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Intra-Ethnic Fragmentation and the Politics of Ethnically Decentralising Constitutional Change
in Pakistan: A Comparative Study

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**Intra-Ethnic Fragmentation and the Politics of
Ethnically Decentralising Constitutional Change
in Pakistan:
A Comparative Study**

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**Thesis submitted for the degree of PhD
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Abstract

Within the literature on the politics of ethnic conflict resolution via constitutional reforms, ethnic ‘majorities’ are often presumed to oppose constitutional forms of power-sharing (ethnic decentralisation). In this thesis, I challenge this assumption to show how *institutionalised* forms of divisions *within* the dominant ethnic groups in the ethnic majoritarian states of Pakistan, Indonesia and Fiji drove the political process of ethnic decentralisation, and how the absence of these divisions caused the political process of ethnic decentralisation to fail in Sri Lanka. Building upon fieldwork in Pakistan and Sri Lanka and, owing to the COVID-19 related restrictions, relying on secondary literature on Indonesia and Fiji, I argue that the politics of constitutional forms of ethnic decentralisation is driven by *institutionalised* forms of *intra-ethnic* divisions *and* when these divisions combine with or manifest as: (a) civil-military institutional tensions involving the political and military elites from *within* the dominant ethnic group as mutually competing *ethnic factions*, (b) social movements emerging from *within* the dominant ethnic group and pushing for, in alliance with the relevant elites from the civil-military equation, ethnic decentralisation, and (c) a politics of cross-ethnic, multi-party consensus involving the relevant political elites from within the dominant *and* non-dominant ethnic groups. Employing process tracing as my primary method of investigation, I show how these variables help produce, both individually and collectively, constitutional forms of ethnic decentralisation. When these factors temporally *coexist* and causally reinforce each other vis-à-vis constitutional forms of ethnic decentralisation, they drive the political process of ethnic decentralisation as a *causal mechanism*. When these factors do not coexist as a contingently linked causal mechanism, ethnic decentralisation, as the Sri Lankan case shows, fails to happen. I conclude: the persistence of an ethnic majoritarian system is tied, not to ‘majoritarian intransigence’ but to the *absence* of the identified causal mechanism of ethnic decentralisation.

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1

“... core *ethnies* are often locked in a struggle to establish their dominance, in some cases by force, further weakening their chances of creating unified national states, let alone nations” – Anthony D. Smith (2004).¹

Introduction: Ethnic Majoritarianism and the Politics of Ethnic Decentralisation

While researching and writing my first book² on the origins of Baloch nationalism in Pakistan, what stood out as the most important contributing factor triggering an ethnonational upsurge in Balochistan, as in other provinces of Pakistan, was the *ethnically centralised*, Punjabi-dominated³ *majoritarian* character of the Pakistani state.⁴ The Punjabi imprint on the Pakistan state’s military and civil bureaucracies, as well as the Punjab-based political elite’s collaboration with these institutions, made Punjabis – initially the country’s second-largest ethnic group,⁵ but one with a disproportionate presence and influence in the military and bureaucracy as well as control over state resources – the dominant ethnic group in Pakistan.⁶ Punjabi domination also played a key role in triggering a separatist movement in East Pakistan, leading Pakistan’s largest ethnic group (Bengalis) to secede and establish Bangladesh in 1971.⁷

¹ Anthony D. Smith, “Ethnic cores and dominant ethnicities” in *Rethinking Ethnicity: Majority Groups and dominant minorities*, ed. Eric P. Kaufmann (London: Routledge, 2004), 23.

² Salman Rafi Sheikh, *The Genesis of Baloch Nationalism: Politics and Ethnicity in Pakistan* (Abingdon: Routledge, 2018).

³ Besides Punjabis, *Mohajir* (Urdu speaking Indian migrants), too, had a disproportional presence in the civil bureaucracy. See Omar Noman, *Pakistan: A Political and Economic History Since 1947* (London: KPI Limited, 1988).

⁴ See Ayesha Jalal, *Democracy and Authoritarianism in South Asia: A Comparative and Historical Perspective* (Cambridge: Cambridge University Press, 1995).

⁵ Demographically, the Bengalis constituted the majority ethnic group. According to the 1951 census, there were 41.9 million inhabitants in East Pakistan as compared to 33.7 million in West Pakistan of which Punjabis constituted the majority.

⁶ The 1955 One Unit scheme abolished all provinces – Punjab, Sind, North Western Frontier Provinces and Balochistan – of modern-day Pakistan to create a unified territorial entity called West Pakistan.

⁷ See Hassan Zaheer, *The Separation of East Pakistan: The Rise and Realization of Bengali Muslim Nationalism* (Karachi: Oxford University Press, 1997).

However, even after the territorial disintegration of the Pakistani state following the separation of a “core ethnic region,”⁸ the problem of ethnic domination that triggered this separation did not disappear, as the 1971 territorial disintegration turned the previously dominant minority (Punjabis) into an outright majority and the province of Punjab into the ‘new’ core ethnic region⁹ of Pakistan.¹⁰ Subsequently, with this ethnic domination superimposing minority exclusion, demands for ethnic inclusion have continued to feature in Pakistan post-1971, with the Punjabi-dominated military playing a key role – for instance, in Balochistan between 1973 and 1977 – in suppressing those demands. Even though a new federal constitution was promulgated in 1973, Punjabis remained, at least until 2010, the most dominant group politically, institutionally and economically,¹¹ leading marginalised ethnic groups to denote the multi-ethnic Pakistan as ‘Punjabistan.’¹²

However, notwithstanding the long-standing intransigence of the Punjabi-dominated ethnic majoritarian state to share power with minority ethnic groups,¹³ Pakistan underwent a *constitutional form* of ethnic decentralisation in 2010, when the 18th constitutional amendment was passed unanimously by a parliament *with a Punjabi majority*,¹⁴ thus constitutionally moving Pakistan’s management of ethnic diversity from ‘group-dominant’ approaches to an ethnically accommodationist framework¹⁵ in

⁸ For a study on how core ethnic regions cause state collapse see Henry H. Hale, “Divided We Stand: Institutional Sources of Ethnofederal State Survival and Collapse,” *World Politics* 56, no. 2 (January 2004): 165-193.

⁹ Hale defines a core ethnic region as the one either with “an outright majority of the population or makes up at least 20 per cent more of the whole country’s population than does the second largest region,” with the population size requirement being applied to the region than the ethnic group. See *ibid.*, 169-170.

¹⁰ According to Hale’s definition, Punjab is a core ethnic region. According to the 2017 census, Punjab’s population is 52.96 per cent of the whole population of Pakistan. Within Punjab, ethnic Punjabis (i.e., people with Punjabi as their mother tongue) make up 69.67 per cent of the whole population. Punjab also clearly outweighs the second largest region of Pakistan i.e., Sindh, which has a population share of 23.04 per cent of the whole population of Pakistan according to the 2017 census. Data available at [Population Census | Pakistan Bureau of Statistics \(pbs.gov.pk\)](https://www.pbs.gov.pk).

¹¹ Katharine Adeney, *Federalism and Ethnic Conflict Regulation in India and Pakistan* (New York: Palgrave MacMillan, 2007), 104.

¹² See Veena Kukreja, “Ethnic Diversity, Political Aspirations and State Response: A case study of Pakistan,” *Indian Journal of Public Administration* 66, no. 1 (2020): 28-42.

¹³ See Farzana Shaikh, *Making Sense of Pakistan* (New York: Columbia University Press, 2009).

¹⁴ Punjab, by virtue of its demographic numbers, gets more seats in the parliament than any other province.

¹⁵ For a useful discussion on this constitutional shift see Wilfried Swenden, “Governing Diversity in South Asia: Explaining Divergent Pathways in India and Pakistan,” *Publius: The Journal of Federalism* 48, no. 1 (Winter 2018): 102-133.

ways that sought to reduce Punjabi domination.¹⁶ In other words, the Pakistan state, even when dominated by a core ethnic region, did not collapse. Instead, challenging Hale’s projections about ethnofederations with “core ethnic regions” being more “vulnerable” to institutional and political collapse,¹⁷ Pakistan underwent ethnic decentralisation, *with active support from the core region*, in the form of the 18th constitutional amendment in 2010. This amendment addressed a longstanding demand of ethnic minorities for provincial autonomy, as it transferred most powers to the provinces by abolishing the concurrent list of powers ‘shared’ by federal and provincial governments¹⁸ even as it also made (ethnic) provinces joint and equal owners of natural resources via Article 172 (3) (A). The amendment also pushed, *constitutionally*, the Punjabi dominated military out of politics by strengthening Article 6 – which declared any encroachment on the constitution as ‘high treason’ – and declaring most of General Pervez Musharraf’s constitutional changes void (Article 270AA).

What explains this variation – the ethnic disintegration of Pakistan *versus* constitutionalised forms of ethnic decentralisation – in 1971 and 2010, respectively? Or, more specifically, under what conditions might an ethnic majoritarian state, such as Pakistan, undergo *constitutional forms of ethnic decentralisation* to mitigate inter-ethnic conflict in ways that constitutionally neutralise ethnic majoritarianism? This research seeks to address this puzzle in a systematic and empirically grounded way.

Marking a major departure from the view underlying the epigraph above, this thesis challenges the view (a) that ethnic majoritarian states are inherently predisposed to ethnic domination,¹⁹ and (b) that ethnic majorities, acting as a homogenous group, always resist, through force or otherwise, the demands for ethnically decentralising constitutional arrangements. Building on critical realism’s theoretical assumptions about conjunctural causation (see below), this thesis develops an evidence-based

¹⁶ Based upon the author’s interviews with members of the 18th amendment committee.

¹⁷ Henry H. Hale, “Divided We Stand,” 185.

¹⁸ Out of the 47 subjects in the concurrent list, all powers, except the one subject (‘Boilers’) shifted to the Central government, were transferred to the provinces. Two subjects – electricity and legal and medical professions – were transferred to the list of joint jurisdiction.

¹⁹ Others who have advanced this view include Michael Mann. See Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (Cambridge: Cambridge University Press, 2005).

macro-level causal explanation for the “generative mechanism”²⁰ that helps ethnic majoritarian states undergo ethnically decentralising constitutional changes – as a move away from manifest ethnic domination to what Max Weber famously called “ethnic co-existence.”²¹ Specifically, through an empirical analysis of four ethnic majoritarian states (Pakistan, Indonesia, Fiji and Sri Lanka), this study argues that ethnic majoritarian states undergo constitutional forms of ethnic decentralisation (a) when the dominant ethnic group in an ethnic majoritarian state faces institutionalised forms of internal fragmentation and (b) when this internal fragmentation combines with or manifests as:

- (1) Increasing civil-military institutional tensions involving the political and military elites from within the dominant ethnic group.
- (2) Cross-ethnic, multi-party political coalitions/agreements/pacts between certain factions of the dominant ethnic group and other political parties/actors (within or outside parliament or within a new regime).
- (3) New social movements involving factions of the dominant ethnic group aligned with relevant political parties/actors demanding or reinforcing demands for constitutional change.

The data I collected after more than a year of fieldwork in Pakistan and Sri Lanka (see Chapter 2) and, owing to Covid-19-related constraints on additional fieldwork, the secondary literature I reviewed on Fiji and Indonesia, strongly corroborates the centrality of intra-ethnic fragmentation – which I define as sharp institutional divisions and power struggles *within* the dominant ethnic group – in driving the politics of ethnic decentralisation in combination with the three above-mentioned intervening factors. When these factors do not co-exist, as the Sri Lankan example shows, constitutional forms of ethnic decentralisation fail to emerge.

This combination forms, I argue, the *causal mechanism* of ethnically decentralising constitutional changes in ethnic majoritarian states. However, the purpose of this

²⁰ See Margaret S. Archer, “Introduction: Other Conceptions of Generative Mechanisms and Ours” in *Generative Mechanisms Transforming the Social Order*, ed. Margaret S. Archer (London: Springer, 2015), 1-26.

²¹ Quoted in Donald Horowitz, *Ethnic Groups in Conflict* (Los Angeles: University of California, 1985), 23-24.

research is not to establish a ‘universally applicable causal law’; rather, following Jon Elster – who argued that “the basic concept in the social sciences should be that of [establishing] a mechanism” rather than “general law-like regularities” –²² the core objective is to specify, via process tracing and within-case analysis, a political process that combines, as a causal mechanism, intra-ethnic fragmentation with the above-mentioned variables to produce constitutional forms of ethnic decentralisation in ethnic majoritarian states (more on methodology in Chapter 2). The theoretical usefulness of this causal mechanism is established via both ‘positive’ cases (Pakistan, Indonesia, and Fiji) and a ‘negative’ case (Sri Lanka). Thus, this thesis combines cases that may or may not share the outcome of interest (i.e., the dependent variable), but may share – completely in ‘positive’ cases and partly in the ‘negative’ case – key variables that drive the political process of ethnic decentralisation in ethnic majoritarian states (more on case selection in Chapter 2).

This thesis, in other words, is concerned with the political process that drives ethnically decentralising constitutional change. As Bruce Ackerman has argued, constitutional changes stem from the *politics* that precedes them, with formal institutions, such as the parliament, only ratifying changes already conceived and popularised by relevant political actors.²³ In this context, the politics of ethnically decentralising constitutional changes in ethnic majoritarian states stems directly – and causally – from institutionalised forms of *intra*-ethnic divisions and how these divisions combine with new social movements and a cross-ethnic, multi-party political consensus – which in turn also reinforce those divisions – to constitutionalise forms of ethnic decentralisation.

Therefore, *intra*-group conflict, I argue, does not impede inter-group conflict resolution, as is often argued.²⁴ Rather, *where it co-exists with the outlined intervening factors*, forming a coordinated counter-hegemonic politics or ‘counter-politics’ set apart from any expression of, or commitment to, wholesale ethnic

²² Jon Elster, *Solomonic Judgements: Studies in the Limitation of Rationality* (Cambridge: Cambridge University Press, 1989), viii.

²³ See Bruce Ackerman, *We the People. Vol 1. Foundations* (Cambridge: Harvard University Press, 1991).

²⁴ See Gilat Bachar and Allen S. Weiner, “Governments, publics, and enemies: Intragroup dynamics and barriers to conflict resolution,” *Dynamics of Asymmetric Conflict* 7, no. 2-3 (2014): 198-225.

exclusion, I argue that these factors combine to produce an ethnically de-centralising constitutional change in an ethnic majoritarian state. The reason for the success or the failure of *ethnic decentralisation* must be explained with reference to the presence or the absence of multiple variables rather than any presumed inherent intransigence on the part of the dominant ethnic majority.

Ethnic majorities, as I show below, often lack the internal homogeneity that theorists of ethnic conflict often assume. This research draws attention to *intra*-ethnic sources of ethnic decentralisation as opposed to how inter-ethnic polarisation drives ethnic conflict and resolution.²⁵ At the same time, drawing attention to intra-ethnic factors, this study goes beyond existing literature that limits its analysis to the forms, rather than the underlying political processes, of ethnic decentralisation in ethnic majoritarian states.²⁶

But, even though this focus on the political process aligns with literature that focuses on *institutional* dynamics of constitution-making processes²⁷ (insofar as ethnically decentralising constitutional changes, too, are often drafted and passed by such institutions), my research seeks to stress the *political* process that, first and foremost, creates and/or reinforces demands for ethnically decentralising constitutional changes. Without this politics, institutionally dominated processes seeking ethnically decentralising constitutional changes fail, as the Sri Lankan case shows. Thus, the political process, underpinned by intra-ethnic divisions, causally generates institutional actions in ways that have so far escaped scholarly attention.

1. Intra-ethnic Fragmentation

Intra-ethnic fragmentation, as I show below, takes shape on three levels: institutional, political, and popular. Whereas the civil-military institutional divide often captures the *institutional* aspect of intra-ethnic fragmentation, cross-ethnic political consensus shows its *political* dimension, with social movements reinforcing fragmentation at the

²⁵ See Jon Esteban, Laura Mayoral and Debraj Ray, "Ethnicity and conflict: theory and facts," *Science* 336, no. 6083 (May 2012): 858-865.

²⁶ See Ilan Peleg, *Democratizing the Hegemonic State: Political Transformation in the Age of Identity* (Cambridge: Cambridge University Press, 2007).

²⁷ See Tom Ginsburg et. al, "Does the Process of Constitution-Making matter?," *The Annual Review of Law and Social Science* 5 (2009): 201-223.

popular level within the dominant ethnic group. As the following discussion shows, while all ‘positive’ cases have the same three causes and the same outcome, the exact configuration of the causal mechanism also varies, showing how the same causal mechanism can, while reflecting specific country landscapes and histories, configure in diverse ways to produce the same outcome of interest i.e., an ethnically decentralised constitutional system.

1.1. Institutional Divisions

One key manifestation of division and struggle *within* a dominant ethnic group often involves civil-military tensions (where both domains are dominated by the dominant ethnic group but they nevertheless arrange themselves against one another). Civil-military institutional tensions, i.e., power struggles between a state’s ethnically exclusive military apparatus and established political parties (particularly those associated with the dominant group), allow some members of the dominant ethnic group and some from minority ethnic groups to come together and establish a type of ‘counter-politics,’ both as a means to address long-standing ethnic conflict and as a means to erode the political and, often, the constitutional basis of existing forms of institutional (often military) dominance.

However, as the three positive cases studied in this research show, civil-military institutional tensions work in two ways. Whereas in Pakistan and Indonesia, civil-military institutional tensions brought together a broad civilian coalition (including both political parties and new social movements) against the military’s dominance, in Fiji, civil-military institutional tensions put the Fijian-dominated military at the centre of a reform process that, through a combination of factors – cross-ethnic politics within the regime as well as Church-based movements – institutionalised ethnic decentralisation in ways that eroded the hegemony of ethnically exclusive *civilian* Fijian institutions, such as the Great Council of Chiefs (GCC).

As I show in subsequent pages, the above-outlined combination of factors – which I call the *causal mechanism of ethnic decentralisation* – sustains itself in anti-military (Pakistan and Indonesia) and military-led (Fiji) cases. This causal mechanism also sustains itself in different types of state structures i.e., federal (Pakistan) and unitary

(Indonesia and Fiji). That civil-military institutional tensions remain a necessary condition for this causal mechanism to occur, however, is evident from the Sri Lankan case (see Chapter 9). In Sri Lanka, established political parties, *unlike* those in Pakistan and Indonesia, were *never* ousted by the ethnically exclusive (Sinhalese dominated) Sri Lankan military in ways that might prompt a ‘counter-political’ civilian consensus to de-militarise politics by changing the military-dominated ethnically centralised system. So, when the Sinhala-dominated Sri Lankan political parties initiated constitutional reform processes to decentralise ethnicity – or reorder ethnic power – they faced none of the intra-ethnic institutional pressures that, from the comparative perspective, made parties in Pakistan and Indonesia, and the military in Fiji, develop a cross-ethnic consensus.

1.2. Political Divisions

The second manifestation of division and struggle within the dominant ethnic group involves the emergence of a *cross-ethnic* political alliance opposed (ideologically, tactically, or both) to notions of ‘ethnic’ political domination. While the presence of minority ethnic groups within this space of counter-politics reinforces the demand for ethnic decentralisation, it is the support of parties/actors from within the *dominant* ethnic group that plays the key role. Such cross-ethnic political formations involving parties and political actors from within the dominant ethnic group alongside minority ethnic groups assume cardinal importance in the political processes that produce ethnically decentralising constitutional changes.

This cross-ethnic political consensus happens, as mentioned above, against a backdrop of civil-military institutional tensions. Whereas in Pakistan and Indonesia, political parties from dominant²⁸ and non-dominant ethnic groups were able to come together via multi-party political pacts in a bid to force the military out of power and dismantle its ethnically centralised system of power, in Fiji members of political parties from within both the dominant group and minority groups joined the reformist Frank Bainimarama military regime. A cross-ethnic political consensus in Fiji,

²⁸ In both Pakistan and Indonesia, political parties from within the dominant ethnic group did not necessarily project their politics in ethnic terms (i.e., as Punjabi or Javanese parties), although their political/electoral base was the dominant ethnic group and they allied with the social from within the dominant ethnic group against the military regime dominated by their co-ethnics. Similarly, the Fijian military saw itself as a ‘national’, rather than an ethnic, institution.

however, was nevertheless led by Bainimarama's military-led regime. That coalition then oversaw Fiji's political transformation (substantially reducing the power and dominance of ethnic Fijians).

Cross-ethnic consensus happens at two levels. Whereas civil-military institutional tensions provide a context within which the relevant political parties come together to form a cross-ethnic alliance among themselves ('Consensus 1'), the actual political process that produces key forms of *constitutional* change ('Consensus 2') involves consensus building, as in Pakistan and Indonesia, within a constitutional reform commission that involves, and receives further support from, a multi-party formation. In Fiji, whereas the commission that produced the first draft of the 2013 Constitution followed the regime's ethnically decentralising agenda, the military regime also mobilised the country's masses in favour of its ethnically decentralising constitutional changes (e.g. when it transformed itself into the FijiFirst party and won the 2014 elections on the basis of its success in implementing a new, ethnically decentralised constitution). Thus, the mere existence of institutional divisions may not suffice to produce ethnic decentralisation without a cross-ethnic consensus developing within or outside formal institutions of constitutional change (e.g., the parliament).

The Sri Lankan case, however, shows a political process that *lacked* the necessary background condition of civil-military institutional tensions. Partly because of this, key parties, unlike those in Pakistan and Indonesia, failed to develop forms of cross-ethnic consensus at both inter and intra-party levels. Instead, major Sinhala parties competed with one another to be more authentically 'Sinhala Buddhist,' defeating ethnically decentralising reform processes over time. From a comparative perspective, the absence of institutional pressures on the relevant parties produced an absence of cross-ethnic consensus, as a constitutional expert advising the 2016 constitutional process in Sri Lanka explained, insofar as "there has never been an overt taking over of political space at the expense of Sinhala parties,"²⁹ consequently preventing political divisions within the dominant Sinhalese from acquiring an institutional character.

²⁹ Interview of Camena Guneratne (Constitutional expert involved with the 2016 process) by the author, Colombo, January 20, 2020.

1.3. Social Divisions

This process of cross-ethnic consensus is reinforced by a third and final manifestation of division and struggle within the dominant ethnic group – this time in the form of social movements. New social movements not only *directly* reinforce demands for ethnically decentralising constitutional change, but they also play a crucial role in the ‘counter-political’ mobilisation of people from *within* the dominant ethnic group *against* the political and ideological foundations of ethnically exclusive systems. Social divisions, thus, map onto movements that cut across ethnic cleavages, demanding constitutional and political changes in multi-ethnic states.³⁰ New social movements – which often have strong links to political parties/actors themselves in ways that might directly counter the hegemonic regime – also enable relevant (suppressed) political parties/actors, including those from within the dominant ethnic group, to initiate a constitutional process of ethnic decentralisation.

For instance, the Lawyers’ Movement in Pakistan, which was mainly centred in Punjab, both raised and reinforced existing demands for provincial autonomy (see Chapter 4). More importantly, the fact that its main thrust was against the Punjabi-dominated military regime of Pervez Musharraf supported by the Punjab-based Pakistan Muslim League-Quaid (PML-Q) – shows how the Movement *divided* Punjabis along questions of *ethnic decentralisation*. At the same time, the Movement allied with Punjab’s most important anti-regime political party, the Pakistan Muslim League-Nawaz (PML-N), to push itself further into strictly political questions i.e., the military’s role in politics, reforming and restoring the 1973 Constitution, and granting maximum autonomy to the (ethnic) provinces. This partnership between counter-political politicians and social movements – which also included parties and social groups from other provinces – had the effect of combining institutional, political and popular divisions *within* Punjab into a causal conjuncture.

In Indonesia, Student Movements (*reformasi*) moved against the military regime of Suharto. These movements were not only at the heart of weakening the military regime, but also popularised the idea of state transformation, democratisation, power-

³⁰ For a useful insight on the formation of cross-ethnic social movements see Curtis R. Ryan, “Opposition and Reform Coalition in Jordan,” *British Journal of Middle Eastern Studies* 38, no. 3 (December 2011): 367-390.

sharing with minority ethnic groups, and a de-politicisation of the Javanese dominated military. Most importantly, *reformasi* helped trigger this process by mobilising, and combining with, Javanese student groups, civil-society organisations, and Javanese political parties *against* the Javanese-dominated military regime (see Chapter 6).

In Fiji, the ‘Church Movements,’ while they were not as politically charged as anti-regime movements in Pakistan and Indonesia, still weaned a significant chunk of Fijians *away* from the dominant Fijian Methodist Church and its overt support for the ethnically exclusive GCC as well as the United Fiji Party’s (SDL)³¹ ethnically centralised state. This weakening of the Methodist Church was complemented by the ‘counter-political’ Roman Catholic Church’s support *for* the military regime’s agenda of ethnic decentralisation, which the head of the Catholic Church helped to build by co-developing the ‘People’s Charter for Change’ in 2008 (see Chapter 7) alongside the military leader himself and a host of other civil society organisations. In short, while Church Movements in Fiji, unlike movements in Pakistan and Indonesia, were not anti-regime, they still reified divisions *within* the dominant ethnic group and pushed for ethnic decentralisation.

Even in Sri Lanka, when The White Lotus Movement was started in the mid-1990s, its main idea was to mobilise the Sinhalese majority in support of a constitutional package that the People’s Alliance government of Chandrika Kumaratunga was preparing to devolve power to the provinces. However, *unlike* the Lawyers’ Movement in Pakistan or *reformasi* in Indonesia, the White Lotus Movement was a top-down movement, *not* an organic movement opposed to the existing regime. Specifically, the Movement received no support, unlike in other countries, from a cohort of political parties involved in the devolution process in the second half of the 1990s.³² This lack of direct political linkage or spontaneous grassroots support translated into the failure of ethnic decentralisation – a failure that was due mainly to how the political elite, which, facing no existential challenges from a rival institution, shied away from mass-based politics. As the evidence shows, “the absence of public mobilisation around the issue allowed political parties to play with the issue

³¹ This is an English translation of the United Fiji Party’s original name: Soqosoqo Duavata ni Lewenivanua (SDL).

³² Based upon the author’s interviews.

[devolution] to their convenience.”³³ Thus, from the comparative perspective, Sri Lanka lacked *both* institutional and popular pressures for ethnic decentralisation (see Chapter 8).

Notwithstanding how social movements relate to the existing regime (pro or anti-regime) or the military (pro or anti-military), all cases show that movement politics produce more direct results for ethnic decentralisation when social actors operate in contexts framed by (civil-military) institutionalised divisions within the dominant ethnic group and, then, when they collaborate with political actors.³⁴

The evidence from Pakistan, Indonesia, and Fiji also demonstrates that movements play a more direct role in the parliamentary and political process of drafting ethnically decentralising changes than is often assumed,³⁵ either by making direct submissions to the reform commissions (Pakistan), by directly participating in the drafting process (Indonesia) or by preparing pre-constitutional documents supporting ethnic decentralisation (Fiji).

2. Forms of Ethnic Decentralisation

The outcome of this form of coordinated politics is state transformation, with constitutionally significant forms of ethnic decentralisation being a key part of this. In Pakistan and Indonesia, the existing constitutions were thoroughly amended in 2010 and between 1999 and 2004, respectively. In Fiji, an entirely new constitution was implemented in 2013. However, while all cases underwent constitutional forms of ethnic decentralisation via the identified causal mechanism, the precise form of these changes, reflecting the specific landscape and histories of each case, can – and does – vary from case to case.

³³ Interview of Mario Gomes (Head of the International Centre for Ethnic Studies) by the author, Colombo, January 30, 2020.

³⁴ For more on the impact of the interaction between movements and parties on democratic politics see Swen Hutter, Hanspeter Kriesi, and Jasmine Lorenzini, “Social Movements in Interaction with Political Parties” in *The Wiley Blackwell Companion to Social Movements*, ed. David A. Snow et. al (Oxford: Wiley Blackwell, 2019), 322-338.

³⁵ Douglas Nejaime, “Constitutional Change, Courts, and Social Movements,” *Michigan Law Review* 111, no. 6 (2013): 877-902.

For instance, within the federal structure of Pakistan, ethnic decentralisation meant greater provincial autonomy, greater provincial control over (local and national) resources, and greater attention to the proportion of the population of each ethnic group in the political, administrative, and economic structures of the state. Even the transfer of powers from the office of the president to the office of the prime minister and the parliament had major implications for ethnic decentralisation since it stripped the office of the president of the power to dismiss and dissolve national and provincial governments on his own (or as a covert ally of the military establishment). As will be discussed later, successive military rulers in Pakistan were able to establish themselves as politically omnipotent on the basis of the powers they had under various articles of the constitution related, for instance, to the imposition of emergency rule, the imposition of the Governor's rule in the provinces and the dismissal and dissolution of provincial legislatures. Under the 18th amendment, these articles were amended to make parliament (and its largely province-based parties) supreme. Similarly, the popular and political demand for de-militarising politics meant a de-Punjabisation of the political sphere because of the predominance of Punjabis in the military.³⁶

In Indonesia, power-sharing took place within a unitary structure. The main unit of devolution of power, however, is districts, with local governments gaining access to both administrative and fiscal powers and resources at that level. The *constitutional* abolition, in 2004, of the political role of the Indonesian military's territorial command system (as a parallel bureaucracy) also had the effect of opening more space for non-military / non-Javanese groups within the political, administrative, and economic structures of the state.

In the unitary state of Fiji, ethnic de-centralisation meant scrapping a racially constituted political and constitutional set-up dominated by ethnic Fijian institutions. While the Fijian state remains constitutionally centralised, the electoral system in the 2013 Constitution is non-racial. Unlike previous constitutions – in particular, the 1990 Constitution – the common roll, rather than communal rolls, ensures that the system does not turn Fijians into a permanent majority. While Fijians remain actual owners of

³⁶ Based upon the author's interviews.

the land, Indo-Fijians now have far better access to land under a new land-lease regime than was the case under previous regimes. Whereas Pakistan and Indonesia pushed the ethnically exclusive militaries out of politics, Fiji abolished the ethnically exclusive – and civilian-led – GCC.

In Sri Lanka, the whole debate of ethnic decentralisation revolves around the question of devolution to the provincial level within a unitary or federal set-up, with the question of abolishing, completely or partly, the concurrent list being a major contentious issue. So far, no significant push towards federalism, devolution, or abolition of the concurrent list has occurred.

3. The Causal Mechanism of ‘Failure’

While the precise forms of ethnic decentralisation differ across cases, the causal mechanism that produces them remains the same in all cases, with its *absence* ensuring an absence of ethnic decentralisation. In other words, while all the intervening variables of this causal mechanism have causal powers, it is not sufficient to have one or two causal variables, and not all, for the outcome of interest to emerge. I argue that the outcome of interest emerges when all of the intervening variables are present in a given case *and* when they causally relate to each other. In other words, as the critical realist Andrew Sayer has argued, while the intervening factors possess causal powers individually, the actual relationship between a causal factor and the outcome is not fixed, but contingent upon other related causal conditions³⁷ and, as others have argued, how they causally coalesce, collectively, vis-à-vis the outcome of interest.³⁸ Conversely, the causal power of a given variable is enhanced vis-à-vis the outcome when that variable causally co-exists with other causal variables, collectively forming a coherent and “contingently actualised”³⁹ causal mechanism that shows a causal, rather than a statistical, association between factors and the outcome.⁴⁰

³⁷ Andrew Sayer, *Method in Social Science: A Realist Approach* (Routledge: London and New York, 1994), 107.

³⁸ Bob Jessop, “Critical Realism and the Strategic Relational Approach,” *New Formations: A Journal of Culture, Theory and Politics* 56 (2005): 41.

³⁹ Ngai-Ling Sum and Bob Jessop, *Towards a Cultural Political Economy: Putting Culture in its Place in Political Economy* (Cheltenham: Edward Elgar, 2013), 9.

⁴⁰ Margaret S. Archer, “Introduction: Other Conceptions of Generative Mechanisms,” 3.

In Sri Lanka, it is the absence of these causal factors that explains why ethnic decentralisation has not taken place. In other words, it is through what Roy Bhasker and Tony Lawson call a “contrastive explanation”⁴¹ that the causal effect of the causal mechanism can be identified vis-à-vis the outcome of interest in the other three cases, further helping to establish how the outcome in these other cases is not merely “accidental.”⁴² Therefore, even while sharp political divisions exist *within* Sri Lanka’s dominant Sinhalese, these divisions do not manifest themselves strongly in terms of a contingently operationalised and a mutually reinforcing causal configuration of civil-military institutional tensions, cross-ethnic political-parliamentary consensus, and social movements. I argue that the absence of these factors, or the presence of some of them at some point, compromises the mutual contingency of the relevant variables vis-à-vis constitutional ethnic decentralisation.

For instance, while the ethnically decentralising 2000 Constitution Bill – which abolished the concurrent list and sought to make Sri Lanka a ‘union of regions’ – was initially backed by an inter-ethnic, multi-party collaboration as well as the government-run White Lotus Movement, the cross-party collaboration still failed to translate (unlike Pakistan, Indonesia, and Fiji) into a cross-ethnic, multi-party political consensus. A core factor (see Chapter 8) was the rival political parties’ inability to rise above their ethnically narrow political interests, or what some call “petty politics,”⁴³ as well as the lack of strong popular pressure for ethnic decentralisation. The failure at both political and popular levels was also affected by the lack of any civil-military institutional tensions, or what Arend Lijphart calls “external threats” to the relevant political – and social – actors.⁴⁴ The 2016 process, too, suffered from the absence of such social and institutional pressures, producing yet another failed attempt to produce an ethnically decentralised constitution.

Even though political processes have consistently failed in Sri Lanka, then, the failure cannot be attributed to the assumed political homogeneity, or intransigence, of the

⁴¹ Roy Bhasker and Tony Lawson, “Introduction: Basic texts and developments” in *Critical Realism: Essential Readings*, ed. Margaret Archer et.al (London and New York: Routledge, 1998), 12.

⁴² Andrew Sayer, “Abstraction: A realist interpretation” in *Critical Realism: Essential Readings*, ed. Margaret Archer et.al (London and New York: Routledge, 1998), 124.

⁴³ Interview of Dilan Perera (Sri Lanka Freedom Party member of the 2016 Steering Committee) by the author, Colombo, January 22, 2020.

⁴⁴ See Arend Lijphart, “Consociational Democracy,” *World Politics* 21, no. 2 (January 1969): 217.

dominant ethnic group alone.⁴⁵ While there is a general perception that the Sinhalese majority opposes devolution, the (anaemic and state-led) White Lotus Movement and the general submissions made by the public to the 2016 Public Representations Committee (Chapter 8) show that the Sinhalese majority as a whole is *not* necessarily united against devolution. Unlike the Sinhala Buddhist nationalists, who oppose devolution and power-sharing, my interviewees contended that many from *within* the majority are amenable to, if not completely in favour of, devolution.⁴⁶ However, political parties like the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP), unlike parties in Pakistan, Indonesia, and Fiji, use this ‘popular ambivalence’ to their narrow political and electoral advantage rather than channelling it against a common rival institution or ethnically exclusionary system.

While the Sri Lankan parties did come together on several occasions between 1987 and 2016, evidence from other countries demonstrates that political collaboration, unless translated into what a Pakistani PML-N leader called “strategic consensus”⁴⁷ and placed above ‘petty’ partisan interests, cannot produce an ethnically decentralising constitutional change. As I show in Chapter 8, in the absence of external pressures *other* than a minority ethnic group’s demands for ethnic decentralisation, political parties (the UNP and the SLFP) repeatedly used existing party-based differences to defeat the other party’s initiatives for essentially short-term political gains. This stubborn attachment to partisan politics and the consequent failure to transform occasional party-based collaboration into a cross-ethnic political consensus was a direct outcome of the absence of key variables, i.e., civil-military institutional pressures and a related social movement that produced ethnic decentralisation in Pakistan, Indonesia, and Fiji. Therefore, even when political parties came together in Sri Lanka, as in the late 1990s and 2016, the process failed, showing the centrality – and the necessity – of the overall temporal contingency of causal variables vis-à-vis each other and the outcome of interest.⁴⁸ Conversely, it is

⁴⁵ See Kenneth D. Bush, *The Intra-Group Dimensions of Ethnic Conflict in Sri Lanka: Learning to Read Between the Lines* (New York: Palgrave MacMillan, 2003).

⁴⁶ Based upon the author’s interviews with Sri Lankan politicians.

⁴⁷ Interview of Ahsan Iqbal (Pakistan Muslim League - Nawaz member of the 18th amendment committee) by the author, Islamabad, March 3, 2020.

⁴⁸ Andrew Sayer, *Method in Social Science*, 107.

the presence of these factors in this very form that produced ethnic decentralisation in other cases.

4. The Causal Mechanism of ‘Success’

Moving away from notions of internally uncontested dominant ethnic groups – especially, vis-à-vis minority ethnic groups – allows scholars to capture simmering political divisions within the dominant ethnic group. But, as the Sri Lankan case in this study comprehensively shows, intra-ethnic divisions, unless they manifest themselves in terms of civil-military institutional tensions, a cross-ethnic consensus within the parliament or a regime, and social movements, cannot, in themselves, be a *sufficient* cause for an ethnically decentralising constitutional change in ethnic majoritarian states to occur. As the three ‘success stories’ investigated in this research show, ethnic decentralisation resulted from the contingent presence of *all* of these factors *and* how each one of these factors reinforced the other factors to produce the outcome.

Without civil-military tensions, high-level political actors from within the dominant group and from minority ethnic groups may not come together on all occasions when ethnically decentralising constitutional reforms are pursued. (See, for example, Sri Lanka in 2000.) Without these civil-military tensions, even the military, as the Fijian case shows, is unlikely to assemble a cross-ethnic regime to decentralise ethnic power vis-à-vis ethnically exclusive civilian institutions. These institutional tensions assume a leading role insofar as the relevant political actors from within the dominant ethnic group pursue ethnic decentralisation both as a strategy against their rival ethnic faction (civilian or military) and to end the inter-ethnic conflict.

Without a cross-ethnic political alliance – which assumes a central role in actually producing the ethnically decentralising constitutional change – the necessary constitutional reforms cannot be pushed through. Even in Fiji, where the military assumed the primary political role, the key to success was Frank Bainimarama’s cross-ethnic regime *and* its ability to build on the consensus of both the National Council for Building a Better Fiji (NCBBF) and the constitutionally focused Ghai Commission.

And, without the direct and indirect support – and pressure – of social movements for reforms, reform coalitions are difficult to hold together (i.e., their bond will unravel during reform negotiations instead). The political actors who enact relevant reforms also participate directly in social movements, which exist specifically to demand or reinforce the necessity of ethnic decentralisation. In Pakistan, the PML-N was not only involved in the anti-military Lawyers’ Movement, but it became its major financier at one point (see Chapter 4), with the Movement pressing for reforms both directly and through its submissions to the parliamentary committee. In Indonesia, major political parties collaborated with Student Movements (*reformasi*) against Suharto. The reform commission established by Suharto’s successor, B.J. Habibie, in 1999, included a student leader as one of the drafters of the laws of decentralisation. In Fiji, the military regime’s leadership was directly involved in the NCBBF, which produced the ‘People’s Charter for Change, Peace and Progress’ in 2008. This Charter provided the cross-ethnic foundation for the 2013 Constitution.

Like political parties, new social movements, too, are inspired by civil-military institutional tensions. It is for this reason that the Lawyers’ Movement in Pakistan and Student Movements in Indonesia were fundamentally opposed to the military’s role in politics. And, consistent with the military’s pro-reform position in Fiji, the ‘Church movements’ and civil society rallied around the military *against* the exclusionary civilian politics of the GCC, the Methodist Church, and the SDL. Thus, political parties/actors or regimes and new social movements appear to have ‘common ground’ that they mutually capitalise on to drive ethnically exclusive institutions (civilian or military) out of power and resolve inter-ethnic conflict.

The key components of this ‘reform coalition’ do not merely correlate; they appear to be *causally* related to one another in a non-linear i.e., conjunctural fashion. In other words, it is not necessarily A leading to B and B leading to C. While intra-ethnic fragmentation that extends to civil-military tensions remains a key background condition, other variables appear to exist in a loose configuration, often coming into existence on their own or being influenced by the overall context of an ethnically exclusive system unravelling internally along civil-military institutional lines. Still, the variables tend to coalesce and, then, mutually reinforce each other, forming a multicausal and interactive, rather than a monocausal, independent and mutually

exclusive, pattern.⁴⁹ Causation is, thus, not simply a matter of ‘cause and effect,’ as is often assumed in traditional realist, positivist and/or empiricist perspectives.⁵⁰ Rather, it stresses the inter-operation, or process,⁵¹ of a larger *causal mechanism* – and the evidence supporting it –⁵² in producing the outcome⁵³ (see Chapter 2).

This multicausal, interactive and causal pattern is evident in the three ‘success’ stories. For instance, although both the political and the social coalesced in Pakistan against the military regime, the 2006 anti-military Charter of Democracy (CoD) did not trigger the anti-military Lawyers’ Movement that erupted, instead, in response to the dismissal of Chief Justice Iftikhar Chaudhry by General Pervaiz Musharraf in March 2007. Even during formal constitutional deliberations in 2009 and 2010, the ‘social’ element continued to directly coalesce, albeit in a limited sense, with the ‘political’ to produce an ethnically decentralising amendment.

In Indonesia, the anti-Suharto movement was not triggered by political parties (see Chapter 6). Instead, political parties, while influenced by the prevailing scenario of the decaying military regime (during which the student movement was resisting the regime and calling for a political and constitutional change on their own) came together to support *reformasi* in a visibly united front against Suharto’s ‘New Order’ and signed the ‘Ciganjur agreement’ in 1998 to steer the country towards ethnic decentralisation (which the *reformasi* protesters were charting).

Unlike Pakistan and Indonesia, however, where new social movements emerged in opposition to a military regime, counter-political Church movements in Fiji collaborated with the military to reinforce its decentralising agenda. It was the New Methodist Church that significantly damaged the monopoly of the Methodist Church

⁴⁹ See Stanley Lieberman, “Small N’s and Big Conclusions: An Examination of the Reasoning in Comparative Studies Based on a Small Number of Cases,” *Social Forces* 70, no. 2 (December 1991): 307-320.

⁵⁰ Martin Hollis, *The Philosophy of Social Science: An Introduction* (Cambridge: Cambridge University Press, 1994), 48.

⁵¹ Philip S. Gorski, “After Positivism: Critical Realism and Historical Sociology” in *Critical Realism, History, and Philosophy in the Social Sciences*, ed. Timothy Rutzou and George Steinmetz (Bingley: Emerald Publishing Ltd, 2018), 28.

⁵² Andrew Sayer, *Realism and Social Sciences* (London: SAGE Publications Ltd, 2000), 15.

⁵³ Gary Goertz, *Multimethod Research, Causal Mechanisms and Case Studies: An Integrated Approach* (New Jersey: Princeton University Press, 2017), 31.

and its support for the GCC. The Roman Catholic Church – which also existed in opposition to the Methodist Church – collaborated directly with the military regime to produce the ethnically decentralising 2008 Charter. The tussle between the Bainimarama military regime and the GCC and the Methodist Church not only demonstrates intra-ethnic fragmentation, but also shows how the military regime, through its collaboration with opposing churches, was able to defeat the pillars of religious and political support for an indigenous and exclusionary Fijian system of power. This intra-ethnic tussle allowed the Bainimarama regime to assemble a cross-ethnic administration, which not only included political actors previously allied with major political parties – including the Indo-Fijian parties – but also sanctioned ethnically decentralising constitutional arrangements.

5. The Outcome: From Dominance to Ethnic Co-existence

As mentioned above, while ethnic decentralisation has different – and overlapping – forms and meanings in all four countries, what is still common is that the political and economic monopoly of the ethnic majority is broken in ‘positive’ cases to a large extent because of the support for this shift that factions from within the dominant ethnic group provide to break up the supremacy of their rival co-ethnics. This shift away from the supremacy of what Anthony Smith called “ethnic core” or “dominant ethnicities”⁵⁴ underlies the idea of ethnic decentralisation as a constitutional shift away from an ethnically centralised system towards an alternative, ethnically decentralised system, not only to address the long-standing demands for autonomy and power-sharing but also to create new centres of power that prevent the supporters, whether civilian and military, of *ethnic hegemony* from re-establishing dominance.

Factional cleavages, as Sandbrook explains, involve “a form of conflict which, far from uniting people of the same social category (social class, occupation, generation, ethnic group, etc.) in defence of their collective welfare, unites people of *different* social categories to advance the participants’ *individual* (usually material) interests” (emphasis original).⁵⁵ By supporting new centres of power, relevant elites from within the dominant ethnic group create political bridges across various ethnic groups to

⁵⁴ Anthony D. Smith, *National Identity* (London: Penguin, 1991), 39.

⁵⁵ Richard Sandbrook, “Patrons, Clients, and Factions: New Dimensions of Conflict Analysis in Africa,” *Canadian Journal of Political Science* 5, no. 1 (1972): 104.

consolidate their position vis-à-vis rival intra-ethnic factions. This coming together of factions from within *all* ethnic groups at the institutional, political, and popular levels allows for a constitutional set-up where power-sharing becomes possible within a mutually co-existing, ethnically decentralised framework.

In other words, even though the majority ethnic group retains its demographic dominance, it loses, *in a constitutional sense*, its exclusive control over the political and economic structures of the state. Ethnic decentralisation, in this context, is not an unintended or an indirect outcome of the political process; rather it emerges from an ongoing tussle between rival factions of the dominant ethnic group, with one side explicitly and deliberately stressing ethnic decentralisation.

