul-protests-intl/index.html>

ANALYSIS

Out of School Children in Pakistan: Situational Analysis**Areebah Shahid**

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1. Defining the Concept - Out of School Children (OOS):

Out-of-School Children are categorized as those children who, (i) attended school for a period of time but then dropped out and (ii) children who never got enrolled in the formal education system. Depending on both the demand- and supply-side elements, the second category of children might attend school in the future or they might continue to remain deprived of formal education.

2. Background of the Problem:

The Ministry of Federal Education and Professional Training data reveals that there are country-wide estimated 22.8 million children of school-going age (i.e., 6 – 16 years) out of school.¹ It is important to point out here that while Academy of Educational Planning and Management (AEPAM) continues to publish the Pakistan Education Statistics Report annually, the chapter on Out-of-School (OOS) children was discontinued after the aforesaid edition. This deprives government oversight and public scrutiny viz-à-viz the actual increase or decrease in the number of OOS children after 2017. Nevertheless, if the figure of 22.8 million Out-of-School Children is considered current, this essentially means that 44 percent of the children between 5 to 16 years of age in Pakistan are deprived of access to formal schooling. It is also important to point out here that the biggest leak in the formal education system occurs during the transitory period from the primary to secondary level. Equally important is to point out that boys outnumber girls at all educational levels in terms of access.

Flaws in the education system's design, unfortunately, aggravate these disparities. For instance, the number of secondary schools is far less compared to primary schools, making it impossible for students in many parts of the country to continue their education beyond fifth grade. Similarly, gender disparity is also inherent to the system as the number of schools for boys surpasses the number of girls' schools by a large margin. There is no denying that between 2010 and 2020, Pakistan made some major strides in bringing more children to schools. During this period, a variety of approaches including conditional cash transfers, voucher schemes, and more robust government-led enrollment drives were introduced across the country. This period also saw a shift from an infrastructure-only approach to adopting swifter means to make education possible for the most deserving children immediately. For instance, in Khyber Pakhtunkhwa, between 2013 to 2020 to bring more girls into the secondary education realm, local community buildings were rented and classes initiated rather than waiting for the construction of new school buildings that would have taken several years to complete. Resultantly, it is estimated that close to 2 million children were pulled into schools during these 10 years.

While encouraging in its own right, given the colossal number of Out-of-School Children and the country's ever-growing population, this progress was still, at best, slow. The pandemic served as a major setback with estimates by the World Bank stating that close to 1 million children dropped out of schools in 2020 following widespread poverty and prolonged school closures. Fresh on the heels of the pandemic, Pakistan's progress towards educating its children experienced another major setback in the form of the floods that left 3.5 million students without access to formal education. Amid this

¹ Ministry of Federal Education and Professional Training, *Pakistan Education Statistics 2016-17*, (Islamabad: AEPAM, April 2018), <http://library.aepam.edu.pk/Books/Pakistan%20Education%20Statistics%202016-17.pdf>.

background, this paper strives to provide a snapshot of the state of Out-of-School Children in Pakistan based on the most recent available data and also offers concrete measures to redress the situation.

2.1 Out-of-School Children – Situational Analysis viz-a-viz Pakistan

Of the estimated 22.8 million OOS children in Pakistan, 54 percent or in absolute numbers, 12 million are girls.²

2.1.1 Reasons Contributing to OOS Children

Table 1: Reasons contributing to OOS Children

Supply-side Issues	Demand-side Issues
<ul style="list-style-type: none"> • Lack of schools, especially at the secondary and higher secondary levels. • Lack of teachers (Lack of female teachers is a huge barrier to girls' continued education in many parts of the country after primary level). • Missing facilities, such as clean drinking water, toilets, classrooms, boundary walls, and electricity. • High student-to-teacher ratio, especially in multigrade schools where one teacher is responsible for a class of over 75 students at various educational grades (e.g., Grade 1, Grade 2, Grade 3, etc.) and for all the subjects therein. • Lack of subject specialist teachers. This is especially problematic in higher grades where specialist teachers are essential for the subjects such as math and science. • Distance of school from home and the lack of transportation facilities. Again, this places girls at a bigger disadvantage as their safety and security is the primary concern of the parents. • Lack of disability-friendly facilities e.g., ramps or pathways for wheelchairs. 	<p><i>Socio-Cultural Constraints</i></p> <ul style="list-style-type: none"> • Lack of literacy among parents automatically makes them skeptical of sending their children to school. • Early or childhood marriages. • Preferential treatment to the male child results in lost educational opportunities for the daughters. • The shame associated with disability or lack of sensitization among teachers and students to extend courtesy to specially-abled students. • Rural to urban migration. This is especially a growing concern in post-war-on-terror Pakistan, and because of the impact of climate change. • Perceived gender roles that expect girls to serve as caregivers and place domestic responsibilities on them after adolescence. <p><i>Economic Constraints</i></p> <ul style="list-style-type: none"> • Poverty and the high opportunity cost of sending a child to school instead of labor to supplement household income. • Costs associated with uniform, stationary, transportation, and textbooks.