This causal mechanism seems to be strongly present in both unitary (Fiji and Indonesia) and federal states (Pakistan). It also seems to work in countries like Fiji where the military spearheaded the state transformation project that produced ethnic decentralisation. In Sri Lanka, the causal mechanism is defeated by the political parties' zero-sum competition over ethnic domination – a game that, without substantial civil-military tensions in the background and popular agitation for reforms, key parties have consistently failed to transcend.

6. The 'Politics of Pushback'

Since ethnic decentralisation happens because of sharp political divisions within the dominant ethnic group, the outcome, as both my fieldwork in Pakistan and an extensive study of Indonesia and Fiji show, continues to be intra-ethnically contested, with anti-decentralisation groups, whether civil or military, from within the dominant ethnic group seeking to reverse decentralisation and reestablish their dominance. Pro-ethnic decentralisation groups, however, resist this 'politics of pushback.' In this sense, the 'politics of pushback' (see Chapter 9) is different from a politics of amendment-reversal that is pursued within institutional frameworks, such as the parliament or the judiciary,⁵⁶ through new legislation and/or constitutional petitions. It also differs from a simple lack of implementation of constitutional reforms. On the

⁵⁶ See Christopher P. Manfredi and Michael Lutzig, "Why Do Formal Amendments fail? An Institutional Design Analysis", *World Politics* 50, no. 3 (April 1988): 377-400.

contrary, it involves pushing against ethnic decentralisation, both explicitly and implicitly, in favour of re-centralisation.

In this context, Pakistan's still Punjabi-dominated military elite remains opposed to the decentralising 18th amendment because it constitutionally diminished their ability to single-handedly control the state's political and economic resources vis-à-vis 'ethnic' provinces.⁵⁷ Because provinces have also ethnicised their school curricula to promote their ethnic languages, culture and history, the military-backed all-encompassing Pakistan national identity is also seen as being at risk of disintegration, putting Pakistan's ideological – and territorial – frontiers at a peril.⁵⁸

In Indonesia, too, the military has pushed itself back into politics. Apart from conservative and anti-reformist (Javanese) elements, such as Prabowo Subianto, trying to recapture some of their old power, the Centre has also established new practices of central control, including new local government laws (law 23/2014) that re-centralise certain powers.⁵⁹

In Fiji, the SDL's⁶⁰ political platform advocates scrapping the 2013 Constitution, reviving the GCC and the Senate, and bringing Fiji's land under the exclusive control of Fijians once again. The 'new' SDL i.e., the Social Democratic Liberal Party (SODELPA), also seeks to revert to a racialised electoral system to secure a permanent majority for Fijians.

While the political process that produces ethnically decentralising constitutional changes remains ongoing, the fact that these changes happen shows that multi-ethnic states under the domination of one ethnic group are *not* suspended in time. On the contrary, this study ventures into ethnic majoritarian states that most theorists of ethnically decentralising constitutional changes consider incapable of pursuing such changes because of the presumed intransigence of the dominant ethnic group to share power with marginalised ethnic groups (see Chapter 2). My research shows that the

⁵⁷ Based upon the author's interviews.

⁵⁸ Ibid.

⁵⁹ The law moved 29 subjects from exclusively local to joint jurisdiction of the central, provincial and local governments.

⁶⁰ The SDL was renamed as the Social Democratic Liberal Party (SODELPA) in 2013.

presumed intransigence of the dominant ethnic group mistakenly assumes strong intra-group homogeneity. Ethnic groups do not exhibit, as I discuss in the next chapter, a neatly homogenous group formation; rather they are characterised by political divisions (factions) that often trigger a struggle for power between competing factions - ⁶¹ a struggle that allows rival factions, whether civil or military, from within the dominant ethnic group to ally with social and political actors from marginalised ethnic groups to push for ethnic decentralisation.

The next chapter discusses the existing scholarship on the politics of ethnic decentralisation in ethnic majoritarian states, as well as the research methodology, case selection rationale, and fieldwork methods. Chapters 3, 4 and 5 discuss Pakistan (the ‘crucial case’) focusing on the three key intervening variables in turn. Chapters 6 and 7 discuss Indonesia and Fiji (the ‘pathway cases’) highlighting the operation of the causal mechanism in a comparative perspective. Chapter 8 discusses Sri Lanka (the ‘negative crucial case’) with a focus on failure rooted in the absence of the causal mechanism. Chapter 9 discusses the ‘politics of pushback’ in Pakistan, Indonesia, and Fiji. Chapter 10 concludes, highlighting the main contribution and the usefulness of the causal mechanism identified and explained in this study.

⁶¹ See Nina Casperson, “Intragroup Divisions in Ethnic Conflicts: From Popular Grievances to Power Struggles,” *Nationalism and Ethnic Conflicts* 14, no. 2 (2008): 239-265.

The Puzzle and the Argument: Research Design and Fieldwork Methodology

1. Introduction

As the previous chapter lays out, this research focuses on the politics of ethnically decentralising constitutional change – which I define as a constitutional reordering of state power away from the dominant/majority ethnic group – in states where, historically, there is one (internally fragmented) ethnic group dominating the state’s civil and military institutions: Pakistan, Indonesia, Fiji, and Sri Lanka. However, intra-ethnic fragmentation alone does not lead to a politics of constitutional change. There is already a body of literature⁶² that illustrates how ethnic groups, regardless of their size, are often internally fragmented,⁶³ often involving “ethnic defections”⁶⁴ that allow factions from within one ethnic group to align with factions from other groups.⁶⁵

Given that ethnic groups are often internally fragmented, the question is: when (under what conditions) does this intra-ethnic fragmentation (within a dominant ethnic group) become relevant for the politics of ethnically decentralising constitutional change in ethnic majoritarian states?

This study proposes an answer: intra-ethnic fragmentation becomes relevant when it manifests itself as, and combines with, (a) civil-military institutional tensions tied to intra-ethnic fragmentation (i.e. power struggles between the state’s ethnically exclusive military apparatus and established political parties, particularly parties from within the dominant group), (b) a counter-majoritarian political consensus (i.e., a

⁶² See Stathis Kalyvas, “The Ontology of Political Violence: Action and Identity in Civil Wars,” *Perspectives on Politics* 1, no. 3 (September 2003): 475-494; Akin Akinteye, “Intra-ethnic Conflicts among the Yoruba: A Case of Igbo Ora” In *Community Conflicts in Nigeria: Management, Resolution and Transformation*, ed. Onigu Otite and Isaac Olawale Albert (Oxford: Spectrum Books, 1999).

⁶³ See Mark Irving Lichbach, *The Rebel’s Dilemma* (USA: University of Michigan Press, 1995); Dominic Rohner, “Reputation, Group Structure and Social Tensions,” (PhD. Diss., University of Cambridge, 2007).

⁶⁴ See Stathis Kalyvas, “Ethnic Defection in Civil War,” *Comparative Political Studies* 41, no. 8 (February 2008): 1043-1068.

⁶⁵ See Alberto Alesina and Enrico Spolare, *The Size of Nations* (London: MIT Press, 2003).

counter-political coalition/consensus involving political parties/actors—even including the military (as in Fiji)—from within both the dominant and minority ethnic groups), and (c) new social movements (i.e., those that emerge from within the dominant ethnic group and lay claims vis-à-vis the state for constitutional transformation). When these variables, following Pierson, co-exist at “particular points in time” and form a causal conjuncture,⁶⁶ a causal mechanism of ethnically decentralising constitutional changes in ethnic majoritarian states emerges. As the Sri Lankan example shows, however, it is not just the *absence* of this mechanism that explains cases of failure, but also the individual existence of one or more of these variables outside of the contingently ordered causal mechanism.

2. Ethnically Decentralising Constitutional Changes

This study defines decentralisation not only in political terms but also in ethnic terms. Ethnic decentralisation refers not only to greater power-sharing between different ethnic groups in a given multi-ethnic state but mainly to how the dominant ethnic group loses, through a process of internal fragmentation combined with other variables, its exclusive constitutional control of the political and economic structures of the state. Accordingly, this study moves away from the literature⁶⁷ that narrowly defines decentralisation as a political compromise between the central government and ethnic regions/groups in multi-ethnic states. While a politically decentralising constitutional arrangement may transfer some powers to the lower tiers of government, ethnic decentralisation involves constitutionally *neutralising* the ability of the dominant or majority ethnic group to establish and maintain its hegemony in the political, economic, and administrative realms of the polity.

Ethnic decentralisation, therefore, not only includes constitutional arrangements whereby the formerly ethnically exclusive institutions, such as the bureaucracy and the military, are made ethnically more inclusive, and political powers and financial resources more adequately shared among ethnic provinces and regions (as in Pakistan and Indonesia); it also involves electoral reforms (as in Fiji) that make the political

⁶⁶ Paul Pierson, *Placing Politics in Time: History, Institutions, and Social Analysis* (Princeton and Oxford: Princeton University Press, 2011), 12.

⁶⁷ See Dawn Brancati, *Peace by Design: Managing Intrastate Conflict through Decentralisation* (Oxford: Oxford University Press, 2009); Aisling Lyon, *Decentralisation and the Management of Ethnic Conflict: Lessons from the Republic of Macedonia* (Oxford: Routledge, 2016).

system non-racial. Ethnic decentralisation, in this sense, is a structural re-ordering of ethnic-power relations in a constitutional sense, allowing an ethnically exclusive system to be replaced by an ethnically inclusive system operating at various levels of polity (in both federal and unitary states). In Pakistan (federation), Indonesia (unitary), and Fiji (unitary), constitutional reforms were pursued specifically with a view, not merely to empowering minority groups, but also to reducing the dominance of the majority ethnic group. Therefore, even though Fiji's new constitution abolished the Senate – which might signal a centralisation of power denying representation to the provinces – the parallel abolition of the GCC combined with the creation of an open-list, non-communal, electoral system constitutionally institutionalised a non-racial political landscape away from permanent Fijian domination.

Ethnic decentralisation is important in majoritarian states where a mere political decentralisation and/or delegation of some powers to regions fails to resolve ethnic tensions. As the Sri Lankan case (Chapter 8) shows, powers devolved to the provinces ('political decentralisation') through the 13th amendment in 1987 failed to end the ethnic conflict between the dominant Sinhalese and the minority Tamils, because the dominant Sinhalese continued to retain their dominant and interventionist position politically and constitutionally. Thus, by focusing on a combination of, or mutually diverse, constitutional arrangements designed to break the monopoly of the dominant ethnic group, this study addresses the crucial question: *what drives ethnically decentralising constitutional change in ethnic majoritarian states?*

3. The Drivers of Ethnically Decentralising Constitutional Change

Within the wider debate on the politics of constitutional change, two schools of thought approach the question of ethnic conflict resolution from constitutional and non-constitutional perspectives: those who emphasise institutional engineering, such as Lijphart and Horowitz,⁶⁸ via constitutional changes, such as non-territorial

⁶⁸ See Donald A. Horowitz, "Constitutional Design: Proposals Versus Processes" in *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, ed. Andrew Reynolds (Oxford: Oxford University Press, 2001), 15-36; Arend Lijphart, *Democracy in Plural Societies. A Comparative Exploration* (New Haven and London: Yale University Press, 1977).

autonomy,⁶⁹ to mitigate conflict, and those who emphasise other methods, such as local or international mediation,⁷⁰ political liberalisation or democratisation,⁷¹ and political incentives.⁷² Within both schools, however, the all-important question of what politically *drives* a multi-ethnic state, with or without the domination of an internally fragmented ethnic group, to institutionalise constitutional changes that empower marginalised ethnic groups, remains unaddressed.

For example, Guidna's argument⁷³ that constitutional engineering in Ethiopia in 1995 was informed by inter-ethnic conflict tells us more about the political problems that existed in Ethiopia that necessitated the constitutional change than it does about *the mechanism of change*, i.e., key actors, factors, and institutions involved in articulating and actualising constitutional change. While Simeon argues⁷⁴ that the politics of constitutional change in multi-ethnic states often unfolds at the level of "high politics" – the politics of fundamental choices over basic values – and "low politics" – the politics of self-interest and advantage (in which each of the players seeks to establish rules that serve their interests) – the question of what exactly brings the actors involved in these two forms of politics to a point, *politically*, where they develop a cross-ethnic/multi-party consensus to institutionalise ethnic decentralisation remains unstudied.

In other words, while this body of literature takes ethnic politics as an independent variable and a (decentralising) constitutional change as a dependent variable, there is an insufficient account of the intervening political processes that could not only show how these variables correlate, but also how this correlation is not merely incidental but causal in an overall *causal mechanism* of constitutional change. This study draws

⁶⁹ See John Coakley, "Approaches to the Resolution of Ethnic Conflict: The Strategy of Non-territorial Autonomy," *International Political Science Review* 15, no. 3 (July 1994): 297-314.

⁷⁰ See Stephan M. Saideman, "Overlooking the Obvious: Bringing International Politics back into Ethnic Conflict Management," *International Studies Review* 4, no. 3 (2002): 63-86.

⁷¹ See Zeric Kay Smit, "The Impact of Political Liberalisation and Democratisation on Ethnic Conflict: An Empirical Test on Common Assumptions," *The Journal of Modern African Studies* 38, no. 1 (March 2000): 21-39.

⁷² See Donald Rothchild, *Managing Ethnic Conflict in Africa: Pressures and Incentives for Cooperation* (Washington D.C: Brookings Institution Press, 1997).

⁷³ See Merera Gudina, "The State, Competing Ethnic Nationalisms and Democratisation in Ethiopia," *African Journal of Political Science* 9, no. 1 (2004): 27-50.

⁷⁴ See Richard Simeon, "Constitutional Design and Change in Federal Systems: Issues and Questions," *Publius: The Journal of Federalism* 39, no. 2 (Spring 2009): 241-265.

attention to the precise causal mechanism that produces constitutional forms of ethnic decentralisation in ethnic majoritarian states.

4. Constitutional Change in Ethnic Majoritarian States

While the above-mentioned body of literature deals with the question of constitutionally decentralising arrangements in multi-ethnic states, this debate is strikingly limited to those states that are *not* ethnic majoritarian. In fact, this literature, on the whole, sees ethnic majoritarian states as ‘incurable.’ As Donald Horowitz has argued, an ethnic majority group “with 60 per cent support” cannot be so “self-abnegating” as to give up its political power and privileges.⁷⁵ Furthermore, decentralising arrangements are seen as suitable only for those states that are *not* ethnic majoritarian.⁷⁶ According to Donald Rothchild, the presence of a dominant ethnic group only “complicate[s] the tasks of conflict management, in some cases leading to protracted civil war.”⁷⁷ And, as Arend Lijphart argued, when a country is dominated by an ethnic majority, its leaders (from within the majority group) tend to “dominate rather than cooperate with the rival minority.”⁷⁸

Departing from this literature, this research offers a study of ethnic majoritarian states as sites of ethnic decentralisation rather than as terrains of conflict and civil war. Through intensive within-case analysis, I show that ethnic majoritarian states can undergo ethnic decentralisation when the above-mentioned causal mechanism, underpinned by intra-ethnic fragmentation, exists. Intra-group divisions and competition, unlike Horowitz’s assumption, do *not* hinder cross-ethnic consensus but facilitate it.⁷⁹

Even as Lijphart argues that ethnic elites may offer consociational arrangements out of their desire to avert mutual destruction (territorial disintegration),⁸⁰ he assumes the power of fear associated with territorial disintegration. But the fear of territorial

⁷⁵ Donald Horowitz, “Constitutional Design,” 20.

⁷⁶ See Sujit Chaudhary, ed. *Constitutional Design for Divided Societies: Integration or Accommodation?* (New York: Oxford University Press, 2008).

⁷⁷ Donald Rothchild, *Managing Ethnic Conflict in Africa*, 18.

⁷⁸ Arend Lijphart, *Democracy in Plural Societies*, 55.

⁷⁹ Donald A. Horowitz, “Constitutional Design,” 30.

⁸⁰ Arend Lijphart, *Democracy in Plural Societies*, 165.

disintegration, as the evidence from Sri Lanka shows, cannot itself be a driver of ethnically decentralising constitutional change, let alone a *sufficient* cause, in ethnic majoritarian states. Therefore, even though the Sri Lankan Tamils fought, for more than three decades, a war of independence threatening to disintegrate Sri Lanka, the Sri Lankan state still failed to offer ethnic decentralisation (or consociationalism).

As the evidence from Pakistan, Indonesia and Fiji also shows, it was not simply the fear of disintegration that drove political parties/actors from within the dominant ethnic group (as a whole) to develop a cross-ethnic/multi-party consensus around ethnic decentralisation, but the increasing inability of the dominant ethnic group to maintain an ethnically exclusive system of power due to the emerging political divisions *within* it (with these divisions manifesting as, and reconfiguring themselves across, civil-military institutional tensions, a cross-ethnic/multi-party political coalition or consensus, and new social movements). Conversely, a failure to achieve ethnic decentralisation in Sri Lanka is not tied to the presence of a dominant ethnic group inherently unwilling to share power, but rather, as the evidence shows, to the absence of the larger causal mechanism of ethnic decentralisation introduced above and discussed below.

5. The Causal Mechanism of Ethnically Decentralising Constitutional Change

As I have argued so far, ethnically decentralising constitutional changes in ethnic majoritarian states are neither a political anomaly nor an impossibility resulting from the assumed ability of the majority ethnic group to perpetuate ethnic domination. In making this argument, my thesis contributes to an emerging literature that emphasises how institutional change, including constitutional reform, can and does occur, often via displacement of previous institutional arrangements, even in cases where supposedly entrenched (path-dependent) institutional arrangements exist.⁸¹ With the ethnic majoritarian states of Pakistan, Indonesia and Fiji undergoing constitutional ethnic decentralisation despite the path-dependent (colonial) roots of Punjabi, Javanese and Fijian domination of these states, respectively, it becomes possible to

⁸¹ See James Mahoney and Kathleen Thelen, ed. *Explaining institutional change: Ambiguity, agency and power* (Cambridge: Cambridge University Press, 2010).

ask what *caused* this change, or under what conditions such a change might occur or may fail to occur.

For ethnic majoritarian states to undergo ethnic decentralisation, political divisions *within* the dominant ethnic group play a key role. Given that most ethnic groups show some level of political divisions, it is important to consider what kinds of divisions need to exist, or in what precise ways those divisions need to manifest themselves, for an ethnically decentralising constitutional change to happen. In the sub-sections that follow, I show how intra-majority political divisions, when manifesting as (a) civil-military institutional tensions, (b) new social movements, and (c) cross-ethnic/multi-party counter-coalition form a causal *mechanism*, they help to produce ethnically decentralising constitutional changes, with the absence of the mechanism causally corresponding to the absence of ethnic decentralisation.

5.1. Civil-Military Institutional Tensions

Civil-military institutional tension is not a new phenomenon, but to my knowledge, there is no systematic study showing how these tensions play a role in producing a politics of ethnically decentralising constitutional change in multi-ethnic states under the domination of an internally fragmented ethnic group. It remains that most of the existing literature⁸² on civil-military relations concerns how the military's dominance in politics drives counter-military politics to establish civilian control, or how civilian control can be established.⁸³ Yet, as I show, counter-politics focused on establishing civilian control is not the only outcome that civil-military institutional tensions produce. There are four distinct yet inter-related ways that these tensions help to produce ethnic decentralisation as well.

⁸² See Muthiah Alagappa, ed. *Coercion and Governance: The Declining Role of the Military in Asia* (Stanford: Stanford University Press, 2002); Gareth Jenkins, "Continuity and Change: Prospects for civil-military relations in Turkey," *International Affairs* 83, no. 2 (March 2007): 339-355; Beeson Mark, "Civil-Military Relations in Indonesia and the Philippines. Will the Thai Coup Prove Contagious," *Armed Forces and Society* 34, no. 3 (February 2008): 474-490; Yavuz Cilliler, "Popular Determinant on Civil-Military Relations in Turkey," *Arab Studies Quarterly* 38, no. 2 (Spring 2016): 500-520.

⁸³ See Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (Cambridge, Massachusetts: Harvard University Press, 1957); Rebecca L. Schiff, *The Military and Domestic Politics: A Concordance Theory of Civil-military Relations* (Abingdon: Routledge, 2009).

First, as the evidence shows, in ethnic majoritarian states politically and constitutionally dominated by the ethnically exclusive military (as in Pakistan and Indonesia) in which democratic political forces – in particular, those from *within* the dominant group itself – are relegated to a subservient position, a counter-military civilian drive, involving both the political and the social, emerges from within the dominant group, alongside other ethnic groups, to dismantle the military-dominated ethnic majoritarian system. In both Pakistan and Indonesia, the political and the social achieved this, not simply by pursuing civilian supremacy but mainly by decentralising power along ethnic lines, thus eroding the ethnically exclusive military's ethnic base.

Secondly, in ethnic-majoritarian states dominated by ethnically exclusive civilian institutions (as in Fiji), it can be the military, which, while not seeking to establish civilian supremacy, becomes the key manifestation of ethnic decentralisation in the polity, as it allies with social and political actors from within the dominant group as well as minority groups against the dominant and ethnically exclusive civilian institutions to dismantle their hegemony.

Thirdly, while civil-military institutional tensions remain relevant in both scenarios, this study, unlike the existing body of literature, does not understand civil-military tensions only in institutional terms. These tensions also manifest informal intra-ethnic political divisions (within the dominant group). As my study shows, a shared ethnic-majority identity across military and civilian elites in Pakistan, Indonesia and Fiji did not permanently fuse them into a coalition to maintain an ethnically exclusive system of power. On the contrary, intense power struggles ensued between military and political actors⁸⁴ from within the same ethnic group, allowing subservient counter-political institutions (political parties in Pakistan and Indonesia; the military in Fiji) to not only resist domination, but also to ally with parties/actors from *within* the dominant groups and other ethnic groups to pursue ethnic decentralisation.

As the evidence presented in the relevant chapters strongly shows, political parties from within the dominant ethnic group in Pakistan and Indonesia allied with political and social actors from minority ethnic groups, not only to end the military's role in

⁸⁴ This struggle often produces military coups. Pakistan, Indonesia and Fiji have a history of coups and long military rules.

politics and reclaim their space but also (and explicitly) to dismantle its centralised and ethnically exclusive system of power. Therefore, even though class and religion-based divisions were prominent in Indonesia's Javanese-led anti-Suharto movement *against* the Javanese-dominated 'New Order,' the evidence presented in Chapter 6 shows how Javanese-led *reformasi* reforms conspicuously sought a constitutional reordering of *ethnic* power to erode the Javanese basis of the 'New Order' regime. With the Indonesian military being a Javanese-dominated institution, even the demand for de-militarisation of politics – which included a demand for abolishing the military's territorial command system (originally established to establish direct military control down to the village level) – ⁸⁵ had direct implications for *de-Javanising* Indonesia's political/institutional landscape and, thus, giving non-Javanese a greater share within the political, administrative, and economic structures of the state.

This is similar to Pakistan, where, as the evidence presented in the next three chapters shows, removing the Punjabi-dominated military's political and constitutional footprint was seen as a key step towards *de-Punjabising* Pakistan. Even in Fiji, the military's tussle with ethnically exclusive Fijian institutions revealed intra-ethnic fragmentation along civil-military institutional lines. The Fijian military's political (pro-ethnic-decentralisation) position (see Chapter 7) resulted from its growing tussle with ethnically exclusive Fijian institutions – the GCC and the Methodist Church.⁸⁶ This tussle led to the abolition of the GCC and a political emasculation of the Methodist Church via a cross-ethnic coalition led by the Fijian military leader Frank Bainimarama after 2006.

Fourth and finally, the military's position vis-à-vis ethnic decentralisation has implications for social movements. In states dominated by the ethnically exclusive military, new social movements can adopt an explicitly anti-military posture (as in Pakistan and Indonesia) and ally with other political forces to pursue ethnic decentralisation. In states dominated by ethnically exclusive civilian institutions (as in

⁸⁵ See Felix Heiduk, "State Disintegration and power politics in post-Suharto Indonesia," *Third World Quarterly* 35, no. 2 (2014): 300-315.

⁸⁶ Stewart Firth and Jon Fraenkel, "The Fiji Military and ethno-nationalism: Analysing the Paradox" in *The 2006 Military Take Over in Fiji: A Coup to end all Coups?*, ed. John Fraenkel et.al (Canberra: The ANU Press, 2009), 117-138.

Fiji), these movements can ally openly with the military against ethnically exclusive civilian institutions/systems.

While civil-military institutional tensions combined with intra-ethnic fragmentation play a key role in the politics of ethnic decentralisation in Pakistan, Indonesia, and Fiji, however, their absence in Sri Lanka explains the failure of successive reform commissions to develop a cross-ethnic/multi-party consensus. This absence manifested itself in two ways vis-à-vis the political process of ethnic decentralisation in Sri Lanka. First, unlike Fiji, Sri Lanka's majoritarian political actors/institutions did not drag the military into politics (e.g. coups)⁸⁷ to maintain an ethnically exclusive system of power or reverse the inclusion of minority ethnic groups.⁸⁸ The military's non-engagement with formal politics is also one key reason why the Sri Lankan military, unlike the Fijian military, never developed an independent anti-majoritarian/pro-ethnic-decentralisation posture. Secondly, the *absence* of the Sri Lankan military from politics,⁸⁹ or the absence of coups displacing established civilian governments, helps to explain why political parties in Sri Lanka, especially those from within the dominant ethnic group, never faced institutional pressure to press for a cross-ethnic/multi-party consensus.⁹⁰ The fact that the Sri Lankan military never intervened in politics also shows why the Sri Lankan political parties (unlike those in Pakistan and Indonesia) lacked the crucial incentive to *combine* demilitarisation with ethnic decentralisation.

5.2. Cross-Ethnic, Multi-Party Political Coalitions

Dan Slater, in his book *Ordering Power*,⁹¹ argues that party-based political coalitions often come into existence to preserve an established order. "Postcolonial Leviathans" survive on a political foundation provided by ruling parties working *with* military

⁸⁷ Most observers associate the absence of the Sri Lankan military from politics with the country's relatively stronger democratic credentials than Pakistan, Indonesia and Fiji.

⁸⁸ Unlike Tamils in Sri Lanka, Indo-Fijian were able to establish their governments in alliance with parties from within Fijians. They were, however, ousted via coups.

⁸⁹ Apart from two small-scale (failed) coup attempts in the 1960s, the Sri Lankan military has never intervened directly in politics.

⁹⁰ Notwithstanding the past, a number of political leaders from Sri Lanka's mainstream parties who I interviewed contended that any political adventure by the Sri Lankan military – especially, in view of the military's growing involvement in politics – will invite a strong political reaction and might even generate a counter-civilian movement.

⁹¹ Dan Slater, *Ordering Power: Contentious Politics and Authoritarian Leviathans in Southeast Asia* (New York: Cambridge University Press, 2010).

establishments.⁹² And, in postcolonial authoritarian states marred by ethnic conflict and ethnic majoritarianism, ruling ethnic elites supported by an ethnically exclusive military apparatus may coalesce into a relatively unified bloc, forming what Slater calls “protection pacts”⁹³ against threats posed by weaker and smaller ethnic groups. As Hector and Burstein⁹⁴ also argue, political elites tend to surrender power to a strong (and ethnically exclusive) state when they live in an (ethnically) divided society in which weaker groups might make a credible threat to change the rules of the game to their advantage.

If these propositions are applied to the cases under investigation here, we can understand why political groups, both civilian and military, from *within* the dominant ethnic groups were able to coalesce for decades to maintain an ethnically exclusive political order. However, while these coalitions are maintained by what Slater calls a “steady flow of resources towards the political institutions of an authoritarian Leviathan,”⁹⁵ this flow of resources does not come without its contradictions, especially when the coalition is dominated by the military and involves a steady erosion of civilian space (as in Pakistan and Indonesia), or when state institutions, including the military, are subjected to a politics of ethnic domination (as in Fiji) that serves only the leading (ethnic/civilian) coalition.

These contradictions, however, are often related to power struggles *within* the dominant ethnic group, allowing some disgruntled parties and political actors (including the military) to coalesce *against* the forces of an ethnically exclusive system of power, thus setting in motion a political process that can, in conjunction with other factors, lead to ethnically decentralising constitutional change. If Slater stresses elite coalitions that come into existence to maintain a certain type of political order, I stress the counter-hegemonic political coalitions that come into existence to dismantle that order. In Pakistan, Indonesia, and Fiji, these ‘counter-hegemonic coalitions’ – facilitated by existing civil-military institutional tensions – were central

⁹² Ibid., 4.

⁹³ Ibid., 14.

⁹⁴ See Michael Hector and William Brustein, “Regional Modes of Production and Patterns of State Formation in Western Europe,” *American Journal of Sociology* 85, no. 5 (March 1980): 1061-1094.

⁹⁵ Dan Slater, *Ordering Power*, 8.

to re-ordering power along ethnically decentralising lines. As Slater himself argues,⁹⁶ “internal splitting” can often lead to the defeat of authoritarian regimes.

However, whereas Slater argues that such splits emerge in states where the degree of state capacity, party strength and military cohesion is “low” or “intermediate,” my study establishes that such divisions can also emerge in states with a long history of robust, ethnically dominated, and exclusionary systems, i.e. where the degree of state capacity, party strength and military cohesion may be “high.”

While my focus on intra-elite conflicts resonates with Charles Tilly’s classic explanation of how intra-elite conflicts produce political changes,⁹⁷ it modifies Tilly’s argument in at least two ways. First, I shift the focus from general intra-elite political conflicts to intra-elite conflicts within the dominant ethnic group. Secondly, even within the dominant ethnic group, the intra-elite tussle is not merely political; it is also institutional inasmuch as it pits ethnically exclusive civil and military apparatuses of the state against each other in a struggle over two conflicting (ethnically centralised versus ethnically decentralised) systems of power.

As such, states like Pakistan – which were able to sustain an ethnically exclusive system of power over six decades – saw institutional divisions developing within the dominant ethnic group when some factions from within the dominant Punjabis sought to undermine other factions (the Punjabi-dominated military) in a bid to establish their dominance. For instance, the CoD signed in 2006⁹⁸ in London between the PML-N and the Pakistan People’s Party (PPP)⁹⁹ was a direct outcome of the (Punjabi-dominated) PML-N’s *defection* from the (Punjabi-dominated) military because of the latter’s repeated interventions in politics and the former’s increasing focus on asserting civilian authority.¹⁰⁰ This split (see Chapter 3) led the Punjab-based PML-N, working alongside ethnic minority groups, to aggressively pursue a politics of re-ordering ethnic power to dismantle the Punjabi-dominated military’s constitutional

⁹⁶ Ibid, 197.

⁹⁷ See Charles Tilly, *From Mobilisation to Revolution* (New York: McGraw-Hill, 1978).

⁹⁸ The agreement was later endorsed by multiple (38) parties in 2007.

⁹⁹ With both the PML-N and the PPP having been repeatedly removed from power, a strong incentive for an agreement to develop a multi-party coalition to resist the military regime existed.

¹⁰⁰ Based upon the author’s interviews.

footprint. This politics, thus, combined de-militarisation with de-Punjabisation of Pakistan via constitutional reforms.

In Indonesia as well, it was the parting of ways of the relevant factions – especially, the Javanese political parties – from *within* Suharto’s ‘New Order’ that weakened it. And, in Fiji, when the military broke with the GCC, the SDL and the Methodist Church, it set in motion a process that eroded ethnic domination over time. Both Indonesia and Fiji, like Pakistan, exhibit a radical political shift, with factions drawn from within the ethnic majority aligning with ethnic-minority groups against existing ‘ethnic Leviathans.’ In Sri Lanka, with political elites functioning under conditions *not* shaped by (civil-military) institutional pressures, the relevant elites *failed* to develop the cross-ethnic, multi-party, counter-political pacts that existed in Pakistan, Indonesia, and Fiji.

This reading of political coalitions is different from the dominant understanding of coalitions in the literature on ethnic politics and conflict. Whereas Lijphart understands ‘grand coalitions’ as cross-ethnic formations,¹⁰¹ he treats these coalitions as important only as an element of consociational democracy wherein all ethnic groups get representation. In my reading, however, ‘counter-hegemonic coalitions,’ which include factions from within the dominant ethnic group (not merely between ethnic groups) are important for ethnically decentralising constitutional changes. Moreover, these coalitions are not simply part of a consociational outcome; they partially underpin the causal mechanism that helps to *create* that outcome in the first place.

5.3. New Social Movements

Where ‘counter-hegemonic coalitions,’ whether led by the military or pushing against it, emerge in opposition to forces representing ethnically exclusive systems of power, they often engage with new social movements, benefitting not only from these movements’ ability to mobilise people from within the dominant ethnic group but also from their state-transformation (ethnically decentralising) agenda.

¹⁰¹ Arend Lijphart, *Democracy in Plural Societies*, 25.

Political parties' direct participation in (Pakistan and Indonesia), or the relevant political actors' co-optation of (Fiji), these movements also brings the popular and the political into a close formation against the ethnically exclusive regime. Party-based coalitions, therefore, do not operate alone to produce or institutionalise a consociational or ethnically decentralising arrangement; in fact, the Sri Lankan case shows that cross-ethnic/multi-party coalitions can *fail* to develop a consensus around ethnic decentralisation when they do not face a common institutional enemy from within the dominant ethnic group.

With reference to new social movements' ability to affect ethnically decentralising constitutional change, this study draws on literature¹⁰² regarding the ability of new social movements to effect political change in alliance with political elites. It argues that new social movements, in contexts framed by intra-ethnic fragmentation, strategically combine¹⁰³ their demands with those expressed by political parties involved in a cross-ethnic/multi-party coalition to produce a coordinated politics of opposition favouring a constitutional change away from ethnic hegemony in ethnic majoritarian states.

With their broad state-transformation agenda, social movements in Pakistan, Indonesia and Fiji were at the heart of opening a political space that allowed varying social and political groups to come together and engage in what Charles Tilly calls "consequential deliberations"¹⁰⁴ over the question of transforming the ethnic structure of state power. New social movements, therefore, do not act as mere agents of mass mobilisation. Without aiming to directly capture state power, their role extends to shaping and *popularising* the politics of ethnically decentralising constitutional

¹⁰² See Jack M. Balkin, "How Social Movements Change (or Fail to Change) the Constitution: The Case of New Departure," *Suffolk Law Review* 39, no. 27 (2005): 27-65; William N. Eskridge, "Channeling: Identity based Social Movements and Public Law," *University of Pennsylvania Law Review* 150, no. 1 (2001): 419-525; Reva B. Siegal, "Constitutional Culture, Social Movement Conflict and Constitutional Change: The Case of the De Facto ERA," *California Law Review* 95, no. 5 (2006): 1323-1420.

¹⁰³ For a useful discussion on the different ways that social movements ally with relevant elites to bring political change see Frances Fox and Richard A. Cloward, *Poor People's Movements: Why they Succeed, How they Fail* (New York: Vintage Books, 1979).

¹⁰⁴ Charles Tilly, "Social Movements as Historically Specific Clusters of Political Performances," *Berkely Journal of Sociology* 38 (1993-1994): 1.

reforms at a national level.¹⁰⁵ Social movements, in other words, directly influence legal (constitutional) politics.¹⁰⁶

Generally, the role of new social movements in the politics of ethnically decentralising constitutional change matters insofar as they create a feasible environment for political change by forcing incumbent leaders out of power (as in Pakistan and Indonesia), by allying with pro-decentralisation forces to politically weaken ethnically exclusive institutions (as in Fiji), and, finally, by raising direct demands for constitutional reforms involving ethnic decentralisation. Although movements achieve this goal without capturing political power themselves, they still influence legislative outcomes by coordinating with the relevant political actors during parliamentary reform processes. The Church Movements in Fiji, for instance, directly produced the 2008 pre-constitutional document in alliance with the military. The Lawyers' Movement in Pakistan and *reformasi* in Indonesia collaborated with political elites during parliamentary deliberations around constitutional reforms focused on ethnic decentralisation.

This particular role of social movements, in contexts framed by intra-ethnic fragmentation, also makes a useful contribution to the conventional understanding of social movements, where such movements often involve marginalised communities and ethnic groups against dominant groups or the state.¹⁰⁷ In contexts framed by ethnic majoritarian states, however, these movements play a key role in mobilising political and social groups from within the dominant ethnic majority itself. Accordingly, social movements amplify intra-ethnic fragmentation at a popular level and, in doing so, they help to push against ethnically exclusive regimes.¹⁰⁸

¹⁰⁵ See Gitika De, "Social Movements and Everyday State: Notes from the Right to Information Mobilisations in Rajasthan," *Everyday State and Politics* 46, no. 2 (July-December 2016): 19-34.

¹⁰⁶ See Jack M. Balkin, *Constitutional Redemption, Political Faith in an Unjust World* (Cambridge: Harvard University Press, 2011).

¹⁰⁷ See Kees Biekart, "Seven Theses on Latin American Social Movements and Political Change: A Tribute to Andre Gunder Frank (1929-2005)," *European Review of Latin American and Caribbean Studies*, no. 79 (2005): 85-94; John Markoff, *Waves of Democracy: Social Movements and Political Change*, 2nd ed. (Abingdon: Routledge, 2015).

¹⁰⁸ This, however, does not mean that new social movements in all of these countries happen to be equally politically charged. As will be shown, Church movements in Fiji differed from movements in Pakistan and Indonesia in terms of how they related to the existing regime and how they mobilised support for ethnic decentralisation.

The Lawyers' Movement in Pakistan, for instance, weakened the regime of General Pervez Musharraf by dividing politics within Punjab, the heart of Musharraf's Punjabi-dominated Pakistani military. As Aitzaz Ahsan, a leader of the Movement, contended, "a massive uprising in Punjab was to become the biggest challenge for the regime."¹⁰⁹ Similarly, anti-Suharto opposition in Indonesia involved a mobilisation of Javanese groups and parties *against* the Javanese-dominated system. And, in Fiji, Church movements, which emerged from within the dominant Fijians, played a key role in dismantling the ethnically centralised regime. But, as opposed to Pakistan and Indonesia, where anti-regime movements emerged largely on their own, Fiji's military regime under Frank Bainimarama *encouraged* counter-Church Movements against the dominant Methodist Church. The presence of the Roman Catholic Church and a host of civil society organisations working alongside Bainimarama in the Council that produced the 'People's Charter for Change' was a tactical move on the part of Bainimarama to dismantle the power of an ethnically exclusive Methodist Church and the GCC. This was also a marked expression of intra-ethnic fragmentation as the military (about 99 per cent of the Fijian military is Fijian) was pitted against a Church that had about 80 per cent of Fijians as its members.¹¹⁰

In Sri Lanka, however, it is the *absence* of such mass mobilisation against an ethnically centralised regime that explains why an ethnically decentralising constitutional change has not taken place. While an overwhelming majority of my interviewees in Sri Lanka recognised the key role that mass mobilisations might play, it was, in addition to the absence of organic movements, also the presence of *anti-ethnic decentralisation movements* within the majority Sinhalese that shows why demands for ethnic decentralisation could not get popular or political support. Even when the government of Chandrika Kumaratunga encouraged The White Lotus Movement to popularise ethnic decentralisation in the late 1990s, the ruling coalition's reform agenda was defeated because of the failure of the political elite to develop a cross-ethnic/multi-party consensus in 2000. This failure, in turn, was also due to the absence of an external threat (e.g., the military) for the political elite to tackle via a cross-ethnic multi-party consensus.

¹⁰⁹ Interview of Aitzaz Ahsan (Leader of the Lawyers' Movement) by the author, Lahore, February 21, 2020.

¹¹⁰ See Stephen McCarthy, "Soldiers, chiefs and church: unstable democracy in Fiji," *International Political Science Review* 32, no. 5 (2011): 563-578.

While both political and social movement actors are influenced by the prevailing civil-military institutional tensions, social movement actors and political parties also woo one another into supporting their respective agendas by framing their core demands in ways that resonate with the other's demands. Thus, social movements are neither subservient to political parties/political actors (i.e., the military) nor completely detached from them. Both realms reinforce one another in ways that challenge the existing regime and popularise ethnic decentralisation through mobilisation. Importantly, both parties and movements achieve these objectives without merging into what is often described as “movement parties” or “social movement partyism.”¹¹¹

6. Research Design and Methodology

While designing comparative research is always a complex exercise, and there is always a risk of getting lost in a plethora of details and the possibility of succumbing to “facile generalisations and irresponsible abstractions,”¹¹² scholarly pursuits often push researchers to go beyond the apparent differences of states with divergent national histories to try out “alternative schemes of systematisation”¹¹³ that may develop cross-case explanations of common outcomes.

But why do scholars use comparison as a mode of inquiry as opposed to studying a single case? As Barrington Moore Jr. has argued, the comparative method should not be understood as a substitute for the detailed investigation of single cases. At the same time, the comparative method has the advantage of framing questions in ways that help yield new “historical generalizations” (theory building) as a means to test and challenge existing theoretical hypotheses and assumptions about macro-social structures and political processes.¹¹⁴ The comparative method, as David Collier has argued, not only helps generate concepts but also makes a parallel demonstration of

¹¹¹ Paul D. Almeida, “Social Movement Partyism: Collective Action and Political Parties” in *Strategic Alliances: Coalition Building and Social Movements*, ed. N. Van Dyke and H. McCammon (Minneapolis: University of Minnesota Press, 2010), 170-196; Jack A. Goldstone, ed. *States, Parties and Social Movements* (Cambridge: Cambridge University Press, 2003).

¹¹² Seymour Martin Lipset and Stein Rokkan, “Cleavage Structures, Party Systems, and Voter Alignments” in *The West European Party System*, ed. Peter Mair (Oxford: Oxford University Press, 1990), 53.

¹¹³ Ibid.

¹¹⁴ Barrington Moore Jr., *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (Boston: Beacon Press, 1966), XIII-XIV.

theory across cases.¹¹⁵ This is achieved not by comparing whole histories of given cases, but by comparing relevant aspects of two or more cases, often combining cases that share a hypothesised phenomenon and hypothesised causal factors with cases that lack both.¹¹⁶

By adopting a comparative approach, this study challenges a general assumption about ethnic majoritarian states' presumed inability to decentralise ethnicity. I show not only that ethnic majoritarian states undergo ethnic decentralisation, but also that the central reason why some states undergo ethnic decentralisation, but not others, is the presence or the absence of *the causal mechanism* in each case rather than the intransigence of an ethnic majority group to share power.

Developing a sound comparative research methodology and a coherent scheme of systematisation across the known cases begins with a systematic observation of variables that could be present across all cases. As comparative methodologists have argued,¹¹⁷ systematic observations often begin as Causal Process Observations (CPOs) collected through an in-depth investigation of different cases. These CPOs allow researchers to assess whether a given *combination* of variables exerts the causal role assigned to it by a core hypothesis, i.e., whether or not it produces the desired outcome within *each* case and across *all* cases.¹¹⁸

Following this classic definition, the causal mechanism in this study links the independent variable (institutional forms of intra-ethnic fragmentation i.e., institutional, political and popular divisions) with the outcome (ethnically decentralising constitutional changes) through a causally related combination of three intervening variables (civil-military institutional tensions, cross-ethnic/multi-party-political counter-coalitions/consensus, and new social movements). This emphasis on

¹¹⁵ See David Collier, "The Comparative Method" in *Political Science: The State of Discipline-II*, ed. Ada W. Finifter (Washington, D.C: American Political Science Association, 1993), 105-119.

¹¹⁶ See Theda Skocpol and Margaret Somers, "The Uses of Comparative History in Macrosocial Inquiry," *Comparative Studies in Society and History* 22, no. 2 (April 1980): 174-197.

¹¹⁷ See David Collier et.al, "A Sea Change in Political Methodology," *Newsletter of American Political Science Association* 9, no. 1 (Spring 2011): 1-20.

¹¹⁸ Arend Lijphart, "Comparative Politics and the Comparative Method," *The American Political Science Review* 65, no. 3 (September 1971): 683.

causal mechanisms draws inspiration from a methodological tradition¹¹⁹ that sees such mechanisms as crucial to causal inference in the social sciences. Here, a fully specified causal mechanism is considered essential for developing a satisfactory explanation of the outcome.

For instance, whereas a plausible explanation of ethnically decentralising constitutional changes in multi-ethnic states under the domination of an internally fragmented ethnic group could be offered on the basis of the fact that ethnic groups are often internally fragmented, and that internal fragmentation weakens the dominant ethnic group's ability to maintain an ethnically exclusive system of power, such theoretical propositions, as Gerring has convincingly highlighted,¹²⁰ offer propositions of *correlations* without filling up the black box of *explanation*. As the critical realist Margaret Archer has also argued, correlation is not causation – ¹²¹ not only because correlations offer no direct linkage between X and Y, but also because they do not tell us how precisely X *caused* Y. In other words, a research design that includes a systematic causal mechanism (M) not only supports the inference that X *is* a cause of Y but also demonstrates *how* the absence of a causal mechanism (M) illustrates why some ethnic majoritarian states (i.e., Sri Lanka), even though the dominant ethnic group in them happens to be politically fragmented, do not undergo ethnic decentralisation.

This focus on causal mechanisms does not seek to establish what Edward A. Freeman espoused in 1873, namely law-like 'universally applicable generalisations.'¹²² Rather, it aims to develop what Garry Goertz calls "regularities,"¹²³ which sufficiently demonstrate the existence of causal factors within and across cases, providing an empirically grounded demonstration of precisely how these factors produce the outcome of interest. While this emphasis on understanding the causal mechanism as regularities also recognises the principle of 'equifinality' – which recognises the

¹¹⁹ See Gary Goertz, *Multimethod Research, Causal Mechanisms, and Case Studies: An Integrated Approach* (New Jersey: Princeton University Press, 2017).

¹²⁰ J. Gerring, *Case Study Research: principles and practices* (Cambridge: Cambridge University Press, 2007), 178.

¹²¹ Margaret S. Archer, "Introduction: Other Conceptions of Generative Mechanisms and Ours" in *Generative Mechanisms Transforming the Social Order*, ed. Margaret S. Archer (London: Springer, 2015), 2.

¹²² Edward A. Freeman, *Comparative Politics* (London: Macmillan, 1873), 1 - 19.

¹²³ Gary Goertz, *Multimethod Research*, 1.

possible existence of multiple paths/regularities producing the same outcome of interest across cases – I emphasise that the causal mechanism identified and explained in this research *sufficiently* explains the outcome of interest across all cases included in this study, and that these cases can be grouped exhibiting the same causal path,¹²⁴ which, when absent, does not produce ethnic decentralisation.

In making this statement, however, I remain sensitive, as critical realists also stress,¹²⁵ to the limitations of the ‘scope’ of generalisation given the possibility of latent and confounding variables – ¹²⁶ a position that also recognises that theory building and testing remains an ongoing process, “moving between more theoretical and empirical phases” and “involving a continuing, spiral movement from knowledge of the manifest (empirical) phenomenon to the knowledge of the underlying structures and causal mechanisms that generate them.”¹²⁷

6.1. Process Tracing and Causal Inference

To understand when and how ethnic majoritarian states do or do not undergo ethnically decentralising constitutional change and, thus, to capture the “causal mechanism in action,”¹²⁸ I use a process-tracing method for drawing causal inferences by breaking down key variables into causally and contingently connected events,¹²⁹ arguing that our understanding of causal operations can best be advanced through an in-depth and within-case analysis about how precisely a cause is connected with other causes and yields a given outcome. Process tracing, therefore, plays a key role in taking an association between a cause and/or a combination of causes and an effect

¹²⁴ Gary Goertz and James Mahoney, *A Tale of Two Cultures: Qualitative and Quantitative Research in Social Sciences* (New Jersey: Princeton University Press, 2012), 59.

¹²⁵ Andrew Sayer, *Method in Social Science: A Realist Approach* (Routledge: London and New York), 99-103.

¹²⁶ Gary Goertz and James Mahoney, *A Tale of Two Cultures*, 205-219.

¹²⁷ Ngai-Ling Sum and Bob Jessop, *Towards a Cultural Political Economy: Putting Culture in its Place in Political Economy* (Cheltenham: Edward Elgar, 2013), 9.

¹²⁸ Andrew Bennet and Jeffrey T. Checkel, “Process Tracing: From philosophical tool to practices” in *Process Tracing: From Metaphor to Analytic Tool*, ed. Andrew Bennet and Jeffrey T. Checkel (Cambridge: Cambridge University Press, 2015), 3.

¹²⁹ Charles Tilly, “To Explain Political Processes,” *American Journal of Sociology* 100, no. 6 (1995): 1602.

from being simply correlational to causal,¹³⁰ yielding evidence with a high degree of “inferential leverage that is lacking in quantitative analysis.”¹³¹

This study establishes that each of the individual variables identified in the causal mechanism – civil-military institutional tensions, cross-ethnic/multi-party counter-political coalitions, and new social movements – is necessary for the outcome to happen across all the cases under investigation. In other words, as Goertz and Mahoney have argued,¹³² each variable in each case is treated as a necessary condition and that a given case would not experience the outcome if all the necessary conditions are not present.

Through process tracing, I show that each intervening variable identified in this study is not only necessary but that each variable is causally linked in non-sequential, conjunctural terms with the others. This empirically grounded linkage fuses the identified variables into the causal mechanism and provides an empirical demonstration of the political process of ethnically decentralising constitutional changes in ethnic majoritarian states.¹³³

Finally, process tracing shows that this causal mechanism does not work in the same manner in all cases and that there are slight variations in terms of *which* intervening variable – for instance, the different role of the military in Fiji as compared to Pakistan and Indonesia, or the central role of the parliament in Pakistan and Indonesia in passing the amendments as compared to the total absence of the parliament in Fiji as the main institution overseeing the making of the new constitution – plays the greater role, and how each variable configures vis-à-vis the others.¹³⁴

¹³⁰ See Jeffery T. Checkel, “Tracing Causal Mechanisms,” *International Studies Review* 8, no. 2 (June 2006): 362-370.

¹³¹ David Collier, “Understanding Process Tracing,” *Political Science and Politics* 44, no. 4 (October 2011): 1.

¹³² Gary Goertz and James Mahoney, *A Tale of Two Cultures*, 108-109.

¹³³ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge, Massachusetts: MIT Press, 2004), 206.

¹³⁴ Gary Goertz and James Mahoney, *A Tale of Two Cultures*, 42.

6.2. Case Selection

As Goertz and Mahoney have argued,¹³⁵ a good case selection strategy depends on one's research goals. Since the main goal of this research is to *test* the causal mechanism that may lead multi-ethnic states under the domination of an internally fragmented ethnic group to pursue ethnically decentralising constitutional change, case selection logically highlights states that are multi-ethnic and have a dominant (but an internally fragmented) ethnic group, and which may or may not share the same outcome of interest (i.e., the dependent variable). This strategy also helps to evade problems of selection bias usually associated with selecting cases on the dependent variable only.¹³⁶

As Goertz and Mahoney have further argued,¹³⁷ a research model that aims to explain the outcome of interest through a sufficient condition, or a combination of individually necessary and collectively sufficient conditions, the best cases are usually $X=1$ i.e., those with maximum value on the independent variable rather than $Y=1$ i.e., those with maximum value on the dependent variable, because the goal of such a model is to explain not the outcome itself but the causal mechanism that produces it. As Goertz has further argued, in a research design that seeks to explain a causal mechanism, i.e., *how* X produces Y, case selection needs to include cases where the causal mechanism may be present and may explain the outcome of interest¹³⁸ *and* where the *absence* of the mechanism may explain the *absence* of that outcome.¹³⁹

Following this criterion, this study employs a mix of two case-selection strategies that involve crucial/representative and pathway cases. Whereas crucial cases are defined as those that “are most or least likely to exhibit” the causal mechanism and the outcome of interest, pathway cases help probe the causal mechanism and test its relevance to evaluate if it works as expected in all of the individual cases or not.¹⁴⁰ As such, the main focus of this study is Pakistan. It becomes my crucial or representative case: a typical example where the above defined causal mechanism produces an

¹³⁵ Ibid., 184.

¹³⁶ See David Collier and James Mahoney, “Insights and Pitfalls: Selection Bias in Qualitative Research,” *World Politics* 49, no.1 (1996): 56-91.

¹³⁷ Gary Goertz and James Mahoney, *A Tale of Two Cultures*, 181.

¹³⁸ Gary Goertz, *Multimethod Research*, 63-64.

¹³⁹ Ibid., 70-71.

¹⁴⁰ Gary Goertz and James Mahoney, *A Tale of Two Cultures*, 181.

ethnically decentralising constitutional change. Like Pakistan, Sri Lanka is also a crucial/representative case, but this time where the outcome of interest does *not* take place owing to the *absence* of the causally linked combination of variables. Sri Lanka thus becomes a crucial/representative case *least* likely to include the causal mechanism of ethnically decentralising constitutional change.

Indonesia and Fiji, on the other hand, become pathway cases that help to evaluate the validity of the causal mechanism in other cases. This strategy fits well with the overall design of this study where Pakistan is the main focus and Indonesia and Fiji are included to substantiate the causal mechanism at work as a parallel demonstration of theory, as well as highlighting its specific within-case configuration.

While Indonesia and Fiji help test the external validity of the causal mechanism, the inclusion of Sri Lanka allows this study to expand what Garfinkel calls the “contrast space”¹⁴¹ to avoid selection bias within this research design. This contrast space vis-à-vis the dependent variable helps to broaden the framework for evaluating explanations.¹⁴² Serving as a typical negative case, therefore, the Sri Lankan example makes it meaningful to characterise other cases as typical positive examples where the causal mechanism produces the outcome of interest. J. S. Mill called this procedure the ‘Method of Difference’ in which not all cases included in a given study share the outcome of interest and/or exhibit the given combination of factors duly present in other cases.¹⁴³

Sri Lanka, however, is not a random selection. As Mahoney and Goertz have argued, for the contrast to be meaningful the negative case must be the one where the outcome of interest *is possible* (the ‘possibility principle’) if the theoretically conceived combination of variables exists.¹⁴⁴ Therefore, while Sri Lanka, as the evidence presented in Chapter 8 shows, lacks the causal mechanism in the precise form it exists in other countries, it also remains a case where the coming together of these factors to

¹⁴¹ Alan Garfinkel, *Forms of Explanation: Rethinking the Questions in Social Theory* (New Haven: Yale University Press, 1981), 22-24.

¹⁴² David Collier and James Mahoney, “Insights and Pitfalls,” 67.

¹⁴³ Theda Skocpol and Margaret Somers, “The Uses of Comparative History,” 183.

¹⁴⁴ See James Mahoney and Gary Goertz, “The Possibility Principle: Choosing Negative Cases in Comparative Research,” *The American Political Science Review* 98, no. 4 (November 2004): 653-669.

produce the outcome of interest *is* possible. As I show, while Sri Lanka did experience each individual factor – civil-military institutional tensions, social movements, and political coalitions – at some point in time, it is the failure of these very factors to *co-exist*, both causally and contingently, at one point in time that caused various reform processes to fail. Still, the evidence strongly demonstrates that Sri Lanka might undergo ethnic decentralisation if the identified variables come to co-exist causally and contingently to form a coordinated politics of power-sharing as opposed to patterns of ethnic domination.

Besides confirming the possibility principle and ensuring diversity on the dependent variable via a negative case, case selection in this study exhibits diversity in many other respects as well. In terms of religion, for instance, whereas Pakistan and Indonesia are overwhelmingly Muslim countries, the majority in Fiji is Christian, and Sri Lanka is about 70 per cent Buddhist. As far as their geographical location is concerned, whereas Pakistan and Sri Lanka are located in South Asia, Indonesia is located in Southeast Asia, and Fiji is located in the South Pacific/Oceania. In constitutional terms, whereas Pakistan was a centralised-federal polity, Indonesia was a typically centralised-unitary state. Fiji, too, was/is a typically centralised-unitary state. Whereas Sri Lanka remains a centralised-unitary state, the politics of constitutional change in Sri Lanka has always centred around the question of retaining the unitary character or replacing it with a federal structure. Therefore, whereas Pakistan and Indonesia are both Muslim states, the politics of constitutional change unfolded under markedly different religious and state structures. On the other hand, whereas the unitary states of both Indonesia and Fiji undergo ethnic decentralisation, the unitary state of Sri Lanka fails to produce an ethnically decentralised constitutional change because of the absence of the causal mechanism.

A research design that includes cases that are identical in some fundamental ways and different in many other respects becomes a model that is both flexible and controlled, serving to produce causal explanations that emerge out of the known cases, but still travel across time and space.

7. Fieldwork Methods: Collecting Evidence in Pakistan and Sri Lanka

Primary fieldwork for this study took place in Pakistan and Sri Lanka between August 2019 and August 2020. And, whereas the chapters on Pakistan and Sri Lanka rely on primary sources, my study of Indonesia and Fiji relies on secondary sources – a decision tied to the disruption caused by the COVID-19 pandemic.¹⁴⁵

As far as fieldwork in Pakistan is concerned, I conducted¹⁴⁶ 53 in-depth elite interviews.¹⁴⁷ My interviewees¹⁴⁸ included politicians – especially, those directly involved in the 18th amendment committee¹⁴⁹ and the CoD –¹⁵⁰ lawyers – especially, those who formed the core of the Lawyers’ Movement – civil society activists who took part in the Lawyers’ Movement and shaped its broader demands – and journalists who covered, and participated in, the Movement – as well as retired army generals who were able to provide useful insights into the ‘politics of pushback’ vis-à-vis the 18th amendment.

Since this study concerns how political divisions within the dominant ethnic group underpin conditions of ethnically decentralising constitutional change, I paid special attention to the major face of that division in Punjab i.e, the PML-N. Besides interviewing all 3 PML-N members in the 18th amendment Parliamentary Committee for Constitutional Reforms (PCCR), I interviewed several other PML-N leaders,

¹⁴⁵ I was scheduled to visit Fiji in June 2020 for about 6 weeks of fieldwork but was forced to abandon this planned visit because of the Covid-19 pandemic and subsequent air travel restrictions. I could not travel to Indonesia for the same reason.

¹⁴⁶ Almost all of my interviews in Pakistan were conducted in Urdu. The material taken from these interviews and used in this thesis is my translation. Interviews in Sri Lanka were conducted in English.

¹⁴⁷ While most interviewees were happy to meet, I could not meet some people due either to their very busy schedules, or simple reluctance to speak about the 18th amendment. This includes people from both the PML-N and the PPP and even some lawyers involved in the Movement.

¹⁴⁸ In both Pakistan and Sri Lanka, I approached almost all of my interviewees directly. I would call them up or send an email to request an interview. Before the pandemic, I was able to do all interviews face-to-face. During the pandemic, I switched to ‘remote research strategies,’ using telephonic/skype/WhatsApp calls to conduct interviews.

¹⁴⁹ The 18th amendment committee was a 27-member multi-party committee. Out of its 27 regular and about half a dozen substitute members, I was able to interview 15 members, including the committee chairman.

¹⁵⁰ Both the CoD and the 18th amendment committees had some common members. It included Ishaq Dar, Ahsan Iqbal and Raza Rabbani. Raza Rabbani was also the chairman of the 18th amendment committee. I also interview Dr. Safdar Abbasi, who was exclusively involved in the CoD on behalf of the late Benazir Bhutto.

including its chairman and those who were active in the Lawyers' Movement. Besides the PML-N, I also interviewed both committee members from the PML-Q, a party that was a principal political opponent of the PML-N in Punjab and allied with the military regime of Pervaiz Musharraf. I also interviewed political leaders from the PML-N and the PPP who were involved in the negotiations in Saudi Arabia and the United Kingdom that led to the signing of the CoD in London in 2006 – an agreement that provided the basis for the 18th amendment.

To substantiate the role of the Lawyers' Movement, I interviewed a broad range of actors including lawyers, civil society activists, journalists, politicians from major parties, and leaders of smaller political parties, including those from the left. Whereas I purposefully interviewed the leadership of the Movement, I also used a snowballing sampling technique to interview people who came from non-lawyer groups but played a pivotal role in shaping the Movement's broader agenda to include questions of state transformation and ethnic decentralisation.

In these interviews, I asked questions that focused on (a) the position of Pakistan's ethnic majority in Punjab vis-à-vis the military regime of General Musharraf, (b) whether or not institutional divisions in Punjab (between the PML-N and the military) were a key factor in producing the 18th amendment, (c) how a cross-ethnic political consensus was established, and (d) whether and to what extent the Lawyers' Movement reflected political divisions within Punjab, and if its objectives included a broad political and constitutional change in Pakistan involving ethnic decentralisation (provincial autonomy and de-militarisation). Thinking counterfactually, I also asked if the 18th amendment could still have happened if (a) there had been no divisions within Punjab along civil-military lines, (b) there had been no cross-party CoD, and (c) there had been no Lawyers' Movement.

These interviews provided crucial insights into how civil-military institutional tensions configured the overall politics of ethnically decentralising constitutional changes. Since this study offers an argument that understands these tensions in both institutional and ethnic terms, I asked questions that included (a) whether and to what extent the tussle between the PML-N and the military was a show of intra-ethnic

divisions *within* Punjab, and (b) how this division helped produce the 18th amendment by bringing the PML-N and other ethnic-minority parties closer together.

With regards to the way counter-political coalitions emerge in the causal mechanism and how such coalitions come into existence out of ‘Postcolonial Leviathans,’ I asked questions that focused on factors that brought different parties, including the PML-N, together in a cross-ethnic and multi-party counter-coalition (for example in the 18th amendment committee).

These interviews revealed how social movements and political parties came together to establish a political and a popular consensus around the question of ethnic decentralisation. To understand their direct connection, I interviewed people who were both lawyers and members of leading political parties directly involved in the anti-Musharraf movement.¹⁵¹ I asked questions that focused on how a link was established between a cross-ethnic counter-coalition that existed at the institutional (party and parliamentary) level and the Lawyers’ Movement on a popular level. These interviews revealed how a common focus on state transformation allowed different political actors to coalesce into an anti-regime movement and how the movement’s focus on forcing Musharraf out of power and effecting a constitutional change matured during the Movement and got directly linked with the idea of dismantling both a politically and an ethnically centralised regime.

To substantiate the evidence collected through these 53 interviews, I worked in the libraries of the National Assembly of Pakistan, the Senate, and the National Archives in Islamabad to collect archival data.¹⁵² Whereas the libraries of the National Assembly and the Senate were useful for collecting parliamentary debates covering the period from 2007 to 2010,¹⁵³ my work in the National Archives focused on

¹⁵¹ Among other people, it included Aitzaz Ahsan (PPP), Latif Khosa (PPP), Naseer Ahmad Bhutta (PML-N), and Abid Hussain Manto (People’s Democratic Alliance).

¹⁵² In both Pakistan and Sri Lanka, I accessed these archives through a formal procedure i.e., writing an application for access, followed by the relevant authorities issuing an access pass.

¹⁵³ I was unable to access the record of the minutes and the proceeding of the 18th amendment committee itself. I was informed this is ‘classified’ material. Even public submissions made to the committee were not available for research purposes.

collecting newspaper stories covering the same period.¹⁵⁴ Besides this, I also collected material from the private archives of political parties and civil society groups directly involved in the Lawyers' Movement.¹⁵⁵ These archives helped to understand the specific demands that both lawyer and non-lawyer groups raised vis-à-vis the state, focusing on dismantling the existing regime and replacing it with an ethnically decentralised system.

In Sri Lanka, I followed a similar fieldwork strategy. I interviewed a broad range of politicians from almost all the major political parties.¹⁵⁶ While doing 27 elite interviews in Sri Lanka, I paid special attention to people who had been involved in various constitutional reform processes in the past. I also interviewed academics, constitutional experts, and civil-society activists, including those with a keen interest in Sri Lanka's ethnic politics and those involved in past reform processes.¹⁵⁷

These interviews helped probe the mechanism of failure i.e., why the Sri Lankan political parties, unlike those in Pakistan and Indonesia, repeatedly failed to establish a cross-ethnic/multi-party counter-coalition, and why a mass mobilisation, despite years of war and instability, around the question of state transformation/power-sharing and devolution did not emerge. I also asked questions that focused on the failure of various reform processes, i.e., if the failure to establish a cross-ethnic consensus was a reason for the failure of reform processes, and if the absence of a popular movement was a factor contributing to that failure. Questions were also asked about the position of the Sri Lankan military vis-a-vis major political parties and the question of power-sharing with Sri Lanka's ethnic minorities.

The evidence shows how Sri Lankan parties/political actors, especially those involved in the reform processes, were, *unlike* in Pakistan, Indonesia, and Fiji, never influenced

¹⁵⁴ I used *Dawn*, Pakistan's premier English daily, to collect relevant stories covering the Lawyers' Movement and the politics of the 18th amendment.

¹⁵⁵ It included private archives of the Labour Party Pakistan (LPP) and the Peoples Rights Movement (PRM). Both were directly involved in the Lawyers' Movement. I interviewed their leaders as well.

¹⁵⁶ It included the United National Party (UNP), Sri Lanka Freedom Party (SLFP), Tamil National Alliance (TNA), Sri Lanka Podujana Peramuna (SLPP), Sri Lanka Muslim Congress (SLMC), Communist Party of Sri Lanka (CPSL), Lanka Sama Samajh Party (LSSP), Janatha Vimukthi Peramuna (JVP), and Jathika Hela Urumaya (JHU).

¹⁵⁷ A typical example is Professor Jayadeva Uyangoda who was involved in preparing/advising draft proposals in the late 1990s. Professor Camena Guneratne, too, was involved in the 2016 process.

by the politics of non-elected institutions i.e., the military. Evidence, however, shows that the growing involvement of the military in politics more recently could trigger a counter-political coalition that might impact the politics of ethnic decentralisation in the future (e.g. because of the military's known anti-devolution position).

In Colombo, I worked mostly in the National Archives and Sri Lanka's National Library as well as the library of the International Centre for Ethnic Studies, where I was able to collect parliamentary debates and various reports of reform commissions focused on ethnic decentralisation over the past three decades. The data collected through these sources help to establish the absence of the causal mechanism, which directly corresponds to the failure/absence of the outcome of interest i.e., ethnic decentralisation, in Sri Lanka.

To study the *pathway* cases, I reviewed the existing literature in detail. This allows me to show how the same combination of factors that was present in Pakistan was also present (with slight variations in the ranking and configuration of key variables) in Fiji and Indonesia, leading to important patterns of ethnically decentralising constitutional change in both countries.

Civil-Military Institutional Tensions and the Politics of the 18th Amendment in Pakistan

This chapter shows how the power struggle between the Punjab-based Pakistan Muslim League-Nawaz (PML-N) and the Punjabi-dominated military not only reinforced intra-ethnic divisions and pushed the former towards removing the military's political and constitutional footprint, but also helped the PML-N to ally with the Sindhi-dominated Pakistan Peoples Party (PPP). The subsequent 2006 Charter of Democracy (CoD) promised to de-militarise the polity and institutionalise an ethnically decentralised federal model away from the military-backed Punjab-centric system. It was the same civil-military institutional imbalance that triggered the (PML-N-backed) anti-military Lawyers' Movement in 2007, which not only reiterated divisions within Punjab but also supported ethnic decentralisation at a constitutional level in the form of Pakistan's 18th constitutional amendment.

1. Introduction: From Civil-Military Punjabi Integration to Disintegration

Civil-military relations in Pakistan have mostly been studied from the perspective of institutional imbalance¹⁵⁸ and the military's usurpation of political power, turning Pakistan into a "garrison state."¹⁵⁹ Institutional¹⁶⁰ and political economy frameworks¹⁶¹ have also sought to understand how 'weak' civilian political institutions allowed for the military's rise to political and economic supremacy. While most of this literature tends to juxtapose 'weak' civilian institutions against the 'strong' military, with the latter establishing its political footprint and causing wars 'within' the state,¹⁶² the politics of the 18th constitutional amendment shows how so-called 'weak' civilian institutions can reverse militarised and ethnically centralised constitutional arrangements to further the growth of an ethnically decentralised system. The politics of the 18th amendment, in other words, added a new dimension to the study of civil-military relations in Pakistan – one in which 'weak' political players,

¹⁵⁸ See Hassan Askari Rizvi, "Pakistan: civil-military relations in a praetorian state," in *The Military and Democracy in Asia and the Pacific*, ed. R.J. May and Viberto Selochan (Canberra: The ANU Press, 2004), 88-100.

¹⁵⁹ See Ishtiaq Ahmad, *Pakistan The Garrison States: Origins, Evolution, Consequences, 1947-2011* (Oxford University Press, 2013).

¹⁶⁰ See Mazhar Aziz, *Military Control in Pakistan: The Parallel State* (Abingdon: Routledge, 2008).

¹⁶¹ See Ayesha Siddiq, *Military Inc. Inside Pakistan's Military Economy* (London: Pluto Press, 2007).

¹⁶² See Shuja Nawaz, *Cross Swords: Pakistan, Its Army, and the Wars Within* (Karachi: Oxford University Press, 2008).

partly from within the same ethnic group that dominates the military (and who previously served as junior players), reversed the military's dominant political footprint by *constitutionally* changing a military-backed ethnically centralised system.

When military coups occurred in Pakistan,¹⁶³ the military's institutional interests were protected via constitutional arrangements.¹⁶⁴ Those arrangements were made possible through a direct collaboration between the Punjabi-dominated military establishment and political factions within the Punjabi political elite.¹⁶⁵ The politics of the 18th amendment, on the other hand, involves a fundamentally different story – one that builds on the *disintegration* of this civil-military institutional nexus. Here, Nawaz Sharif, a Lahore-based Punjabi leader who was politically raised by the military establishment, *defected* and, according to a retired Punjabi army lieutenant general, sought to “kill [his] kingmaker”¹⁶⁶ and, as a PPP leader explained, “break the ascendance of the Punjabi element in the civil-military bureaucratic complex.”¹⁶⁷ Thus, *intra*-Punjab divisions were the key driver of the political process of the 18th amendment. As a PML-N senator explained,

“Both forces, the PML-N and the military establishment, with their roots in Punjab, have a different view of [provincial] autonomy. It appears that this difference was the key to the settlement of the question of provincial autonomy for the first time in 70 years.”¹⁶⁸

In this context, Nawaz Sharif's peculiar political disposition was rooted in an emerging belief that the military has no political role.¹⁶⁹ This belief later underpinned a process of institutionalised disintegration targeting the Punjabi-dominated civil-military nexus, culminating in the 18th amendment, which limited the Punjabi-dominated military's role in politics and, according to a member of the 18th

¹⁶³ Mazhar Aziz, *Military control in Pakistan*, 1.

¹⁶⁴ Zia-ul-Haq and Pervez Musharraf legitimised their martial rules through the 8th and 17th constitutional amendments, respectively.

¹⁶⁵ The Punjab-based PML-Q was the key supporter of Musharraf's 17th amendment in the 2003 parliament.

¹⁶⁶ Interview of Lieutenant General (retired) Ghulam Mustafa by the author, Lahore, December 24, 2019.

¹⁶⁷ Interview of Farhatullah Babar (Pakistan People's Party leader) by the author, Islamabad, February 26, 2020.

¹⁶⁸ Interview of Mushahidullah Khan (Pakistan Muslim League - Nawaz Senator) by the author, Islamabad, March 9, 2020.

¹⁶⁹ Interview of Abid Hassan Manto (Lawyers' Movement activist) by the author, Lahore, November 18, 2019.

amendment committee, made constitutional changes “to reduce the dominance and over-representation of Punjab in the federation and the Centre.”¹⁷⁰ In other words, while de-militarisation reinforced de-Punjabisation, de-Punjabisation, via constitutional reforms, also translated into ethnic decentralisation on a national scale, turning Pakistan’s erstwhile majoritarian system into a “participatory federation.”¹⁷¹ With a focus on intra-ethnic divisions as the primary driver of ethnic decentralisation in Pakistan, this analysis questions the assumption that dominant ethnicities necessarily reproduce dominant (exclusionary) concepts of nationhood.¹⁷²

While scholars have studied regional, cultural and political divisions in Punjab, there is no explanation for the precise impact these intra-ethnic divisions have left on the constitutional structure of the state as a whole.¹⁷³ Similarly, whereas scholars have analysed the historical continuity of collaboration between the Punjabi (landed) elite and the state in maintaining a centralised system of power,¹⁷⁴ this thesis illuminates divisions, rather than collaboration, in Punjab, indeed, framing those divisions as the main driving force behind the ethnically decentralising 18th amendment. This anti-military faction *within* Punjab,¹⁷⁵ according to a PML-N senator, became the key driver of the politics of the 18th amendment, as the military’s decision to overthrow Nawaz Sharif (twice) showed that his “Punjabi identity did not matter”¹⁷⁶ for the Punjabi military. In fact, according to a key PPP leader and aide of President Asif Ali Zardari (2008-2013), intra-ethnic divisions in Punjab “made Punjabi politicians (led by Nawaz Sharif who had been deposed twice by the military establishment in the 1990s) agree to demands for provincial autonomy” nationwide.¹⁷⁷

¹⁷⁰ Interview of Khurshid Ahmad (Jamat-i-Islami member of the 18th amendment committee) by the author, online, June 25, 2020.

¹⁷¹ Ibid.

¹⁷² See Andreas Wimmer, “Dominant ethnicity and dominant nationhood” in *Rethinking Ethnicity: Majority Groups and dominant minorities*, ed. Eric P. Kaufmann (London: Routledge, 2004), 40-58.

¹⁷³ See Ian Talbot, “The Punjabization of Pakistan: Myth or reality?,” in *Pakistan: Nationalism without a Nation?*, ed. Christophe Jaffrelot (London: Zed Books, 2002), 51-62.

¹⁷⁴ See Hassan Javid, “Class, Power and Patronage: The Landed Elite and Politics in Pakistani Punjab” (Ph.D. Diss., The London School of Economics and Political Science, 2012).

¹⁷⁵ Interview of Mushahidullah Khan.

¹⁷⁶ Ibid.

¹⁷⁷ Interview of Farhatullah Babar.

While General Pervez Musharraf, who overthrew the second Sharif government in 1999, was not an ethnic Punjabi, he led a predominantly Punjabi army.¹⁷⁸ According to a 2007 ‘Information Brief’ published by the Inter-Services Public Relations (ISPR), the Pakistan military’s media wing, Punjabis formed 71 per cent of the armed forces in 2001.¹⁷⁹ Therefore, the 1999 military takeover of Nawaz Sharif’s second government by a Musharraf-led military was very much a display of intra-ethnic tensions.¹⁸⁰ These institutional divisions, in the words of the PML-N chairman, consolidated intra-Punjabi divisions and drove Nawaz Sharif’s support for ethnic decentralisation.¹⁸¹ Opposing an ethnically centralised military-backed system, the PML-N came to view non-Punjabi civilian ethnic groups as posing “no danger to Pakistan” and sought to change the (centralised) system,¹⁸² both to address inter-ethnic conflict and to create, according to a PML-N member of the 18th amendment committee, new *provincial power centres* “against the interventionist military ... and the military-dominated Centre.”¹⁸³ Thus, the PML-N’s politics intertwined the politics of de-militarisation (i.e. de-Punjabisation) and ethnic decentralisation.

Thus, intra-ethnic institutional divisions were at the heart of the politics of the 18th amendment. But for decades after the creation of Pakistan, it was the *integration* of Punjabi-dominated civil and military institutions that underpinned the ethnic centralisation of the state.¹⁸⁴ Even though Pakistan was (and still is) a multi-ethnic state, Punjabis were a dominant ethnicity in the federal and provincial bureaucracies as well as the military for decades,¹⁸⁵ resulting in an ethnically closed system “that treated Pakistan’s and Punjab’s interests to be the same.”¹⁸⁶ Of particular importance

¹⁷⁸ Hussain Haqqani, *Pakistan: Between Mosque and Military* (Washington, D.C: Carnegie Endowment For International Peace, 2005), 310.

¹⁷⁹ Sher Baz Khan, “Punjab’s dominance in army being reduced: ISPR,” *Dawn*, September 14, 2007.

¹⁸⁰ Pakistan. *The Senate of Pakistan Debates*, April 14, 2010, Vol 4, no 1-7, 61 (Professor Sajid Mir).

¹⁸¹ Interview of Raja Zafrul Haq (Pakistan Muslim League - Nawaz Chairman) by the author, Islamabad, November 23, 2019.

¹⁸² Interview of Siddiqui Farooq (Pakistan Muslim League – Nawaz leader) by the author, Rawalpindi, November 20, 2019.

¹⁸³ Interview of Mehtab Khan Abbasi (Pakistan Muslim League - Nawaz member of the 18th amendment committee) by the author, Islamabad, February 28, 2020.

¹⁸⁴ See Tan Tai Yong, “Punjab and the making of Pakistan: The roots of a civil-military state,” *Journal of South Asian Studies* 18 (1995): 177-192.

¹⁸⁵ Ayesha Jalal, *Democracy and Authoritarianism in South Asia: A Comparative and Historical Perspective* (Cambridge: Cambridge University Press, 1995), 188.

¹⁸⁶ Yunus Samad, “Pakistan or Punjabistan: Crisis of National Identity” in *Punjabi Identity: Continuity and Change*, ed. Gurharpal Singh and Ian Talbot (New Delhi: Manohar, 1996), 62.

was the ethnically skewed composition of the military, which, whenever it overthrew elected governments and centralised power (with the help of Punjabi elites), directly reinforced, according to a PML-N member of the 18th amendment committee, “Punjab’s domination” of Pakistan.¹⁸⁷ Military coups by ethnically exclusive militaries supported by civilian factions from within the same group often ensured, recalling the work of Donald Horowitz, a continuation of ethnic majoritarian politics by military means.¹⁸⁸

In the early decades after Pakistan’s independence in 1947, about 77 per cent of army recruits came from Punjab. Only 19.5 per cent came from the second-largest recruitment centre: the North-Western Frontier Provinces (NWFP, now Khyber Pakhtunkhwa/ KPK).¹⁸⁹ Pakistan’s bureaucracy, too, was predominantly Punjabi, with so-called *muhajirs* (post-partition migrants from India) as its ‘junior’ partners.¹⁹⁰ This is despite the fact that Punjab contained only 25 per cent of the total population of Pakistan before the country’s disintegration in 1971. Even after the formation of Bangladesh in 1971, as Ayesha Jalal has pointed out, Punjabis, being about 56 per cent of the total population, remained the dominant ethnicity in the bureaucracy, including “a large percentage”¹⁹¹ of the provincial civil services and the police forces in Sindh and Balochistan.¹⁹² This domination had the effect of making smaller groups see central government policies as “Punjabi expansionism.”¹⁹³

In the 1980s, when General Zia-ul-Haq (who hailed from East Punjab in India) decided to give a civilian face to his military government (1977-1988), Punjabi representation outweighed their 50 per cent quota in the civil bureaucracy.¹⁹⁴ And, even after Zia’s death, Punjabis remained the dominant ethnicity, with almost 48 per

¹⁸⁷ Interview of Ahsan Iqbal (Pakistan Muslim League - Nawaz member of the 18th amendment committee) by the author, Islamabad, March 3, 2020.

¹⁸⁸ For a detailed discussion on military and ethnic domination and ethnic politics and conflict see Donald Horowitz, *Ethnic Groups in Conflict* (Los Angeles: University of California Press, 1985), 443-559.

¹⁸⁹ Stephen Cohen, *The Pakistan Army* (Karachi: Oxford University Press, 1998), 44.

¹⁹⁰ Ayesha Jalal, *The State of Martial Rule: The Origins of Pakistan’s Political Economy of Defence* (Cambridge: Cambridge University Press, 1990), 222.

¹⁹¹ Ayesha Jalal, *Democracy and Authoritarianism*, 188.

¹⁹² After the abolition of One Unit, 6,000 officials from civil bureaucracy, who were mostly Punjabis, were appointed in Balochistan as a ‘surplus force.’ For more, see Salman Rafi Sheikh, *The Genesis of Baloch Nationalism*, 64.

¹⁹³ Ayesha Jalal, *The State of Martial Rule*, 223.

¹⁹⁴ Christophe Jaffrelot, *The Pakistan Paradox: Instability and Resilience* (Haryana: Random House Publishers, 2015), 132.

cent of the higher civil service posts, even though they constituted just about 44 per cent¹⁹⁵ of the country's population in 1998.¹⁹⁶ Punjabi domination was further supported by the fact that an additional 10 per cent quota was reserved in civil bureaucracy, for all senior vacancies, for (Punjabi-dominated) military officers.¹⁹⁷

Twin processes of *Punjabisation* and *militarisation* sustained Zia's centralised presidential system and left (ethnic) provinces marginalised.¹⁹⁸ But the process did not end with Zia's death in 1988. During the years that followed, a collaboration between the Punjabi-dominated military establishment and Punjab-based political elite – especially Nawaz Sharif – continued to obstruct other parties like the Sindh-based PPP from capturing political power outright.¹⁹⁹ But this Punjabi civil-military collaboration did not last forever. The fact that Nawaz Sharif, once a 'blue-eyed boy' of Zia, later came into conflict with the military establishment (only to be dethroned in 1993 and again in 1999), revealed the emergence of deep political fissures even *amongst* Punjabis.

Nawaz Sharif, seen as the first strong "Punjabi leader,"²⁰⁰ who could claim political capital due to *both* the military establishment's faith *and* his own strong political base in Punjab,²⁰¹ developed differences with the military establishment because of his tendency, as a number of my interviewees contended, including formal army officials,²⁰² to "flex his muscle" and "assert civilian supremacy"²⁰³ over both foreign and domestic policies.²⁰⁴ The first Sharif cabinet (1990-1993), for instance, was the

¹⁹⁵ In 1998, Siraiki speaking population, mostly located in south Punjab, was separately counted. At that time, the Siraikis accounted for almost 11 per cent of Pakistan's total population.

¹⁹⁶ See Katharine Adeney, "The Limitations of Non-consociational Federalism: The Example of Pakistan," *Ethnopolitics* 8, no.1 (March 2009): 87-106.

¹⁹⁷ Ayesha Siddiqa, *Military Inc.*, 127.

¹⁹⁸ Between 1977 and 1985, no federal and provincial legislatures existed in Pakistan. Non-party elections were held in 1985.

¹⁹⁹ Shuja Nawaz, *Cross Swords*, 434.

²⁰⁰ Interview of Mushahidullah Khan.

²⁰¹ Ayesha Siddiqa, "The kingmaker: Pakistan's Military and Political Parties" in *Pakistan's Political Parties: Surviving between Dictatorship and Democracy*, ed. Mariam Mufti et. al (Washington D.C: Georgetown University Press, 2020), 228.

²⁰² Interview of Lieutenant General (retired) Amjad Shoaib by the author, Rawalpindi, December 14, 2019.

²⁰³ Interview of Ayaz Ameer (Former member of the Pakistan Muslim League - Nawaz) by the author, Chakwal, November 27, 2019.

²⁰⁴ Lawrence Ziring, "The Second Stage in Pakistani Politics: The 1993 Elections," *Asian Survey* 33, no.12 (December 1993): 1175-1185.

first government in Pakistan to impose taxes on the military's industrial and commercial ventures,²⁰⁵ exemplifying how competing agendas represented by Nawaz Sharif and the military²⁰⁶ were pulling the "Punjabi nexus" apart.²⁰⁷

While it remains true that the PPP broke with the military establishment during the latter years of Zulfikar Ali Bhutto's government (1971-1977), it failed to produce any meaningful political change (let alone constitutional change) with respect to ethnic decentralisation.²⁰⁸ On the contrary, it was Nawaz Sharif's break with the military, which happened alongside his rise as Punjab's most powerful political leader (displacing the PPP as Punjab's largest political party),²⁰⁹ that revealed intra-ethnic patterns of fragmentation at the institutional level. This fragmentation later facilitated the 18th constitutional amendment (2010).²¹⁰ In fact what transpired in 2010 was shaped not only by persistent demands for provincial autonomy by marginalised ethnicities but, more crucially, by Nawaz Sharif's bid to reshape the polity by creating more centres of power to tackle the military establishment and create political and economic space for the provinces.²¹¹ As a (Pashtun) Awami National Party (ANP) member of the 18th amendment committee said,

"... if political upheavals happen in other three provinces, it does not create much difference. But such political upheavals in Punjab involving the PML-N and the military establishment left far-reaching consequences [for the amendment] Nawaz Sharif's tussle with the establishment made him realise that the old system cannot work. This is the main difference between him and the establishment."²¹²

²⁰⁵ See Ayesha Siddiq, *Military Inc*, 156.

²⁰⁶ Interview of Zafrullah Khan (Pakistan People's Party leader) by the author, Islamabad, March 10, 2020.

²⁰⁷ Interview of Farhatullah Babar.

²⁰⁸ Unlike the PML-N, the PPP government in 1988 and 1993 was unable to reverse the 8th amendment. A contributing factor was the PPP's failure to win a majority in the parliament. On the other hand, Nawaz Sharif was able to win a convincing two-thirds majority in 1997. Still, the PPP cooperated with the PML-N to undo 58 (2) (B) in 1997.

²⁰⁹ For more details about the rise of the PML-N in Punjab and how it was able to displace the PPP as the province's largest party see Andrew Wilder, *The Pakistani Voter: Electoral Politics and Voting Behavior in the Punjab* (Karachi: Oxford University Press Pakistan, 1999).

²¹⁰ Interview of Rehmatullah Kakar (Jamiat Ulema-e-Islam – Fazlur Rehman member of the 18th amendment committee) by the author, online, June 28, 2020.

²¹¹ Based upon the author's interviews.

²¹² Interview of Zahid Khan (Awami National Party member of the 18th amendment committee) by the author, Islamabad, March 9, 2020.

A major manifestation of Nawaz Sharif's new orientation came after his second ouster in 1999—specifically, in July 2007, when he convened and hosted a 38-party conference in London called the Multi-Party Conference (MPC), which resolved to not only “resist collectively” and push for the “removal of dictatorship,” but also decided to “confine the role of the armed forces to that prescribed in the Constitution of 1973” whilst also reviewing “the current quantum of provincial autonomy and ... develop[ing] a national consensus based on the federal principle to remove grievances of smaller provinces through a consensus.”²¹³ Again, the two agendas of demilitarisation and de-Punjabisation were not separate but intertwined. With the PML-N leading the conference, its declaration became a continuation of the pro-ethnic and anti-military stance that Sharif had been maintaining since the 1990s, as “both Punjab-based [civil-military ethnic] factions vied for control.”²¹⁴

Three changes, all made by Nawaz Sharif in the 1990s, illustrate his gradual transformation into a pro-ethnic-devolution leader supporting the MPC in 2007 and, later, the 18th amendment in 2010.²¹⁵ First, the first Nawaz Sharif government (1990-1993) was able to cultivate an *inter-ethnic* consensus around the ‘Water Apportionment Accord 1991’ a.k.a. the “Water NFC” (referring to the National Finance Commission, or NFC, that apportions financial resources on the basis of a province-focused apportionment formula).²¹⁶ The 1991 award, while not perfect, was agreed upon via an *inter-ethnic* consensus,²¹⁷ when “Punjab agreed to reduce its share [of water resources] voluntarily.”²¹⁸

Second, the first Nawaz Sharif government was able to develop an *inter-ethnic* consensus, after a gap of 16 years, around the vertical and horizontal distribution of fiscal resources via the NFC itself. The divisible pool was expanded after more taxes were added to it, with horizontal (i.e., inter-provincial) resource sharing registering a

²¹³ M. Ziauddin, “MPC declaration asks Musharraf to resign,” *Dawn*, July 9, 2007.

²¹⁴ Interview of Safdar Abbasi (Pakistan People's Party member) by the author, Islamabad, December 16, 2019.

²¹⁵ Interview of Mehtab Khan Abbasi.

²¹⁶ Interview of Raja Zafrul Haq.

²¹⁷ See Adil Khan and Nazakat Awan, “Inter-Provincial Water Conflicts in Pakistan: A Critical Analysis,” 43, no. 2 (Winter 2020): 42-53.

²¹⁸ Interview of Raja Zafrul Haq.

growth of 17 per cent.²¹⁹ The 1991 NFC award also extended, for the first time, the principle embodied in Article 161 of the 1973 Constitution, which provided for the transfer of royalties on natural resources to the province of origin.²²⁰ The subsequent 1997 NFC award reduced the provincial share in overall percentage terms from 80 per cent to 37.5 per cent, but at the same time, the federal divisible pool was massively expanded by including all taxes levied by the federal government, meaning that the provinces faced no financial cuts. In other words, the 1997 award maintained the financial distribution arrangements made through the inter-ethnic consensus in 1991.²²¹

Third, during his second tenure (1997-1999), Nawaz Sharif was able to remove Article 58 (2) (B) along with Article 112 (2) (B) – a ‘Ziaist’ legacy that gave the president and provincial governors discretionary powers to dismiss the country’s federal and provincial assemblies, respectively. This was the clause used to remove Nawaz himself in 1993 (as well as the government in power in 1988 and, then, Prime Minister Benazir Bhutto in both 1990 and 1996).²²²

The 1990s effectively revealed Nawaz Sharif’s shift to “independent politics,”²²³ becoming the first major Punjabi leader to oppose ethnic centralisation as well as the military’s role in politics.²²⁴ According to an ANP member of the 18th amendment committee, this made “political divisions within Punjab a permanent feature of power struggle” in Pakistan.²²⁵ It was these intra-ethnic civil-military divisions, “rather than [the] old demand for provincial autonomy,”²²⁶ that made the 18th amendment possible. Had the PML-N, in the words of a retired army lieutenant general representing the PML-N in the Senate, still been “dictated by the military establishment as in the

²¹⁹ Naeem ur Rehman Khattak et.al, “Fiscal Decentralisation in Pakistan,” *The Pakistan Development Review* 49, no. 4 (2010): 423.

²²⁰ Pakistan. *The National Assembly of Pakistan Debates*, April 7, 2010, Vol 21, no. 1-4, 187 (Ghulam Ahmad Bilour).

²²¹ S. Akbar Zaidi, *Issues in Pakistan’s Economy: A Political Economy Perspective*, 3rd ed. (Karachi: Oxford University Press, 2015), 372.

²²² For more on this period see Hassan Askari Rizvi, “Pakistan in 1998: The Polity Under Pressure,” *Asian Survey* 39, no. 1 (February 1999): 177-184.

²²³ Interview of Abid Hassan Manto.

²²⁴ Interview of Mushahidullah Khan.

²²⁵ Interview of Afrasiab Khattak (Awami National Party member of the 18th amendment committee) by the author, online, June 17, 2020.

²²⁶ Interview of Abdul Malik (National Party member of the 18th amendment committee) by the author, online, February 24, 2020.