² Pakistan Coalition for Education and Pakistan Youth Change Advocates, "Bringing All the Girls to School – a Case for More Investment (Fact Sheets)," (PCE and PYCA, September 2020), <https://pyca.org.pk/FACT%20SHEETS%20FINAL%20.pdf>.

2.1.2. Geographical Situation

National

As stated earlier, the most comprehensive, government-owned data on Out-of-School Children that is publicly available emanates from the Annual Education Statistics Report 2016-17 (published in 2018). According to this, the number of OOS children steadily increases as the educational level progresses. For instance, while there are 5.06 million children (aged 5 to 9 years) who are Out-of-School at the primary level, this number increases to 6.5 million at the middle school level and a staggering 11.2 million at the secondary level.³ At every educational level, the number of female students of school-going age who are not in schools is higher than their male counterparts.

This essentially illustrates that most children drop out of the formal education system between the ages of 10 to 16 years.

Table 2: Out-of-School Children at Various Educational Levels⁴

Educational Level	Gender	2016-17
Primary Grades 1 – 5 (5 – 9 years)	Male	2,029,293
	Female	3,031,511
	Total	5,060,804
Middle Grades 6 – 8 (10 to 12 years)	Male	3,142,558
	Female	3,371,612
	Total	6,514,170
Secondary Grades 9 – 12 (13 – 16 years)	Male	5,511,354
	Female	5,757,974
	Total	11,269,328
Primary to Secondary Grades 1 – 12	Male	10,683,206
	Female	12,161,097
	Total	22,844,303

2.1.3 Geographical Breakdown

Table 3 derives data from AEPAM's Annual Education Statistics Report 2016-17. However, to make this section more current, wherever possible, the narrative has also been supplemented by secondary sources such as credible media reports, briefs, and analysis to provide the most current figures (bifurcated by geographical regions). In media stories, these current figures have mostly been attributed to the recent survey conducted by Benazir Income Support Program (BISP); however, the survey report is not yet available for public consumption making it difficult to extract a detailed analysis.

Table 3: Geographical and Gender Breakdown of Out-of-School Children in Pakistan (AEPAM, 2018)

Geographical Region	Educational Level	Out-of-School Children		
		Male	Female	Total
	Primary	3,604	2,656	6,260

³ AEPAM, *Pakistan Education Statistics 2016-17*.

⁴ AEPAM, *Pakistan Education Statistics 2016-17*.

Islamabad Capital Territory	Middle	7,830	4,933	12,763
	Secondary	5,885	4,452	10,337
	Higher Secondary	9,751	5,924	15,675
	Primary to Higher Secondary	27,070	17,965	45,035
Punjab	Primary	891,321	1,013,974	1,905,295
	Middle	1,444,368	1,420,911	2,865,279
	Secondary	1,170,718	1,178,074	2,348,792
	Higher Secondary	1,759,122	1,648,488	3,407,610
	Primary to Higher Secondary	5,265,529	5,261,447	10,526,976
Khyber Pakhtunkhwa	Primary	35,307	361,879	397,186
	Middle	237,911	469,468	707,379
	Secondary	246,332	367,945	614,277
	Higher Secondary	227,507	438,510	666,017
	Primary to Higher Secondary	747,057	1,637,802	2,384,859
Sindh	Primary	644,680	1,001,989	1,646,669
	Middle	974,715	967,141	1,941,856
	Secondary	679,871	670,599	1,350,470
	Higher Secondary	730,691	743,541	1,474,232
	Primary to Higher Secondary	3,029,957	3,383,270	6,413,227
Balochistan	Primary	281,857	369,518	651,375
	Middle	256,823	253,756	510,579
	Secondary	177,463	172,601	350,064
	Higher Secondary	211,399	188,253	399,652
	Primary to Higher Secondary	927,542	984,128	1,911,670
Gilgit-Baltistan	Primary	32,672	35,065	67,737
	Middle	31,885	32,228	64,113
	Secondary	16,090	15,240	31,330