1980s, the 18th amendment, with its massive decentralisation, would not have happened.”²²⁷

Already by 1993, the PML-N had become the leading political force in northern Punjab with over 50 per cent of the total votes cast. (This figure increased during Nawaz Sharif’s second government 1997-1999.) In central Punjab, the PML-N’s percentage grew from about 39 per cent in 1988 and almost 47 per cent in 1993.²²⁸ Therefore, with the Punjabi-dominated military repeatedly overthrowing a Punjab-based party’s government, intra-ethnic civil-military institutional divisions become a logical outcome, with PML-N workers in Punjab becoming more “vocal” and “argumentative”²²⁹ vis-à-vis military interference than they were during the 1980s or early-1990s.

This trend was also reinforced by a growing desire on the part of the PML-N to get rid of the “tag that they are just an extension of the army,”²³⁰ leading the PML-N to shift its politics in ways that left a direct impact on the 18th amendment. During the 1980s, anti-military movements like the Movement for the Restoration of Democracy (MRD) led by the Sindh-based PPP could not establish roots in Punjab. But, later on, the anti-Musharraf Lawyers’ Movement (2007-09) not only thrived in Punjab, but Nawaz Sharif became one of its main financiers – ²³¹ not only because a dictator had overthrown his government in 1999, but also because “uniform rule” was, in the words of Nawaz Sharif himself, “responsible for the [ethnic] dismemberment of the country.”²³² This was to be changed through what Nawaz termed “a national movement” (i.e., the ongoing Lawyers’ Movement) comprising “lawyers, political workers, and civil society activists.”²³³

²²⁷ Interview of Lieutenant General (retired) Abdul Qayyum by the author, Islamabad, December 24, 2019.

²²⁸ See Andrew Wilder, “Changing Patterns of Punjab Politics in Pakistan,” *Asian Survey* 35, no. 4 (April 1995): 377-393.

²²⁹ Interview of Talat Hussain (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 10, 2019.

²³⁰ Ibid.

²³¹ Interview of I.A. Rehman (Lawyers’ Movement activist, Civil society) by the author, Islamabad, December 4, 2019.

²³² “Nawaz says ‘uniform rule’ an insult to nation,” *Dawn*, May 24, 2007.

²³³ Ibid.

Thus, Nawaz Sharif's break with the military establishment underpinned the 18th amendment –²³⁴ a constitutional change that, according to most of my interviewees from across different political parties (including the pro-military PML-Q),²³⁵ would not have been possible without the PML-N's support for the 2006 CoD,²³⁶ which envisioned, after intense negotiations (2001-2006) between the Sindh-based PPP and the Punjab-based PML-N, ethnic decentralisation via de-militarisation and the abolition of the constitution's concurrent list.

2. Reversing the Militarised Constitution

As the 18th amendment report mentions, the 2010 constitutional reforms were an outcome of numerous (ethnically) centralising changes made by military dictators, who weakened the “equilibrium established by the 1973 Constitution,” consequently depriving “the [ethnic] Provinces of their legitimate constitutional rights in governance and the utilization of their natural resources.”²³⁷ Thus, the 18th amendment not only re-established a lost equilibrium but also re-set, *constitutionally*, the political realities of Pakistan to constrain the country's ethnic majority.²³⁸ The 18th amendment, thus, epitomised a “revolutionary constitutional change,”²³⁹ which, in the words of the chairman of the 18th amendment committee, was linked “with the many struggles that had been going on in Pakistan for constitutionalism ... provincial autonomy, civilian supremacy, and ethnic representation.”²⁴⁰ The 18th amendment was, thus, a “political strategy” against the military's political and constitutional footprint and a move towards settling Pakistan's ethnic question²⁴¹ by reducing Punjabi domination.²⁴²

²³⁴ Interview of Zahid Khan.

²³⁵ Based upon the author's interviews.

²³⁶ Interview of S.M. Zafar (Pakistan Muslim League - Quaid member of the 18th amendment committee) by the author, Lahore, November 30, 2019.

²³⁷ Pakistan. *The National Assembly of Pakistan Debates, The Report of the Parliamentary Committee for Constitutional Reforms*, 2010, 2.

²³⁸ See Mohammad Waseem, “Pakistan: A Majority-Constraining Federalism” *India Quarterly: A Journal of International Affairs* 67, no.3 (September 2011): 213-228.

²³⁹ See Gary Jeffrey Jacobson, “Theorizing the Constitutional Revolution” *Journal of Law and Courts* 2, no.1 (Spring 2014): 1-32. Jacobson defines major constitutional departures made through constitutional amendments as “revolutionary changes.”

²⁴⁰ Interview of Raza Rabbani (Pakistan People's Party Senator/chairman of the 18th amendment committee) by the author, online, July 27, 2020.

²⁴¹ Ibid.

²⁴² Interview of Khurshid Ahmad.

The 18th amendment radically changed the constitutional amendments of both Zia and Musharraf. Zia's 8th amendment had created a strong presidency, a weak legislature, and a docile judiciary, with the president also invested with powers to dissolve elected legislatures, both national and provincial. While the president could dissolve the National Assembly via Article 58 (2) (B), the provincial governor could dissolve the Provincial Assembly via Article 112 (2) (B) with the approval of the president.²⁴³

This amendment was effectively challenged when Nawaz Sharif came into power for the second time in 1997 and did the 13th constitutional amendment that removed both Article 58 (2) (B) and Article 112 (2) (B). However, after General Musharraf seized power in 1999, his 17th amendment (2003) revived both articles. In fact, Musharraf's revival of these articles happened in tandem with the militarisation of the bureaucracy²⁴⁴ and the polity,²⁴⁵ which continued to ensure Punjabi domination, making "smaller provinces feel the [Punjabi] burden."²⁴⁶ At the same time, the Musharraf regime expanded the 10 per cent quota in jobs for the armed forces by appointing a further 4,000-5,000 military officers across various state institutions.²⁴⁷ While this was ostensibly done to enhance the military's role in so-called 'national reconstruction,'²⁴⁸ this policy – which brought unelected Punjabis to the fore – manifested how military regimes in ethnic majoritarian states, as Donald Horowitz has argued, are often ethnically exclusive, offering limited space to other ethnic groups.²⁴⁹ In Pakistan as well, the more the successive military regimes invested in an ethnically dominant military, the more it ensured Punjabi domination,²⁵⁰ with recruitment from non-Punjabi groups restricted to lower ranks.²⁵¹

²⁴³ Hassan-Askari Rizvi, "The Civilianization of the Military Rule in Pakistan," *Asian Survey* 26, no. 10 (October 1986): 1070-71.

²⁴⁴ Aqil Shah, *The Army and Democracy: Military and Politics in Pakistan* (Cambridge, Massachusetts: Harvard University Press, 2014), 197.

²⁴⁵ A widespread Army Monitoring system was also established as an autonomous watchdog over various layers of officialdom. See Mushahid Hussain, "Reforming the Armed Forces," *The Nation*, June 10, 2001.

²⁴⁶ Interview of Ahsan Iqbal.

²⁴⁷ Ayesha Siddiqi, *Military Inc.* 127.

²⁴⁸ Aqil Shah, *The Army and Democracy*, 188

²⁴⁹ Donald Horowitz, *Ethnic Groups in Conflict*, 531.

²⁵⁰ Aqil Shah, *The Army and Democracy*, 256.

²⁵¹ Interview of Syed Naveed Qamar (Pakistan People's Party member of the 18th amendment committee) by the author, Islamabad, February 28, 2020. Also, see Ayesha Siddiqi, "Pakistan Military – Ethnic Balance in the Armed Forces and Problems of Federalism," *Forum of Federation* (May 2011).

Already, a heavily-loaded concurrent list within the 1973 Constitution gave the Punjabi-dominated Centre vast powers to intervene in provincial affairs. While the list was part of the original 1973 Constitution, it was meant to be removed 10 years after its promulgation – a promise that could not be fulfilled due to repeated military interventions and Punjabi power at the Centre.²⁵² Military dictators, instead of removing the concurrent list to make (ethnic) provinces powerful, also initiated non-party local elections under a so-called “Local Bodies” programme to neutralise provincial-level (ethnic) politics²⁵³ and, according to a Lahore-based leader of the PML-N, maintain a *de facto* “unitary system.”²⁵⁴

Therefore, when the 18th amendment was being debated, its major thrust was to *de-militarise* and *de-Punjabise* Pakistan -²⁵⁵ a feat that became possible, according to a key aide of the late Benazir Bhutto and a key negotiator of the CoD, because a large section of Punjab’s political elite was “itself ready and willing to bring this sort of a change.”²⁵⁶ This willingness was largely represented by Nawaz Sharif, whose tussle with the military “led him to think that Pakistan was not just Punjab” and that “other provinces” also “have rights and should be equal stakeholders.”²⁵⁷ As Abdul Malik of the Balochistan-based National Party (NP) and a member of the 18th amendment committee stressed, “If the PML-N had not agreed,” these changes “could not have happened.”²⁵⁸

A key factor that made this agreement possible was, as mentioned above, Nawaz Sharif’s conflict with the military establishment. Even though Nawaz’s political rise was a direct result of the military establishment’s political and financial support for

²⁵² Various interviewees referred to an ‘understanding’ between Zulfikar Ali Bhutto and other political parties to abolish the concurrent list within a decade after the promulgation of the 1973 constitution. While no documentary proof of this ‘understanding’ exists, all parties, including the PML-N, accepted it.

²⁵³ Aqil Shah, *The Army and Democracy*, 194.

²⁵⁴ Interview of Pervez Rasheed (Pakistan Muslim League - Nawaz Senator) by the author, Islamabad, February 18, 2020.

²⁵⁵ Interview of Hamid Mir (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 11, 2019.

²⁵⁶ Interview of Safdar Abbasi.

²⁵⁷ Interview of Mushahid Hussain Syed (Pakistan Muslim League - Nawaz Senator) by the author, Islamabad, March 11, 2020.

²⁵⁸ Interview of Abdul Malik.

the Nawaz-led Islami Jamhoori Ittihad (IJI)²⁵⁹ against the Sindh-based PPP, during the late 1980s,²⁶⁰ Nawaz developed differences, after he was elected prime minister in 1990, with the then army chief Aslam Baig over the latter's interference in key political matters (including Baig's attempts to extend his tenure and introduce changes in the army's promotion system that would take powers away from the prime minister).²⁶¹ Nawaz's differences with the military continued to expand when Aslam Baig, a non-Punjabi army chief, was replaced in 1991 with Asif Nawaz Janjua, a Punjabi belonging to the Rajput clan from Jhelum in northern Punjab. Not only did political interference increase under Janjua, but the military decided to operate independently of the prime minister vis-à-vis key national issues, including an operation against a muhajir-dominated party known as the Muttahida Qaumi Movement²⁶² (MQM) in Karachi.²⁶³

Nawaz's problems were further exacerbated by Zia-ul-Haq's 8th amendment, which gave the president the power to appoint army chiefs of his choice without consulting the prime minister. At the same time, Article 58 (2) (B) permanently pitched Nawaz against both the military establishment and the president.²⁶⁴

Nawaz's first (failed) attempt to remove this 'Ziaist' legacy, i.e. Article 58 (2) (B), during his first tenure as prime minister, further alienated him from the military establishment, transforming him from a man known for his pro-military disposition²⁶⁵ into a champion of "civilian supremacy,"²⁶⁶ according to a Lahore-based lawyer who was involved in the Lawyers' Movement (2007-2009) and advised Sharif on legal issues during the 1990s. Nawaz came to believe that "if political leadership is to survive and a democratic system is to be established, these impediments [i.e. the military's involvement in politics and its constitutional footprint] must be overcome."²⁶⁷

²⁵⁹ Islamic Democratic Alliance.

²⁶⁰ Shuja Nawaz, *Cross Swords*, 434.

²⁶¹ *Ibid.*, 438-440.

²⁶² United National Movement.

²⁶³ Aqil Shah, *The Army and Democracy*, 172.

²⁶⁴ Shuja Nawaz, *Cross Swords*, 437.

²⁶⁵ Hassan Askari Rizvi, "Pakistan: civil-military relations," 99.

²⁶⁶ Interview of Abid Hassan Manto.

²⁶⁷ *Ibid.*

The full spectrum of his political transformation can be gauged by a conscious move away from slogans like *Jab Punjabi Jab* (“Wake Up, Punjabis!”), which he raised in the late 1980s to challenge the Sindh-based PPP’s political rise in Punjab,²⁶⁸ towards entering a pact with the PPP, namely the CoD, in 2006, to institutionalise provincial autonomy, de-politicise the military, and decentralise ethnicity in Pakistan.²⁶⁹ The Punjabi-dominated military became a target, not only because Nawaz had developed differences with it but also because, even when President Ishaq Khan, an ethnic Pashtun, used Article 58 (2) (B) against Nawaz in 1993, the actual decision was taken by the military establishment, with the latter even mobilising its troops to take control of all government installations and important buildings in Islamabad.²⁷⁰ Similarly, when Nawaz came to power for a second time, not only did he remove Article 58 (2) (B), but he also appointed Pervez Musharraf, a *muhajir*, because Musharraf, Nawaz thought, *lacked* a (Punjabi ethnic) constituency in the army to mobilise against the government - ²⁷¹ a decision that unmistakably shows how intra-ethnic tensions pitched Punjab-based and Punjabi-dominated civil-military institutions against each other.

It was this intra-ethnic institutional tussle that, according to one member of the 18th amendment committee representing a madrasa-based religious party known as the Jamiat Ulama Islam-Fazal (JUI-F),²⁷² led Nawaz to push for constitutionally reshaping the polity in ways that would not only save the country from being held hostage to the political ambitions of military dictators, but would also reduce Punjab’s “majoritarian” domination of Pakistan²⁷³ by breaking, according to a PPP leader, the “Punjabi civil-military nexus.”²⁷⁴ As a Lahore-based leader of Nawaz’s PML-N, Ayaz Sadiq, stressed: “One reason the 18th amendment was needed was to reduce Punjab’s domination of Pakistan so that all the provinces ... get their rights.”²⁷⁵

In this context, the 18th amendment also manifested, according to another Punjab-based PML-N leader, a “new social contract” around a democratic and decentralised

²⁶⁸ Interview of Safdar Abbasi.

²⁶⁹ See “The Charter of Democracy Text,” *Dawn*, May 16, 2006.

²⁷⁰ Hassan Askari Rizvi, “Pakistan: civil-military relations,” 100.

²⁷¹ Aqil Shah, *The Army and Democracy*, 177.

²⁷² Interview of Rehmatullah Kakar.

²⁷³ *Ibid.*

²⁷⁴ Interview of Farhatullah Babar.

²⁷⁵ Interview of Ayaz Sadiq (Pakistan Muslim League - Nawaz member of the National Assembly) by the author, Islamabad, March 4, 2020.

federal structure of Pakistan.²⁷⁶ As Raja Zafrul Haq, chairman of the PML-N, also said:

“It is true that Punjab dominates ... at the same time, it is also true that there are strong political divisions in Punjab and the PML-N has emerged as its major manifestation ... through its opposition to military interventions ... [and struggle against the] presidential system [of Musharraf] ... the 18th amendment undid all this through a partnership with the PPP that started in 2006 [via the CoD].”²⁷⁷

The removal of Article 58 (2) (B) also had implications for ethnic decentralisation, for it was the same article that civilian presidents, backed by a Punjabi-dominated military, used to dismiss the popularly elected governments of both Nawaz Sharif and a Sindhi politician, Benazir Bhutto, in the 1990s.²⁷⁸ Article 112 (2) (B) was also removed, curtailing provincial governors’ discretionary powers vis-à-vis provincial legislatures. Article 6 was also strengthened to hold *any* coup-based encroachment on the constitution as ‘high treason,’ stripping the judiciary of any power to legitimise coups in the future. The name of General Zia-ul-Haq was removed from the constitution (Article 41, clause 7), and most of Pervez Musharraf’s constitutional changes were also declared ultra-void (article 270AA).

Historically, military regimes sought to invest executive authority in the office of the president. But an amended Article 90 (1) stipulated that executive authority would be exercised in the name of the president by the federal government, led by the prime minister. (Article 130 was also amended to empower provincial chief ministers vis-à-vis provincial governors.)

The 18th amendment also abolished the concurrent list, transferred powers to the provinces, enhanced the role of the Council of Common Interest (CCI) via Article 153, and re-constituted the National Economic Council (NEC) by including provincial representation (Article 156) to make Pakistan a “participatory federation.”²⁷⁹ And, because “during successive dictatorships, drastic cuts were made to the provincial

²⁷⁶ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no. 1-4, 57-58 (Ahsan Iqbal).

²⁷⁷ Interview of Raja Zafrul Haq.

²⁷⁸ Shuja Nawaz, *Cross Swords*, 430.

²⁷⁹ Interview of Khurshid Ahmad.

resources,”²⁸⁰ Article 160 was amended to protect provincial financial shares from “arbitrary reductions.”²⁸¹ Specifically, sub-clause 3A was added, which said that the share of the provinces in each NFC award could not be less than the previous award (i.e., the 2009 award).

Since the 18th amendment was passed in 2010, this clause was added to specifically protect the 2009 7th NFC award – a formula that radically altered, *with crucial support from Punjab*,²⁸² fiscal resource distribution to the advantage of the provinces. For instance, as opposed to the Centre receiving 62.5 per cent and the provinces receiving 37.5 per cent in 1997, the 2009 award gave 42.5 per cent to the Centre and 57.5 per cent to the provinces. Provincial financial shares also increased, not only because General Sales Tax (GST) on services was transferred from the Centre to the provinces, but also because the latter were made joint and equal owners of mineral oil and natural resources within a given province (Article 172).

Most importantly, Punjab, *led by the PML-N*, agreed to a new NFC formula of horizontal (inter-provincial) distribution whereby factors other than population –²⁸³ for example, backwardness, population density, and revenue generation – were also included to address smaller provinces’ demand for a larger share. As a result, Punjab’s overall share in percentage terms decreased from 57.36 per cent in 1998 to 51.74 per cent in 2009. Sindh’s share increased from 23.71 in 1998 to 24.55 in 2009. KPK’s share increased from 13.82 per cent in 1998 to 14.62 per cent in 2009. Balochistan’s share increased from 5.11 per cent in 1998 to 9.09 per cent in 2009.²⁸⁴ While Punjab did not make a ‘sacrifice’ as the overall amount it received in 2010 jumped from Rs. 718 billion in 2009 to Rs. 1068 billion in 2010,²⁸⁵ Punjab’s agreement still reflected the PML-N’s own “decisive break with the past.”²⁸⁶ Aligned

²⁸⁰ Interview of Raza Rabbani.

²⁸¹ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no. 1-4, 40-41 (Mian Raza Rabbani).

²⁸² Interview of Raza Rabbani.

²⁸³ While all previous awards gave the population a 100 per cent weightage, the 2009 award reduced it to 82 per cent, with 10.3 per cent going to poverty and backwardness, 5.3 per cent to revenue collection, and 2.7 per cent to inverse population density.

²⁸⁴ S. Akbar Zaidi, *Issues in Pakistan’s Economy*, 373.

²⁸⁵ *Ibid.*, 383.

²⁸⁶ Interview of Raza Rabbani.

with the imperative of reducing Punjabi domination,²⁸⁷ these changes sought to avoid, as a PML-N leader stressed, “another East Pakistan-like crisis” i.e., another territorial disintegration.²⁸⁸ This was accomplished by systematically breaking the martial law-based centralised system of Pakistan²⁸⁹ with help from a Punjabi party in conflict with a Punjab-dominated military. As a PPP member of the 18th amendment committee confirmed, the PML-N,

“... in agreeing to this new arrangement [i.e., the overall package of political and financial autonomy for the provinces], did not identify with Islamabad [the Centre] and Rawalpindi [the Punjabi military establishment], but with Lahore, their traditional [provincial] seat of power. They were able to see things from that vantage point ... because of their tussle with the military establishment.”²⁹⁰

In other words, it was intra-ethnic institutional divisions within Punjab that settled the question of provincial autonomy²⁹¹ by reducing “Punjab’s domination of Pakistan.”²⁹² The 18th amendment simply institutionalised a constitutional design that developed a new balance between the Centre and the provinces and among the provinces, creating new political realities by making the Centre just powerful enough to discourage the military from taking it over.²⁹³ With most of the powers and resources transferred to the provinces, and with provinces and provincial political parties now being direct stakeholders in the system,²⁹⁴ a military takeover, *if it happened*, would have to deal with multiple centres of power²⁹⁵ and not, like the 1990s, just one ousted political party.

This anti-coup politics was also combined with provisions to decentralise ethnicity within the military. Article 27 was an amendment to expand the parliament’s legislative powers to redress the exclusion of any area or class in the services of

²⁸⁷ Interview of Ahsan Iqbal.

²⁸⁸ Interview of Ishaq Dar (Pakistan Muslim League - Nawaz member of the 18th amendment committee) by the author, online, July 7, 2020.

²⁸⁹ Interview of Pervez Rasheed.

²⁹⁰ Interview of Syed Naveed Qamar.

²⁹¹ Interview of Mushahidullah Khan.

²⁹² Interview of Ayaz Sadiq.

²⁹³ Interview of Matiullah Jan (Journalist, Lawyers’ Movement activist) by the author, Islamabad, November 21, 2019.

²⁹⁴ Interview of Ayaz Sadiq.

²⁹⁵ Ibid.

Pakistan. The 18th amendment committee also recommended that the federal government provide “equal opportunities” for recruitment to all provinces to ensure (ethnic) non-discrimination in the armed forces.²⁹⁶ These provisions were, as the PML-N chairman said, part of Nawaz Sharif’s politics to decentralise ethnicity in Pakistan and end Punjabi domination, “especially ... in the armed forces.”²⁹⁷ The imperative of de-militarisation got intertwined with the de-Punjabisation of Pakistan because, as a member of the 18th committee representing parliament’s independent members said, Nawaz Sharif wanted to “establish civilian supremacy” and he wanted support from all parties against the military. Therefore, “he agreed to remove the concurrent list [unlike the PML-Q] for this very purpose ... to establish a [cross-ethnic] consensus.”²⁹⁸

Intra-ethnic civil-military institutional tensions pushed the PML-N to support ethnic decentralisation. But these changes would not have been possible without, in the words of the chairman of the 18th amendment committee, the 2006 anti-military/pro-ethnic decentralisation pact between the PPP and the PML-N, i.e. the CoD.²⁹⁹ But for intra-ethnic institutional tensions pushing the “pliable”³⁰⁰ PML-N to move against the military, no major institutional challenge to Pakistan’s military-backed ethnically centralised system would have emerged from within Punjab. Nor would a pro-military PML-N have provided political and financial support to the anti-military Lawyers’ Movement.³⁰¹ The next section explains how civil-military institutional tensions underpinned the CoD, bringing Sindh and Punjab together against the Punjabi-dominated military in the first place.

3. An Inter-Ethnic Alliance for the Future: The 2006 Charter of Democracy

When do cross-ethnic counter-coalitions come into existence? This is a question that has received much scholarly attention. As Dan Slater has shown, factors ranging from

²⁹⁶ Pakistan. *The Report of the Parliamentary Committee*, 19.

²⁹⁷ Interview of Raja Zafrul Haq.

²⁹⁸ Interview of Munir Khan Orakzai (Member of the 18th amendment committee representing the independent MPs) by the author, Islamabad, March 4, 2020.

²⁹⁹ Interview of Raza Rabbani.

³⁰⁰ Interview of Syed Naveed Qamar.

³⁰¹ Interview of Afrasiab Khattak.

“economic drawdown” to political instability often draw ‘like-minded’ political and social groups into a broad ‘counter-coalition’ against a post-colonial Leviathan.³⁰² While such coalitions are not necessarily driven by intra-ethnic tensions, Donald Horowitz has shown that “coalitions of commitment”³⁰³ can aim to resolve inter-ethnic conflicts in multi-ethnic states.

Notwithstanding the role that economic, political, and ethnic factors play in driving coalition politics, however, it remains that most of the existing literature concerns polities that are *not* ethnically majoritarian. Therefore, the question of when and how cross-ethnic counter-coalitions come into existence in ethnic majoritarian states remains unaddressed.

I show that the key factor driving the politics of cross-ethnic counter-coalitions in ethnic majoritarian states lies in civil-military institutional tensions (i.e., the ‘institutional factor’). Such tensions, as discussed in the previous section, can reinforce patterns of intra-ethnic fragmentation. But they also push marginalised political groups from the dominant ethnic group to ally with marginalised political elites from other ethnic groups, forming a *cross-ethnic counter-political coalition*.

What distinguishes cross-ethnic counter-coalitions in ethnic majoritarian states from Slater’s non-ethnic ‘counter-coalitions,’ or Horowitz’s ‘coalitions of commitment’ in multi-ethnic states, however, is the fact that the former reify political divisions *within* the dominant ethnic group. Moreover, these coalitions do not merely aim to re-set the institutional imbalance, defeat an authoritarian regime, or end an inter-ethnic conflict (as in multi-ethnic states beset by inter-ethnic conflict). Rather, they aim to decentralise state power, more permanently via constitutional reforms, away from the dominant ethnic group itself. The importance of the *intra*-ethnic institutional factor for the politics of ethnically decentralising constitutional change, I argue, can be assessed by the fact that, in Sri Lanka (see Chapter 8), the *absence* of this institutional factor played a key role in preventing a cross-ethnic multi-party coalition from coming into existence to pursue constitutional forms of ethnic decentralisation at all.

³⁰² Dan Slater, *Ordering Power: Contentious Politics and Authoritarian Leviathans in Southeast Asia* (New York: Cambridge University Press, 2010), 198.

³⁰³ Donald Horowitz, *Ethnic Groups in Conflict*, 379.

When the Punjabi-dominated Pakistan military deposed the civilian regime of Nawaz Sharif (for a second time), it pushed the (Punjab-based) PML-N and the (Sindh-based) PPP to enter into a counter-coalition pact, the CoD, to tackle the military establishment.³⁰⁴ As a Lahore-based PML-N leader said, “the credit for the Charter of Democracy goes to Musharraf, whose coup and political victimisation made the PPP and the PML-N realise that their rivalry was always used against them by a third party [i.e., the military] for its own advantage.”³⁰⁵

With Benazir Bhutto of the PPP already in exile following the dismissal of her second government in 1996, both Benazir and Nawaz were drawn towards a political scenario in which it was no longer possible, according to a key PML-N leader, for them to continue without first burying their rivalry,³⁰⁶ that is not allowing their political competition to be manipulated by undemocratic forces.³⁰⁷

The 2006 CoD,³⁰⁸ driven by the ‘institutional factor,’ became a cross-ethnic “strategic consensus”³⁰⁹ in which Pakistan’s largest Punjab-based and Sindh-based political parties pledged (a) not to “join a military regime or any military sponsored government,” (b) that “the concurrent list in the constitution will be abolished,” and (c) that “a new NFC award will be announced” to tackle “the erosion of the federation’s unity” at the hands of “military dictatorship,” giving the nation “a new direction from a militaristic and regimental approach of ... Bonapartist regimes.”³¹⁰

The CoD was not just a code of conduct. It imagined an alternative polity in which the military would be subservient to civilian authorities and the very political structure of

³⁰⁴ Interview of Taj Haider (Pakistan People’s Party Senator) by the author, online, May 12, 2020.

³⁰⁵ Interview of Ayaz Sadiq.

³⁰⁶ Interview of Ishaq Dar.

³⁰⁷ Interview of Ahsan Iqbal.

³⁰⁸ A crucial role in bringing the two parties close was played by the late Nawabzada Nasrullah Khan. By 2002, Ishaq Dar of the PML-N and Aftab Shaban Mirani of the PPP were already involved in a series of meetings with Benazir Bhutto and Nawaz Sharif to develop an understanding. Ahsan Iqbal’s suggestion to make a formal written record of the understanding came later, when, in February 2005, Benazir Bhutto came to visit Nawaz Sharif at his Jeddah residence. It led to the formation of a four-member committee, consisting of Ishaq Dar and Ahsan Iqbal of the PML-N and Dr. Safdar Abbasi and Raza Rabbani of the PPP. It was tasked with preparing a detailed road map for implementing the ‘Jeddah consensus.’ Several drafts were exchanged before the final agreement was signed in 2006 in London.

³⁰⁹ Interview of Ahsan Iqbal.

³¹⁰ See “The Charter of Democracy Text.”

Pakistan, manipulated by the same military to its advantage, would be radically altered by removing the military's constitutional footprint.³¹¹ This objective made it possible for mainstream political parties to expand the Charter's scope by including smaller and regional parties. After all, a multi-ethnic state beset by strong inter-ethnic tensions like Pakistan required more than a strict bi-party consensus.³¹² By including smaller/regional parties, the PML-N and the PPP were able to turn their bi-partisan (bi-provincial and bi-ethnic) consensus into a "broad [all-provincial and multi-ethnic] national consensus,"³¹³ against the military regime.

A calculated move, the inclusion of regional parties – with most of them equally inspired to oppose the military's role in politics –³¹⁴ grew out of the realisation that, as one MQM leader said, "without making provinces direct stakeholders in the system, and without widening the power-sharing political landscape, democracy and civilian rule cannot be established in Pakistan."³¹⁵ A principal factor that led the PPP and the PML-N to reach this conclusion was the fact that both parties, even after cooperating in 1997 to remove Article 58 (2) (B), had failed to stem the military's political interference.³¹⁶ It was therefore logical for them, according to another PML-N leader, to strengthen themselves by allying with the provinces,³¹⁷ thus "cleverly pitching" smaller parties/provinces *within* a larger coalition against the military establishment.³¹⁸

While the inclusion of regional and nationalist parties reinforced the CoD's push towards de-militarisation and ethnic "decentralisation and devolution of power ... [with] maximum provincial autonomy,"³¹⁹ however, this is not to suggest that the PPP and the PML-N themselves were not already convinced of the need to devolve powers in ways that would make the state ethnically more inclusive. Whereas the PPP had

³¹¹ Pakistan. *The National Assembly of Pakistan Debates*, April 16, 2009, Vol 12, no. 1-13, 659 (Manzoor Ahmad Wattoo).

³¹² This view was expressed by most PML-N and PPP leaders I interviewed.

³¹³ Interview of Ahsan Iqbal.

³¹⁴ Pakistan. *The Senate of Pakistan Debates*, March 6, 2009, Vol 2, no. 1, 42-43 (Mohammad Raza).

³¹⁵ Interview of Farooq Sattar (Muttahida Qaumi Movement member of the 18th amendment committee) by the author, online, July 7, 2020.

³¹⁶ Based upon the author's interviews.

³¹⁷ Interview of Mehtab Khan Abbasi.

³¹⁸ Interview of Matiullah Jan.

³¹⁹ See "The Charter of Democracy Text."

been raising this demand ever since the early 1980s, when the anti-military MRD was launched in rural Sindh against General Zia-ul-Haq,³²⁰ Nawaz Sharif, too, had taken steps, as mentioned above, in his previous tenures that made his politics more inclined towards ethnic devolution. Even according to a non-Punjabi member of the 18th amendment committee representing the KPK-based Qaumi Wattan Party (QWP),³²¹ during the time the committee worked, the PML-N supported devolution as agreed in the CoD³²² in which both the PPP and the PML-N had already agreed, according to a member of the 18th amendment committee representing the Islamist Jamaat-i-Islami (JI), that if the military establishment was to be resisted and de-politicised, its (ethnically centralising) constitutional footprint had to be removed and more (provincial) power centres were needed to be established.³²³

To a significant extent, Nawaz Sharif's 'new politics' also grew out of a realisation about how military rule was responsible for creating anti-Punjab sentiments in other provinces and, thus, weakening the federation.³²⁴ As Ayaz Sadiq of the PML-N contended, "the biggest issue that Pakistan has been facing is the anti-Punjabi sentiment,"³²⁵ and, as another PML-N leader explained, how the military-led Punjabi domination and subsequent "suppression of the democratic process leads to sub-national identity uprisings" in smaller ethnic provinces,³²⁶ with these movements also allowing the ethnically centralised (and militarised) state to use the ethnically dominant military to shield the state from regional influences.³²⁷ Thus, "a line needed to be drawn," added Sadiq,³²⁸ to change Pakistan's militarised political and ethnic trajectory – something that would not have been possible without a change first taking place in Punjab.³²⁹ It happened when Punjab-based political forces led by Nawaz Sharif decided, after failing against the military in the 1990s (twice), to shun their

³²⁰ For more on PPP and MRD see Babar Ali, "Pakistan's Decade of Generals," *Economic and Political Weekly* 22, no. 28 (July 1987):1123-1127.

³²¹ Also known as Pakistan People's Party – Sherpao.

³²² Interview of Aftab Ahmad Sherpao (Qaumi Wattan Party member of the 18th amendment committee) by the author, online, June 18, 2020.

³²³ Interview of Khurshid Ahmad.

³²⁴ Interview of Mehtab Khan Abbasi.

³²⁵ Interview of Ayaz Sadiq.

³²⁶ Interview of Ahsan Iqbal.

³²⁷ See Ayesha Siddiq, "Pakistan Military – Ethnic Balance."

³²⁸ Interview of Ayaz Sadiq.

³²⁹ Based upon the author's interviews.

erstwhile Punjab-centric politics in favour of a more nationally oriented³³⁰ and provincially devolved³³¹ constitutional framework as a means to empower civilians vis-à-vis the military at both federal and regional levels.³³² The PML-N, thus, became a leading force behind both the CoD and the 18th amendment³³³ insofar as it agreed, according to one Punjabi leader of the PML-N, to make a new “social contract to govern the country” – a contract based on “respecting provincial aspirations, rights and powers”³³⁴ within a de-militarised and de-Punjabised constitutional set-up.³³⁵

Nawaz Sharif’s politics reveals a strategic difference between what Punjabi politicians, collaborating with the military, did in the 1950s (when they imposed One Unit in 1955 to consolidate Punjabi hegemony in west Pakistan by merging all four provinces under Lahore’s control),³³⁶ or when the (PML-N led) IJI *opposed* a PPP effort to remove the 8th amendment in 1988,³³⁷ and what Punjab’s leading political force sought to institutionalise in 2010. Through his confrontation with the Punjabi-dominated military,³³⁸ Nawaz was able to get rid of the tag that rendered him a mere extension of the military establishment.³³⁹ But he also developed a political rhetoric that targeted the military generals’ constant political interference – and constitutional tempering – to become, according to Nawaz himself, “super-prime ministers.”³⁴⁰

Nawaz Sharif’s ability to overshadow the military was strengthened by his own popularity in Punjab and his growing relations with regional parties through platforms like the All-Party Democratic Movement (APDM) and the Punjab-based 2007

³³⁰ Interview of Mushahid Hussain Syed.

³³¹ Interview of Afrasiab Khattak.

³³² Interview of Khurshid Ahmad.

³³³ *Ibid.*

³³⁴ Pakistan. *The National Assembly of Pakistan Debates*, April 22, 2009, Vol 12, no. 10, 1190 (Khawaja Mohammad Asif).

³³⁵ Interview of Farhatullah Babar. Babar also talked about a meeting between Nawaz Sharif and Benazir in late 2007 in Pakistan in which the former discussed in detail his plans to establish civil supremacy and strengthen the federation.

³³⁶ See Rizwan Malik, *The Politics of One-Unit: 1955-58* (Lahore: Pakistan Study Centre, University of the Punjab, 1988).

³³⁷ See Anwar H. Syed, “People’s Party and the Punjab: National Assembly Elections, 1988 and 1990,” *Asian Survey* 31, no. 7 (July 1991): 581-597.

³³⁸ By 2009, the PML-N had become the biggest supporter of any move to register a ‘treason case’ against Musharraf under Article 6 of the 1973 Constitution. See Pakistan. *The National Assembly of Pakistan Debates*, August 5, 2009, Vol 15, no. 1-14, 403-404 (Nisar Ali Khan).

³³⁹ Interview of Talat Hussain.

³⁴⁰ M. Ziauddin, “Movement against dictatorship after my arrival: Nawaz,” *Dawn*, September 7, 2007.

Lawyers' Movement that emerged to oppose the military regime of Pervez Musharraf.³⁴¹ Chapter 4 explains how the Lawyers' Movement was not limited to the restoration of the judiciary but played a key role in pushing for ethnically decentralising constitutional change. In the next section, I show how that Movement, like the CoD, was informed by civil-military institutional tensions *within* Punjab.

4. The Lawyers' Movement: Resisting a Military Dictator and Mobilising Punjab

While the Lawyers' Movement in Pakistan is generally credited for the role it played in the reinstatement of a Supreme Court Chief Justice (CJ) and his colleagues,³⁴² allowing the Judiciary to open new forms of political engagement through judicial populism,³⁴³ there is very little appreciation for the ways in which this Movement was inspired not just by the ideals of an independent judiciary, but mainly by a longstanding civil-military (and ethnic) imbalance in Pakistan. As Waseem Sajjad, who was part of the ruling PML-Q at the time, said, the Movement "was basically not a pro-judiciary movement; it was anti-Musharraf movement," which got its spark from the influence of the PML-N.³⁴⁴ As Matiullah Jan, who covered the movement first-hand as a news reporter, said, "the Movement could not have happened the way it happened" if the PML-N had not supported it.³⁴⁵ This support became possible due to the PML-N's transformation into an anti-establishment party, which rendered "the Punjabi-dominated system of Pakistan no longer sustainable."³⁴⁶

The PML-N did not create the Lawyers' Movement. The 2007 Lawyers' Movement was instead the continuation of a struggle that lawyers had been pursuing since the 1980s against military dictators and their ethnically centralising constitutional amendments (which, as discussed above, created a centralised presidential system on the one hand, and rendered provinces and smaller ethnicities powerless on the

³⁴¹ Based upon the author's interviews.

³⁴² See, for instance, *Daud Munir*, "Struggling for the Rule of Law: The Pakistani Lawyers' Movement," *Middle East Report*, no. 251 (Summer 2009): 37-41.

³⁴³ See "The Pakistani Lawyers' Movement and the Popular Currency of Judicial Power," *Harvard Law Review* 123, no.7 (May 2010): 1705-1726.

³⁴⁴ Interview of Waseem Sajjad (Pakistan Muslim League - Quaid member of the 18th amendment committee) by the author, Islamabad, December 7, 2020.

³⁴⁵ Interview of Matiullah Jan.

³⁴⁶ *Ibid.*

other).³⁴⁷ During the 1980s, the lawyer’s community rose against General Zia-ul-Haq,³⁴⁸ and in the early 2000s against General Musharraf as well.³⁴⁹ Even before the emergence of the Lawyers’ Movement in 2007, lawyers were already trying to mobilise against Musharraf’s (2002) Legal Framework Order (LFO).³⁵⁰

While earlier mobilisations against Musharraf, lacking party-political support, did not have much success – in fact, most of the LFO amendments were ratified through the 17th amendment in 2003 – the lawyers’ struggle against both the 8th and, later, the 17th amendments³⁵¹ still became synonymous, according to an activist involved in the Movement, with struggles for provincial autonomy that, for example, had been going on in other (non-Punjabi) provinces for decades.³⁵² “The wood,” as Aitzaz Ahsan, a key leader of the Movement said, “was already dry” and the lawyers’ agitation provided the hitherto missing “spark” that turned it into “an inferno.”³⁵³

With Punjab being the centre of the Movement, agitation in this province, Ahsan stressed, became the biggest challenge the military had hitherto faced.³⁵⁴ The “Lahore-based civil society [groups] became radical” against the Musharraf regime, said another Lahore-based leader of the Labour Party of Pakistan (LLP),³⁵⁵ who also said that “if the movement had not grown out of Punjab, and if Punjab had not played any role in the movement, it would not have been successful.”³⁵⁶ Without this Punjab-based movement, according to the Chairman of the 18th amendment committee, the Musharraf regime might have stayed in power and buried the whole question of constitutional reform.³⁵⁷

³⁴⁷ Interview of Hamid Khan (Leader of the Lawyers’ Movement) by the author, Lahore, November 18, 2019.

³⁴⁸ Interview of Abid Hassan Manto.

³⁴⁹ Interview of Hamid Khan.

³⁵⁰ Ibid.

³⁵¹ Ibid.

³⁵² Interview of Ismat Raza Shahjahan (Lawyers’ Movement activist, People’s Rights Movement) by the author, Islamabad, February 18, 2020.

³⁵³ Interview of Aitzaz Ahsan (Leader of the Lawyers’ Movement) by the author, Lahore, February 21, 2020.

³⁵⁴ Ibid.

³⁵⁵ Interview of Farooq Tariq (Leader of the Labour Party Pakistan, Lawyers’ Movement activist) by the author, Lahore, November 11, 2019.

³⁵⁶ Ibid.

³⁵⁷ Interview of Raza Rabbani.

Even when the Chief Justice (CJ) was restored in July 2007 – which would not have been possible without the agitating lawyers – ³⁵⁸ the Movement did not die out. Instead, a “second phase” of the Movement was launched to bring about a “political change in the country.” ³⁵⁹ This change targeted the politically and ethnically suppressive “mindset of the military, bureaucratic, feudal and capitalist establishment itself.” ³⁶⁰ In fact, the Movement assumed added significance when Musharraf imposed his second martial law in November 2007. As Aitzaz Ahsan asserted, when “Musharraf overstepped again, the immediate issue became the armed forces,” i.e. the leading question was no longer the restoration of the judiciary, but whether the armed forces “should have so much power.” ³⁶¹ Thus, in the words of a Lahore-based student leader of the Movement, the Lawyers’ Movement became a proxy, *with massive support in Punjab*, for addressing a plethora of political issues – “democracy, constitutionalism ... federation, provincial autonomy [as a matter of ethnic decentralisation], civilian supremacy” – that Pakistan had been facing since 1947. ³⁶² The Movement, in simple words, began to challenge the very core of Pakistan’s politically and ethnically centralised system that various military regimes had reinforced via the 8th and the 17th constitutional amendments. ³⁶³

The Lawyers’ Movement’s focus on the constitutional legacies of Zia and Musharraf opened up the possibility for cross-ethnic collaboration, ³⁶⁴ as smaller provinces saw in Punjab a politics that did not reinforce Punjabi domination, but rather united Punjab and Balochistan in pursuing an agenda of de-militarisation and constitutional reform. ³⁶⁵ For example, while Punjab-based political groups saw this movement as a struggle against Musharraf’s constitutional legacies, ³⁶⁶ for regional political parties, such as the Balochistan-based NP, the very linchpin of their participation in the Movement was their concern “for the political future of provincial autonomy in the

³⁵⁸ Interview of Munir A. Malik (Leader of the Lawyers’ Movement) by the author, Islamabad, November 20, 2019.

³⁵⁹ Ali Hazrat Bacha, “Lawyers launch drive against military rule,” *Dawn*, July 24, 2007.

³⁶⁰ Munir A. Malik, *The Pakistan Lawyers’ Movement: An Unfinished Agenda* (Karachi: Pakistan Law House, 2008), 77.

³⁶¹ Interview of Aitzaz Ahsan.

³⁶² Interview of Ammar Rashid (Lawyers’ Movement activist, Civil society) by the author, online, April 21, 2020.

³⁶³ Interview of Hamid Khan.

³⁶⁴ Based upon the author’s interviews.

³⁶⁵ Interview of Munir A. Malik.

³⁶⁶ Interview of Farooq Tariq.

post-Musharraf era” rather than the restoration of the judiciary.³⁶⁷ The Movement, thus, brought Punjab’s “democratic forces” in alliance with “democratic forces from other provinces.”³⁶⁸

What made this combination of political parties, civil society groups, and lawyers particularly lethal for constitutional forms of ethnic centralisation was the fact that the Movement, of all the four provinces of Pakistan, “was strongest in Punjab,”³⁶⁹ the military’s traditional heartland, where “Nawaz Sharif helped lawyers” owing to his tussle with the Musharraf regime.³⁷⁰ The Lawyers’ Movement, thus, directly reinforced existing intra-ethnic civil-military institutional tensions at a popular level in Punjab. For example, when charged crowds of Punjabi lawyers or Punjab-based civil society groups and political parties raised slogans like “death to dictatorship” or called military dictatorship the “mother of all evils”³⁷¹ and wrote poems to “ridicule” the Musharraf regime,³⁷² it reinforced popular and political fissures within the dominant province/ethnicity, showing “a qualitative change in Punjab.”³⁷³

A key factor that reinforced the Movement’s anti-regime politics was the PML-N’s pro-active involvement.³⁷⁴ Nawaz Sharif’s open support was declared very early in the Movement when he said that “uniform rule” was the reason for the country’s breakup in 1971 and the weakening of the federation.³⁷⁵ It was therefore imperative, he asserted later, that the “whole country rises, the nation rises, against military interventions.”³⁷⁶ Nawaz’s anti-military stance and his close association with the anti-military Lawyers’ Movement also reinforced political divisions in Punjab, as he stood in opposition to the Punjabi-dominated military, its ethnically centralised system (see next chapter), and its distortions of the 1973 Constitution. Nawaz intervened to end a

³⁶⁷ Interview of Akram Dashti (National Party Senator) by the author, Islamabad, March 4, 2020.

³⁶⁸ Interview of Taj Haider.

³⁶⁹ Interview of I.A. Rehman.

³⁷⁰ Ibid.

³⁷¹ “Lawyers undeterred by sweltering heat,” *Dawn*, May 3, 2007.

³⁷² “Lawyers stick to their guns,” *Dawn*, July 5, 2007.

³⁷³ Interview of Abid Saqi (Lawyers’ Movement activist) by the author, Lahore, November 13, 2019.

³⁷⁴ The PML-N’s *Lawyers Forum* was active in the Movement.