	Higher Secondary	31,210	35,345	66,554
	Primary to Higher Secondary	111,857	117,878	229,734
Azad Jammu & Kashmir	Primary	99,985	101,412	201,397
	Middle	92,389	89,087	181,476
	Secondary	56,996	56,912	113,908
	Higher Secondary	39,710	55,281	94,990
	Primary to Higher Secondary	289,080	302,691	591,771
Ex-FATA	Primary	39,867	145,018	184,885
	Middle	96,637	134,088	230,725
	Secondary	70,765	88,040	158,805
	Higher Secondary	77,845	88,770	166,615
	Primary to Higher Secondary	285,114	455,916	741,030

In absolute numbers, **Islamabad Capital Territory** has the least number of children who are Out-of-School. However, a more nuanced analysis is important to understand why 45,000 OOS children in Islamabad is not necessarily an encouraging sign. The subsequent section of this paper provides a commentary on the opportunities and challenges confronting OOS children in the Federal Capital.

Punjab has the highest number of OOS children in absolute terms. While the province has shown promising strides in the right direction over the last decade or so, the high population density of the province coupled with supply-side constraints continues to deprive a significant number of children of formal education in the province. According to ASER Punjab Rural 2021 Report, 19 percent of the children of school-going age were Out-of-School in Punjab – a 5 percent increase from 2019.⁵

Going by AEPAM data, the large majority of Out-of-School Children in **Khyber Pakhtunkhwa** and the **former FATA** districts comprise girls. This gender disparity is stark and visible at all levels. For instance, at the primary level, where gender parity is relatively better across Pakistan, Khyber Pakhtunkhwa has 35,307 OOS boys compared to a staggering 361,879 girls of the same age (i.e., 5 – 9 years).⁶ Going by the more recent survey conducted under the Benazir Income Support Program in 2021, 4.7 million children between the ages of 5 to 16 years were Out-of-School in the Province.⁷ Although this recent figure includes data collected from the Newly Merged Districts (NMDs), it is still far more than the combined total of KP and FATA from the 2016-17 AEPAM study cited in Table 3 which stood at 3.1 million at that time. The BISP data as cited in the KP Provincial Assembly showed that of the 4.7 million OOS children

⁵ Imran Gabol, "Number of Out-of-School Children in Punjab up by 5PC: Report," *Dawn*, April 6, 2022, <https://www.dawn.com/news/1683634>.

⁶ AEPAM, *Pakistan Education Statistics 2016-17*.

⁷ "Over 4.7m Children out of School in K-P," *The Express Tribune*, November 1, 2022.

in the province, 1 million hailed from the NMDs while 74.4 percent of them were girls compared to 38.5 percent boys.⁸

Prior to the pandemic and the 2022 floods, over 6.4 million children of school-going age were Out-of-School in **Sindh**. According to a recent report published by the Pakistan Institute of Development Economics (PIDE), 63 percent of all children, 16 years or less, fall under the category of OOS children who have never attended school.⁹ The report also reveals that 70 percent of these children lie in the age cohort of 9 to 11 years.¹⁰

Balochistan is the worst-performing province of Pakistan viz-à-viz education indicators, including the case of OOS children. Over 1.9 million Out-of-School Children in Balochistan comprise 59 percent of the total population of children in the province. As per PIDE, approximately 2 out of 3 children in Balochistan remain deprived of their right to basic education.¹¹

2.1.4 Geographical Breakdown

As pointed out earlier, the majority, or 54 percent of the OOS children in Pakistan comprise girls. Accordingly, no discussion on the status of OOS children in Pakistan is truly comprehensive without understanding the plight of the girl-child.