³⁷⁵ “Nawaz Says ‘uniform rule’ an insult to nation.”

³⁷⁶ Ashraf Shad, “Change is imminent, claims Nawaz,” *Dawn*, April 16, 2007.

constitutional system of ethnic domination ensured by the Punjabi dominated military dictatorships.³⁷⁷

With a Punjab-based – and arguably Pakistan’s one of the largest– political party resisting the Punjabi-dominated military’s direct and indirect interference in politics, entering into the cross-ethnic CoD in 2006, supporting the London MPC in 2007 and extending political and financial support to the Lawyers’ Movement against the Musharraf regime in 2007, *intra*-ethnic institutional divisions driving the core political process of constitutional forms of ethnic decentralisation via the 18th amendment in the ethnic majoritarian state of Pakistan become evident.

As the evidence presented in this chapter shows, it was institutional *intra*-ethnic division in Punjab that primarily distinguished the politics of ethnic decentralisation, as it evolved post-2006, from previous movements of ethnic decentralisation triggered and led by non-Punjabi leaders in Pakistan’s non-dominant (non-Punjabi) provinces. For instance, when a Baloch nationalist leader, Akbar Bugti, demanded Balochistan’s control over its natural resources, the military regime launched a military operation and killed him in 2006. But when Punjab, led by Nawaz Sharif, mobilised against the same regime in 2007, the outcome was the 18th constitutional amendment that did address, *constitutionally*, a core Baloch demand for control over natural resources. But before I discuss the passage of the 18th amendment, the next chapter explains the ‘deep politics’ of the (Punjab-based and PML-N backed) Lawyers’ Movement (2007-2009) to address broader structural and constitutional questions involving the political process of ethnic decentralisation. Thus, the next chapter foregrounds how the CoD’s elite cross-ethnic political consensus on ethnic decentralisation transformed into a popularly backed national consensus via the Lawyers’ Movement.³⁷⁸

³⁷⁷ Interview of Ahsan Iqbal.

³⁷⁸ *Ibid.*

The Lawyers' Movement and the Politics of the 18th Amendment in Pakistan

Uncovering the 'deep politics' of the Lawyers' Movement, this chapter shows how the Movement, led by lawyers, civil society actors, and political parties, directly pushed for Pakistan's ethnic decentralisation via demilitarisation and constitutional reforms stressing provincial autonomy. Further, the Movement's mobilisation in Punjab and its alliance with the PML-N reinforced intra-ethnic divisions by turning Pakistan's largest province against the Punjabi-dominated military and, then, forcing the subsequent PPP-led government to implement the CoD (undoing the military's 17th amendment and institutionalising political and fiscal autonomy for Pakistan's ethnic provinces through the 18th amendment).

1. Introduction: Reclaiming the 'Deep Politics' of the Lawyers' Movement

As discussed in the last section of the previous chapter, the Lawyers' Movement was a mobilisation against the dominance of the country's military. When General Pervez Musharraf, a military dictator, unconstitutionally dismissed Iftikhar Muhammad Chaudhary, the CJ of the Pakistan Supreme Court, his decision reinforced an existing civil-military institutional imbalance,³⁷⁹ indeed, an absolute centralisation of power around a Punjabi-dominated military regime.³⁸⁰ According to one Lawyers' Movement activist, this institutional imbalance and centralisation of power underscored the need to "end military dictatorship," decentralise power, and end the systematic "oppression of nationalities" – particularly in Balochistan at the hands of a military dictatorship.³⁸¹

The CJ's dismissal by a military dictator triggered a mass movement that entailed dismantling, according to a key (Punjabi) leader of the Movement, the politically and ethnically centralised "structure of the state"³⁸² in ways that, according to another

³⁷⁹ For a study on the judiciary's tussle with and struggle for independence from the military and the parliament in Pakistan see Anil Kalhan, " "Gray Zone" Constitutionalism, and the Dilemma of Judicial Independence in Pakistan," *Vanderbilt Journal of International Law* 46, no. 1 (January 2013): 1-96.

³⁸⁰ Based upon the author's interviews.

³⁸¹ Interview of Ismat Reza Shahjahan (Lawyers' Movement activist, People's Rights Movement) by the author, Islamabad, February 18, 2020.

³⁸² Interview of Aitzaz Ahsan (Leader of the Lawyers' Movement) by the author, Lahore, February 21, 2020.

Punjab-based leader of the Movement, pushed the Punjabi-dominated military out of politics by abolishing the “legacies of military rule” while, at the same time, institutionalising “provincial autonomy.”³⁸³ These objectives were achieved by cleansing the 1973 Constitution of two key amendments – the 8th (1985) and the 17th (2003) constitutional amendments introduced, respectively, by General Zia-ul-Haq and General Pervez Musharraf.³⁸⁴

As Raza Rabbani, chairman of the 18th amendment committee argued, the Lawyers’ Movement “gave an impetus [and] established a trend, which we followed” while drafting the 18th amendment.³⁸⁵ Even for the deposed CJ himself, the core purpose of the Movement was to defeat a military dictatorship and de-militarise politics by effecting a structural transformation of the state through a restoration of the 1973 Constitution,³⁸⁶ because “states cannot survive under dictatorships” and there was a need to “learn from the history” of Pakistan’s disintegration at the hands of military dictatorship in 1971 when the largest ethnic group (the Bengalis) was denied power.³⁸⁷

The Movement’s call for ending military dictatorship and restoring the 1973 Constitution did not exclude the issue of “provincial autonomy.”³⁸⁸ Instead, that issue was placed at the forefront, not only because Musharraf’s 17th amendment kept provincial governments, as mentioned in the previous chapter, politically dependent on the Centre (Article 112), but also because the regime continued to violently suppress ethnic mobilisation in marginalised provinces like Balochistan.³⁸⁹ In this context, the Movement’s focus on provincial autonomy echoed a core demand that Pakistan’s marginalised ethnic groups from Balochistan³⁹⁰ and Sindh³⁹¹ had long been raising, and that activists in Punjab, led by the PML-N, now supported (via the

³⁸³ Interview of Hamid Khan (Leader of the Lawyers’ Movement) by the author, Lahore, November 18, 2019.

³⁸⁴ Ibid.

³⁸⁵ Interview of Raza Rabbani (Pakistan People’s Party Senator/chairman of the 18th amendment committee) by the author, online, July 27, 2020.

³⁸⁶ “Status quo to remain if Constitution not restored, says CJ,” *Dawn*, July 15, 2007.

³⁸⁷ Asif Shahzad, “States cannot survive under dictatorship: CJ,” *Dawn*, May 7, 2007.

³⁸⁸ “Call for restoration of the 1973 Constitution,” *Dawn*, September 14, 2008.

³⁸⁹ Interview of Ismat Reza Shahjahan.

³⁹⁰ Muhammad Hussain Khan, “New Social Contract, not autonomy needed: Bizenjo,” *Dawn* October 14, 2009.

³⁹¹ “Forum calls for new social contract,” *Dawn*, April 27, 2009.

CoD).³⁹² While specific constitutional changes were made by relevant political parties in 2010, it was the Movement that allowed these parties to develop “a consensus at the national level to implement the Charter of Democracy” and, then, to do the 18th amendment.³⁹³

Triggered by what Gretchen Helmke calls “strategic defection” – ³⁹⁴ a scenario in which a sitting judge or a court previously allied with the existing regime (in this case, the court of Chief Justice Chaudhry) starts to rule against it – the Lawyers’ Movement was different from a typical judicialisation of politics – including the counter-political role of courts in authoritarian regimes (e.g. in Egypt, Chile, Russia, or South Africa), where superior courts themselves played a role in democratising politics through institutional/court interventions.³⁹⁵ Specifically, the mobilisation of the ‘legal complex’ in Pakistan flourished *outside* of the courts themselves,³⁹⁶ with an ousted CJ’s role being to use his speeches to comment on Pakistan’s perennial political and constitutional problems – including “federalism” – “caused by the military dictatorships.”³⁹⁷ This was, as Aitzaz Ahsan pointed out, a strategy to turn the masses against the “military dictator [we were] fighting.”³⁹⁸ This strategy, according to Munir A. Malik, helped turn the lawyers’ mobilisation into a “popular movement” more than a legal battle.³⁹⁹

Whilst the events leading up to the Movement happened in the court,⁴⁰⁰ judicial activism quickly spurred popular resistance, particularly after the CJ was arbitrarily dismissed and his case was taken over by politicised lawyers. Essentially, the ‘moral

³⁹² Saleem Shahid, “Punjab ready to draft new social contract: Shahbaz,” *Dawn*, February 18, 2009.

³⁹³ Interview of Latif Khosa (Pakistan People’s Party leader) by the author, Islamabad, February 24, 2020.

³⁹⁴ See Gretchen Helmke, “The logic of strategic defection: Court-executive relations in Argentina under dictatorship and democracy,” *American Political Science Review* 96, no. 2 (June 2002): 291-303.

³⁹⁵ See Tom Ginsburg, “Courts and New Democracies: New Works,” *Law and Society Inquiry* 37, no. 3 (Summer 2012): 720-742.

³⁹⁶ Interview of Munir A. Malik (Leader of the Lawyers’ Movement) by the author, Islamabad, November 20, 2019.

³⁹⁷ Interview of Aitzaz Ahsan.

³⁹⁸ *Ibid.*

³⁹⁹ Interview of Munir A. Malik.

⁴⁰⁰ In early 2007, the Supreme Court ruled against the regime’s bid to privatize the Pakistan Steel Mills. This was apart from the case on ‘missing persons’ that the CJ himself was hearing.

shock⁴⁰¹ associated with the CJ's dismissal allowed the legal community to translate Musharraf's *unconstitutional* dismissal into a national *political* issue, one that not only reflected underlying civil-military institutional fissures but also allowed the Bar, rather than the court itself, to assume a leading role.⁴⁰² This role was an expansion of the role that bar associations in Pakistan had been playing since the 1970s, when the political issues and debates of the time permeated the legal fraternity, turning them into a body of "political lawyers."⁴⁰³ Beyond the Bar, however, the Lawyers' Movement looked more like what the CJ himself called a popular "uprising"⁴⁰⁴ against military takeovers and the military's tendency to abrogate and amend the constitution to prolong its rule at the expense of the federation.⁴⁰⁵

Although later years have seen a growing tendency toward superior court overreach in political matters ('judicial activism'), it remains that, in 2007-2009, the Lawyers' Movement did not aim at enhancing the judiciary's power vis-à-vis the regime. Instead, it was a "political intervention"⁴⁰⁶ that included the Bar (aligned with political parties and other civil society groups) in a wider movement that sought to achieve a broad structural transformation of the Pakistani state via constitutional reform.⁴⁰⁷ For instance, while a major demand of the Lawyers' Movement focused on restoring the 1973 Constitution,⁴⁰⁸ that demand was also directly tied to a politics of ethnic decentralisation, particularly, as a leader of the Movement stressed, as "the 1973 Constitution ... envisages a federation, which is by default a decentralised system."⁴⁰⁹

⁴⁰¹ James Jasper's idea of "moral shock" refers to an unexpected event that pushes individuals into political action. See James M. Jasper, *The Art of Moral Protest: Culture, Biography and Creativity in Social Movements* (Chicago and London: The University of Chicago Press, 1997).

⁴⁰² Munir A. Malik, *The Pakistan Lawyers' Movement: An Unfinished Agenda* (Karachi: Pakistan Law House, 2008), 18.

⁴⁰³ Yasser Kureshi, "Judicial Politics in a Hybrid Democracy: Pakistan's Judiciary and Political Parties" in *Pakistan's Political Parties: Surviving between Dictatorship and Democracy*, ed. Mariam Mufti et.al (Washington D.C: Georgetown University Press, 2020), 240.

⁴⁰⁴ Iftikhar A. Khan, "Iftikhar urges uprising to save Constitution," *Dawn*, November 7, 2007.

⁴⁰⁵ Rizwan Ullah Kokab, *Lawyers' Movement in Pakistan* (Lahore: Punjab University Press, 2013), 157 - 162.

⁴⁰⁶ Interview of Farooq Tariq (Leader of the Labour Party Pakistan, Lawyers' Movement activist) by the author, Lahore, November 11, 2019.

⁴⁰⁷ Ibid.

⁴⁰⁸ Interview of Hamid Khan.

⁴⁰⁹ Interview of Munir A. Malik.

The Bar had direct linkages with mainstream and regional parties that were following the CoD's ethnically decentralising agenda via the 38-party APDM established in July 2007 in London (see Chapter 5).⁴¹⁰ In fact, the APDM played a key role in turning the first dismissal of CJ Chaudhry in March 2007 into an ethnically decentralising constitutional reform movement.⁴¹¹ By late 2007, both the APDM and the lawyers were mobilising together, in Punjab,⁴¹² for "provincial autonomy" as well as "constitutional reforms."⁴¹³

The central force that united disparate groups in the Movement was not the question of the CJ's restoration.⁴¹⁴ It was, instead, the imperative of propelling the armed forces back to their barracks.⁴¹⁵ According to Hamid Khan, the main goal lay in getting rid of the military's politically and ethnically centralising constitutional system established via "Zia's 8th amendment and Musharraf's 17th amendment."⁴¹⁶ And, as Munir A. Malik said, even if the CJ was restored *without* the military regime sent packing, the dictator could still strike back – as he did, in November 2007, following the first restoration of the CJ in July 2007, to impose his second martial law.⁴¹⁷ This imposition, in fact, helped reinforce the reformist focus of the Movement. As Aitzaz Ahsan explained, the central issue *after* November 2007 was no longer the CJ's restoration but whether the military should have the powers to manipulate the constitution. The main issues were "democracy and constitutionalism."⁴¹⁸

Subsequent conventions held by lawyers – and attended by politicians including the PML-N as well as Baloch nationalists –⁴¹⁹ focused on the restoration of the judiciary and, more forcefully, on "dictatorial contaminations" like the "17th amendment."⁴²⁰ Thus, the Punjabi-dominated military – and its constitutional sources of power –

⁴¹⁰ Leading lawyers were members of political parties. Aitzaz Ahsan belonged to the PPP; Ali Ahmad Kurd had long been an activist of the National Awami Party in Balochistan, and Munir A. Malik, while known as an 'independent revolutionary,' was close to the PML-N. He was subsequently made Pakistan's Attorney General during the PML-N's rule in 2013-14.

⁴¹¹ Based upon the author's interviews.

⁴¹² "APDM, lawyers in a black mood," *Dawn*, September 12, 2007.

⁴¹³ Interview of Ahsan Bhoon (Lawyers' Movement activist) by the author, Lahore, November 18, 2019.

⁴¹⁴ Interview of Munir A. Malik.

⁴¹⁵ Munir A. Malik, *The Pakistan Lawyers' Movement*, 3.

⁴¹⁶ Interview of Hamid Khan.

⁴¹⁷ Interview of Munir A. Malik.

⁴¹⁸ Interview of Aitzaz Ahsan.

⁴¹⁹ Based upon the author's interviews.

⁴²⁰ Bhagwandas, "Constitution to be cleansed: Fakhr," *Dawn*, March 10, 2008.

became the Movement's focus. According to Aitzaz Ahsan – who also wrote revolutionary poems to inspire the masses against dictatorship in favour of a structural change beyond mere judicial restoration – the key goal of the Movement, as he explained in one of his famous poems,⁴²¹ was to transform Pakistan into a state that will treat its people equally and irrespective of their religion, caste, and ethnicity.⁴²² This evidence directly challenges the notion that the Lawyers' Movement was confined to a matter of judicial politics or, for that matter, civil-military relations alone.⁴²³

Led by a politically connected legal fraternity and supported by non-lawyer groups, I reclaim the 'deep politics' of the Movement and argue that the Movement consciously reinforced an evolving political convention (the CoD) within which constitutional reforms involving ethnic decentralisation (through a reversal of the military dictatorship's constitutional footprint and a thorough institutionalisation of provincial autonomy) became indispensable.

As Pervez Rasheed of the PML-N explained, this was a "politics of restoration and reformation" of the 1973 Constitution as framed in the CoD.⁴²⁴ While the Lawyers' Movement did not officially embrace the CoD – which provided the blueprint for ethnically decentralising constitutional reforms – as its own political programme, it remains that one of the important purposes of the Movement's final Long March from Lahore to Islamabad in March 2009 – financed and led by the PML-N –⁴²⁵ was, apart from pressing for judicial restoration, to compel the PPP government to implement the CoD.⁴²⁶ To a significant extent, that goal reflected the Movement's ethnically decentralising constitutional focus, which set in motion a "political process that was irreversible."⁴²⁷

⁴²¹ The title of this poem was *Riyasat Hogi Maan kay Jaisi* (The State will be like a Mother!).

⁴²² Interview of Aitzaz Ahsan.

⁴²³ Shahid Javed Burki, "The 18th Amendment: Pakistan's Constitution Redesigned," *ISAS Working Paper*, no. 112 (September 2010): 9.

⁴²⁴ Interview of Pervez Rasheed (Pakistan Muslim League-Nawaz Senator) by the author, Islamabad, February 18, 2020.

⁴²⁵ Based upon the author's interviews.

⁴²⁶ Rizwan Ullah Kokab, *Lawyers' Movement in Pakistan*, 168.

⁴²⁷ Interview of Munir A. Malik.

2. Contesting the Military Order: The Bar and the Politics of Ethnic Decentralisation

The preceding discussion challenges the notion that the Movement's only agenda item was tied to the independence of the judiciary.⁴²⁸ As one lawyer explained, the Movement was about transforming the structure of the state – a change that would “restore the democratic process,” ensure “subordination of the [Punjabi dominated] military to elected civilian authority,”⁴²⁹ and “establish provincial autonomy.”⁴³⁰ Accordingly, when a Student Action Committee (SAC) allied with the lawyers carried out a protest in Lahore on December 17, 2007, their target was the Punjabi-dominated military dictatorship “bent upon breaking up Pakistan like Yahya Khan” – the military dictator (1969-1971) whose refusal to transfer power to ethnic Bengalis led to Pakistan's disintegration in December 1971.⁴³¹ (This reference, in 2007, to the threat that Pakistan's territorial integrity was facing emerged because the Punjabi-dominated military had killed a prominent Baloch nationalist leader, Akbar Bugti, only a year earlier, leading to another large-scale separatist insurgency in Balochistan.⁴³²)

But, even though “Balochistan was burning,”⁴³³ it was not immediately clear to the lawyers' community or the other social and political actors involved in the Movement that any ethnically decentralising constitutional reform would be realised through the 18th constitutional amendment.⁴³⁴

Issues like provincial autonomy were a part of the Movement's political discourse,⁴³⁵ however, even before the CJ's dismissal in March 2007. After Munir A. Malik became president of the Supreme Court Bar Association (SCBA) in December 2006, for instance, he led its executive committee to pass two resolutions at its next meeting on 29 December 2006. The first resolution authorised the president of the SCBA to develop a strategy to organise a protest movement against Musharraf's “fraud against the Constitution” (the 17th amendment). The second resolution focused on ethnic

⁴²⁸ Anatol Lieven, *Pakistan: A Hard Country* (London: Penguin Books, 2011), 116.

⁴²⁹ Khalid Jawed Khan “What Lawyers Want,” *Dawn*, October 11, 2007.

⁴³⁰ Interview of Hamid Khan.

⁴³¹ “Protest march against amendments,” *Dawn*, December 18, 2007.

⁴³² Interview of Ismat Reza Shahjahan.

⁴³³ *Ibid.*

⁴³⁴ Interview of Hamid Khan.

⁴³⁵ Interview of Aitzaz Ahsan. Several other interviewees also made the same point about the Bar's pro-devolution stance.

decentralisation. In particular, the SCBA decided to put its weight behind the people of Balochistan in their struggle to (a) “gain control of their own natural resources” and (b) achieve “greater provincial autonomy.”⁴³⁶ The SCBA executive committee also resolved to push against the (Punjabi-dominated) ruling establishment’s brutal suppression of the constitutional rights of the (Pashtun) people of Waziristan.⁴³⁷

Hamid Khan, one of the key leaders of the Lawyers’ Movement, said that these demands were a logical outcome of “twenty-years of constitutional tempering” by the military regimes of General Zia-ul-Haq and General Pervez Musharraf,⁴³⁸ which had imposed, as discussed in the previous chapter, a centralised presidential system under the domination of a Punjabi-dominated military and civil bureaucracy. When the Lawyers’ Movement emerged in March 2007 and flourished in subsequent years under the leadership of lawyers like Munir A. Malik (2006-2007), Aitzaz Ahsan (2007-2008), and Ali Ahmad Kurd (2008-2009) as SCBA presidents,⁴³⁹ then, the ‘legal complex’ was simply following a political agenda that the SCBA had set in December 2006. Again, the Movement was not, even in its very early phase,⁴⁴⁰ confined to narrow objectives like the restoration of the CJ.

When lawyers decided to take their views out of the bar associations to the cities and the people⁴⁴¹ with a series of addresses starting from Rawalpindi on 21 March 2007, the CJ never spoke about his dismissal by the military regime. Instead, he consistently and deliberately commented, often echoing the anti-dictatorship and pro-ethnic-decentralisation ideas of the CoD,⁴⁴² on a need to transform the existing structure of the state. Significantly, the CJ’s addresses were scripted speeches⁴⁴³ prepared by his counsel, Aitzaz Ahsan and Munir A. Malik,⁴⁴⁴ to address larger political issues – not

⁴³⁶ Munir A. Malik, *The Pakistan Lawyers’ Movement*, 32-33.

⁴³⁷ Ibid.

⁴³⁸ Interview of Hamid Khan.

⁴³⁹ A number of these lawyers like Kurd, Munir and Hamdi Khan were already involved in the struggle against Musharraf’s LFO since 2002.

⁴⁴⁰ See Sahar Shafqat, “Civil Society and the Lawyers’ Movement of Pakistan,” *Law and Social Inquiry* 43, no. 3 (Summer 2018): 889-914.

⁴⁴¹ As Aitzaz Ahsan contended in his interview, the decision to mobilise the general masses and take the Movement out of the Bar was deliberate. The lawyers’ community alone could never have pulled off a fight against a powerful military regime.

⁴⁴² Asif Shahzad, “States cannot survive under dictatorship.”

⁴⁴³ Interview of Aitzaz Ahsan.

⁴⁴⁴ Munir A. Malik’s association with Aitzaz was not coincidental. In fact, Aitzaz was already directly involved in Munir A. Malik’s 2006 case in which the latter had challenged the recount of votes in the

only because their target was now the military regime and its constitutional legacies (such as the 17th amendment),⁴⁴⁵ but also because it was crucial to develop “an appropriate message” – which included the question of “the military’s involvement in politics across Punjab and Balochistan” - ⁴⁴⁶ including “decentralisation and democratisation”⁴⁴⁷ i.e., de-Punjabisation and de-militarisation.

With the ‘legal complex’ generating a counter-political narrative focused on core political and structural issues – including federalism – the legal fraternity was able to break out of its narrow focus on judicial power.⁴⁴⁸ It was also successful in developing a pro-ethnic decentralisation agenda. As a leading lawyer of the Movement belonging to the PML-N’s *Lawyers Forum* argued, a crucial

“ ... reason why demands like repealing the 17th amendment and restoring [and reforming] the 1973 constitution became a part of the Movement was because a demand from provinces had been coming with regards to the[ir] lack of autonomy and not enough finances.”⁴⁴⁹

It is for the same reason that the Movement embraced Baloch demands for greater provincial control of natural resources.⁴⁵⁰ Therefore, by June 2007, as the CJ’s restoration looked increasingly possible, the Movement’s chief proponents⁴⁵¹ stressed that the logical end of the Movement was not just judicial restoration, but the creation of a truly representative and democratic federal dispensation.⁴⁵² Their whole narrative against the military’s interference in politics was inadvertently bolstered by Pervez Musharraf’s decision to get himself re-elected as president in October 2007. His decision, however, had the effect of convincing leaders of the Lawyers’ Movement to

SCBA elections of 2006. Munir eventually won the case and became the SCAB president in late 2006. This was the beginning of the formation of a “Dream Team” that would later defend the CJ, and transform the ‘legal complex’ into a political movement. See Munir A. Malik, *The Pakistan Lawyers’ Movement*, 30-72.

⁴⁴⁵ Interview of Hamid Khan.

⁴⁴⁶ Interview of Munir A. Malik.

⁴⁴⁷ Interview of Abid Hassan Manto (Lawyers’ Movement activist) by the author, Lahore, November 18, 2019.

⁴⁴⁸ Ibid.

⁴⁴⁹ Interview of Naseer Ahmad Bhutta (Pakistan Muslim League-Nawaz member, Lawyers’ Movement Activist) by the author, Islamabad, November 25, 2019.

⁴⁵⁰ Ibid.

⁴⁵¹ As Munir A. Malik noted during his interview, although some people did not want to continue to agitate beyond the restoration for a meaningful political change in Pakistan, pro-agitation factions ultimately prevailed and continued to pursue the agenda we had set from the very early phase of the Movement.

⁴⁵² Ali Hazrat Bacha, “Lawyers launch drive against military rule,” *Dawn*, July 24, 2007.

continue their movement until a federal parliamentary democracy and the 1973 Constitution were restored and reformed.⁴⁵³ It was for this reason that lawyers petitioned against Musharraf's re-election bid,⁴⁵⁴ and it was for the same reason that the Movement continued to press for constitutional change (e.g. undoing the ethnically centralising 17th amendment) because, as the 3 November emergency (i.e. Musharraf's second martial law) – which Musharraf imposed fearing a decision against his re-election from the Supreme Court – and the second deposition of the CJ showed, the “root cause” of the whole crisis was the military's interference in politics.⁴⁵⁵ As such, the solution involved reforming the existing constitutional system to prevent such interventions and manipulations in the future.⁴⁵⁶

What added to the Movement's politically and structurally transformative character was its ability to unsettle the politics of Pakistan through its mobilisation in Punjab⁴⁵⁷ against a regime that was dominated by the Punjabi-dominated military establishment (and supported, politically, in the national and provincial Assemblies, by the Punjab-based PML-Q).⁴⁵⁸ The fact that the Movement's most crucial speeches were delivered in Punjab,⁴⁵⁹ the military establishment's heartland, allowed it to mobilise *intra*-Punjab divisions and, eventually, overpower the country's pro-establishment forces⁴⁶⁰ to push for restoring the 1973 Constitution in ways that promised to give provincial autonomy to the provinces.⁴⁶¹ As Nawaz Sharif declared, the fact that anti-military sentiment brought “together .. people from all provinces in Pakistan ... exploded the myth that the people of Punjab were partners of authoritarian regimes or that they had no concern for grievances of smaller provinces.”⁴⁶² This was, in the words of I.A. Rehman, a clear manifestation of the PML-N's central role in the politics of reducing “Punjab's domination of Pakistan.”⁴⁶³

⁴⁵³ Interview of Hamid Khan.

⁴⁵⁴ Ibid.

⁴⁵⁵ Munir A. Malik, *The Pakistan Lawyers' Movement*, 52.

⁴⁵⁶ Interview of Munir A. Malik.

⁴⁵⁷ Interview of Ahsan Bhoon.

⁴⁵⁸ Interview of I.A. Rehman (Lawyers' Movement activist, Civil society) by the author, Islamabad, December 4, 2019.

⁴⁵⁹ For a very detailed description of the Movement's mobilisation in Punjab see Rizwan Kokab, *Lawyers' Movement in Pakistan*, 289-359.

⁴⁶⁰ Interview of Abid Saqi (Lawyers' Movement activist) by the author, Lahore, November 13, 2019.

⁴⁶¹ Interview of I.A. Rehman.

⁴⁶² “Judicial Crisis has united people of four provinces,” *Dawn*, May 9, 2007.

⁴⁶³ Interview of I.A. Rehman.

Thus, with help from the PML-N, the reception that the CJ's caravans received in northern and central Punjab (the military's main recruitment region), including Lahore,⁴⁶⁴ made a strong impact on the military establishment, crippling its ability to suppress the Movement through any direct use of excessive force.⁴⁶⁵ At the same time, the mobilisation of anti-establishment groups combined with a growing realisation within Punjab-based parties, like the PML-N, that Pakistan could no longer survive under a militarised (politically and ethnically centralised) polity.⁴⁶⁶ It was for this reason that Nawaz Sharif, even when he was still in exile, started "injecting his political and financial resources into the movement"⁴⁶⁷ "to weaken the regime and implement the Charter of Democracy."⁴⁶⁸ But for the PML-N's direct support of a largely Punjab-based Lawyers' Movement, Musharraf would have remained in power and the CoD would have remained a mere agreement-on-paper.⁴⁶⁹

With Punjab "mobilising against the military,"⁴⁷⁰ it emerged as the intra-ethnic epicentre of the Lawyers' Movement,⁴⁷¹ affecting not only political parties and civil society but elite university campuses as well.⁴⁷² As a LUMS-based student leader explained with references to existing "divisions" in Punjab and how the Movement "pushed those divisions" towards ethnic decentralisation,

"The Lawyers' movement broadened the cross-party consensus [CoD] and included a significant chunk of the masses, including even university students, into the politics of constitutional change, allowing these common sections of society to learn, publicly debate, and support questions of constitutionalism, federalism and provincial autonomy."⁴⁷³

Thus, it was Punjab's new *intra*-ethnic political debate – which included the PML-N – that provided the basis for a new *inter*-ethnic consensus around provincial autonomy

⁴⁶⁴ Ayaz Ameer, "Thy Turn, Beloved Punjab," *Dawn*, May 4, 2007.

⁴⁶⁵ Based upon the author's interviews.

⁴⁶⁶ Interview of Abid Saqi.

⁴⁶⁷ Interview of Ahsan Bhoon.

⁴⁶⁸ Interview of I.A. Rehman.

⁴⁶⁹ Based upon the author's interviews.

⁴⁷⁰ Interview of Zahoor Khan (Lawyers' Movement activist, People's Rights Movement) by the author, Islamabad, February 19, 2020.

⁴⁷¹ See Nisar Laghari, "The Lawyers' Movement: The Punjab supports a popular democratic movement for the first time," *Labour Struggle* (July 30 - August 5, 2009): 20-21.

⁴⁷² Issam Ahmed, "LUMS and BNU echo with anti-emergency chants," *Dawn*, November 9, 2007.

⁴⁷³ Interview of Ammar Rashid (Lawyers' Movement activist, Civil society) by the author, online, April 21, 2020.

and ethnic decentralisation through the 18th amendment.⁴⁷⁴ When the 18th amendment emerged and the concurrent list was removed, it was, as a leader of the Movement stressed, just “a logical outcome of the Movement” - ⁴⁷⁵ a political mobilisation that included not just politicians and lawyers but civil society as well.

3. Civil Society and the Struggle for Ethnic Decentralisation

While the Movement’s strong presence in Punjab became one of the biggest challenges for the regime,⁴⁷⁶ its effectiveness vis-à-vis the political process of the 18th amendment was enhanced by the support that civil society groups provided, not just to restore the judiciary but to push for a constitutional shift involving ethnic decentralisation. Civil society groups like the Bar were already struggling to mobilise people against the (Punjabi-dominated) military dictatorship⁴⁷⁷ and its legacies, “including ... its oppression of ethnic minorities.”⁴⁷⁸ Therefore, various civil society groups saw, in the contentious political landscape created by the Movement, an opportunity to reinforce specific demands for a constitutional transformation of the state focusing on ethnic decentralisation⁴⁷⁹ via the “emancipation of the oppressed.”⁴⁸⁰

The question of addressing ethnic deprivations and protecting the rights of “smaller provinces,” including “Balochistan and other tribal areas,” was thus a vital part of civil society’s involvement in the Movement.⁴⁸¹ Civil society groups mobilised around these constitutional and political issues, not merely because they were stirred into action by the CJ’s dismissal but mainly because these groups saw in this Movement an opportunity to push for the military’s more permanent exit from politics.⁴⁸² The CoD was a crucial reference point in this struggle insofar as civil society groups, as I.A. Rehman recalled, had been pushing, since the 1999 coup, both

⁴⁷⁴ A number of my non-lawyers interviewees strongly expressed this point.

⁴⁷⁵ Interview of Hamid Khan.

⁴⁷⁶ Interview of Aitzaz Ahsan.

⁴⁷⁷ Interview of Taimur Rehman (Lawyers’ Movement activist, Civil society) by the author, Lahore, February 29, 2020.

⁴⁷⁸ Interview of Farooq Tariq.

⁴⁷⁹ Chaudhary Mohammad Akram Advocate, “Great National Struggle,” *People’s Resistance: A Mouthpiece of the People’s Rights Movement* (April-May 2007): 5-6.

⁴⁸⁰ “Call for unity of the left,” *Dawn*, March 6, 2007.

⁴⁸¹ “Intellectuals demand return to constitutional rule,” *Dawn*, November 13, 2007.

⁴⁸² Based upon the author’s interviews.

the PPP and the PML-N to come to an agreement for a joint struggle against the “worst enemy” of all i.e., the military. In this context, “the [bi-party, multi-ethnic] pact served its purpose,” both during and after the Movement.⁴⁸³

In this context, when the CJ was dismissed, civil society organisations became involved in protests as early as 13 March 2007.⁴⁸⁴ The response was quick and spontaneous, because civil society, like political parties and the ‘legal complex,’ saw in the dismissal of the CJ an opportunity to turn “the issue [of the CJ’s ouster] into a revolution.”⁴⁸⁵ It was in fact civil society’s focus on questions of the military interference⁴⁸⁶ and the centralised structure of the Pakistan state⁴⁸⁷ that helped transform the CoD from an inter-party consensus into a popular “national consensus”⁴⁸⁸ focused “on questions of constitutionalism, federalism, and provincial autonomy.”⁴⁸⁹

The debate on constitutionalism, which resounded on university campuses in Lahore,⁴⁹⁰ Rawalpindi, and Islamabad,⁴⁹¹ was not only about the rule of law. It also focused on how the constitution “was connected with the question of distribution of [political and economic] resources at both national and provincial levels.”⁴⁹² Reinforcing the CoD, civil society organisations⁴⁹³ made a very explicit demand for “autonomy to all federating units” and demanded an “end [to] the concurrent list.”⁴⁹⁴ These “slogans,” according to Khurshid Ahamd of the Islamist JI, who served as a member of the 18th amendment committee, reinforced the “old demand for provincial

⁴⁸³ Interview of I.A. Rehman.

⁴⁸⁴ “Civil Society groups to support lawyers,” *Dawn*, March 14, 2007.

⁴⁸⁵ “Call to turn CJP issue into revolution,” *Dawn*, May 18, 2007.

⁴⁸⁶ Interview of I.A. Rehman.

⁴⁸⁷ Interview of Ammar Rashid. Ammar also launched an online magazine during the Movement called ‘The Emergency Times.’

⁴⁸⁸ Interview of Ahsan Iqbal (Pakistan Muslim League-Nawaz member of the 18th amendment committee) by the author, Islamabad, March 3, 2020.

⁴⁸⁹ Interview of Ammar Rashid.

⁴⁹⁰ Issam Ahmed and Mansoor Malik, “Emergency draws fierce on-campus ire,” *Dawn*, November 8, 2007.

⁴⁹¹ Khawar Ghumman, “Judicial crisis resonates on campuses,” *Dawn*, March 19, 2007.

⁴⁹² Interview of Ammar Rashid.

⁴⁹³ My interviewees confirmed that their constellation included Punjabis and people from almost all ethnic groups of Pakistan.

⁴⁹⁴ “Civil society launches ‘people’s agenda’ for polls,” *Dawn*, December 20, 2007.

autonomy” in Pakistan, and as a “twin process” directly informed debates regarding the 18th amendment.⁴⁹⁵

The fact that civil society, like the ‘legal complex,’ was able to develop a ‘radical’⁴⁹⁶ political agenda was not only tied to the political environment within which it was operating but also to the way the Movement created a “contingent space” for smaller political groups to target the military.⁴⁹⁷ In fact, as a civil society activist stressed, an overarching narrative regarding “worsening relationships between the Centre and the provinces and among the provinces” had the effect of making “provincial autonomy” a central part of the Movement.⁴⁹⁸

Civil society’s demand for provincial autonomy (ethnic decentralisation) reflected both the CoD and the ‘revolutionary agenda’ set up by Aitzaz Ahsan and Ali Ahmad Kurd, which many political groups, and even music bands like *Laal*,⁴⁹⁹ newspapers like *Dawn*,⁵⁰⁰ news channels like *Geo News*⁵⁰¹ and *Aaj TV*,⁵⁰² and civil society groups like the People’s Rights Movement (PRM) used to push for the right to “self-determination for the oppressed minorities.”⁵⁰³ The fact that groups like the PRM and *Laal* were based in Punjab and run by Lahore-based academics also spoke volumes about the significant “change” that took place in Punjab through the Movement.⁵⁰⁴ According to a PRM activist, this change reinforced “divisions within Punjab”⁵⁰⁵ and allowed parties like the PML-N “to bring a political change [via elections] to implement the [ethnically decentralising] Charter of Democracy.”⁵⁰⁶

⁴⁹⁵ Interview of Khurshid Ahmad (Jamiat-i-Islami member of the 18th amendment committee) by the author, online, June 25, 2020.

⁴⁹⁶ Interview of Farooq Tariq.

⁴⁹⁷ Interview of Taimur Rehman.

⁴⁹⁸ Ibid.

⁴⁹⁹ Interview of Zahoor Khan.

⁵⁰⁰ During the Movement’s years (2007-09), *Dawn* published many editorials that supported provincial autonomy and a redistribution of resources between the Centre and the provinces. See, for instance, “Fix the Structure,” *Dawn*, March 18, 2009.

⁵⁰¹ Interview of Hamid Mir (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 11, 2019. Mir’s talk show was banned.

⁵⁰² Interview of Talat Hussain (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 10, 2019. Talat would often live-stream protests when most other channels would not.

⁵⁰³ Interview of Aasim Sajjad Akhtar (Lawyers’ Movement activist, People’s Rights Movement) by the author, online, May 9, 2020.

⁵⁰⁴ Interview of Abid Saqi.

⁵⁰⁵ Interview of Ismat Reza Shahjahan.

⁵⁰⁶ Ibid.

Even after Musharraf's exit in August 2008,⁵⁰⁷ these politically connected⁵⁰⁸ civil society groups – and lawyers – continued to push a “demand for provincial autonomy.”⁵⁰⁹ This was hugely consequential for the 18th amendment. As Afrasiab Khattak, who represented the (Pashtun) ANP in the 18th amendment committee said, the 18th amendment was a product of “the political atmosphere” created by the Movement through its demands and slogans.⁵¹⁰ The discourse generated by civil society was not confined to bolstering the ‘legal complex’ vis-à-vis the regime (to effect a simple transition to civilian rule).⁵¹¹ Rather, civil society imagined, projected, and popularised – with lawyers and political parties – a structural transformation of the Pakistan state via ethnically decentralising forms of constitutional change.

4. Political Parties and the Struggle against the Military Order

Widespread demands for constitutional and political reforms were bound to have an impact on political parties, which, as Aitzaz Ahsan argued,⁵¹² had been “sitting on the fence” since the 1999 coup that ousted Nawaz Sharif. Seeing in the lawyers’ ‘uprising’ an opportunity to defeat the military dictatorship and its ethnically centralising constitutional legacies, political parties, according to one PML-N leader, were “put ... into action.”⁵¹³ According to a PPP leader and an aide of Benazir Bhutto, the Movement “weakened Musharraf and created a political space for different political actors, including Benazir and Nawaz Sharif”⁵¹⁴ to mobilise in favour of the pact they had signed in London in 2006 i.e., the CoD. Implementing this pact was not possible without capturing political power. It was the Lawyers’ Movement that made the 2008 elections possible, which proved indispensable for the amendment.⁵¹⁵

⁵⁰⁷ “Call for restoration of 1973 Constitution,” *Dawn*, September 14, 2008.

⁵⁰⁸ Interview of I.A. Rehman.

⁵⁰⁹ “Beware: long march victory not enough, group says,” *Dawn*, March 20, 2009.

⁵¹⁰ Interview of Afrasiab Khattak (Awami National Party member of the 18th amendment committee) by the author, online, June 17, 2020.

⁵¹¹ See Sahar Shafqat, “Civil Society and the Lawyers’ Movement.”

⁵¹² Interview of Aitzaz Ahsan.

⁵¹³ Interview of Ayaz Sadiq (Pakistan Muslim League-Nawaz member of the National Assembly) by the author, Islamabad, March 4, 2020.

⁵¹⁴ Interview of Safdar Abbasi (Pakistan People’s Party leader) by the author, Islamabad, December 16, 2019.

⁵¹⁵ *Ibid.*

This integration between legal actors, civil society, and political forces was facilitated by the fact that politically connected lawyers like Ahsan, Malik, Kurd and Khan, who had been struggling against Musharraf since 2002, were at the forefront of the Movement. Even though there were lawyers who, initially, did *not* espouse a structural transformation of the state and did *not* want to unnecessarily “politicise” the Movement,⁵¹⁶ the ability of these lawyers to win the internal debate and turn the Movement into a political and constitutional dispensation allowed for a seamless integration of the ‘legal complex’ with both civil society groups⁵¹⁷ and political parties.⁵¹⁸

By early 2007, political parties – like the Bar and civil society – were already reinvigorating themselves. Even though the Alliance for the Restoration of Democracy (ARD) had been there since 2000, it was only after the formal burial of acrimony between the PPP and the PML through the CoD in 2006 that a cross-ethnic alliance began to emerge as an effective counter-political force.⁵¹⁹

Significantly, the ARD had approved, only one day before the CJ’s dismissal, a seven-point agenda for a multi-party conference (MPC) in London on 24-25 March 2007.⁵²⁰ The agenda included a demand for the restoration of the 1973 Constitution and Musharraf’s exit from politics – two demands that would also become core demands of the Lawyers’ Movement (which started a few days after this announcement).⁵²¹ In fact, when the CJ was dismissed, several political parties, including the ARD, were quick to jump on the bandwagon put together by the ‘political lawyers.’⁵²² For instance, the Lahore-based LPP, part of the ARD, was one of the first parties to mobilise in favour of the agitating lawyers. Its leader hoped that the Movement “could pose a serious challenge to the dictatorship and shake its foundations.”⁵²³ By the end of March 2007, however, almost all major political parties had become part of the Movement, including not only the PPP (initially) and the

⁵¹⁶ Interview of Aasim Sajjad Akhtar.

⁵¹⁷ Interview of Zahoor Khan.

⁵¹⁸ Iftikhar A. Khan, “Lawyers seek support of professional bodies, parties,” *Dawn*, April 16, 2007.

⁵¹⁹ Interview of Raza Rabbani.

⁵²⁰ Amir Wasim, “ARD approves seven-point agenda for MPC,” *Dawn*, March 9, 2007.

⁵²¹ *Ibid.*

⁵²² “ARD says it will support lawyers,” *Dawn*, March 11, 2007.

⁵²³ Interview of Farooq Tariq.

PML-N but also regional (nationalist parties) organised around the Pakistan Oppressed Nations Movement (PONM).⁵²⁴ Regional political parties were more interested in implementing the CoD's ethnically decentralising framework to put a permanent end to majoritarian politics and suppression of the non-dominant provinces than a restoration of the judiciary.⁵²⁵ It was this integration of civil society, political parties, and lawyers that sharpened the Movement's focus on questions like provincial autonomy,⁵²⁶ eventually helping to "settle," constitutionally, Pakistan's "ethnic question."⁵²⁷

Specifically, this joint struggle allowed various political groups, civil society organisations, and even the 'legal complex'⁵²⁸ to remain engaged with the 18th amendment committee.⁵²⁹ When the latter was debating and drafting the amendment, these groups submitted suggestions⁵³⁰ that overwhelmingly "supported provincial autonomy."⁵³¹

This engagement was a direct result of the fact that several political leaders, who became members of the committee, were themselves active in the Movement and were committed to changing Pakistan's politically and ethnically centralised constitutional setup.⁵³² For example, besides the regular appearance of members like Ahsan Iqbal⁵³³ (PML-N), Raza Rabbani⁵³⁴ (PPP), and Afrasiab Khattak⁵³⁵ (ANP) in the rallies of the Movement, other committee members like Maulana Fazlur Rehman (JUI-F) remained active through the platform of the APDM.⁵³⁶ According to Latif Khosa, a close associate of Asif Ali Zardari who was involved in the Movement and

⁵²⁴ "Opposition urged to include Balochistan issue in struggle," *The News*, April 23, 2007.

⁵²⁵ Interview of Akram Dashti (National Party Senator) by the author, Islamabad, March 4, 2020.

⁵²⁶ Interview of Ahsan Bhoon.

⁵²⁷ Interview of Farooq Tariq.

⁵²⁸ Interview of Aitzaz Ahsan.

⁵²⁹ Interview of Khurshid Ahmad.

⁵³⁰ The 18th amendment report mentions a total of 982 submissions were made by various groups. These submissions, however, remain classified material.

⁵³¹ Interview of Khurshid Ahmad.

⁵³² Interview of Mehtab Khan Abbasi (Pakistan Muslim League – Nawaz member of the 18th amendment committee) by the author, Islamabad, February 28, 2020.

⁵³³ "PML-N to take active part in the Black Day," *The News*, November 2, 2008.

⁵³⁴ "ARD says it will support lawyers."

⁵³⁵ Afrasiab Khattak was a very active participant. He was arrested, along with dozens of other activists, when a meeting was held in Lahore in the office of the Human Rights Commission of Pakistan in response to Musharraf's imposition of 'emergency plus' on November 3, 2007.