At the national level, for every 100 girls enrolled at the primary level, 60 are out of school.¹² The situation becomes alarming post-primary, where for every 100 girls enrolled at the secondary level, 223 are out of school.¹³

In absolute numbers, Punjab has the highest number of OOS girls followed by Sindh.¹⁴ However, a more nuanced analysis that considers population density reveals that Balochistan has the highest proportion of OOS girls, especially at the post-primary level of education. Accordingly, for every 100 girls enrolled at the secondary level, 666 girls in the same age cohort in Balochistan are Out-of-School.¹⁵

Lack of value associated with the education of a girl-child coupled with regressive social norms that look down upon a girl's right to not just education but also associated benefits such as mobility and economic empowerment are among the chief contributing factors viz-à-viz the demand side. On the supply side, a lack of girls' schools, especially at the post-primary level, the distance of schools from home, and a lack of safe transport facilities are known barriers limiting girls' access to education.

⁸ "4.7m Children out of School," *Express Tribune*.

⁹ Abdul Rahman Shahbeer, "The Lack of Concern at Out-of-School Children," *Pakistan Today*, October 1, 2022.

¹⁰ Shahbeer, "Lack of Concern," *Pakistan Today*.

¹¹ Abbas Moosvi, *PIDE Knowledge Brief – Primary School Literacy: A case study of Educate a Child Initiative*, (Pakistan Institute of Development Economics, February 1, 2022), <https://pide.org.pk/wp-content/uploads/kb-051-primary-school-literacy-a-case-study-of-the-educate-a-child-initiative.pdf>.

¹² "Bringing All the Girls to School – a Case for More Investment (Fact Sheets)," Pakistan Coalition for Education and Pakistan Youth Change Advocates, September 2020, <https://pyca.org.pk/FACT%20SHEETS%20FINAL%20.pdf>.

¹³ "Bringing All Girls to School," PCE and PYCA

¹⁴ Asim Bashir Khan, *Bringing All the Girls to School - A Case for More Investment*, (Pakistan Coalition for Education, June 16, 2020), <https://pyca.org.pk/Bringing-All-The-Girls-To-School-Updated.pdf>.

¹⁵ Khan, *All girls to School*, PCE.

2.1.5 Out-of-School Children: The Effect of COVID-19 and Floods

Owing to widespread poverty and prolonged school closures caused by the COVID-19 pandemic, close to 1 million children across Pakistan dropped out of the formal education stream.¹⁶ Even those children who made it back to the classrooms are feared to have incurred an estimated gap of more than 2 full years of learning losses because of prolonged school closures.¹⁷ Not very surprisingly, children aged 14 to 16 years from the lower socio-economic strata saw a steep fall in enrollment compared to their counterparts in wealthier households.¹⁸

On the heels of the pandemic, Pakistan was hit by mega-scale floods in 2022. In the immediate aftermath of the floods, more than 16 million students were left displaced,¹⁹ over 20,000 schools were partially damaged or fully destroyed and over 3.5 million students experienced prolonged disruption to accessing education.²⁰ While data on the full impact of the floods on children's access to education is still emerging, a recent rapid response research, "Towards a Resilient Education Recovery from Pakistan's Floods," reveals that of the affected children, only a handful have access to make-shift educational facilities in the form of Temporary Learning Centers (TLCs) in some camp colonies.²¹ However, the mode and quality of education being imparted to children in these TLCs is unclear.²²

The compound fall-out of the pandemic and the floods are likely to further aggravate the already colossal number of OOS children in Pakistan having long-term implications for the country's ability to develop and prosper.

3. Challenges and Opportunities:

According to conservative estimates and data provided by AEPAM between 30,000 to 45,000 children of school-going age in Islamabad are Out-of-School. On its part, the government has routinely been rolling-out enrollment drives across the Capital Territory to bring more children into the formal education realm. However, mere enrollment drives are unlikely to address this issue as supply-side constraints make it virtually impossible to accommodate the entire population of OOS children in the Federal Capital.²³ There are two major supply-side constraints in this regard. Firstly, the current number of schools in Islamabad is simply insufficient to accommodate its OOS children. Secondly, even Islamabad being among the most developed cities in Pakistan, lacks a sufficient number of qualified teaching staff. Of the 423 schools and colleges in the Federal Capital, around 30 model institutions do not have space to accommodate any further children.²⁴ An analysis published in 2018 stated:

¹⁶ Neelum Ejaz, Neha Ravail Khaliq, and Yahya Bajwa, "Covid-19 Spurs Big Changes in Pakistan's Education," World Bank Blogs (World Bank, January 29, 2021), <https://blogs.worldbank.org/endpovertyinsouthasia/covid-19-spurs-big-changes-pakistans-education>.