⁵³⁶ Amir Wasim, "APDM gives strike call for Oct 6," *Dawn*, September 30, 2007.

later became Punjab's Governor in 2011, the Movement generated a strong "momentum" in favour of provincial autonomy, which political leaders from the Movement simply "carried to the parliament" in the context of the 18th amendment.⁵³⁷

When the 'legal complex,' political parties, and civil society groups coalesced in the Movement, it had the effect of making it a dispensation driven by political and constitutional objectives more than narrow legal or judicial goals.⁵³⁸ This also explains why both the PML-N-led APDM and lawyers were able to come together to cause Punjab to simmer with protests after Nawaz Sharif was forced out of Pakistan, once again, by the Musharraf regime in September 2007.⁵³⁹

Given the *integration* of the 'legal' and the 'political' complexes, it was logical for the relevant political parties to build on the anti-military Lawyers' Movement to undo, in light of the CoD, the Punjabi-dominated military's ethnically centralising constitutional footprint.⁵⁴⁰ As a member of the 18th amendment committee stressed, the Movement "restored democracy" (i.e., brought civilians into power) as a pre-requisite for the restoration of the 1973 Constitution. This in turn allowed for the ultimate "consolidation" of "participatory federalism" (e.g., an ethnically decentralised federal system), pulling away from "the dominance and over-representation of Punjab."⁵⁴¹

5. The Lawyers' Movement and the Pakistan Muslim League-Nawaz

Of particular importance, throughout the Lawyers' Movement, was the Punjab-based PML-N. While the PPP, like other parties, was quick to support the Movement in its early phases, its support fizzled out⁵⁴² when Benazir Bhutto started negotiations with the Musharraf regime in mid-2007 (and, protected by the National Reconciliation

⁵³⁷ Interview of Latif Khosa.

⁵³⁸ Interview of Ahsan Bhoon.

⁵³⁹ "APDM, lawyers in a black mood."

⁵⁴⁰ Interview of Matiullah Jan (Journalist, Lawyers' Movement activist) by the author, Islamabad, November 21, 2019.

⁵⁴¹ Interview of Khurshid Ahmad.

⁵⁴² Interview of Khalil-ur-Rehman Ramday (former Supreme Court Judge, Lawyers' Movement) by the author, Lahore, November 30, 2019.

Order (NRO), returned to Pakistan in October 2007). The PPP's distance from the Movement left the Punjab-based PML-N as its leading political partner and chief financier.⁵⁴³ In fact, but for the tussle between two Punjab-based institutions (ethnic factions) and the PML-N's political and financial support, the Movement "would not have succeeded."⁵⁴⁴ This element kept the Movement alive when it was "in a desperate and hopeless situation in 2008-2009."⁵⁴⁵

Coupled with Nawaz Sharif's return to Pakistan – made possible by the Movement's success in weakening the regime – ⁵⁴⁶ the Movement's mobilisation against the military regime resulted in the electoral defeat of the pro-regime Punjab-based PML-Q in Pakistan's February 2008 elections.⁵⁴⁷ This defeat emasculated the Musharraf regime, preventing him from using Article 58 (2) (B) against a parliament that was going to impeach him.⁵⁴⁸ In fact, but for the loss of its political base at both the Centre and in Punjab at the hands of the PML-N⁵⁴⁹ (and the PML-N-backed Lawyers' Movement), the Musharraf regime would have remained in power and, as a member of the 18th amendment committee said, an emerging "delay" in the implementation of the CoD "would have been permanent."⁵⁵⁰

However, even after the PML-Q's defeat, the political process of the 18th amendment was far from smooth. As a number of my interviewees pointed out, the PPP's victory in the February 2008 elections weaned it away from the CoD – a process that, as mentioned previously, had originally started with Benazir's political deal with Pervez Musharraf in 2007.⁵⁵¹ Even though the PPP and PML-N made a new pact – the 'Murree Accord' in March 2008 that not only made the PML-N a coalition partner in the new government but also specifically stipulated to reinstate the judges,

⁵⁴³ Interview of I.A. Rehman.

⁵⁴⁴ Interview of Matiullah Jan.

⁵⁴⁵ Interview of I.A. Rehman.

⁵⁴⁶ Based upon the author's interviews.

⁵⁴⁷ Ibid.

⁵⁴⁸ Interview of Zahid Khan (Awami National Party member of the 18th amendment committee) by the author, Islamabad, March 9, 2020.

⁵⁴⁹ The PML-N won most seats in Punjab (148) and established its government. With the second-highest number of seats (68) at the Centre, the PML-N became the PPP's coalition partner for a few months before it decided to pull out.

⁵⁵⁰ Interview of Afrasiab Khattak.

⁵⁵¹ Based upon the author's interviews.

“implement the Charter of Democracy” and remove “Article 58 (2) (B)” – ⁵⁵² it did not produce results vis-à-vis the 18th amendment because of the PPP’s continuing shift away from the CoD to keep powers centralised (see Chapter 5).⁵⁵³ The result of this anti-CoD politics was growing political friction between the PPP and the PML-N,⁵⁵⁴ as the latter eventually decided to leave the coalition government in favour of mobilising *in Punjab* alongside lawyers to press for restoring the judges and implementing the CoD.⁵⁵⁵

Therefore, while Nawaz Sharif’s primary interest, in 2007-2008, included Musharraf’s ouster and removal of the 17th amendment in light of the CoD, he was also able to turn the Movement, from August 2008 onwards, into a Punjab-based vehicle (“the G.T. Road Movement”)⁵⁵⁶ against the renegade PPP due to the latter’s growing distance from the Charter⁵⁵⁷ and its direct coalescence with the military regime post-2008,⁵⁵⁸ which the PML-N thought threatened its own political position and future in Punjab and beyond.⁵⁵⁹

Thus, the PML-N’s leading role throughout this period was a function of the PPP’s deal with the Musharraf regime. It was this deal that led to the political demise of the ARD in 2007.⁵⁶⁰ This demise led to the establishment of a new PML-N led APDM in July 2007.⁵⁶¹ So, even though Benazir herself was absent from the London MPC,⁵⁶² the PML-N was still able to expand the political scope of the CoD by having 38 different political parties endorse it.⁵⁶³ The joint declaration of this conference moved beyond the end of the military dictatorship to push for a more permanent demilitarisation of the polity, stressing specifically the “restoration of the 1973

⁵⁵² Amir Wasim and Abid Abbasi, “Zardari, Sharif in historic accord,” *Dawn*, March 10, 2008.

⁵⁵³ Based upon the author’s interviews.

⁵⁵⁴ Interview of I.A. Rehman.

⁵⁵⁵ Interview of Hamid Mir.

⁵⁵⁶ Interview of Aasim Sajjad Akhtar. The Grand Trunk Road (G.T. Road) runs through most of central Punjab.

⁵⁵⁷ Interview of Safdar Abbasi.

⁵⁵⁸ Musharraf regime also tried to establish contacts with the PML-N. PML-N’s chairman, Raja Zafrul Haq, told me in his interview that Musharraf had offered him prime ministership in 2007, which he and the party refused.

⁵⁵⁹ Interview of I.A. Rehman.

⁵⁶⁰ Azfar-ul-Ashfaque, “PML-N says ARD now dysfunctional,” *Dawn*, August 1, 2007.

⁵⁶¹ “Another Political Alliance,” *Dawn*, July 13, 2007.

⁵⁶² The PPP was represented by a delegation that didn’t include Benazir herself.

⁵⁶³ Based upon the author’s interviews.

Constitution” and “provincial autonomy.”⁵⁶⁴ At the same time, it expressed its full commitment to the restoration of the judges.⁵⁶⁵ This conference, in other words, politically integrated the CoD – and the 38-party MPC – with the non-party Lawyers’ Movement, which had been, as shown previously, making identical demands since December 2006.

Even though differences emerged between the APDM and the PML-N when the latter decided not to boycott the 2008 elections and even (conditionally) agreed to form a coalition government with the PPP in March 2008,⁵⁶⁶ the PML-N continued to support the Movement. It was very much present in the June 2008 Long March of the Movement where Nawaz Sharif himself addressed a large crowd in front of the parliament in Islamabad reiterating the core demand of the political, legal and civil complexes to restore the judges and “abolish the 17th amendment” in light of the CoD.⁵⁶⁷ Differences between the PML-N and APDM and the ‘legal complex’ were resolved when Nawaz Sharif, as mentioned above, decided to pull out of the PPP-led coalition in August 2008 due to the government’s violation of the ‘Murree Accord’ of March 2008 and decided to formally re-join the Movement in Punjab, where the PML-N was already the ruling party (since its victory in Punjab in the February 2008 general elections).⁵⁶⁸

The PML-N’s position was further strengthened by the fact that even during the period of PML-N-PPP co-habitation, the APDM rallies in Punjab – which still expressed solidarity with the Lawyers’ Movement – continued to mobilise support in favour of ethnic decentralisation.⁵⁶⁹ It was in the same rallies that another “Charter of National Demands” was announced, which, like the CoD, stressed “constitutionalism,” a “parliamentary federal structure,” “independent judiciary,” “military’s non-interference in politics,” “provincial autonomy” and an end to the on-going “military operation in Balochistan.”⁵⁷⁰

⁵⁶⁴ M. Ziauddin, “MPC Declaration asks Musharraf to resign,” *Dawn*, July 9, 2007.

⁵⁶⁵ *Ibid.*

⁵⁶⁶ These conditions included restoration of the judges within 30 days, repeal of the 17th amendment and implementation of the CoD.

⁵⁶⁷ Rana Aslam, “Long March,” *Labour Struggle* (June 19-25, 2008): 12-13.

⁵⁶⁸ Interview of Hamdi Mir.

⁵⁶⁹ “APDM Holds Rallies in Faisalabad and Multan,” *Labour Struggle* (14-20 February, 2008): 6-7.

⁵⁷⁰ *Ibid.*

With the “Zardari cabinet” opposing the “18th amendment [and the COD],”⁵⁷¹ the PML-N’s growing dissatisfaction with the PPP combined with the ongoing mobilisation in Punjab to force it to review its alliance with the PPP and support the Movement more openly.⁵⁷² By November 2008, the PML-N activists were back in the Movement,⁵⁷³ with Nawaz Sharif himself pushing the PPP government to “implement the Charter of Democracy” and “repeal the 17th amendment.”⁵⁷⁴

In this context, the fact that the PML-N led Punjab became the *intra*-ethnic epicentre of the politics of ethnic decentralisation – specifically, via its support for the CoD and the Lawyers’ Movement – not only brought its major political parties – in particular, the PML-N – in greater contact with the nationalist forces from other provinces but also helped create an “atmosphere of ethnic and political reconciliation” (except between the PML-N in Punjab and the PPP in Sind initially) at the national level, leading “the Punjab-based parties like the PML-N to agree to change the name of the North-Western Frontier Province to Khyber Pakhtunkhwa ... to create a new balance in the federation” beyond Punjabi domination (see Chapter 5).⁵⁷⁵ Therefore, even after Musharraf’s resignation in August 2008 and Asif Ali Zardari’s rise to the presidency, Punjab remained pitted against Islamabad,⁵⁷⁶ this time not owing to Musharraf’s military dictatorship but due to the PPP government’s reluctance to restore the judiciary and abolish the military’s constitutional footprint i.e., the 17th amendment, in light of the CoD.⁵⁷⁷

A major manifestation of the PPP’s departure from the Charter came in June 2008 when it proposed an ambiguous constitutional package that, while it proposed to remove Article 58 (2) (B), not only largely refused to restore the deposed judges but did not abolish the concurrent list as well. Whereas the CoD specifically endorsed abolishing the list, the PPP’s 2008 package transferred only 10 items from the list to

⁵⁷¹ Interview of Hamid Mir.

⁵⁷² Based upon the author’s interviews.

⁵⁷³ “PML-N activists return to lawyers’ rally,” *Dawn*, November 21, 2008.

⁵⁷⁴ “Charter of Democracy must be implemented, Nawaz,” *Dawn*, December 19, 2008.

⁵⁷⁵ Interview of Pervez Rasheed.

⁵⁷⁶ “Centre-Punjab tensions,” *Dawn*, January 26, 2009.

⁵⁷⁷ *Ibid.*

the provinces,⁵⁷⁸ making both lawyers and the PML-N reject this package and constitutional arrangement.⁵⁷⁹

The disagreement over the PPP's package amplified a clear divide that existed at the time between those (the PPP, the PML-Q and the MQM) who wanted to maintain (the political and ethnic) status quo⁵⁸⁰ through a (symbolic) transition from the military rule of Musharraf to a PPP-led civilian rule, and those (the PML-N, its allied regional parties and lawyers) who wanted to bring a constitutional transformation⁵⁸¹ via the CoD.⁵⁸² For the PML-N and its allies, the PPP's post-2008 elections drift away from the CoD predicted a stasis of the polity within the same militarised and centralised framework that "the Musharraf regime had been maintaining" since 1999 through the 17th amendment.⁵⁸³

A partial roadblock happened in February 2009 when President Asif Ali Zardari managed to push back against the PML-N's support for the Movement and its persistent demands – as, for instance, expressed in a meeting of the PML-N's general council on February 21, 2009, to "restore the judiciary," "scrap the 17th amendment and implement the Charter of Democracy" -⁵⁸⁴ via a ruling of the Supreme Court – which was being led by a Musharraf-appointed CJ Abdul Hameed Dogar – that disqualified the Sharif brothers from holding or contesting public offices. It allowed the PPP to impose Governor's rule in Punjab, amplifying not only how Punjab stood in *opposition* to Islamabad, but also reinforced, according to the PML-N's Nisar Ali Khan, the continuation of a centralised system in which Pakistan's constituent provinces, even the largest, "were arbitrarily stripped of their rights."⁵⁸⁵ This episode effectively put Punjab, as Nisar reasoned further, in a similar position vis-à-vis the Centre that Pakistan's other provinces – in particular, Balochistan – had long been

⁵⁷⁸ Anwar Mansuri, "PPP's package not a panacea," *Dawn*, July 1, 2008.

⁵⁷⁹ Ashraf Mumtaz, "PML-N has fundamental differences over package," *Dawn*, June 7, 2008.

⁵⁸⁰ Some of the interviewees contended that many in the PPP were simply opposed the 18th amendment *per se*.

⁵⁸¹ See Matthew J. Nelson, "Pakistan in 2008: Moving beyond Musharraf", *Asian Survey* 49, no. 1 (January-February 2009): 16-27.

⁵⁸² Pakistan. *The National Assembly of Pakistan Debates*, November 12, 2008, Vol 8, no. 1-10, 286-288 (Nisar Ali Khan).

⁵⁸³ *Ibid.*

⁵⁸⁴ Ahmad Fraz Khan, "Nawaz comes out in the open against Zardari," *Dawn*, February 22, 2009.

⁵⁸⁵ Pakistan. *The National Assembly of Pakistan Debates*, February 28, 2009, Vol 11, no. 1-8, 58.

experiencing under successive military regimes, when provincial autonomy and assemblies were repeatedly undermined and dissolved arbitrarily.⁵⁸⁶ Therefore, for the PML-N, this was “a negation of the Charter of Democracy” and proved why implementing the pact was crucial.⁵⁸⁷

While part of the PPP’s plan was to bring the pro-military and anti-devolution PML-Q – which was not a CoD signatory as well – to power in Punjab,⁵⁸⁸ and, thus, bury the CoD permanently, the plan failed because the PML-N, having been deposed in Punjab, found yet another common ground with the APDM and lawyers⁵⁸⁹ to start yet another constitutional struggle against yet another “coup.”⁵⁹⁰ Given the coalescence between the PML-N and lawyers, the politically motivated decision to disqualify the Sharif brothers became a “verdict ... against the Lawyers’ Movement” itself.⁵⁹¹ This yet another coalescence of lawyers and the PML-N,⁵⁹² and the continuing popularity of the PML-N in Punjab⁵⁹³ discouraged the PML-Q from joining hands with the PPP out of its fear of losing its “popularity” in the province after having lost the 2008 elections.⁵⁹⁴ While the plan to replace the PML-N with the PML-Q failed, this failure also made it impossible, to the advantage of the PML-N and the Movement, for the issue of the restoration of the judges to be resolved without concomitantly resolving the existing political (Governor’s rule in Punjab) and constitutional (implementing the CoD and repealing the 17th amendment) impasse between the PML-N (and its allies) and the PPP (and its allies).⁵⁹⁵ Therefore, but for the Movement’s continued existence beyond the end of the Musharraf regime in August 2008, the Zardari government – which, as mentioned previously, opposed both the CoD and the 18th amendment – would have been able to permanently defeat the politics of ethnic decentralisation of the PML-N and the Lawyers’ Movement.⁵⁹⁶

⁵⁸⁶ Ibid., 82.

⁵⁸⁷ Ibid., 83.

⁵⁸⁸ “A Perilous Road,” *Dawn*, March 1, 2009.

⁵⁸⁹ “Lawyers throw weight behind Sharif brothers,” *Dawn*, February 26, 2009.

⁵⁹⁰ “Governor Raj, a coup in the Punjab,” *Labour Struggle* (5-11 March, 2009): 5.

⁵⁹¹ “Lawyers throw weight behind Sharif brothers.”

⁵⁹² Ahmed Hassan, “Nawaz warns Zardari of unending agitation,” *Dawn*, March 5, 2009.

⁵⁹³ “Punjab simmers with protests,” *Dawn* February 28, 2009.

⁵⁹⁴ Zulfqarnain Tahir and Ahmed Hassan, “Shujaat calls party leaders to decide Punjab issue,” *Dawn* March 2, 2009.

⁵⁹⁵ See “The Charter of Democracy Text,” *Dawn*, May 16, 2006.

⁵⁹⁶ Based upon the author’s interviews.

Therefore, within a month of the imposition of the Governor's rule, the stage was set for the PML-N-funded and Nawaz Sharif-led⁵⁹⁷ Long March of March 12, 2009. Core objectives of this Long March included forcing the PPP government to not only restore the judges but also "change the system"⁵⁹⁸ through, as Nawaz Sharif said earlier, an "implementation of the Charter of Democracy."⁵⁹⁹ The outcome of this Long March was a major contrast to the events of May 12, 2007, when over 40 people were killed in Karachi (Sindh), but the CJ was not restored.⁶⁰⁰ A major difference in 2009 was the fact that Punjab's largest political party, deposed from power in Punjab, was mobilising⁶⁰¹ in a Long March much bigger in size than the lawyers' community was itself able to organise in June 2008.⁶⁰² It was due to this very reason that General Ashfaq Pervez Kayani, Musharraf's successor, was forced to make a "soft intervention"⁶⁰³ to 'convince' the PPP government to restore the judges in March 2009.⁶⁰⁴ At the same time, even for the army, a massive mobilisation in Punjab was, according to one of the deposed (Punjabi) judges of the Supreme Court, nothing short of an "uprising from within."⁶⁰⁵ This uprising generated a "lot more political pressure [on the military leadership] than an uprising in another province" would produce⁶⁰⁶ to compel the military to withdraw its support for Musharraf and, later, succumb to the Movement's pressure.⁶⁰⁷

Asif Ali Zardari, facing pressure from the PML-N (and equally from within his party when an internal split over the question of restoration and constitutional reforms looked imminent),⁶⁰⁸ restored the judges on March 16, 2009. Governor's rule in Punjab was lifted on March 30, 2009. The political atmosphere generated by this victory for the PML-N and lawyers⁶⁰⁹ pushed the PPP government to finally present a resolution in the National Assembly on April 10, 2009, to constitute the 18th

⁵⁹⁷ Both Nawaz Sharif and Aitzaz travelled in the same vehicle when leading the Long March.

⁵⁹⁸ Rashid Javed, "Movement for changing system: Nawaz," *Dawn*, March 12, 2009.

⁵⁹⁹ "Nawaz declared complete support for long march," *Dawn*, January 28, 2009.

⁶⁰⁰ Based upon the author's interviews.

⁶⁰¹ Interview of Talat Hussain.

⁶⁰² Interview of I.A. Rehman.

⁶⁰³ Interview of Talat Hussain.

⁶⁰⁴ Interview of Aitzaz Ahsan.

⁶⁰⁵ Interview of Khalil-ur-Rehman Ramday.

⁶⁰⁶ *Ibid.*

⁶⁰⁷ Interview of Latif Khosa.

⁶⁰⁸ Zahid Shahab and Maria J. Stephan, "Fighting for the rule of law: civil resistance and the lawyers' movement in Pakistan," *Democratisation* 17, no. 3 (May 2010): 492-513.

⁶⁰⁹ Interview of Afrasiab Khattak.

amendment committee to reform the constitution “in light of the Charter of Democracy”⁶¹⁰ to settle Pakistan’s perennial ethnic problem.⁶¹¹

Thus, it was a massive PML-N backed mobilisation in Punjab that played a key role in the political process of the 18th amendment.⁶¹² Although the Lawyers’ Movement (popular divisions in Punjab) emerged independently of the PML-N’s ongoing tussle with the military establishment (institutional divisions in Punjab), both factors did not take long to coalesce. As shown in this – and the previous – chapter, a key factor that made this coming together possible was their shared struggle against the military regime (civil-military institutional tensions). This coalescence was also reinforced by the fact that leading members of the Lawyers’ Movement, who themselves pushed for ethnic decentralisation via constitutional reforms, were also members of different political parties, including the PPP. These parties themselves were already struggling to revive democracy and reform the 1973 Constitution in light of the CoD. This coalescence and reinforcement, as stressed above, was further facilitated by the political and financial support the PML-N extended, both on its own and through the multi-party APDM, to the Movement first against the Musharraf regime and, later, against the PPP government. But the PML-N’s role was not restricted to the Movement. As I show in the next chapter, the PML-N played a key role in developing – and sustaining – a cross-ethnic consensus around ethnic decentralisation within the 18th amendment committee as well, with *intra*-Punjab divisions remaining a key part of the political process. But for the PML-N’s tussle with the military establishment and its politics of decentralising ethnic power in Pakistan by creating non-Punjabi power centres against the Punjabi-dominated military establishment, the Punjab-based political forces – the PML-N and the PML-Q – could have blocked the 18th amendment as they had enough seats between themselves in the 2008 parliament. But, as I show, the PML-N did not support the PML-Q’s anti-amendment politics. The next chapter discusses in detail how this whole process unfolded in 2009-10, both in and outside the 18th amendment committee.

⁶¹⁰ Pakistan. *The National Assembly of Pakistan Debates*, April 10, 2009, Vol 12, no. 1-13, 153 (Zaheer-ud-din Babar Awan).

⁶¹¹ *Ibid.*, 162 (Javed Hashmi).

⁶¹² Based upon the author’s interviews.

Cross-Ethnic Consensus: Party Politics and the 18th Amendment

While the Lawyers' Movement reinforced the politics of ethnic decentralisation, a cross-ethnic, multi-party consensus had to be developed through intense cross-party negotiations within and outside the 18th amendment parliamentary committee. Intra-ethnic political divisions played a key role, as the PML-N's stubborn defence of the CoD forced even the pro-military Punjab-based PML-Q to support the process to avoid becoming the only party opposing the amendment. Thus, after helping the CoD survive the turbulent period from 2007 to 2009, the PML-N's position within and outside the 18th amendment parliamentary committee facilitated Pakistan's decisive constitutional shift towards ethnic decentralisation.

1. Introduction

As the previous two chapters have shown, intra-ethnic (intra-Punjab) civil-military institutional tensions drove the overall politics of ethnic decentralisation in two distinct yet interconnected ways. First, these tensions underpinned a cross-ethnic focus on ethnic decentralisation via the anti-military and pro-ethnic decentralisation CoD. Second, civil-military institutional tensions triggered the anti-military politics of the (Punjab-based) Lawyers' Movement, even as that Movement's alliance with the PML-N pushed intra-ethnic divisions beyond the institutional to the popular and constitutional spheres of politics.⁶¹³ As the final report of the 18th amendment committee itself mentions, these two developments together were decisive vis-à-vis the promulgation of Pakistan's ethnically decentralising 18th constitutional amendment.⁶¹⁴

Even as these factors provided institutional, political, and popular support for the 18th amendment, however, the actual processes of constitution-making – a process of multi-party cross-ethnic consensus-building – was not, as some argue, a matter of straightforward agreement.⁶¹⁵ It was a deeply contentious process,⁶¹⁶ with consensus-

⁶¹³ Interview of Ammar Rashid (Lawyers' Movement activist, Civil society) by the author, online, April 21, 2020.

⁶¹⁴ Pakistan. *The National Assembly of Pakistan Debates, The Report of the Parliamentary Committee for Constitutional Reform*, 2010: 1-10.

⁶¹⁵ See Shahid Javed Burki, "The 18th Amendment: Pakistan's Constitution Redesigned," ISAS Working Paper, no. 112 (September 2010).

⁶¹⁶ Based upon the author's interviews with members of the 18th amendment committee.

building happening at three levels: within the committee, within individual parties, and between parties.⁶¹⁷ This is not to suggest that intra-ethnic institutional, political, and social movement factors lost their relevance while the committee worked in 2009 and 2010. On the contrary, without the PML-N's mobilisation in Punjab in 2008-2009, together with the Lawyers' Movement pushing forward the CoD's ethnically decentralising framework, the whole process would have derailed in 2008 when the PPP backed out of the CoD and sought an alliance with the pro-military – and anti-CoD – PML-Q.⁶¹⁸ As I show below, *intra*-Punjab divisions remained directly relevant in the 18th amendment committee as well.

Even though the PPP was brought back into the CoD's framework, the actual reform process was difficult, as it involved 14 different political parties placed, to begin with, on opposite sides of the spectrum yet united (a) in their opposition (except for the PML-Q) to the military's interference in politics and (b) on removing the military's ethnically centralised constitutional footprint.⁶¹⁹ On the one hand, there were parties like the pro-military Punjab-based PML-Q, which was not in favour of abolishing the concurrent list at all.⁶²⁰ And, on the other, some Baloch nationalists wanted to create a confederation.⁶²¹ Filling these gaps required, as the head of the 18th amendment committee explained, "hammering out .. issues"⁶²² via, as a PML-N leader explained further, "intense debates, negotiations and compromise."⁶²³ This was considered to be necessary, as another PML-N member of the 18th amendment committee said, to develop a "larger national consensus around the decades-old issue of provincial autonomy"⁶²⁴ as well as undoing, according to a Baloch member of the committee, "Punjab's domination of Pakistan."⁶²⁵

⁶¹⁷ Interview of Afrasiab Khattak (Awami National Party member of the 18th amendment committee) by the author, online, June 17, 2020.

⁶¹⁸ Based upon the author's interviews.

⁶¹⁹ Interview of Afrasiab Khattak.

⁶²⁰ Interview of S.M. Zafar (Pakistan Muslim League – Quaid member of the 18th amendment committee) by the author, Lahore, November 30, 2019.

⁶²¹ Interview of Khurshid Ahmad (Jammat-i-Islami member of the 18th amendment committee) by the author, online, June 25, 2020.

⁶²² Interview of Raza Rabbani (Pakistan People's Party Senator/chairman of the 18th amendment committee) by the author, online, July 27, 2020.

⁶²³ Interview of Ishaq Dar (Pakistan Muslim League – Nawaz member of the 18th amendment committee) by the author, online, July 7, 2020.

⁶²⁴ Interview of Ahsan Iqbal (Pakistan Muslim League – Nawaz member of the 18th amendment committee) by the author, Islamabad, March 3, 2020.

⁶²⁵ Interview of Akram Dashti (National Party Senator) by the author, Islamabad, March 4, 2020.

A key role in this politics of consensus-building was played by the (Punjab-based) PML-N – not only in terms of reinforcing institutional divisions within Punjab – which were, according to a (Pashtun) ANP member of the committee, crucial for reducing Punjab’s domination of Pakistan – but also by snubbing the PML-Q’s politics of retaining the concurrent list.⁶²⁶ The PML-N projected itself as the vanguard of provincial autonomy to, as Ishaq Dar of the PML-N put it, “reform Pakistan’s political and constitutional landscape.”⁶²⁷ Smaller parties, therefore, did not have to “convince” the PML-N,⁶²⁸ which could see that the most feasible way for it to revive its political fortunes at the national level after being out of power for almost a decade – and, indeed, the best way for it to scale back the military’s influence in politics – lay in “creating new centres of power” through a “new social contract” with ethnic-minority provinces⁶²⁹ to “reduce,” according to a retired lieutenant general of the army, “the army’s power and influence in politics.”⁶³⁰

Highlighting a cross-ethnic elite *consensus* around ethnic decentralisation facilitated by intra-ethnic *divisions* in Punjab, my argument moves away from scholarship⁶³¹ that, while referring to an elite consensus as a crucial step towards democratic consolidation in Pakistan, does not explain the political drivers that contribute to the formation of that consensus. By emphasising the role of intra-ethnic divisions, my argument also challenges recent scholarship⁶³² that ignores the role of the PML-N in pushing Pakistan’s transition towards constitutional forms of ethnic decentralisation.⁶³³ And, by highlighting divisions *within* Punjab as the key factor propelling the politics of ethnic decentralisation, my argument is not fixed on “Punjabi elitism” as a manifestation of ethnic domination, effectively explaining the

⁶²⁶ Interview of Afrasiab Khattak.

⁶²⁷ Interview of Ishaq Dar.

⁶²⁸ Interview of Aftab Ahmad Sherpao (Quami Wattan Party member of the 18th amendment committee) by the author, online, June 18, 2020.

⁶²⁹ Ibid.

⁶³⁰ Interview of Lieutenant General (retired) Talat Masood by the author, Islamabad, December 24, 2019.

⁶³¹ See Rasul Bakhsh Rais, “Politics in Pakistan Today: The Challenge of Securing Democracy,” *India International Centre Quarterly* 41, no. 3/4 (Winter 2014): 104-116.

⁶³² See Saeed Shafqat, “The Formation, Development, and Decay of the Pakistan Muslim League – Nawaz” in *Pakistan’s Political Parties: Surviving between Dictatorship and Democracy*, ed. Mariam Mufti et al (Washington D.C: Georgetown University Press, 2020), 23-40.

⁶³³ Interview of Afrasiab Khattak.

18th amendment as an outcome of “anti-Punjab” sentiments.⁶³⁴ On the contrary, as Raza Rabbani said, non-Punjabi ethnic groups consciously suppressed ‘anti-Punjabism’⁶³⁵ while “benefiting from,” as another non-Punjabi member of the committee stressed, “the PML-N’s tussle with the military establishment” to advance their agenda of provincial autonomy.⁶³⁶

Overall, my focus on the development of a cross-ethnic consensus shows that the politics of the 18th amendment began, according to Raza Rabbani, first as a “bi-partisan pact” before taking “other parties on board,”⁶³⁷ with the PML-N, according to a member of the committee from Balochistan, being a “progressive voice from within Punjab” that agreed to “reduce Punjab’s domination” to prevent Pakistan’s descent “into chaos” (i.e. preventing the military from interfering yet again).⁶³⁸

2. The Pakistan Muslim League-Nawaz and the Politics of Reviving the Charter of Democracy

Pre-constitutional documents, such as the US Declaration of Independence or the Israeli Declaration of Independence,⁶³⁹ often act as “precursors to final constitutions.”⁶⁴⁰ The political process of constitution-making, however, often involves both high and low-magnitude political nuisances and divergent political interests that challenge such pre-constitutional documents.⁶⁴¹

In this context, the political process leading to the CoD’s (partial) implementation in the form of the 18th amendment was, contrary to certain perceptions,⁶⁴² not at all straightforward. Even after the CoD had been signed in 2006, the process unfolded in

⁶³⁴ Mohammad Waseem, *Political Conflict in Pakistan* (London: Hurst and Co. 2021), 319.

⁶³⁵ Interview of Raza Rabbani.

⁶³⁶ Interview of Afrasiab Khattak.

⁶³⁷ Interview of Raza Rabbani.

⁶³⁸ Interview of Rehmatullah Kakar (Jamiat Ulema-i-Islam – Fazlur Rehman member of the 18th amendment committee) by the author, online, June 28, 2020.

⁶³⁹ See Gary Jeffrey Jacobson, *Apple of Gold: Constitutionalism in Israel and the United States* (New Jersey: Princeton University Press, 1993).

⁶⁴⁰ Kirsten Matoy Carlson, “Is Hindsight 20-20? Reconsidering the Importance of Pre-Constitutional Documents,” *American Indian Law Review* 30, no. 1 (2005): 3.

⁶⁴¹ Interview of Raza Rabbani.

⁶⁴² See Haris Gazdar, “Democracy in Pakistan: The Chasm,” *Economic and Political Weekly* 45, no. 22 (May 29-June 4, 2010): 10-12.

a deeply contentious way through the (PML-N-led) Lawyers' Movement,⁶⁴³ which, as a PPP leader himself acknowledged, "created pressure on [the] PPP to stick to the democratic path" at a time when it appeared to be backing out.⁶⁴⁴ This process of backing out did not start *after* the PPP's electoral victory in 2008; rather, as Anil Kalhan has argued,⁶⁴⁵ the pact started unravelling even *before* Benazir Bhutto returned to Pakistan in 2007 – specifically, when Benazir Bhutto, actively supported by the US and the UK, began to negotiate a power-sharing deal with Pervez Musharraf in 2007.⁶⁴⁶ Therefore, contrary to the argument that pre-constitutional documents "affix a particular political-moral character" that shapes subsequent constitutional changes,⁶⁴⁷ Benazir's deal with the military establishment undermined that process in Pakistan.

The strength of the CoD as a pre-constitutional document slipped even further when the PPP government tried to introduce a constitutional reform package that fell short of the promised quantum of provincial autonomy, and further still when it imposed Governor's rule in Punjab in February 2009 to oust the PML-N. Indeed, the mere presence of the CoD as a pre-constitutional document did not mean that constitutional change was a foregone conclusion.⁶⁴⁸ Instead, core constitutional matters had to be politically renegotiated – a process that first and foremost involved the Punjab-based PML-N reining the ruling PPP back into the CoD's ethnically decentralising framework.⁶⁴⁹

In a context framed by its anti-military politics, the PML-N saw Benazir's and, later, the PPP's ties with Musharraf and the military establishment (as reflected in the PPP's reluctance to implement the CoD, repeal the 17th amendment, and reverse the

⁶⁴³ Interview of Ahsan Iqbal. Iqbal further argued that CoD was the first point. The second point was the Lawyers' Movement and how it helped broaden the CoD consensus and shape the 18th amendment.

⁶⁴⁴ Interview of Safdar Abbasi (Pakistan People's Party leader) by the author, Islamabad, December 16, 2019.

⁶⁴⁵ Anil Kalhan, "'Gray Zone' Constitutionalism, and the Dilemma of Judicial Independence in Pakistan," *Vanderbilt Journal of International Law* 46, no. 1 (January 2013): 49.

⁶⁴⁶ In October 2007, the Benazir Bhutto led PPP allowed Musharraf to be re-elected for a second term when the party decided to abstain from the vote.

⁶⁴⁷ Gary Jeffrey Jacobson, *Apple of Gold*, 5.

⁶⁴⁸ Interview of Talat Hussain (Journalist, Lawyers' Movement activist) by the author, Islamabad, December 10, 2019.

⁶⁴⁹ See S. Akbar Zaidi, "An Incomplete Transition in Pakistan," *Economic and Political Weekly* 43, no. 45 (November 2008): 10-11.

military's constitutional footprint) as a "threat" to its future.⁶⁵⁰ In particular, the PML-N thought the PPP could become "too strong," even in Punjab, if it did not implement the CoD.⁶⁵¹ The PML-N's growing confrontation with the PPP was, therefore, at the heart of its push to reinvigorate the Lawyers' Movement with financial and political support in late-2008 and 2009 – support that not only sought to restore the judges and reinstall the PML-N government in Punjab but also to compel the PPP government to implement the CoD.⁶⁵² The PML-N pursued these goals tenaciously⁶⁵³ to bring the PPP back into the fold⁶⁵⁴ and, in doing so, it managed to press forward Pakistan's 'constitutional revolution' towards ethnic decentralisation.

By the end of 2008 and early 2009, the Lawyers' Movement under the leadership of the PML-N was focused on the Zardari government,⁶⁵⁵ demanding his ouster for his lack of commitment to the CoD-based political and constitutional objectives of the "transformationists."⁶⁵⁶ In fact, by the time the PML-N-led Long March approached Islamabad in March 2009, the PPP government was already showing its willingness to implement the CoD.⁶⁵⁷

The process of reviving the CoD after the setback it received under Benazir Bhutto in 2007 started with another pact between the PPP and the PML-N called the 'Murree Accord,' which established a PML-N-PPP coalition government in early 2008 and pushed that government to "implement the Charter of Democracy .. in letter and spirit."⁶⁵⁸ However, the PPP government backed out of this accord when Asif Ali Zardari, after Musharraf's resignation, decided to become the president without first, according to the terms of the accord, repealing the 17th amendment.⁶⁵⁹ This led the

⁶⁵⁰ Interview of I.A. Rehman (Lawyers' Movement activist, Civil Society) by the author, Islamabad, December 4, 2019.

⁶⁵¹ Ibid.

⁶⁵² Iftikhar A. Khan, "Nawaz toughens stance against govt," *Dawn*, January 17, 2009.

⁶⁵³ Interview of Farhatullah Babar (Pakistan People's Party leader) by the author, Islamabad, February 26, 2020.

⁶⁵⁴ Interview of I.A. Rehman.

⁶⁵⁵ "Charter of Democracy must be implemented: Nawaz," *Dawn*, December 19, 2008.

⁶⁵⁶ See Matthew J. Nelson, "Pakistan in 2008: Moving beyond Musharraf," *Asian Survey* 49, no.1 (January-February 2009): 16-27.

⁶⁵⁷ Raja Asghar, "Dialogue proposed on implementation of charter," *Dawn*, March 15, 2009.

⁶⁵⁸ Raja Asghar and Amir Wasim, "Zardari, Nawaz agree to form coalition," *Dawn*, February 21, 2008.

⁶⁵⁹ Amir Wasim, "Nawaz pulls out of coalition," *Dawn*, August 26, 2008.

PML-N government to pull out of the ruling coalition in August 2008⁶⁶⁰ and re-join the agitating lawyers and civil society,⁶⁶¹ which were still pressing for ethnically decentralising constitutional reforms.⁶⁶² As I.A. Rehman, then chairperson of the Human Rights Commission of Pakistan and a prominent civil society leader active in the Lawyers' Movement, said, "in this period, it was the PML-N which continued to put pressure on the PPP to implement the Charter of Democracy" - ⁶⁶³ a pact that was, according to an ANP (non-Punjabi) member of the 18th amendment committee, "the epitome of the PML-N's evolution" as a party opposed to the Punjabi-dominated military's domination.⁶⁶⁴

The PML-N's continuous agitation paved the way for the restoration of the judges and the establishment of the 18th amendment committee, which, in turn, worked under the shadow of another PPP-PML-N agreement made in July 2009, when the leaders of both parties met in Lahore and agreed to develop a cross-ethnic consensus by "taking all political players on board" and "amend[ing] the [1973] Constitution on the basis of the Charter of Democracy."⁶⁶⁵ This (cross-ethnic) agreement reinforced the 18th amendment committee that had been working since April 2009.

As is evident, without the PML-N's push to de-militarise the constitution to ensure its political survival, it would not have pushed for implementing the CoD.⁶⁶⁶ While Punjab's leading role in the 18th amendment committee has been recognised,⁶⁶⁷ my research illuminates the very different positions that the two Punjab-based parties adopted in and outside the committee vis-à-vis the overall project of ethnic decentralisation. Therefore, understanding how *intra-Punjab divisions* underpinned the *inter-ethnic* political consensus requires disaggregating the role that both the PML-N and the PML-Q played in terms of their support for, and opposition to, the overall politics of ethnic decentralisation, respectively.

⁶⁶⁰ Ibid.

⁶⁶¹ "PML-N activists return to lawyers' rally," *Dawn*, November 21, 2008.

⁶⁶² "Call for restoration of 1973 constitution," *Dawn*, September 14, 2008.

⁶⁶³ Interview of I.A. Rehman.

⁶⁶⁴ Interview of Afrasiab Khattak.

⁶⁶⁵ Amjad Mahmood, "Accord in Raiwind on some issues," *Dawn*, July 18, 2009.

⁶⁶⁶ Based upon the author's interviews.

⁶⁶⁷ Katharine Adeney, "A Step Towards Inclusive Federalism in Pakistan? The Politics of the 18th Amendment," *Publius: The Journal of Federalism* 42, no. 4 (2012): 551-552.

3. De-Punjabising Pakistan: The Punjab-based Parties and the 18th Amendment

While Ahsan Iqbal of the Punjab-based (anti-military) PML-N believed that, because of Punjab's "over-representation" in the military, military dictatorships amplified "Punjab's domination,"⁶⁶⁸ Waseem Sajjad of the Punjab-based (pro-military) PML-Q said that Punjabi domination was "only a slogan that smaller parties use to gain votes."⁶⁶⁹ These two contrasting visions reflect party-based divisions within Punjab that informed the constitutional politics of ethnic decentralisation.

While the mere presence of various political parties within an (ethnic) province may not itself denote *intra*-ethnic divisions, the fact that the PML-Q – led by a family based in central Punjab tied to the first military government of Ayub Khan –⁶⁷⁰ was carved out of the PML-N by the military establishment itself as Musharraf's primary political face⁶⁷¹ renders the split *intra*-ethnic.⁶⁷² Accordingly, the positions the PML-N and the PML-Q adopted and defended within the 18th amendment committee consistently reinforced this civil-military *intra*-ethnic division in an analytically significant way. In this context, even after an *inter*-ethnic consensus on provincial autonomy had been achieved in the constitutional reform committee, the PML-Q continued to oppose it by presenting counter amendments to dilute the 18th amendment's quantum of provincial autonomy.⁶⁷³

To a significant extent, the PML-Q's defeat in the 2008 elections crippled its ability to defeat the CoD (with specific reference to ethnic decentralisation).⁶⁷⁴ However, even though the PML-Q joined the 18th amendment committee, it did so only to avoid "becoming a political pariah"⁶⁷⁵ as the "only party opposing" ethnic

⁶⁶⁸ Interview of Ahsan Iqbal.

⁶⁶⁹ Interview of Waseem Sajjad (Pakistan Muslim League – Quaid member of the 18th amendment committee) by the author, Islamabad, December 7, 2019.

⁶⁷⁰ Ayesha Siddiqa, "The kingmaker: Pakistan's Military and Political Parties," in *Pakistan's Political Parties: Surviving Between Dictatorship and Democracy*, ed. Mariam Mufti et.al (Washington D.C: Georgetown University Press, 2020), 229.

⁶⁷¹ Amjad Mahmood, "PML-Q to go all out for Musharraf," *Dawn*, August 11, 2008.

⁶⁷² Based upon the author's interviews.

⁶⁷³ Ahmad Hassan, "PML-Q to table the 19th amendment in parliament," *Dawn*, April 27, 2010.

⁶⁷⁴ Interview of Waseem Sajjad.

⁶⁷⁵ *Ibid.*

decentralisation⁶⁷⁶ at a time when it had already been routed in the 2008 elections in all provinces, including Punjab.⁶⁷⁷ However, even though the PML-Q joined the 18th amendment committee, it did not embrace the CoD as its political touchstone. Instead, it covertly worked against the CoD both within and outside the committee to undercut its implementation.⁶⁷⁸

S.M. Zafar, who was representing the PML-Q in the 18th amendment committee, revealed that he actively, but ultimately unsuccessfully, sought to convince the Sharif brothers “to get rid of the Charter of Democracy.”⁶⁷⁹ While this reflected the PML-Q’s preference for “limited and controlled” provincial autonomy (to avoid making the federation “too weak”),⁶⁸⁰ the fact that the PML-Q was actively lobbying the central PML-N leadership *against* ethnic decentralisation shows that the PML-N, both within and outside the 18th amendment committee, was more institutionally committed to the idea of provincial autonomy than other Punjab-based parties.⁶⁸¹ Had the PML-N agreed to scrap the CoD, stressed one member of the committee from Balochistan, the Punjab-based parties “could have mustered enough votes to block the amendment.”⁶⁸² Waseem Sajjad of the PML-Q concurred with this possibility,⁶⁸³ with S.M. Zafar even reiterating: “If I had veto power, I would have opposed a total removal of the concurrent list.”⁶⁸⁴

The PML-N’s commitment reflected Nawaz Sharif’s own anti-military and pro-devolution position,⁶⁸⁵ which had its roots in a ‘radical realisation’ that “Punjab’s domination” of the state needed to be “reduced”⁶⁸⁶ through constitutionally empowering the (ethnic) provinces.⁶⁸⁷ For the PML-Q, on the other hand, provincial

⁶⁷⁶ Interview of S.M. Zafar.

⁶⁷⁷ Based upon the author’s interviews.

⁶⁷⁸ Interview of S.M. Zafar.

⁶⁷⁹ Ibid.

⁶⁸⁰ Ibid.

⁶⁸¹ Based upon the author’s interviews.

⁶⁸² Interview of Rehmatullah Kakar.

⁶⁸³ Interview of Waseem Sajjad.

⁶⁸⁴ Interview of S.M. Zafar.

⁶⁸⁵ Interview of Afrasiab Khattak.

⁶⁸⁶ Interview of Ayaz Sadiq (Pakistan Muslim League – Nawaz member of the National Assembly) by the author, Islamabad, March 4, 2020.