¹⁷ Nagesh, Radhika, et al. "Covid-19 School Closures Hit the Poorest the Hardest in Pakistan." Center for Global Development, CDG (July 29, 2022), <https://www.cgdev.org/blog/covid-19-school-closures-hit-poorest-hardest-pakistan>.

¹⁸ Nagesh et al., "Covid-19 School Closures".

¹⁹ Moiz Hussain and Areebah Shahid, "Disasters and the Frailty of the Education System: Political Economy," *The News*, September 25, 2022, <https://www.thenews.com.pk/tns/detail/994297-disasters-and-the-frailty-of-the-education-system>.

²⁰ Hussain and Shahid, "Disasters and Frailty".

²¹ Moizza Binat Sarwar, "Towards a Resilient Education Recovery from Pakistan's Floods," Pakistan Coalition for Education (February 20, 2023), <https://www.pcepak.org/publications/towards-a-resilient-education-recovery-from-pakistan-s-floods-pdf.pdf>.

²² Sarwar, "Resilient Education Recovery".

²³ Zaigham Naqvi, "30,000 Children out of School in Islamabad," *The Express Tribune*, November 5, 2018, <https://tribune.com.pk/story/1840630/30000-children-school-islamabad>.

²⁴ Naqvi, "Children Out of School in Islamabad."

“...should the government hire teachers on empty posts in these schools the government could be able to accommodate as many as 23,000 students, it predicted. This would cut the problem down to just 4,000 children.”²⁵

Here it is also important to point out that school education in the federal area is gravely underfunded. Going by past precedent, increases in the federal education budget have largely serviced either higher education or non-development expenditures within the school education budget. For instance, in 2021-22, Rs.140 billion was earmarked for education under the federal budget. However, a mere 10 percent of this amount was earmarked for education development expenses.²⁶ It goes without saying that in the absence of adequate financial resources, it is neither possible to build new schools, upgrade existing ones or recruit more teachers.

The issue of Out-of-School Children in the Federal Capital is only expected to get worse with inward urban migration resulting from climate change and natural disasters. Girls are feared to lose out more owing to this trend as migrant families might simply not have the resources or the inclination to bear the expenses of their daughters' education on top of the cost of relocation and surviving in an urban center.²⁷

The *Taleemi Wazeefa* provided under Benazir Income Support Program²⁸ and the role of the National Education Foundation (established to facilitate the non-profit private sector to support governmental efforts to educate underprivileged children)²⁹ are important steps in the right direction. However, in the absence of a multi-sectoral comprehensive strategy entailing participation from such ministries as Planning and Development, Climate Change, and Finance, these initiatives are expected to have only a limited impact.

3. Way Forward:

- i. Immediate increase in the school education budget with a substantial increase in the education development heads.
- ii. Education budgets should be made gender-responsive with clear resources earmarked under each budget head for girls' and boys' education.
- iii. A phased plan for the recruitment of qualified teachers.
- iv. Respective education development in provinces and federal government must draw out plans taking special notice of those areas that host the highest number of Out-of-School Children.
- v. Education development plans should be inclusive making special efforts to bring more girls, children from minority communities, transgender students, and children living with disabilities into the educational realm.

²⁵ Naqvi, "Children Out of School in Islamabad."

²⁶ "PYCA Demands Rationalisation of Educational Funds for Marginalised Children," *The News* July 8, 2021.

²⁷ Areebah Shahid, "What Do We Mean by 'There's No Climate Justice without Gender Justice?'," Align Platform (Oversees Development Institute, November 16, 2022), <https://www.alignplatform.org/resources/what-do-we-mean-theres-no-climate-justice-without-gender-justice>.

²⁸ "BISP Taleemi Wazeefa," Benazir Income Support Programme (BISP), accessed March 13, 2023, <https://www.bisp.gov.pk/Detail/YzNIY2Q2ZGYtNjIwZS00MjNiLWFhMmEtZGM5NWwNkMjZhMjQ3>.

²⁹ "Punjab Education Foundation," Welcome To Punjab Education Foundation (PEF), accessed March 13, 2023, <http://www.pef.edu.pk/>.