⁶⁸⁷ Interview of Mehtab Khan Abbasi (Pakistan Muslim League – Nawaz member of the 18th amendment committee) by the author, Islamabad, February 28, 2020.

autonomy was a recipe for disaster that would “weaken” the federation,⁶⁸⁸ encourage “ethnicity and provincialism” and erode Pakistan’s “ideological foundations.”⁶⁸⁹ Therefore, representing a party opposing provincial autonomy, the PML-Q members of the committee stated via ‘notes of reiteration’ submitted to the committee that their party completely opposed abolishing the concurrent list.⁶⁹⁰ As S.M. Zafar of the PML-Q stressed in his ‘note of reiteration’,

“ ... omitting [the] concurrent list altogether ... will be a *quantum jump* ... [that] shall confront the country with innumerable problems including the overburdening of [the Council of Common Interests] CCI, converting it into a Government within a Government” (emphasis original).⁶⁹¹

A second ‘note of reiteration’ submitted by the PML-Q’s Waseem Sajjad opposed changing the name of the NWFP province,⁶⁹² reflecting, according to its critics from Balochistan, “its diehard opposition” to ethnic decentralisation.⁶⁹³ It was, in fact, largely a result of the inter-ethnic consensus between Punjab (the PML-N) and the NWFP (the ANP), that the NWFP was renamed as KPK.⁶⁹⁴ The PML-N, which received a sizeable number of votes in KPK’s non-Pashtun regions, opposed the re-naming of the province only as *Pakhtunkhwa* out of its fear of losing votes.⁶⁹⁵ However, through a lengthy consultation process, underpinned by the PML-N’s desire to sustain the “strategic consensus”⁶⁹⁶ around de-militarisation⁶⁹⁷ via provincial autonomy,⁶⁹⁸ that the new name, which was “originally proposed by the PML-N itself,”⁶⁹⁹ was decided. Given the PML-Q’s opposition to, and the PML-N’s support

⁶⁸⁸ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no 1-4, 69 (Engineer Amir Muqam).

⁶⁸⁹ Pakistan. *The National Assembly of Pakistan Debates*, April 7, 2010, Vol 21, no-1-4, 200 (Sardar Mohammad Israr Tareen).

⁶⁹⁰ The abolition happened in the form of a redistribution of powers listed in the concurrent list, with most of the powers going to the provinces and the rest to part two of the federal legislative list, which was to be managed jointly by the Centre and provinces through the reinvigorated Council of Common Interests.

⁶⁹¹ Pakistan. *The Report of the Parliamentary Committee for Constitutional Reforms*, 22-23.

⁶⁹² *Ibid.*, 24.

⁶⁹³ Pakistan. *The Senate of Pakistan Debates*, April 14, 2010, Vol 4, no. 107, 52 (Shahid Hussain Bugti).

⁶⁹⁴ Based upon the author’s interviews.

⁶⁹⁵ Amjad Mahmood, “PML-N, ANP ‘soft’ on renaming NWFP,” *Dawn*, March 18, 2010.

⁶⁹⁶ Interview of Ahsan Iqbal.

⁶⁹⁷ Based upon the author’s interviews.

⁶⁹⁸ “Nawaz for powers to provinces,” *Dawn*, March 31, 2010.

⁶⁹⁹ Pakistan. *The Senate of Pakistan Debates*, April 13, 2010, Vol 4, no. 1-7, 78 (Senator Haji Adeel).

for, this change, *intra*-Punjabi divisions led by the PML-N⁷⁰⁰ clearly played a role in propelling a politics of ethnic decentralisation via *inter*-ethnic consensus. As Afrasiab Khattak, the ANP member of the committee said,

“The crucial importance of the PML-N’s role lies in the fact [that] while smaller provinces had long been demanding provincial autonomy, they could not get it for decades. They could get it [provincial autonomy] only when Punjab agreed to it. The fundamental force behind it being the PML-N ... [and] its tussle with the military establishment.”⁷⁰¹

The centrality of the PML-N in developing this inter-ethnic consensus is also evident insofar as the PML-Q, being the only party to oppose the change,⁷⁰² not only sought to reverse it via counter-amendments but also projected this change as a step towards undoing the “two-nation ideology of Pakistan.”⁷⁰³

The PML-Q’s opposition to the abolition of the concurrent list was also a continuation of its anti-decentralisation politics during the Musharraf era. For instance, when a multi-party committee, under the chairmanship of Chaudhary Shujaat Hussain (PML-Q president), was formed in 2004 to review the situation in Balochistan, its report⁷⁰⁴ did not recommend any changes to the quantum of autonomy provinces enjoyed under the 8th and the 17th amendments.

The PML-N, while opposing the PML-Q’s anti-decentralising moves,⁷⁰⁵ facilitated ethnic decentralisation not only through the 18th amendment but also through its related support for the closely related 7th NFC award - ⁷⁰⁶ again, as part of an overall focus on de-militarisation and de-Punjabisation. As Mehtab Khan Abbasi, a PML-N member of the 18th amendment committee pointed out, fiscal decentralisation was developed “to reverse the system of interventions by making the Centre less intervening and the federating units more powerful against the interventionist

⁷⁰⁰ Interview of Abdul Malik (National Party member of the 18th amendment committee) by the author, online, February 24, 2020.

⁷⁰¹ Interview of Afrasiab Khattak.

⁷⁰² Ibid.

⁷⁰³ Pakistan. *The Senate of Pakistan Debates*, April 14, 2010, Vol 4, no. 1-7, 85 (Senator Semeen Siddiqui).

⁷⁰⁴ Pakistan. *The Report of the Parliamentary Committee on Balochistan. The Senate of Pakistan*, 2005.

⁷⁰⁵ Amir Wasim, “PML-Q calls for NA debate on provincial autonomy,” *Dawn*, April 25, 2010.

⁷⁰⁶ Based upon the author’s interviews.

military.”⁷⁰⁷ The goal, in other words, was to create more (non-Punjabi) “power centres” against the (Punjabi-dominated) military in the provinces.⁷⁰⁸

The 2009 NFC formula also grew out of the PML-N’s conscious drive to de-Punjabise Pakistan.⁷⁰⁹ As a PML-N leader said, the NFC’s shift away from a focus on population as the only criterion for fiscal distribution grew out of the fact that the “federation cannot run merely on the basis of the size of the provinces.”⁷¹⁰ Punjab’s acceptance of such a formula was, as mentioned above, also tied to the PML-N’s politics of what Nawaz Sharif called ethnic “harmony” and civilian “democracy.”⁷¹¹ Both questions were linked because, as a (Punjabi) PML-N leader active in the Lawyers’ Movement said, the nine-year-long military rule of Pervez Musharraf had caused such deep “resentment in Balochistan, Sindh and KPK” that a direct threat to the integrity of Pakistan was feared.⁷¹²

Even though a threat to Pakistan’s integrity existed during the Musharraf/PML-Q era – particularly after Pervez Musharraf launched a military operation in Balochistan in 2006 – the regime failed to institutionalise even the nominal ethnic decentralisation recommended by the 2004 Balochistan committee report i.e., devising a multi-category NFC formula.⁷¹³ With both the PML-Q and the military being Punjabi-dominated institutions, and with both opposing significant decentralisation, the regime opted to preserve Punjab’s political and fiscal domination instead.⁷¹⁴ It was only when key political groups (e.g. the PML-N) from within the dominant ethnic group, relying on “anti-army sentiments” in Punjab⁷¹⁵ started supporting a negotiated rather than an imposed form of unity amongst the provinces⁷¹⁶ that political devolution and fiscal decentralisation became possible. Within this framework of

⁷⁰⁷ Interview of Mehtab Khan Abbasi.

⁷⁰⁸ Ibid.

⁷⁰⁹ Interview of Raza Rabbani.

⁷¹⁰ Interview of Pervez Rasheed (Pakistan Muslim League – Nawaz Senator) by the author, Islamabad, February 18, 2020.

⁷¹¹ “Punjab’s stance on NFC to create harmony,” *Dawn*, December 14, 2009.

⁷¹² Interview of Siddiqui Farooq (Pakistan Muslim League – Nawaz leader) by the author, Rawalpindi, November 20, 2019.

⁷¹³ Pakistan. *The Report of the Parliamentary Committee on Balochistan*, 98.

⁷¹⁴ Akbar Zaidi, *Issues in Pakistan’s Economy: A Political Economy Perspective*, 3rd ed. (Karachi: Oxford University Press, 2015), 372-373.

⁷¹⁵ Interview of Mushahidullah Khan (Pakistan Muslim League – Nawaz Senator) by the author, Islamabad, March 9, 2020.

⁷¹⁶ Ibid.

ethnic decentralisation, the PML-N could support provincial autonomy through the same anti-military and pro-devolution template it used during the Lawyers' Movement – a Movement that rendered, according to Nawaz Sharif himself, the struggle for the 'rule of law' qualitatively indistinguishable from – and directly tied to – the ongoing struggle for the “fundamental and political rights” of the people of Balochistan.⁷¹⁷ He added further, “we believe in reviewing the current distribution of natural (and financial) resources among the four provinces” to “soften their relationships”⁷¹⁸ and to end what Ayaz Sadiq of the PML-N called “anti-Punjabi sentiments.”⁷¹⁹

A net result of this politics of power distribution was that Punjab supported both the 18th constitutional amendment and the 7th NFC. According to the 7th NFC, Punjab gave up 5.62 per cent of its portion when it agreed to support a multi-category formula of distribution. As a result, Sindh gained 0.84 per cent, KPK gained 0.8 per cent, and Balochistan gained 3.98 per cent.⁷²⁰ This arrangement was protected via the 18th amendment, as Article 160 (3) (A) was amended to stipulate that a province's share in the next award could not be less than the previous one i.e., the 7th NFC award.

As compared to Pervez Musharraf's earlier rejection of smaller provinces' demands, expressed through the 2004 Balochistan committee charged with considering a diversification of the NFC criteria,⁷²¹ the evidence shows that smaller provinces, in 2009-2010, did not have to pressure on the PML-N⁷²² as the PML-N was “internally convinced”⁷²³ to institutionalise ethnically decentralising legal and constitutional arrangements⁷²⁴ owing, not to a sense of political benevolence, but to political priorities of its own, including, as mentioned above, the imperative of creating more (non-Punjabi) centres of power to tackle and reduce military intervention.⁷²⁵

⁷¹⁷ “PML-N ready to accept new NFC award formula,” *Dawn*, May 24, 2009.

⁷¹⁸ *Ibid.*

⁷¹⁹ Interview of Ayaz Sadiq.

⁷²⁰ Akbar Zaidi, *Issues in Pakistan's Economy*, 373.

⁷²¹ Interview of Mushahid Hussain Syed (Pakistan Muslim League - Nawaz Senator) by the author, Islamabad, March 11, 2020.

⁷²² Interview of Taj Haider (Pakistan People's Party Senator) by the author, online, May 12, 2020.

⁷²³ Interview of Mushahidullah Khan.

⁷²⁴ Interview of Aftab Ahmad Sherpao.

⁷²⁵ Interview of Mehtab Khan Abbasi.

Following an “instrumentalist approach,”⁷²⁶ the PML-N sought to break the “Punjabi civil-military nexus”⁷²⁷ and empower the elected apparatuses of the state. By supporting provincial and nationalist political actors as equal “stakeholders” in the system,⁷²⁸ it sought to strengthen the constitution’s resistance to military coups.⁷²⁹ Anti-coup Article 6 of the 1973 Constitution was, therefore, paired with new ethnically decentralising constitutional arrangements.⁷³⁰ If the military establishment, before the 18th amendment, was pitched against one party or a coalition in “Islamabad,”⁷³¹ the 18th amendment made sure that the military establishment would have to contend with multiple power centres,⁷³² including Punjab,⁷³³ in any future intervention.⁷³⁴

Consistent with reducing “Punjab’s domination of Pakistan,”⁷³⁵ ethnically decentralising constitutional arrangements were also expected to serve the PML-N as an antidote to widespread anti-Punjab sentiments in smaller provinces.⁷³⁶ The goal was to de-Punjabise the federation and, in doing so, assist the PML-N in building “political bridges” through reconciliatory relations with regional and nationalist parties as well as non-party actors in smaller provinces.⁷³⁷ This, in turn, helped the PML-N re-establish itself as a national/federal party, according to a close aide of Benazir Bhutto –⁷³⁸ a status it had lost after the 1999 coup due to the military-induced internal split between the PML-N and the PML-Q. As the PML-N’s Mushahidullah Khan pointed out, this strategy of building cross-ethnic bridges and sustaining them via the 18th amendment was the PML-N’s response to the military establishment’s

⁷²⁶ Ibid.

⁷²⁷ Interview of Farhatullah Babar.

⁷²⁸ Interview of Farooq Sattar (Muttahida Qaumi Movement member of the 18th amendment committee) by the author, online, July 7, 2020.

⁷²⁹ Interview of Mehtab Khan Abbasi.

⁷³⁰ Interview of Raza Rabbani.

⁷³¹ Interview of Mushahidullah Khan.

⁷³² Interview of Matiullah Jan (Journalist, Lawyers’ Movement activist) by the author, Islamabad, November 21, 2019.

⁷³³ Interview of Mushahidullah Khan.

⁷³⁴ Interview of Farooq Sattar.

⁷³⁵ Interview of Ayaz Sadiq.

⁷³⁶ Ibid.

⁷³⁷ Interview of Safdar Abbasi.

⁷³⁸ Ibid.

politics of “provincialisation of parties,” for provincialised politics would mostly yield “coalition governments,” which are “easy for the establishment to control.”⁷³⁹

The PML-N’s active support for ethnic decentralisation resulted in significant electoral gains for the party in KPK and Balochistan in the 2013 general elections. As compared to its nine seats in KPK and zero in Balochistan in 2008, the PML-N won sixteen seats in KPK and twenty-one in Balochistan in 2013. So, even apart from establishing its government at the Centre and in Punjab, the PML-N was able to establish a government in Balochistan in coalition with the NP, which was not only involved in the 18th amendment committee but also believed that the PML-N had played a leading role in the NFC award.⁷⁴⁰

The PML-N’s approach, throughout, was driven by what Slater and Wong call an “incentive-to-thrive scenario”⁷⁴¹ i.e., the imperative of continuing to rule. After 1999, and increasingly after 2006, the Punjab-based PML-N calculated that its political survival in a polity dominated by Punjabi-dominated non-elected institutions laid in working with other parties (across ethnic lines) to institutionalise an ethnically decentralised constitutional arrangement – one that would offer enough space to elected political institutions, at both national and regional levels, to assert their power vis-à-vis a Punjabi-dominated and interventionist military establishment.⁷⁴² It was this approach – and role – of the PML-N that turned Punjab, according to a member of the 18th amendment committee representing the Sindh-based MQM, from previously being the “centre of complicity” for Pakistan’s various ethnically centralising constitutional systems to being the “centre of complicity” for an ethnically decentralising constitutional system in 2010.⁷⁴³

⁷³⁹ Interview of Mushahidullah Khan.

⁷⁴⁰ Interview of Abdul Malik.

⁷⁴¹ See Dan Slater and Joseph Wong, “The Strength to Concede: Ruling Parties and Democratisation in Developmental Asia,” *Perspectives on Politics* 11, no. 3 (September 2013): 717-733.

⁷⁴² Interview of Taj Haider.

⁷⁴³ Interview of Farooq Sattar.

4. The Politics of Inter-ethnic Consensus and the 18th Amendment

As pointed out by John Higley and Michael Burton, a “consensually united elite”⁷⁴⁴ is the *sine qua non* for transitions from authoritarianism to democracy. While these transitions, supported by an elite settlement, may still fail to consolidate for various reasons,⁷⁴⁵ it remains that an elite consensus, often achieved via protection pacts, is crucial.⁷⁴⁶

The 18th constitutional amendment in Pakistan confirms the role that political elites play in institutionalising ethnically decentralising political transitions. While the Lawyers’ Movement played a key role in dismantling the military regime of General Pervez Musharraf and reinforcing the demand for ethnic decentralisation between 2007 and 2009, the Movement, as Munir A. Malik stressed, did not in and of itself process the 18th amendment. That was for the parliamentarians.⁷⁴⁷ The 18th amendment was, in this sense, a settlement amongst politically, ethnically and even ideologically diverse political elites represented through large and small political parties as well as independent actors.⁷⁴⁸

The actual political process, however, unfolded in a deeply contentious manner, with negotiations, or what is more commonly called elite “roundtables”⁷⁴⁹ and “bridge-building”⁷⁵⁰ by key political players – in particular, “Ishaq Dar and Raza Rabbani” –⁷⁵¹ playing a key role in this cross-ethnic settlement. The process was complex not only because there were Punjab-based forces within the committee that were still

⁷⁴⁴ See John Higley and Michael Burton, *Elite Foundations of Liberal Democracy* (Maryland: Rowman and Littlefield Publishers, INC, 2006).

⁷⁴⁵ See Thomas A. Baylis, “Elite Consensus and Political Polarization: Cases from Central Europe,” *Historical Social Research* 37, no. 1 (2012): 90-106.

⁷⁴⁶ See Dan Slater, *Ordering Power: Contentious Politics and Authoritarian Leviathans in Southeast Asia* (New York: Cambridge University Press, 2010).

⁷⁴⁷ Interview of Munir A. Malik (Leader of the Lawyers’ Movement) by the author, Islamabad, November 20, 2019.

⁷⁴⁸ The 18th amendment committee included all political parties that had representation in the parliament. There was a representation for the independent members of the parliament in the committee as well.

⁷⁴⁹ Jan Pakulski, “John Higley’s Work on Elite Foundations of Social Theory and Politics,” *Historical and Social Research* 37, no.1 (2012): 11.

⁷⁵⁰ Interview of Afrasiab Khattak.

⁷⁵¹ Interview of Abdul Malik.

closely allied with the military establishment (i.e., the PML-Q), but also because political party and provincial interests intersected in ways that required compromises at both party and provincial levels. Therefore, while the PML-N wanted to break the Punjabi-dominated non-elected institutions,⁷⁵² it needed the support of smaller provinces and parties. It achieved this not only by supporting provincial autonomy,⁷⁵³ but also by conceding demands, such as NWFP's nomenclatural transformation into a more ethnically sensitive KPK.⁷⁵⁴

It is important to recognise that the ANP's demand for changing the name of their province was not a part of the CoD, nor had the PML-N, at any time, made any commitment in this regard.⁷⁵⁵ The demand for changing NWFP's name became a part of the political process only because it was one of the conditions on which the NWFP-based ANP joined the PPP-led coalition government in 2008.⁷⁵⁶ The PML-N, instead of opposing the matter because it fell outside of the CoD framework, decided to resolve it through a lengthy consultation process⁷⁵⁷ that involved political actors from within and outside the committee, including Nawaz Sharif himself.⁷⁵⁸ The fact that an *inter-ethnic* agreement was eventually reached⁷⁵⁹ between the two principal actors – the PML-N and the ANP – not only helped advance the 18th amendment, but also showed how a PML-led Punjab was playing a conciliatory cross-ethnic role, owing to its own strategic interests, in a process that would ultimately decrease Punjab's domination of Pakistan.⁷⁶⁰ While the ANP had long been demanding this change of name, the PML-N made a rational calculation, “overcoming its internal opposition”⁷⁶¹ and reaching a decision that the overall benefits of the 18th amendment – especially, repealing the 17th amendment and removing the limit on third-term prime ministership

⁷⁵² Interview of Farhatullah Babar.

⁷⁵³ Apart from the CoD, the PML-N's 2008 election manifesto, too, made extensive pledges to institutionalise autonomy.

⁷⁵⁴ Based upon the author's interviews.

⁷⁵⁵ Interview of Zahid Khan (Awami National Party member of the 18th amendment committee) by the author, Islamabad, March 9, 2020.

⁷⁵⁶ Ibid.

⁷⁵⁷ Amjad Mahmood, “PML-N, ANP ‘soft’ on renaming NWFP.”

⁷⁵⁸ Amir Wasim, “Nawaz forms panel for talks with ANP,” *Dawn*, December 27, 2009.

⁷⁵⁹ It was primarily a compromise between the PML-N and the ANP.

⁷⁶⁰ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no. 1-4, 71-72 (Aftab Ahmad Sherpao).

⁷⁶¹ Pakistan. *The National Assembly of Pakistan Debates*, April 7, 2010, Vol 21, no. 1-4, 135 (Asfand Yar Wali).

– far exceeded electoral losses, if any,⁷⁶² in the pro-PML-N Hazara region in KPK province.

The PML-N led Punjab's role notwithstanding, the fact that the political process involved multiple political actors active at provincial and national levels meant that the amendment was far from a product of "Centre-Punjab relations" only.⁷⁶³ For political parties, representing both national and provincial interests, the bargain yielded results for all in one way or another. For instance, while nationalist parties like the ANP, NP, Jamhuri Watan Party (JWP),⁷⁶⁴ and Balochistan National Party (BNP), as well as federal parties (PML-N, PPP), were interested in provincial autonomy for reasons that included the de-militarisation and de-Punjabisation of Pakistan, more religiously oriented parties – in particular, JI and the JUI-F – pushed for keeping Islamic institutions, such as the Council of Islamic Ideology (CII) – which has existed in Pakistan in various forms since the 1956 Constitution⁷⁶⁵ – intact.⁷⁶⁶ This is also one of the principal reasons why a full revival of the original 1973 Constitution, by completely removing the 8th amendment, couldn't happen.⁷⁶⁷ Secular parties like the ANP and the PPP were "convinced" by religious parties, as one JI member of the committee said, "to change their position on making Pakistan a secular state" in exchange for the JI's support for enhanced provincial autonomy.⁷⁶⁸ For the Sindh-based MQM, the primary motivation was to secure a constitutional guarantee for local governments (Article 140A) and "grab" as much power from the Centre as possible.⁷⁶⁹ The end result of this politics of bargain and compromise was an "Islamic, federal, democratic and parliamentary" constitution.⁷⁷⁰

⁷⁶² Pakistan. *The Senate of Pakistan Debates*, April 13, 2010, Vol 5, no. 1-7, 52 (Ishaq Dar).

⁷⁶³ Farzana Arshad et.al, "Re-contextualizing the 18th Amendment: Working of Federalism in Pakistan," *Journal of the Research Society of Pakistan* 55, no.2 (July-December 2018): 26.

⁷⁶⁴ Democratic National Party.

⁷⁶⁵ In 1956, the Council was established as an 'Islamic Commission.' The 1962 Constitution reconstituted it as an 'Advisory Council.' The 1973 Constitution re-established it as the 'Council of Islamic Ideology.'

⁷⁶⁶ Interview of Farhatullah Babar.

⁷⁶⁷ Pakistan. *The National Assembly of Pakistan Debates*, April 7, 2010, Vol 21, no. 1-4, 216 (Haider Abbas Rizvi).

⁷⁶⁸ Interview of Khurshid Ahmad.

⁷⁶⁹ Interview of Farooq Sattar.

⁷⁷⁰ Interview of Khurshid Ahmad.

Within the parliament, interests intersected in complex ways that made it possible for political parties to pursue the “art of the possible.”⁷⁷¹ So, while religious parties emphasised the Islamic character of the constitution, they were not – in particular, provincially concentrated parties such as the JUI-F – inherently opposed to provincial autonomy. A ‘note of reiteration’ submitted by the JUI-F showed that it was committed to an even more radical form of provincial autonomy than was ultimately institutionalised through the 18th amendment, with all but four powers – defence, foreign policy, currency and communications – vested in the centre.⁷⁷² The JI, too, favoured a de-Punjabised “participatory federalism.”⁷⁷³ Similarly, the PML-N, while it favoured a *de-Punjabised* Pakistan, was not in favour of removing Islamic provisions.⁷⁷⁴ The PPP, while it favoured provincial autonomy,⁷⁷⁵ had no deep qualms about retaining the “Islamic nature” of the constitution.⁷⁷⁶ When the PPP first presented its constitutional reforms package in 2008, it included a proposal⁷⁷⁷ to amend Article 91 of the constitution that would make it necessary for the prime minister to be a Muslim.⁷⁷⁸ This article was accordingly revised via the 18th amendment.⁷⁷⁹

What also provided an umbrella to accommodate diverse, yet inter-related party interests was a shared opposition to the military’s domination of Pakistan as well as its ethnic underpinnings.⁷⁸⁰ Historically speaking, while military coups displaced the PPP and the PML-N governments at the Centre from the late 1970s onwards, nationalist and regionally concentrated political forces also suffered under military regimes,⁷⁸¹ as the latter would not only curtail provincial powers and resources but

⁷⁷¹ Pakistan. *The Senate of Pakistan Debates*, April 13, 2010, Vol 5, no. 1-7, 68 (Khurshid Ahmad).

⁷⁷² Pakistan. *The Report of the Parliamentary Committee for Constitutional Reforms*, 68.

⁷⁷³ Interview of Khurshid Ahmad.

⁷⁷⁴ Interview of Hamid Mir (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 11, 2019.

⁷⁷⁵ Interview of Mehtab Khan Abbasi.

⁷⁷⁶ Interview of Syed Naveed Qamar (Pakistan People’s Party member of the 18th amendment committee) by the author, Islamabad, February 28, 2020.

⁷⁷⁷ Although the proposal meant only to restore article 91 as it stood when the 1973 Constitution was passed, the PPP did support ‘Islamising’ the office of the prime minister.

⁷⁷⁸ Issam Ahmad, “PPP package will deepen judicial crisis: HRCP,” *Dawn*, June 8, 2008.

⁷⁷⁹ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no 1-4, 26 (Raza Rabbani).

⁷⁸⁰ Pakistan. *The Senate of Pakistan Debates*, April 13, 2010, Vol 5, no. 1-7, 82 (Haji Adeel).

⁷⁸¹ Interview of Zahid Khan.

also launch military operations to suppress aspirations for provincial autonomy.⁷⁸² It was this shared anti-military stance that led both mainstream – except the PML-Q and the MQM that were allied with the Musharraf regime – and most regional parties to join the PML-N in London in 2007 to reinforce the CoD.⁷⁸³ With most parties having just recovered from the trauma caused by nine years of Musharraf’s military regime,⁷⁸⁴ they capitalised on the available space created by the Lawyers’ Movement’s success (forcing the military into a “survival mode”⁷⁸⁵) and, then, constitutionally addressed the core issue of provincial autonomy. This was done in light of the CoD and the (PML-N led) 2007 London conference of 38 parties,⁷⁸⁶ which “acknowledged the injustice done to the provinces over the decades.”⁷⁸⁷

Although some regional parties from KPK and Balochistan were not completely satisfied with the quantum of provincial autonomy, it remains that a new “equilibrium”⁷⁸⁸ amongst the constituent units, and between the Centre and provinces, was created. This equilibrium epitomised a decisive shift from a politics of “strong Centre” to a politics of “strong provinces” as the basis of a multi-ethnic, federal-parliamentary polity.⁷⁸⁹

5. The Modalities of Cross-ethnic Consensus

While the 18th amendment committee was established in 2010 to review and amend the 1973 Constitution in light of the 2006 CoD, the outcome was not just a reflection of the CoD,⁷⁹⁰ because not all parties had agreed to everything in it.⁷⁹¹ Creating a

⁷⁸² Interview of Mehtab Khan Abbasi.

⁷⁸³ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no. 1-4, 58 (Ahsan Iqbal).

⁷⁸⁴ Interview of S.M. Zafar.

⁷⁸⁵ Interview of Matiullah Jan.

⁷⁸⁶ M. Ziauddin, “38 parties likely to attend London conference,” *Dawn*, July 7, 2007.

⁷⁸⁷ Interview of Raza Rabbani.

⁷⁸⁸ Pakistan. *The National Assembly of Pakistan Debates*, April 6, 2010, Vol 21, no. 1-4, 15 (Raza Rabbani).

⁷⁸⁹ Pakistan. *The National Assembly of Pakistan Debates*, April 7, 2010, Vol 21, no-1-4, 100 (Farooq Sattar).

⁷⁹⁰ Interview of Zafrullah Khan (Pakistan People’s Party leader) by the author, Islamabad, March 10, 2020

⁷⁹¹ Interview of Raja Zafrul Haq (Pakistan Muslim League – Nawaz Chairman) by the author, Islamabad, November 23, 2019.

“national consensus”⁷⁹² required not only making smaller parties embrace the CoD, but also going beyond its framework to accommodate diverse interests.⁷⁹³ Following Lijphart’s advice about developing consociational systems, the mainstream elites took steps to “accommodate the divergent interests and demands of the [ethnic] sub-cultures,” transcending their political “cleavages to join in a common effort with the elites of rival sub-cultures”⁷⁹⁴ to decentralise (ethnically) on a more permanent basis. These steps included, first and foremost, making other parties embrace the CoD as much as possible. This task was facilitated by the fact that regional parties themselves saw the CoD as a major political “breakthrough” in the political history of Pakistan.⁷⁹⁵

5.1. The Inter-party Politics and the Charter of Democracy

Whereas the CoD was a major step towards bi-partisan reconciliation at the national level, it was presented to other parties only after the PPP and the PML-N agreed amongst themselves.⁷⁹⁶ But the pact was “not imposed” on smaller parties.⁷⁹⁷ Instead, smaller political parties used possible support for the pact to anchor their demands for constitutional reforms and prevent the process from crumbling.⁷⁹⁸ This is evident from the fact that even those parties that did not attend the London conference in 2007 (e.g. the MQM) were present in the 18th amendment committee and bargained for their interests to support provincial autonomy.⁷⁹⁹ For instance, while the MQM did support provincial autonomy, its main thrust, as a party based mostly in urban Sind (Karachi and Hyderabad), was towards devolution to the local level (article 140-A), which was possible only if the provinces were to get these powers first, as an MQM member of the committee explained.⁸⁰⁰

Smaller parties, however, did not simply follow the CoD to project their specific demands. While nationalist parties from Balochistan and other provinces supported

⁷⁹² Peerzada Salman, “18th amendment result of national consensus, says Rabbani,” *Dawn*, April 22, 2010.

⁷⁹³ Pakistan. *The National Assembly of Pakistan Debates*. April 7, 2010, Vol 21, no. 1-4, 211 (Haider Abbas Rizvi).

⁷⁹⁴ Arend Lijphart, “Consociational Democracy,” *World Politics* 21, no. 2 (January 1969): 216.

⁷⁹⁵ Interview of Rehmatullah Kakar.

⁷⁹⁶ Interview of Raza Rabbani.

⁷⁹⁷ Interview of Zahid Khan.

⁷⁹⁸ Interview of Khurshid Ahmad.

⁷⁹⁹ Interview of Farooq Sattar.

⁸⁰⁰ *Ibid.*

the broad framework provided by the pact,⁸⁰¹ their ‘notes of reiteration’ – in particular, those written by the BNP – still reiterated their core demand to institutionalise a form of autonomy that gave maximum powers to the provinces (and minimum powers to the Centre).⁸⁰²

Mainstream political parties, on the other hand, were not too rigid to accommodate diverse political interests. As Zafrullah Khan, who was informally involved with the process as a constitutional expert, said, the “CoD did not say anything about changing the name of NWFP [and] the CoD did not say anything about giving the provinces 50 per cent share of resources” (Article 172).⁸⁰³ The major parties’ support for these changes was a result of their own “political motivation”⁸⁰⁴ against “the centrist military establishment”⁸⁰⁵ and demands made by the nationalist parties.⁸⁰⁶ These demands made the PPP and the PML-N give up more central powers in favour of the provinces⁸⁰⁷ and helped establish an inter-ethnic consensus around a political arrangement that would ultimately help their future governments at the Centre vis-à-vis the military establishment.⁸⁰⁸

Major parties were also significantly constrained by the composition of the parliament. In the 2008 elections, no party won an absolute majority,⁸⁰⁹ which compelled the main CoD parties to include smaller parties in the 18th amendment committee.⁸¹⁰ While this composition made regional parties more powerful, it also had the effect of constraining the anti-devolution parties, such as the PML-Q, from mobilising enough support in the committee to oppose the process. As Waseem Sajjad of the PML-Q said, this parliamentary composition gave a “one-sided weightage” to nationalist

⁸⁰¹ The CoD addressed many of their demands: removal of the concurrent list, a policy on no discrimination against provinces, provincial autonomy, a new NFC etc.

⁸⁰² Pakistan. *Report of Parliamentary Committee on Constitutional Reforms*, 67.

⁸⁰³ Interview of Zafrullah Khan.

⁸⁰⁴ Interview of Lieutenant General (retired) Abdul Qayyum by the author, Islamabad, December 24, 2019.

⁸⁰⁵ Interview of Aftab Ahmad Sherpao.

⁸⁰⁶ Ahmad Hassan, “Accord on provincial autonomy stressed,” *Dawn*, March 10, 2010.

⁸⁰⁷ Interview of Akram Dashti.

⁸⁰⁸ Interview of Zafrullah Khan.

⁸⁰⁹ The PPP government was a coalition government, which included the ANP, the PML-N (for a few initial months) and even the MQM.

⁸¹⁰ Interview of Afrasiab Khattak.

parties at the expense of bigger parties with more seats in the parliament i.e., the PML-Q.⁸¹¹

5.2. Manufacturing Cross-Party Consensus

Almost all political parties involved in the 18th amendment committee had different but not irreconcilable political programmes,⁸¹² with a major divide existing between those – Baloch nationalist parties in particular – who (a) wanted absolute devolution leaving the Centre with only four powers (defence, communication, foreign policy and currency) and those who (b) wanted to create a ‘new equilibrium’ between the Centre and the provinces by abolishing the concurrent list and revamping the CCI for joint jurisdiction. This division existed at both inter and intra-party levels.⁸¹³ The committee members, therefore, had to create a consensus with members of other parties in the committee as well as members/leaders of their parties⁸¹⁴ through “intense negotiations ... lobbying ... and consensus-building.”⁸¹⁵ Most of the time, the committee members – including those from the PML-N –⁸¹⁶ would go back and forth to their respective central executive committees to seek their support for reforms around which a multi-party and inter-ethnic consensus could be built.⁸¹⁷

A clear example of this came when committee members from the Balochistan-based NP had to convince opponents of the constitutional process within their own ranks. The opposition of some Baloch nationalists to the process reflected their scepticism about the possibility of achieving ethnic decentralisation with help from political parties – the PPP and the PML-N – known for their centralising positions in the past.⁸¹⁸ But this persuasion became possible, in the words of Abdul Malik, who became Balochistan’s chief minister in 2013, because of these parties’ – in particular,

⁸¹¹ Interview of Waseem Sajjad.

⁸¹² Interview of Syed Naveed Qamar.

⁸¹³ Based upon the author’s interviews.

⁸¹⁴ Interview of Farooq Sattar.

⁸¹⁵ Interview of Afrasiab Khattak.

⁸¹⁶ Interview of Zafar Ali Shah (Former Senator of Pakistan Muslim League – Nawaz) by the author, Islamabad, December 6, 2019. Zafar recalled that a meeting of the PML-N’s parliamentary committee was arranged, a few days before the 18th amendment was tabled in the parliament, to develop a consensus with the PML-N.

⁸¹⁷ Interview of Farooq Sattar.

⁸¹⁸ Pakistan. *The Senate of Pakistan Debates*, April 14, 2010, Vol 4, no.6, 23-24 (Abdul Malik).

the PML-N's – “flexibility to accommodate our demands” for provincial autonomy.⁸¹⁹ This flexibility in turn allowed all parties to submit their draft proposals, which then became the basis for intra-committee debates and inter-party negotiations.⁸²⁰ Whereas a large number of demands – in particular, those related to provincial autonomy – were incorporated, outstanding disagreements were absorbed through ‘notes of reiteration.’⁸²¹

The inter-ethnic consensus was, thus, neither an uncontentious process nor created out of parties’ shared desire to remove the military’s constitutional footprint without accommodating regional parties’ demands for autonomy.⁸²² Ultimately, the gap between regional parties’ demand for an absolutely devolved federation and mainstream parties’ support for an ethnically cooperative federation was addressed by creating a second federal legislative list (‘Federal Legislative List Part II’), which institutionalised the concept of ‘joint and equal’ powers i.e., powers jointly exercised by the federal government and the provinces, over crucial subjects, including natural resources.⁸²³

5.3. Tackling the ‘Punjabi Hegemon’

As has been recognised, a major reason for ethnic conflict in multi-ethnic societies is an unequal distribution of political power and economic resources amongst ethnic groups.⁸²⁴ Therefore, any constitutional reform process aimed at a more equitable distribution of power among ethnic groups involves making the dominant ethnic group give up its privileged access to power – which, as mentioned previously, scholars like Horowitz and Lijphart consider highly unlikely. Therefore, when the 18th amendment was being debated, a major task for the relevant parties was to “reduce the dominance and over-representation of Punjab in the federation.”⁸²⁵ However, given intra-ethnic institutional divisions, parties did not have to “convince”⁸²⁶ the

⁸¹⁹ Interview of Abdul Malik.

⁸²⁰ Interview of Aftab Ahmad Sherpao.

⁸²¹ A total of 21 notes were submitted.

⁸²² Interview of Farooq Sattar.

⁸²³ Interview of Khurshid Ahmad.

⁸²⁴ See Lasse Lykke Rorbaek and Allan Toft Knudsen, “Maintaining ethnic dominance: Diversity, power, and violent repression,” *Conflict Management and Peace Science* 34, no.6 (November 2017): 640-659.

⁸²⁵ Interview of Khurshid Ahmad.

⁸²⁶ Interview of Taj Haider.

PML-N, which saw “equal benefits”⁸²⁷ in changing “the system of ethnic domination and end trust deficit to strengthen the federation and establish civilian democracy.”⁸²⁸ Thus, unlike Rothchild’s argument, the presence of a “hegemonic” ethnic group did not “foster deadlocks.”⁸²⁹ On the contrary, a dominant but internally fragmented ethnic group facilitated an ethnically decentralising constitutional transition.⁸³⁰

The 18th amendment committee, as mentioned above, had to contest two different civilian Punjabi elements represented by the Punjabi PML-N (pro-devolution) and the Punjabi PML-Q (anti-devolution). In accordance with the task at hand – and with the PML-N’s concurrence –⁸³¹ the committee’s composition was designed⁸³² to give regional (non-Punjabi) parties more representation,⁸³³ which left the anti-devolution forces marginalised.⁸³⁴ This particular composition was necessitated not only in view of the ongoing situation in most of Pakistan’s peripheral regions,⁸³⁵ including Balochistan – where a separatist insurgency had been going on since 2006 when Akbar Bugti was killed in a military operation -⁸³⁶ but also because major parties – in particular, the PML-N – “needed this support from smaller parties to establish civilian supremacy. Nawaz Sharif agreed to abolish the concurrent list for this very purpose.”⁸³⁷

With the PML-N sensing the prevailing situation in Pakistan’s peripheral regions as a re-enactment of the events of December 1971,⁸³⁸ and at the same time, seeking to revive its national-level politics undercut by the military establishment since the 1999 coup, its support for this composition of the committee and the 18th amendment served its core interests well. First, it was able to win, as mentioned above, political

⁸²⁷ Ibid.

⁸²⁸ Interview of Ahsan Iqbal.

⁸²⁹ Donald Rothchild, *Managing Ethnic Conflict in Africa: Pressures and Incentives for Cooperation* (Washington D.C: Brookings Institution Press, 1997), 18.

⁸³⁰ Based upon the author’s interviews.

⁸³¹ Ibid.

⁸³² Interview of Syed Naveed Qamar.

⁸³³ Interview of S.M. Zafar.

⁸³⁴ Interview of Waseem Sajjad. The PML-Q had only two seats in the committee despite winning 54 seats in the 2008 elections.

⁸³⁵ Based upon the author’s interviews.

⁸³⁶ Ibid.

⁸³⁷ Interview of Munir Khan Orakzai (Member of the 18th amendment committee representing the independent MPs) by the author, Islamabad, March 4, 2020.

⁸³⁸ Interview of Ishaq Dar.

support from non-Punjabi regions to re-establish itself as a national, rather than provincial, party. Secondly, by redressing, for instance, a core Baloch demand for provincial autonomy, it supported an arrangement that would create, *constitutionally*, a ‘Baloch power centre’ against the military establishment.⁸³⁹ Ultimately, this arrangement, as mentioned previously, helped the PML-N strengthen civilian actors vis-à-vis the military.

Thus, encouraged by the PML-N-versus-military tussle, regional parties pursued ethnic decentralisation more ambitiously than would have been the case with a larger Punjabi presence, e.g., under the PML-Q. The peculiar composition of the committee plus the PML-N’s unwillingness to get rid of the CoD created a scenario in which the PML-Q, even if it had voted against the amendment, would have failed to prevent the amendment from passing.⁸⁴⁰

The committee’s composition – and the imperative of tackling Punjab – was further reinforced by the committee’s rules vis-à-vis consensus defined not as unanimity but in terms of the majority’s support for a particular change, with the minority not having the right to vote against it. It was agreed that the minority would express its opposition through a ‘note of reiteration’ rather than a negative vote.⁸⁴¹ Whereas these rules allowed regional parties to reiterate their demands for a more radical redistribution of powers, they also allowed them to divest the anti-devolution Punjab-based PML-Q of its “veto” power against the abolition of the concurrent list.⁸⁴²

Even though Punjab’s more privileged access to power was an obvious target,⁸⁴³ nationalist forces from KPK and Balochistan were still careful not to pitch their demands in explicitly *anti-Punjabi* terms.⁸⁴⁴ Rather, these parties projected their demands, in the words of Raza Rabbani, “according to the standard principals of federalism i.e., how best to equally divide powers and resources among all four

⁸³⁹ Interview of Mehtab Khan Abbasi.

⁸⁴⁰ Interview of Waseem Sajjad.

⁸⁴¹ Interview of Zafrullah Khan.

⁸⁴² Interview of S.M. Zafar.

⁸⁴³ Based upon the author’s interviews.

⁸⁴⁴ Interview of Pervez Rasheed.

provinces so that no single province remains deprived or over-represented.”⁸⁴⁵ Thus, the demand for reducing Punjab’s domination in the federation was pitched as the imperative of creating a “new provincial balance” in the federation,⁸⁴⁶ with provincial autonomy also presented as a constitutional arrangement that would benefit Punjab’s own backward areas as well.⁸⁴⁷ Specifically, it was argued that greater provincial autonomy would allow Punjab’s ruling parties to adopt a more inward-looking approach.⁸⁴⁸ While this inward-looking approach was one crucial reason why Punjab “voluntarily reduced its share” in the 7th NFC award,⁸⁴⁹ the PML-N’s primary motivation remained its “tussle with the army” and the overarching imperative of demilitarising the polity.⁸⁵⁰ This imperative exhibited a continuation of Nawaz Sharif’s politics of the 13th amendment to the 1973 Constitution, which sought to undo those parts of the 8th amendment that allowed the military leadership to supply “political will” to civilian presidents to dismiss elected governments during the 1990s.⁸⁵¹

For the PML-N, a constitutional re-distribution of political powers and economic resources was the only plausible way out of Pakistan’s perennial problem of Punjabi hegemony⁸⁵² sustained via military interventions⁸⁵³ and, more importantly, at the expense of civilian elites from Punjab itself.⁸⁵⁴ It was the intra-Punjab institutional divisions, rather than anti-Punjab sentiments, in other words, that facilitated a cross-ethnic elite consensus via the anti-military/pro-devolution CoD within the committee. In fact, it was the same factor that triggered the Lawyers’ Movement and brought it into an alliance with civil society and political parties,⁸⁵⁵ making it, as mentioned previously, a Movement that was more anti-military than pro judiciary.⁸⁵⁶ This was a crucial factor inasmuch as it helped consolidate the CoD’s bi-partisan consensus into

⁸⁴⁵ Interview of Raza Rabbani.

⁸⁴⁶ Interview of Rehmatullah Kakar.

⁸⁴⁷ Based upon the author’s interviews.

⁸⁴⁸ Interview of Aftab Ahmad Sherpao.

⁸⁴⁹ Interview of Raza Rabbani.

⁸⁵⁰ Interview of Munir Khan Orakzai.

⁸⁵¹ Mohammad Waseem, *Political Conflict*, 182.

⁸⁵² Interview of Ayaz Sadiq.

⁸⁵³ Interview of Ahsan Iqbal.

⁸⁵⁴ Interview of Zafrullah Khan.

⁸⁵⁵ Interview of Hamid Khan (Leader of the Lawyers’ Movement) by the author, Lahore, November 18, 2019.

⁸⁵⁶ Interview of Waseem Sajjad.

a “national consensus,”⁸⁵⁷ and supported the idea of an ethnically decentralised federation through its specific focus on “reinforcing an old demand for provincial autonomy” to help relevant parties end Punjab’s “over-representation” in the political and economic structures of the state.⁸⁵⁸ The Movement drove the politics of ethnic decentralisation,⁸⁵⁹ but it would not have survived without the support provided by political parties, especially the PML-N -⁸⁶⁰ a Punjab-based party that got involved in the whole process, first and foremost, because of its tussle with the Punjabi-dominated military establishment.⁸⁶¹

The 18th amendment was, thus, an outcome of distinct yet causally, temporally and contingently connected variables – intra-ethnic civil-military institutional tensions, intra-ethnic popular divisions, and a politics of cross-ethnic consensus. Together, these variables form the causal mechanism of constitutional ethnic decentralisation in ethnic majoritarian states. It was the same mechanism that, *with its varying configurations*, also produced ethnically decentralising constitutional changes in Indonesia and Fiji – cases that I examine in the next two chapters, respectively.

⁸⁵⁷ Interview of Ahsan Iqbal.

⁸⁵⁸ Interview of Khurshid Ahmad.