- vi. Ensuring the school-readiness of Out-of-School Children before mainstreaming them. This entails preparatory courses with the technical support of the non-profit sector to help children catch up on lost years of learning.
- vii. Since childhood marriages are a major cause for drop-out, especially for adolescent girls, the Federal Capital must introduce an amendment to the minimum age of marriage law to ensure that the minimum age of marriage for both boys and girls is set at 18 years.
- viii. Strong inter-governmental coordination across the related ministries and departments, civil society organizations, and donors is important to develop a comprehensive, multi-year strategy to mitigate the issue of Out-of-School Children.

CONCEPT**World Trade Organization – Functions and Working****Dr. Amanat Ali**

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1. Introduction and Background:

The World Trade Organization (WTO) is the exclusive and premier global organization of its kind that deals with the international rules of trade among states. The agreements negotiated under the WTO are signed by most of the world's trading countries and ratified by their elected Parliaments. It aims to help the business of goods and service producers, exporters and importers.

Trade and Commerce among world nations have been the linchpin of economic prosperity and development along with continuation of a peaceful world order since the commencement of the Silk Road to the formation of the General Agreement on Tariffs and Trade (GATT) that later transformed in the birth of the WTO. This document presents the history of the trade, from the beginning to the present day, explaining the mandate and decision-making process of WTO.

The establishment of global economic system is basically a manifestation of the common requirement for peace and security. The same desire culminated into creation of today's global economic system. The global principles underpinning our multilateral economic system were a direct response to World War II and the desire to see it never happen again. Between 1948 and 1994, the General Agreement on Tariffs and Trade (GATT) regulated the majority of world trade and led significant high growth rates in international trade. It seemed well founded, but for those 47 years it was only a temporary arrangement and organization.

The creation of the WTO on January 1, 1995 was the historic restructuring of international trade in the post-world war contemporary era. While the GATT primarily dealt with trade in goods, the WTO and its agreements are much comprehensive as they are related to both trades in services as well as intellectual property. The Treaty also led to creation of new dispute settlement measures for the states. The year 1998 saw the golden jubilee of the establishment of this multilateral trading system while the Doha Round, launched in 2001, was another watershed moment to introduce fundamental reform in the international trade and commerce system by reducing trade barriers and revising trade rules. One of the important objectives of the Doha Development Agenda has been to enhance the trade scenarios for developing countries.

Analysts world over recognize that in last two decades, since the Doha Round, all Treaty member-countries have agreed on major updates to the WTO rules for substantially enhancing the flow of global trade. The number of WTO members has grown to 164, accounting for more than 98 percent of international trade. In 2015, the WTO reached a milestone by resolving the 500th trade dispute.¹

The Ministerial Conference is the highest decision-making body of the WTO and usually meets every two years. The first ministerial conference of the WTO took place in December 1996 in Singapore. The last, the 11th round, took place in Buenos Aires in December 2017. In 2020, the WTO celebrated its 25th anniversary.²

¹WTO, "Dispute settlement," WTO, April 1, 2023, https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm

²WTO, "Dispute settlement."

2. Functioning of the World Trade Organization

The Secretariat plays the role of central coordination; no matter the member-countries generally manage the WTO working amongst them. The Secretariat employs more than 600 people, and its experts - lawyers, economists, statisticians and communication experts - help WTO members on a daily basis, among other things, in the smooth conduct of negotiations, as well as in the proper application and observance of the rules of the law and international trade.³

- i. **Trade Negotiations:** The Treaty's agreements comprise of goods, services and intellectual property. These elucidate the instructions of liberalization as well as allow exemptions. These comprise of commitments by Member States to reduce tariffs and other trade barriers, in order to open and retain the services' markets opened. Dispute resolution measures are also agreed. These agreements are not permanent; they are renegotiated periodically and new contracts may be added. Many of these renegotiations are currently taking place as part of the Doha Development Agenda, which was initiated by the WTO's trade ministers in November 2001 in Doha, Qatar.
- ii. **Implementation and Monitoring:** The WTO agreements assist governments to ensure the transparency of their trade policies by notifying the WTO of applicable legislation and measures adopted. The various councils and committees of the Treaty work to ensure that these requirements are met and to monitor and ensure that the agreed-terms are optimally implemented by the party concerned. All WTO members should regularly review their trade policies and practices, and each review should include reports from countries and the WTO Secretariat.
- iii. **Dispute Settlement:** The WTO's trade dispute settlement procedure under the Dispute Settlement Agreement is crucial for the application of the rules and thus for the smooth conduct of trade. Countries bring their disputes to the WTO if they believe their rights, under the agreements, have been violated. The evaluations of specially appointed independent experts are based on the interpretation of the agreements and commitments of each country.
- iv. **Building Trade Capacity:** The WTO agreements contain special provisions for developing countries, including the extension of the implementation of agreements and commitments, measures to improve their trade opportunities, and support to help build their trade capacities, resolving disputes and implementing technical standards. Every year, the WTO organizes hundreds of technical cooperation missions to developing countries. Every year, it holds several courses for civil servants in Geneva. Aid for Trade aims to help developing countries develop the skills and infrastructure needed to expand trade.
- v. **Outreach:** The WTO engages in regular dialogue with civil society organizations, parliamentarians, other international organizations, the media and the public on various aspects of the WTO and the ongoing Doha negotiations in order to strengthen cooperation and raise awareness of the WTO's activities.

3. Decision-making in the WTO

The WTO is governed by the governments of its members. All important decisions are made by the full membership, the ministers (meeting at least every two years) or their ambassadors or delegates (meeting regularly in Geneva). Decisions are usually made by consensus. In this respect, the WTO differs from some other international

³"The Secretariat," World Trade Organizations, March 31, 2023, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org4_e.htm

organizations, such as the World Bank and the International Monetary Fund. In the WTO, power does not rest with the board or the head of the organization.⁴

When WTO rules impose discipline on countries' policies, it is the result of negotiations between WTO members. The rules are enforced by the members themselves through procedures agreed upon by them, including the possibility of trade sanctions. But these sanctions are imposed by Member States and authorized by all members. Consensus decision-making among approximately 150 members can be difficult. Its main advantage is that the decisions made in this way are better accepted by all members. And despite the difficulties, remarkable agreements have been reached. However, there are proposals from time to time to create a smaller executive body, such as a board of directors, to represent different groups of countries. But for now, the WTO is a consensus-based, member-driven organization.

A. 1st Level (Highest authority): The Ministerial Conference: The WTO belongs to its members. Countries make decisions through various councils and commissions, all of which are members of the WTO. At the summit, there is a Ministerial Conference that must meet at least every two years. The Ministerial Conference can make decisions on all issues covered by the Multilateral Trade Agreement.⁵

B. 2nd Level: General Council in three roles: Day-to-day work in between the ministerial conferences is handled by three bodies:

- i. The General Council
- ii. The Dispute Settlement Body
- iii. The Trade Policy Review Body

All three are basically the same, that is, the convention establishing the WTO states that they all form the General Council, although they meet with different mandates. Again, it consists of all three WTO members. They report to the Ministerial Conference.

The General Council works for the Ministerial Conference on all WTO matters. It meets as the Dispute Settlement Body and the Trade Policy Review Body to oversee procedures for settling disputes between members and to analyze members' trade policies.⁶

C. 3rd Level: Councils for each Broad Area of Trade: There are three more councils; each dealing different area of international trade and report to General Council:

- i. The Council for Trade in Goods (Goods Council)
- ii. The Council for Trade in Services (Services Council)
- iii. The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council)

As their names suggest, these three entities are responsible for the operation of WTO agreements related to their respective trade areas. These again consist of all WTO members. These three also have auxiliary organs. Six other bodies report to the General Council. The scope of their activities is narrower, so they are "committees". But they still consist of all WTO members. These include, for example, trade and development, the environment, regional trade agreements and governance issues.

⁴ "Whose WTO is it anyway?" The World Trade Organization (WTO), April 8, 2023, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm#:~:text=The%20WTO%20is%20run%20by,are%20normally%20taken%20by%20consensus.

⁵ "Whose WTO," WTO.

⁶ "WTO in Brief," The World Trade Organization (WTO), April 9, 2023, https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm

At the Ministerial Conference in Singapore in December 1996, it was decided to create new working groups for investment and competition policy, transparency of public procurement and trade facilitation. Two other subsidiary bodies dealing with pluralist agreements (not signed by all WTO members) regularly report to the General Council on their activities.

D. 4th Level: Down to the nitty-gritty: Each high-level council has subordinate bodies. The Warenraad has 11 committees dealing with specific topics (such as agriculture, market access, subsidies, anti-dumping measures, etc.). Again, they are from all Member States. The Commodity Council also includes the Textile Supervisory Board, which consists of a chairman and 10 members who act on their own behalf, notification groups (governments notify the WTO of current and new policies or measures) and state trading companies.

The auxiliary bodies of the Service Council deal with financial services, internal regulations, GATS regulations and specific obligations. At the General Council level, the Mediation Board consists of two divisions: a "committee" of dispute resolution experts responsible for resolving unresolved disputes, and an appeals board that hears appeals.

E. Heads of Delegations and other bodies: the need for informality: Informal consultation in the treaty plays an important role in reaching agreement among an extremely diverse group of members as consensus is developed. Decisions are made not according to any voting but consensus after deliberations among the member-states and the Treaty. A phase of formal meetings includes informal meetings, always attended by full members, such as Heads of Delegation (HOD) meetings. More difficult problems should be solved in small groups. Recently, it has become common for the chairman of the negotiating team to try to reach a compromise by consulting the most interested delegations individually, in pairs, threes or in groups of 20-30 people.⁷ These small gatherings should be handled with care. The most important thing is to ensure that everyone knows what is going on (the process should be "transparent"), even if they are not involved in specific consultations or meetings, and have the opportunity to participate or contribute.

There is a "Green Room," a term amongst coalition members that comes from the colloquial name for the CEO's meetings, with around 20–40 delegations, mainly at the delegation head level. These meetings may be held elsewhere, for example, at ministerial conferences, and may be convened by the minister responsible for the conference and the Director-General. Similar meetings can be organized in small groups by the presidents of the committees discussing the individual topics, although the term Green Room is not usually used for this. In the past, delegations sometimes felt that Green Room meetings could lead to compromises behind their backs. Therefore, extra efforts are made to ensure that the process is well managed and that all members are regularly reported.

4. Conclusion:

The negotiation process has become easier as the Member States tend to create coalitions amongst each other in order to jointly bargain an agreement that is mutually beneficial to all countries within a coalition. Therefore, in some fields, such as agriculture, almost every country that produces crops is a part of at least one group or coalition of member countries. Interestingly though a country may at the same time be member of several coalitions. This means that all countries are represented in the process if the coordinators and other key actors are present. Coordinators are responsible for both "transparency" and "inclusion" by informing their coalitions and adopting agreed positions within their alliances

⁷ "WTO Organizational Structure & Decision Making," Georgetown Law Library, April 9, 2023, <https://guides.ll.georgetown.edu/c.php?g=363556&p=4154931>

Decisions must ultimately be made by consensus by all members. Members as a whole would resist attempts to impose the will of a small group. No one could find any other way to reach consensus on difficult issues, as it is practically impossible for Members to voluntarily change their minds in plenary sessions. Small groups also participate in market access negotiations, but for a completely different reason.

The end result is a multilateral set of individual national commitments, but these commitments are the result of multiple bilateral and informal negotiations, depending on the interests of each country, let's say, traditional tariff negotiations and market access discussions. In the various forms of informal consultation, it therefore plays a fundamental role in creating consensus, but precisely because of its informal nature, it does not appear on organizational charts.⁸

However, these are not separated from official meetings. They are necessary for making formal decisions in boards and committees. Official meetings are also important. These are forums for exchanging views, recording countries' positions and ultimately approving decisions. The art of agreement among all WTO members is to find the right balance so that the breakthrough achieved by only a few countries is acceptable to the other members.

⁸"WTO Organizational Structure," Georgetown Law Library.



A DEMOCRATIC AND ISLAMIC CONSTITUTION FOR PAKISTAN

"The Constitution of Pakistan has yet to be framed by the Pakistan Constituent Assembly. I do not know what the ultimate shape of the constitution is going to be, but I am sure that it will be of a democratic type, embodying the essential principles of Islam. Today, they are as applicable in actual life as they were 1,300 years ago. Islam and its idealism have taught us democracy. It has taught equality of men, justice and fair play to everybody. We are the inheritors of these glorious traditions... as framers of the future constitution of Pakistan. In any case, Pakistan is not going to be a theocratic State – to be ruled by priests with a divine mission. We have many non-Muslims_hindus, Christians, and Parsis – but they are all Pakistanis. They will enjoy the same rights and privileges as any other citizens and will play their rightful part in the affairs of Pakistan.

(Broadcast to the people of USA, February 1948)



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