⁸⁵⁹ Interview of Latif Khosa (Pakistan People’s Party leader) by the author, Islamabad, February 24, 2020.

⁸⁶⁰ Interview of I.A. Rehman.

⁸⁶¹ Based upon the author’s interviews.

Ethnic Decentralisation: The Politics of Constitutional Change in Indonesia

Comparing Pakistan's causal path of ethnically decentralising constitutional change with Indonesia, this chapter argues that Suharto's ethnically centralised regime fragmented along intra-ethnic lines when Java-based/Javanese-dominated political parties alongside Java-based/Javanese-dominated social movements (reformasi) – student groups and NGOs – started demanding Suharto's and the Javanese-dominated military's more permanent exit from politics, as well as constitutional changes to the ethnically centralised 'New Order' framework. While reformasi, in alliance with political parties, generated pressure for ethnically decentralising reforms, a multi-party/cross-ethnic parliamentary consensus developed between 1999 and 2004 under the shadow of intra-Javanese civil-military institutional tensions to institutionalise ethnic decentralisation via constitutional amendments and laws.

1. Introduction: 'New Order' and Javanese Domination of Indonesia

As Donald Horowitz has argued, it was the internal fragmentation of the Suharto regime that played a key role in its fall and the subsequent introduction of ethnically decentralising constitutional reforms.⁸⁶² It was these reforms that redistributed political and economic power away from Javanese domination (“Javanisation”)⁸⁶³ within the ‘New Order’⁸⁶⁴ Indonesian state.⁸⁶⁵ The ‘New Order’ state was centralised both politically and ethnically, as the 1945 Constitution – which was prepared, during the Japanese occupation of Indonesia, by a committee dominated by Javanese politicians and intellectuals to establish a unitary state dominated by the president –⁸⁶⁶

⁸⁶² Donald Horowitz, *Constitutional Change and Democracy in Indonesia* (New York: Cambridge University Press, 2013), 1.

⁸⁶³ See David Leonard Thornton, “The Javanization of Indonesian Politics” (M.A. Diss., The University of British Columbia, 1972).

⁸⁶⁴ While I mainly focus on the *disintegration* of Suharto's ‘New Order’, Sukarno's rule, too, was a highly centralised polity that drew inspiration from Javanese monarchs. For further discussion see Jacques Bertrand, *Nationalism and Ethnic Conflict in Indonesia* (Cambridge: Cambridge University Press, 2004).

⁸⁶⁵ See Harold Crouch, “Patrimonialism and Military Rule in Indonesia,” *World Politics* 32, no. 4 (July 1979): 571-587.

⁸⁶⁶ P.J. Drooglever, “The Genesis of the Indonesian Constitution of 1949,” *Journal of Humanities and Social Sciences of Southeast Asia* 153, no. 1 (1997): 67-68.

found its ideological roots in Javanese cultural conceptions of power⁸⁶⁷ and respect for centralised power and authority.⁸⁶⁸ Not only did Suharto use these conceptions to culturally and ethnically unify⁸⁶⁹ Indonesia,⁸⁷⁰ but he frequently invoked them against ‘divisive’ political opponents⁸⁷¹ to legitimise his regime.⁸⁷² What also made his ‘New Order’⁸⁷³ ethnically centralised was the success of the Javanese-dominated Indonesian military,⁸⁷⁴ very much like the Punjabi-dominated Pakistan military, in penetrating the political, economic,⁸⁷⁵ and bureaucratic structures of the state,⁸⁷⁶ both directly through its territorial (i.e., regional) command structure – which was created to establish and maintain a military watch over civilian affairs across Indonesia’s different regions – and indirectly through civil servant organisations like *Korpri*, which required all civil servants to support and vote for Golkar⁸⁷⁷ (Suharto’s official party,⁸⁷⁸ which directly served military interests).

While the origins of Javanese domination of Indonesia, resembling those of Punjabi domination in Pakistan, are colonial,⁸⁷⁹ this domination continued to be cultivated, as in Pakistan, after Indonesia’s formal independence from the Dutch in 1949, during

⁸⁶⁷ See Benedict Anderson, *Language and Power: Exploring Political Cultures in Indonesia* (Ithaca: Cornell University Press, 1990), 17-77.

⁸⁶⁸ Mochtar Pabottingi, “Indonesia: Historicising the New Order’s Legitimacy Dilemma” in *Political Legitimacy in Southeast Asia: The Quest for Moral Authority*, ed. Muthiah Alagappa (Stanford: Stanford University Press, 1995), 238.

⁸⁶⁹ See Keith Foulcher, “The Construction of an Indonesian National Culture: Patterns of Hegemony and Resistance” in *State and Civil Society in Indonesia*, ed. Arief Budiman (Clayton: Monash Asia Institute, 1990), 301-320.

⁸⁷⁰ Ayu Sutarto, “Becoming a True Javanese: A Javanese view of attempts at Javanisation,” *Indonesia and the Malay World* 34, no. 98 (2006): 40.

⁸⁷¹ See Totok Sarsito, “Javanese culture as the source of legitimacy for Soeharto’s government,” *Asia Europe Journal* 4 (2006): 447-461.

⁸⁷² Abubakar E. Hara, “The Difficult Journey of Democratisation in Indonesia,” *Contemporary Southeast Asia* 23, no. 2 (August 2001): 307-326.

⁸⁷³ For a useful discussion on the origins and consolidation of ‘New Order’ see M.C. Ricklefs, *A History of Modern Indonesia Since C. 1200* (New York: Palgrave MacMillan, 2008), 322-368.

⁸⁷⁴ See Benedict Anderson, “Current Data on Indonesian Military Elites,” *Indonesia* 48 (October 1989): 65-96.

⁸⁷⁵ See Harold Crouch, *The Army and Politics in Indonesia* (Ithaca: Cornell University Press, 1978), 273-303.

⁸⁷⁶ See John A. MacDougall, “Patterns of Military Control in the Indonesian Higher Central Bureaucracy,” *Indonesia*, no. 33 (April 1982): 89-121.

⁸⁷⁷ See Leo Suryadinata, *Military Ascendancy and Political Culture: A Study of Indonesia’s Golkar* (Ohio: Ohio University Press, 1989).

⁸⁷⁸ See Julian M. Boileau, *Golkar: Functional Group Politics in Indonesia* (Jakarta: Centre for Strategic and International Studies, 1983).

⁸⁷⁹ See Benedict Anderson, “Old State, New Society: Indonesia’s New Order in Comparative Perspective,” *The Journal of Asian Studies* 42, no. 3 (May 1983): 477-496.

which the Indonesian military – which, unlike the Pakistani military’s colonial origins, was established during the Japanese military occupation of Indonesia in the 1940s as a resistant force against the Dutch colonial power – played a key role in consolidating the newly born Indonesian state.⁸⁸⁰ Accordingly, in the 1980s, even though Javanese were 47 per cent of the total population, about 80 per cent of the country’s military elite were Javanese,⁸⁸¹ and almost 75 per cent of key decision-making positions were in the hands of Javanese military men working in civilian institutions,⁸⁸² keeping a firm grip on non-Javanese regions.⁸⁸³ In 1981, the military’s presence in the civil bureaucracy ranged from 30 per cent (e.g., in Industry, Finance, Information, and Education) to 100 per cent (e.g., in Defence and Home Affairs).⁸⁸⁴

The presence of the military within Indonesia’s bureaucracy was an outcome of a specific policy enacted by President Suharto in the form of the Functional Board of Services – a body “charged with inserting military personnel [loyal to the regime] in civilian positions at all government levels.”⁸⁸⁵ Javanese domination was also actively extended by settling Javanese in, for instance, the Outer Islands i.e., islands other than Java, or provinces. This policy was actively supported by the Javanese dominated military and civil bureaucracy.⁸⁸⁶ Combined with the political centralisation of power, the Javanisation of Indonesia reinforced ethnic domination through fiscal dependence, as provinces relied, without constitutional guarantees, on the Javanese-dominated Centre for 69 per cent of their budgets.⁸⁸⁷ The uneven distribution of political and

⁸⁸⁰ See Salim Said, “The Political Role of the Indonesian Military: Past, Present and Future,” *Southeast Asian Journal of Social Sciences* 15, no. 1 (1987): 16-34.

⁸⁸¹ Benedict Anderson, “Current Data on the Indonesia Military Elite,” *Indonesia* 40 (October 1985): 140.

⁸⁸² Leo Suryadinata, “Government Policy and National Integration in Indonesia,” *Southeast Asian Journal of Social Sciences* 16, no. 12 (1988): 111.

⁸⁸³ Benedict Anderson, “Current Data,” (October 1989): 67.

⁸⁸⁴ Donald K. Emmerson, “Understanding the New Order: Bureaucratic Pluralism in Indonesia,” *Asian Survey* 23, no. 11 (November 1983): 1226.

⁸⁸⁵ Michael Buehler, *The Politics of Shari’a Law: Islamist Activists and the State in Democratizing Indonesia* (Cambridge: Cambridge University Press, 2016), 80.

⁸⁸⁶ See Riwanto Tirtosudarmo, “Economic Development, Migration, and Ethnic Conflict in Indonesia: A Preliminary Observation,” *Journal of Social Issues in Southeast Asia* 12, no. 2 (October 1997): 293-328.

⁸⁸⁷ Jacques Bertrand, *Nationalism and Ethnic Conflict*, 195.

economic resources between Java⁸⁸⁸ and Indonesia's other regions eventually triggered ethnic tensions across Indonesia.⁸⁸⁹

Like the Punjabi-dominated system of Pakistan, the Javanese-dominated system in Indonesia was a heavily militarised dispensation centred around a military dictator, politically active armed forces,⁸⁹⁰ and a relatively weak parliament with weak political parties.⁸⁹¹ The Indonesian military also played a key role in 'convincing' President Sukarno, in 1959, to scrap the country's post-independence 1950 (provisional) Constitution – which established a parliamentary system and civilian control of the military –⁸⁹² in favour of a presidential system via the centralised 1945 Constitution.⁸⁹³ It was a constitutional shift that allowed the Javanese dominated Indonesian military – which, frustrated by an unstable parliamentary system⁸⁹⁴ and civilian attempts to control the military in the early 1950s, increasingly saw itself as “the guardian of the national interest” –⁸⁹⁵ to secure a direct presence for itself in the Indonesian parliament as a ‘professional’ group.⁸⁹⁶

Swinging into power on the wings of the Javanese-dominated military, as well as a host of (Javanese) political, student⁸⁹⁷ and religious groups,⁸⁹⁸ Suharto consolidated his regime by controlling political activity and social mobilisation through “fascist-style corporatist organisations”⁸⁹⁹ controlled directly by the ‘New Order’ civil and

⁸⁸⁸ See I. Ketut Putra Erawan, “Political Reform and Regional Politics in Indonesia,” *Asian Survey* 39, no.4 (July 1999): 588-612.

⁸⁸⁹ See Riwanto Tirtosudarmo, *The Politics of Migration in Indonesia and Beyond* (Singapore: Springer, 2018), 58.

⁸⁹⁰ R. William Liddle, “Regime: The New Order” in *Indonesia Beyond Suharto: Polity, Economy, Society Transition*, ed. Donald K. Emmerson (London: The Asia Society, 1999), 44-47.

⁸⁹¹ R. William Liddle, *Leadership and Culture in Indonesian Politics* (Sydney: Allen and Unwin, 1996), 17.

⁸⁹² Harold Crouch, *The Army and Politics*, 28.

⁸⁹³ Theodore Friend, *Indonesian Destinies* (Cambridge, Massachusetts: Harvard University Press, 2003), 71.

⁸⁹⁴ Harold Crouch, *The Army and Politics*, 30-31. Since independence, several coalition governments had failed to rule long enough to provide a politically stable environment. A key task was to create a new constitution, which, too, remain unfulfilled.

⁸⁹⁵ Harold Crouch, *The Army and Politics*, 30.

⁸⁹⁶ David Leonard Thornton, “The Javanization of Indonesian Politics,” 80-81.

⁸⁹⁷ See Guy J. Pauker, “Toward a New Order in Indonesia,” *Foreign Affairs* 45, no. 3 (April 1967): 503-519.

⁸⁹⁸ Robert Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton: Princeton University Press, 2000), 16.

⁸⁹⁹ R. William Liddle, “Regime: The New Order,” 43.

military elites.⁹⁰⁰ Furthermore, the regime's process of 'political simplification' –⁹⁰¹ including the fusion of nine different political parties into three in 1973 –⁹⁰² emasculated them just enough⁹⁰³ to make them extend uncritical support to the "national leadership of President Suharto."⁹⁰⁴

Thus, with the Javanese-dominated military regime of President Suharto penetrating both political and bureaucratic institutions, Indonesia (like Pakistan) became a militarised and ethnically centralised polity that had, as Dan Slater noted, various "birth defects" – in particular, the ethnically exclusionary dominant role of the military –⁹⁰⁵ which laid a foundation for its ultimate demise in the late-1990s, when Java-based – and predominantly Javanese – student movements, Non-governmental Organisations (NGOs), and political parties, expressing *intra*-ethnic divisions and launching a frontal attack on Javanese culture conceptions associated with centralised power, authority and leadership,⁹⁰⁶ mobilised against Suharto and 'New Order' and pushed for the military's more permanent exit from politics and a more ethnically decentralised polity (albeit still within a unitary constitutional configuration).

2. The Disintegration of Suharto's 'New Order' Regime

The internal disintegration of Suharto's 'New Order' stressed forms of state transformation featuring ethnic decentralisation. And, crucially, this focus on ethnic decentralisation emerged at the hands of Javanese institutions (political parties) and social groups (*reformasi*), *constitutionally* institutionalising a re-ordering of ethnic power away from the dominant (but internally fragmented) Javanese.

⁹⁰⁰ Verena Beittinger-Lee, *(Un)Civil society and Political Change in Indonesia: A contested arena* (Abingdon: Routledge, 2009), 244.

⁹⁰¹ See Riswandha Imawan, "The evolution of political party system in Indonesia: 1900 to 1987" (Ph.D. Diss., North Illinois University, 1989).

⁹⁰² R. William Liddle, *Leadership and Culture*, 18.

⁹⁰³ See Harold Crouch, *The Army and Politics*, 245-272.

⁹⁰⁴ Edward Aspinall, *Opposing Suharto: Compromise, Resistance, and Regime Change in Indonesia* (Stanford: Stanford University Press, 2005), 150.

⁹⁰⁵ Dan Slater, *Ordering Power: Contentious Politics and Authoritarian Leviathans in Southeast Asia* (New York: Cambridge University Press, 2010), 185.

⁹⁰⁶ Stefan Eklof, *Power and Political Culture in Suharto's Indonesia: The Indonesian Democratic Party of the New Order (1986-98)* (Copenhagen: NIAS Press, 2003), 119.

Earlier student movements in the late 1970s did not lead to ethnic decentralisation, mostly because students themselves were not aiming to defeat the regime, as they projected themselves in non-political terms and believed that the regime's political and developmental logics were 'correct.'⁹⁰⁷ Consequently, they lacked the support of opposition political parties, which, in turn, were themselves not only weak but also lacking in grassroots influence due to formal restrictions, imposed in 1975, on building political support below the district level.⁹⁰⁸ As Anders Uhlin has shown, a contributing factor that denied student mobilisation in the 1970s any meaningful successes against the regime was that there were not enough divisions within the elites – including the three main parties –⁹⁰⁹ supporting the 'New Order.'⁹¹⁰ In other words, even though the Indonesian military dominated the political landscape, emasculated political parties did not, as mentioned above, have the political and institutional capacity to resist the Suharto regime.⁹¹¹ The 1970s, thus, lacked both power struggle involving the Javanese civil-military elites and direct coordination between the relevant political elites and social groups against the regime.

Student disillusionment with the 'New Order,' however, grew in the late 1980s and early 1990s, bringing 'dead campuses' back to life as students became frustrated with the country's "unequal distribution of benefits" as well as the corrupt role of the military – a system they had once helped to create.⁹¹² Javanese political parties, too, came into conflict with the Javanese-dominated military amidst emerging student demands for democratisation, demilitarisation and decentralisation,⁹¹³ with these demands even forcing the state party Golkar to split internally on the question of supporting Suharto, leading the military to withdraw its support for it in 1998.⁹¹⁴ Following growing student demands for democratisation, the regime responded, in

⁹⁰⁷ See Arief Budiman, "The Student Movement in Indonesia: A Study of the Relationship between Culture and Structure," *Asian Survey* 18, no. 6 (June 1978): 609-625.

⁹⁰⁸ See Ulla Fionna, *The Institutionalisation of Political Parties in Post-authoritarian Indonesia: From the Grass-roots Up* (Amsterdam: University of Amsterdam Press, 2013).

⁹⁰⁹ It included the Indonesian Democratic Party (PDI), the United Development Party (PPP) and Golkar.

⁹¹⁰ Anders Uhlin, *Indonesia and the "Third Wave of Democratisation"* (Surrey: Curzon Press, 1997), 164.

⁹¹¹ Benedict Anderson, *Language and Power*, 114-115.

⁹¹² Sastramidjaja, "Playing Politics: Power, memory, and agency in the making of the Indonesian student movement," (Ph.D Diss., University of Amsterdam, 2016), 144.

⁹¹³ Jun Honna, *Military Politics and Democratisation in Indonesia* (London: Routledge, 2003), 8-52.

⁹¹⁴ Leo Suryadinata, "The Decline of Hegemonic Party System in Indonesia: Golkar after the Fall of Soeharto," *Contemporary Southeast Asia* 29, no.2 (August 2007): 339.

1989, with the idea of “political openness” i.e., the possibility of criticism of the regime in public. Political parties, suppressed for decades by the military regime, saw in this change a possibility to revive their dead politics, as they increasingly directed their criticism towards the military’s involvement in politics.⁹¹⁵

Thus, the ‘New Order’ regime’s idea of ‘political openness’ unwittingly brought to the surface the suppressed *intra-ethnic* civil-military *institutional* tensions, as well as allowing (Javanese) political parties – especially the Indonesian Democratic Party (PDI) - ⁹¹⁶and (Javanese) student movements to coalesce against the (Javanese-dominated) regime in the 1990s (for a political and constitutional shift) - ⁹¹⁷ a partnership that culminated in the form of a *reformasi*-supported joint declaration (the 1998 ‘Ciganjur declaration’) by major political parties, with their roots in and outside of Java, in favour of both de-militarisation and decentralisation via constitutional reforms (see below).⁹¹⁸ Thus, emerging opposition to the Suharto regime gave birth to Indonesia’s ‘constitutional moment,’⁹¹⁹ which brought together key drives of the politics of de-Javanisation – *intra-ethnic* civil-military institutional tensions, social movements and multi-party, cross-ethnic consensus – that led to new forms of ethnic decentralisation between 1999 and 2004 in a series of constitutional amendments and laws passed, in almost every case, unanimously (see below).

A deeper understanding of the fall of the ‘New Order,’ as this relates to patterns of *intra-ethnic* fragmentation, can profitably be developed, very much like the PML-N’s transformation in Pakistan, through an account focused on the political transformation of the (previously accommodationist) Javanese-dominated and Javanese-supported⁹²⁰ PDI – specifically, its transformation, in 1999, from the PDI into the PDI-P,⁹²¹ - *the*

⁹¹⁵ Jun Honna, *Military Politics and Democratisation*, 12-13.

⁹¹⁶ This is an English translation of the party’s original name: Partai Demokrasi Indonesia (PDI).

⁹¹⁷ Thushara Dibley and Michele Ford, “Introduction: Social Movements and Democratization in Indonesia” in *Activists in Transition: Progressive Politics in Democratic Indonesia*, ed. Thushara Dibley and Michele Ford (Ithaca and London: Cornell University Press, 2019), 9.

⁹¹⁸ It was called the ‘Ciganjur Declaration.’

⁹¹⁹ For a study on how mass protests become ‘constitutional moments’ see Juliano Zaiden Benvindo, “The Seeds of Change: Popular Protests as Constitutional Moments,” *Marquette Law Review* 99, no. 2 (2015): 363-426.

⁹²⁰ For a discussion on the impact of ethnicity on electoral behaviour and support for specific political parties in Indonesia see See Aris Ananta, Evi Nurvidya and Leo Suryadinata, *Indonesian Electoral Behaviour: A Statistical Perspective* (Singapore: Institute of Southeast Asian Studies, 2004).

⁹²¹ The PDI-P was founded in 1999.

Indonesian Democratic Party of Struggle – led by Megawati Sukarnoputri, the daughter of President Sukarno⁹²² (whose regime was toppled by General Suharto in 1967).

As Stefan Eklof has argued, Megawati challenged Suharto in the 1998 presidential elections and became, not only the first to be formally nominated as a presidential candidate against Suharto, but also, in doing so, the first person to contest the Javanese underpinnings of Suharto's centralised, indivisible, and ostensibly incontestable power.⁹²³ Although Suharto was re-elected, Megawati's resistance acquired symbolic significance as an "authentic opposition,"⁹²⁴ which consequently helped unleash *intra*-Javanese "subterranean forces" that eventually dismantled the 'New Order'⁹²⁵ through a movement unfolding in the heartland of Javanese power itself.⁹²⁶

Although Megawati did not overtly espouse radical constitutional amendments for reasons that included her 'silent' politics (i.e., her tendency to avoid confrontation and make minimum public statements to articulate her vision),⁹²⁷ Edward Aspinall notes that her rise was still nothing short of a "public coup" challenging the military.⁹²⁸ Even as Megawati eschewed overt tussle, the powerful symbolism of 'authentic opposition' attached to her rise had the effect of turning the PDI into a vehicle of resistance allied with radical student groups, NGOs and anti-military dissident groups (e.g. the 'Petition of Fifty'),⁹²⁹ leading to political and even violent tussles with the regime.⁹³⁰

⁹²² Even before Megawati's rise, the traditional PDI was struggling to revive *Sukarnoism* as a means to reinvent itself as an effective opposition. See Stefan Eklof, *Power and Political Culture*, 148-152.

⁹²³ Stefan Eklof, *Indonesian Politics in Crisis, The Long Fall of Suharto* (Copenhagen: Nordic Institute of Asia Studies, 1999), 30-33.

⁹²⁴ Daniel Ziv, "Populist Perceptions and perceptions of populism in Indonesia: The case of Megawati Soekarnoputri," *Southeast Asia Research* 9, no. 1 (March 2001): 76.

⁹²⁵ Damien Kingsbury, *Power Politics and the Indonesian Military* (London and New York: Routledge, 2003), 160.

⁹²⁶ *Ibid.*, 160-161.

⁹²⁷ See Edward Aspinall, *Opposing Suharto*, 154-162.

⁹²⁸ *Ibid.*, 161.

⁹²⁹ *Ibid.*, 167.

⁹³⁰ Dan Slater, *Ordering Power*, 206.

Under Megawati, key PDI leaders forged alliances with anti-military and pro-decentralisation forces, including student groups and NGOs.⁹³¹ They turned the PDI into a major threat,⁹³² leading Suharto to topple Megawati from her party leadership in 1996 by manipulating the PDI from within and extending support to a pro-regime faction.⁹³³ This manipulation led Megawati to criticise the military for its “unconstitutional” interference in democratic processes,⁹³⁴ further adding to her political charisma, as the PDI found itself on the same ground as *reformasi* groups pursuing de-militarisation and ethnic decentralisation.⁹³⁵

With Megawati deposed from her PDI party leadership and, thus, absent from the 1997 elections, the remaining PDI, led by Soerjadi, suffered a startling defeat.⁹³⁶ But again, this merely points to ongoing power struggles *within* Indonesia’s dominant ethnic group: the Megawati-led faction, supported by radical (Javanese) student groups,⁹³⁷ battled both the regime and the pro-regime faction of the PDI led by Soerjadi. Megawati’s ouster was thus merely a prelude to an even more assertive and stronger PDI-P, which won the largest number of votes (34 per cent/153 seats in the parliament) in Indonesia’s 1999 elections.⁹³⁸ Nearly 57 per cent of its votes came from Java.⁹³⁹

While Megawati’s growing anti-regime and anti-military approach led the regime to project it as a threat,⁹⁴⁰ the atmosphere of resistance generated by the combined forces of the Megawati-led faction of the PDI and radical student groups like the People’s Democratic Party (PRD) directly emboldened other political and social groups struggling against Suharto as well.⁹⁴¹ This resistance even included state institutions like The Indonesian Institute of Science and Research (LIPI), which favoured

⁹³¹ Edward Aspinall, *Opposing Suharto*, 167.

⁹³² *Ibid.*, 182.

⁹³³ *Ibid.*, 183-184.

⁹³⁴ Stefan Eklof, *Power and Political Culture*, 261.

⁹³⁵ Resy Canonica-Walangitang, *The End of Suharto’s New Order in Indonesia* (Germany: Peter Lang, 2003), 182-185.

⁹³⁶ Marcus Mietzner, *Military Politics, Islam, and the State in Indonesia: From Turbulent Transition to Democratic Consolidation* (Singapore: Institute of Southeast Asian Studies, 2009), 108.

⁹³⁷ Anders Uhlin, *Indonesia and the “Third Wave of Democratisation,”* 212.

⁹³⁸ See Leo Suryadinata, *Elections and Politics in Indonesia* (Singapore: Institute of Southeast Asian Studies, 2002).

⁹³⁹ M.C. Ricklefs, *A History of Modern Indonesia*, 391.

⁹⁴⁰ Jun Honna, *Military Politics*, 37.

⁹⁴¹ Edward Aspinall, *Opposing Suharto*, 178.

dismantling the military's involvement in politics.⁹⁴² It also led thirty different NGOs to form a pro-Megawati coalition called the Indonesian People's Assembly⁹⁴³ (MARI),⁹⁴⁴ which, too, rejected the military's role in politics.⁹⁴⁵

By 1996, before Megawati's ouster, the PDI had established a 'free speech forum,' which not only brought the PDI, the MARI, and other student groups together but also became an avenue for criticising the regime, as well as demanding democratisation and a redistribution ('decentralisation') of political power in Indonesia.⁹⁴⁶ While the Forum was ultimately branded "unconstitutional" and banned because it intended to overthrow the government,⁹⁴⁷ it does show how political and social groups coalesced within a "broad opposition coalition"⁹⁴⁸ against the regime.

The Megawati-led group's tussle with the regime also had the effect of forcing other Javanese political leaders, including Abdurrahman Wahid and Amien Rais, to join the "elite opposition" against the 'New Order.'⁹⁴⁹ While Wahid's Nahdlatul Ulama (NU) had previously supported the regime, he later founded the National Awakening Party⁹⁵⁰ (PKB) to end NU's support because of mounting pressure from *reformasi* and NU members⁹⁵¹ to pursue a politics that stressed human rights and democracy and, thus, opposed the military's involvement in politics.⁹⁵² This elite opposition was also reinforced by Amien Rais, the Javanese leader of *Muhammadiyah*. Like Wahid, Rais had previously supported the regime and was even a member of the regime-backed Indonesian Association of Muslim Intellectuals (ICMI).⁹⁵³ However, after he resigned

⁹⁴² Jun Honna, *Military Politics*, 41-43 and 135-136.

⁹⁴³ This is an English translation of the group's original name: Majelis Rakyat Indonesia.

⁹⁴⁴ Stefan Eklof, *Power and Political Culture*, 263.

⁹⁴⁵ Jun Honna, *Military Politics*, 226.

⁹⁴⁶ *Ibid.*, 36.

⁹⁴⁷ Stefan Eklof, *Indonesian Politics in Crisis*, 40.

⁹⁴⁸ Adam Schwarz, *A Nation in Waiting: Indonesia in the 1990s* (Sydney: Allen and Unwin, 1994), 190-193.

⁹⁴⁹ Edward Aspinall, *Opposing Suharto*, 232.

⁹⁵⁰ This is an English translation of the party's original name: Partai Kebangkitan Bangsa (PKB).

⁹⁵¹ Suzaina Kadir, "Contested Visions of State and society in Indonesian Islam: The Nahdlatul Ulama in Perspective" in *Indonesia in Transition: Social Aspects of Reformasi and Crisis*, ed. Chris Manning and Peter Van Diermen (London: ZED Books, 2000), 327.

⁹⁵² Dan Slater, *Ordering Power*, 193-194 and 208.

⁹⁵³ This is an English translation of the organisation's original name: Ikatan Cendekiawan Muslim Indonesia (ICMI).

from the ICMI in 1997, due to his criticism of Suharto,⁹⁵⁴ he founded the National Mandate Party (PAN)⁹⁵⁵ and got aligned with *reformasi* to demand democratisation⁹⁵⁶ and a federal set-up that would decentralise power both politically and ethnically.⁹⁵⁷

This civilian counter-political push was first consolidated in the form of a 1998 multi-party pact between these three key *Javanese leaders*—Megawati, Wahid, and Rais—and the *Javanese* Sultan of Jogjakarta (the previous Sultan was Suharto's vice president for five years)⁹⁵⁸ called 'the Ciganjur declaration.'⁹⁵⁹ As a clear expression of *intra-ethnic* fragmentation, this multi-party – and cross-ethnic –⁹⁶⁰ agreement supported growing demands for demilitarisation ('civil-military institutional tensions') as well administrative, political, and fiscal decentralisation from the Centre to the (non-Javanese) regions ('ethnic decentralisation') within a unitary state.⁹⁶¹ This agreement also became a broad expression of demands that anti-Suharto social movements (*reformasi*) had been raising since the early 1990s.⁹⁶²

Indonesian *reformasi*⁹⁶³ was a constellation of allied student protest groups and NGOs. Among the leading NGOs were the Yogyakarta-based NGO coalition called the 'NGO Forum' and the Jakarta-based Legal Aid Institute (LBH),⁹⁶⁴ which together attacked the "integralist" ideological underpinnings of the regime and the 1945

⁹⁵⁴ Martin van Bruinessen, "Genealogies of Islamic radicalism in post-Suharto Indonesia," *South East Asia Research* 10, no. 2 (July 2002): 139.

⁹⁵⁵ This is an English translation of the party's original name: Partai Amanat Nasional (PAN).

⁹⁵⁶ Tun-jen Cheng and Deborah A. Brown, "Introduction: The role of Religious Organisations in Asian Democratisation," in *Religious Organisations and Democratisation: Case Studies from Contemporary Asia*, ed. Tun-jen Cheng and Deborah A. Brown (London and New York: Routledge, 2015), 28.

⁹⁵⁷ See Gabriele Ferrazzi, "Using the 'F' Word: Federalism in Indonesia's Decentralisation Discourse," *Publius: The Journal of Federalism* 30, no. 2 (Spring 2000): 63-85.

⁹⁵⁸ Jusuf Wanandi, *Shades of Grey: A Political Memoir of Modern Indonesia, 1965-1998* (Jakarta: Equinox Publishing, 2012), 89.

⁹⁵⁹ Donald Horowitz, *Constitutional Change*, 46.

⁹⁶⁰ Although led by Javanese leaders, these parties had a cross-ethnic base outside of Java. In the 1999 elections, all of these parties – the PDI-P, the PKB and the PAN – received significant voter support from outside of Java. For instance, the PDI-P won 10 seats in North Sumatra and 7 in Bali. The PAN won 7 seats in Aceh, North Sumatra and West Sumatra. The PKB, too, won seats in Kalimantan and Lampung. For details see, Leo Suryadinata, *Elections and Politics in Indonesia*, 218-224.

⁹⁶¹ Meredith L. Weiss, *Protest and Possibilities: Civil Society and Coalition for Political Change in Malaysia* (Stanford: Stanford University Press 2006), 203.

⁹⁶² Mikaela Nyman, *Democratising Indonesia: The Challenge of Civil Society in the Era of Reformasi* (Copenhagen: Nordic Institute of Asian Studies, 2006), 83.

⁹⁶³ See Arief Budiman et. al, ed. *Reformasi: Crisis and Change in Indonesia* (Melbourne: Monash Asia Institute, 1999).

⁹⁶⁴ This is an English translation of the organisation's original name: Lembaga Bantuan Hukum (LBH).

Constitution.⁹⁶⁵ The key demands it raised included the “abolition of the military doctrine of *dwifungsi* (i.e., dual function: military *plus* political) and the reduction of the military representatives in the People’s Consultative Assembly⁹⁶⁶ [parliament].”⁹⁶⁷ The demand for demilitarisation was also tied to a demand for reforms allowing “local people’s direct control on their local assets.”⁹⁶⁸ This was a clear-cut agenda of ethnic decentralisation since the push against the Javanese-dominated military’s centralised control of the state was combined with a demand for political/constitutional decentralisation to resolve chronic centre-periphery (ethnic) conflicts.⁹⁶⁹

Mobilising Central Java (97.66 per cent Javanese in 2000), the Javanese heartland of Indonesia,⁹⁷⁰ the political claims made by student groups like the PRD, led by a Central Java-born student leader named Budiman Sudjatmiko, also included demands for “democratisation in the political, economic, [and] cultural fields,” the “free formation of parties,” the “abolition of the military’s political role,” and a “peaceful and democratic resolution of the East Timur problem.”⁹⁷¹ Taken together, these demands articulated Indonesia’s shift from a Javanese-dominated and militarised system to an ethnically decentralised constitutional framework giving direct political and economic powers to marginalised ethnic groups⁹⁷² (at the district level).

Most importantly, these demands for political and economic reform were shared across a plethora of groups (‘left’, ‘right’, and ‘Islamic’) within *reformasi*,⁹⁷³ not only in Jakarta but also in dozens of other cities outside of Java.⁹⁷⁴ Indonesia’s cultural capital, Yogyakarta (96.82 per cent Javanese in 2000),⁹⁷⁵ became a site of frantic

⁹⁶⁵ Edward Aspinall, *Opposing Suharto*, 106.

⁹⁶⁶ In Indonesian language, it is called Majelis Permusyawaratan Rakyat (MPR).

⁹⁶⁷ Bob S. Hadiwinata, *The Politics of NGOs in Indonesia: Developing Democracy and Managing a Movement* (London: Routledge, 2003), 222.

⁹⁶⁸ *Ibid.*, 224.

⁹⁶⁹ *Ibid.*, 225.

⁹⁷⁰ Leo Suryadinata et. al, *Indonesia’s Population: Ethnicity and Religion in a Changing Political Landscape* (Singapore: Institute of Southeast Asian Studies, 2003), 20.

⁹⁷¹ Edward Aspinall, *Opposing Suharto*, 130.

⁹⁷² Verena Beittinger-Lee, *(Un)Civil society*, 72.

⁹⁷³ Frank Feulner, “At the Forefront of Reform: Student Protest and Regime Transition in Indonesia” (Ph.D. Diss., School of Oriental and African Studies, University of London, 2001), 114.

⁹⁷⁴ Max Lane, “Mass Politics and Political Change in Indonesia” in *Reformasi: Crisis and Change in Indonesia*, ed. Arief Budiman et. al (Melbourne: Monash Asia Institute, 1999), 241.

⁹⁷⁵ Leo Suryadinata et. al, *Indonesia’s Population*, 21.

clashes between students and the Javanese dominated police/military.⁹⁷⁶ And, in due course, a popular uprising in the heartland of Javanese cultural and political power, demanding demilitarisation and decentralisation, combined with a ‘revolt’ by mainstream political parties to defeat the ‘New Order’ regime. This uprising underscores a shift towards ethnic decentralisation driven by intra-ethnic fragmentation at both political and popular levels.

While not all political leaders maintained a direct relationship with *reformasi* (Megawati⁹⁷⁷ and Wahid, for instance, unlike Rais, remained somewhat ambivalent about the extent of support they should provide to the protestors),⁹⁷⁸ it remains that the coming together of various counter-hegemonic Javanese-dominated political parties supporting the ethnically decentralising reform process would not have been possible in the absence of the pressure for reform⁹⁷⁹ that *reformasi* was generating in the first place.⁹⁸⁰ As Harold Crouch has argued, for parties in parliament undertaking reforms, it was not possible to ignore the “parliament in the street.”⁹⁸¹ That ‘parliament in the street’ helped to combine, for instance, both the Megawati-led faction of the PDI and Amien Rais’s *Muhammadiyah* with various student groups against President Suharto’s military-led ‘New Order’ and its centralised constitutional system.⁹⁸² Together, as I show below, their resistance pushed Indonesia towards an ethnically decentralised constitutional arrangement between 1999 and 2004 through four amendments and a law that (TNA law of 2004) de-politicised the military’s territorial command structure.

⁹⁷⁶ Kevin O’Rourke, *Reformasi: The Struggle for Power in Post-Soeharto Indonesia* (Sydney: Allen and Unwin, 2002), 90-100.

⁹⁷⁷ Megawati still had a close relationship with student groups like Indonesian National Students Movement (GMNI), and many PDI-P MPs were active in the Movement in the late 1990s. See Andreas Ufen, “Lipset and Rokkan in Southeast Asia: Indonesia in Comparative Perspective” in *Party Politics in Southeast Asia: Clientelism and electoral competition in Indonesia, Thailand and the Philippines*, ed. Dirk Tomsa and Andreas Ufen (Abingdon: Routledge, 2013), 40-61.

⁹⁷⁸ Kevin O’Rourke, *Reformasi*, 130.

⁹⁷⁹ Richard Robinson and Vedi R. Hadiz, *Reorganising Power in Indonesia: The Politics of Oligarchy in an Age of Markets* (London and New York: Routledge, 2004), 171.

⁹⁸⁰ Mikaela Nyman, *Democratising Indonesia*, 84.

⁹⁸¹ Harold Crouch, *Political Reform in Indonesia after Soeharto* (Singapore: Institute of Southeast Asian Studies), 48.

⁹⁸² Vincent Boudreau, “Currency Crisis, and Fragmented Mobilisation in New Order Indonesia” in *Indonesia’s Interregnum: A Tortuous Transition to Democratic Development*, ed. Eduardo C. Tadem (The Philippines: Centre for Integrative and Development Studies, 2000), 109.

3. The Politics of Ethnically Decentralising Constitutional Change in Indonesia

Max Lane, in his essay on decentralisation in Indonesia, argues that the demand for (political) decentralisation in Indonesia did not originate from within *reformasi* or the “loyal opposition” comprising the PDI, the United Development Party (PPP),⁹⁸³ and the PKB. Instead, he argues, it came from within the Suharto regime itself.⁹⁸⁴ Lane’s argument, however, has a fatal flaw: it does not provide a sufficient explanation for why Indonesia could not undergo devolution *during* the ‘New Order’ regime if, in fact, support for reform was already there. Lane’s argument that Amien Rais advocated “federalism”⁹⁸⁵ more vigorously only *after* Suharto’s fall in 1999 also fails to appreciate that Rais’s position was more directly articulated in the 1998 ‘Ciganjur declaration’ – an agreement that, while bringing together major Javanese-dominated political parties in a relatively ‘unified’ pro-reform bloc,⁹⁸⁶ was also a direct result of ongoing pressure for ethnically decentralising reforms from *reformasi*. The ‘Ciganjur declaration’ was a direct outcome of prior student lobbying for such an agreement.⁹⁸⁷ But how did Indonesia’s transition from the politically, economically, and ethnically centralised ‘New Order’ to “one of the most decentralised [systems] in the world” come about,⁹⁸⁸ at least in a constitutional sense?

This transition did not result from a vacuum created by the “unanticipated fall of Suharto.”⁹⁸⁹ Such arguments tend to remove constitutional change from its broader political context – especially, the internal fragmentation of a Javanese-dominated system. Similarly, Indonesia’s ‘constitutional revolution’ was not a domestic externality emerging from the 1997 financial crisis.⁹⁹⁰ While that crisis coincided with

⁹⁸³ This is an English translation of the party’s original name: *Partai Persatuan Pembangunan* (PPP).

⁹⁸⁴ Max Lane, *Decentralisation and its Discontents: An Essay on Class, Political Agency and National Perspective in Indonesian Politics* (Singapore: Institute of Southeast Asian Studies, 2014), 13.

⁹⁸⁵ *Ibid.*, 19-21.

⁹⁸⁶ Indonesia’s first Devolution Law was passed in 1999 by President Habib. Subsequent regulations by the Wahid Government implemented these laws on January 1, 2001.

⁹⁸⁷ Kevin O’Rourke, *Reformasi*, 177.

⁹⁸⁸ See Gary F. Bell, “Indonesia: The New Regional Autonomy Laws, Two Years Later,” *Southeast Asian Affairs* (2003): 117-131.

⁹⁸⁹ Donald Horowitz, *Constitutional Change*, 1; See Devi Fortuna Anwar, “The Habibie Presidency” in *Post-Soeharto Indonesia: Renewal or Chaos*, ed. Geoff Forrester (Singapore: Institute of Southeast Asian Studies, 1999), 33-47.

⁹⁹⁰ See Amy L. Freedman, “Economic Crises and Political Change: Indonesia, South Korea, and Malaysia,” *Asian Affairs: An American Review* 31, no. 4 (Winter 2005): 232-249.

Suharto's fall and may have accelerated his downfall, internal political divisions, as Slater argues, had already weakened the regime before the crisis hit.⁹⁹¹

Tom Pepinsky notes that intra-elite fragmentation in the wake of the 1997 financial crisis precipitated Suharto's fall,⁹⁹² but beyond Pepinsky's appreciation for intra-elite fragmentation, he does not explain how key demands for ethnic decentralisation – which existed even *before* the 1997 crisis – actually emerged. Nor does he explain how and why elite fragmentation triggered ethnically decentralising reforms in the shape of *constitutional* reforms.

The core reason for the prevalence of the politics of ethnic decentralisation lies, first, in institutionalised fissures within a Javanese-dominated system rather than just the ruling elite's fragmentation. These fissures then combined with (a) growing political and social opposition to the military's dominant role in politics as well as its ethnically centralised system, (b) an anti-Suharto social movement, which not only brought Suharto down but also directly popularised a shift towards an ethnically decentralised system away from the military domination, and (c) a cross-ethnic/multi-party-political consensus, consolidated in the 1999-elected parliament, favouring ethnic decentralisation i.e., de-militarisation and transfer of powers from Jakarta to the non-Javanese regions. These factors, as the comparative evidence from Pakistan also shows, would have facilitated a transition to an ethnically decentralised constitutional system even without a financial crisis.

3.1. Civil-Military Institutional Tensions

Like Pakistan, 'civil-military institutional tensions' in Indonesia became relevant for the politics of ethnic decentralisation because of an existing institutional imbalance favouring the military. The Javanese-dominated military's position also became relevant for the politics of ethnic decentralisation because the military, like Suharto himself, espoused Javanese cultural ideas of ethnic and political centrality.⁹⁹³ Even though constitutional reforms in Indonesia, as in Pakistan, fell short of completely

⁹⁹¹ Dan Slater, *Ordering Power*, 203.

⁹⁹² See Thomas B. Pepinsky, *Economic Crisis and the Breakdown of Authoritarian Regimes: Indonesia and Malaysia in Comparative Perspective* (New York: Cambridge University Press, 2009).

⁹⁹³ Sukardi Rinakit, "Decentralisation and the Military," in *Regionalism in Post-Suharto Indonesia*, ed. Maribeth Erb et. al (London: Routledge, 2005), 80.

pushing the military out of politics – which is one reason why the military in both countries has been at the forefront of the ‘politics of pushback’ (see Chapter 9) – it remains that a growing tussle between civilian (political and social) elites and military elites precipitated the politics of constitutional change in Indonesia insofar as the transfer of power from Jakarta to local, non-Javanese elites meant not only democratisation but also ethnic decentralisation.⁹⁹⁴ Briefly, the emergence of elected local elites stripped the military’s ability to directly control politics at the local level – which, as fairly ethnically homogenous entities, became new centres of (non-Javanese) power –⁹⁹⁵ where power and resources were now mainly concentrated.⁹⁹⁶ Accordingly, the Indonesian military, motivated by the desire to protect its political and economic interests, later positioned itself as an anti-decentralisation force.⁹⁹⁷ Although political elites, including Megawati, continued to collaborate with the military for some time after Suharto’s fall, the contentious politics that led to that fall stripped the military of its ‘veto power’ and its capacity⁹⁹⁸ to block constitutional changes⁹⁹⁹ reversing Indonesia’s ethnically exclusive system.¹⁰⁰⁰

When constitutional reforms were undertaken between 1999 and 2004, their purpose was to de-Javanese Indonesian politics,¹⁰⁰¹ in part by abolishing the social and political dominance of the military from the top to the very local level.¹⁰⁰² This strategy combined, as in Pakistan, the imperatives of demilitarisation and de-Javanisation as prerequisites for constitutional ethnic decentralisation. It was a

⁹⁹⁴ Michael S. Malley, “New Rules, Old Structures and the Limits of Democratic Decentralisation” in *Local Power and Politics in Indonesia: Decentralisation and Democratisation*, ed. Edward Aspinall and Greg Fealy (Singapore: Institute of Southeast Asian Studies, 2003), 102.

⁹⁹⁵ Jan H. Pierskalla, “Splitting the Difference? The Politics of District Creation in Indonesia,” *Comparative Politics* 48, no. 2 (January 2016): 250.

⁹⁹⁶ Marcus Mietzner, “The Politics of Military Reform in Post-Suharto Indonesia: Elite Conflict, Nationalism, and Institutional Resistance,” *East-West Centre Washington, Policy Studies* no. 23 (2006): 15-16.

⁹⁹⁷ Sukardi Rinakit, “Decentralisation and the Military,” 81-83.

⁹⁹⁸ See George Tsebelis, *Veto Players: How Institutions Work* (New Jersey: Princeton University Press, 2002).

⁹⁹⁹ Marcus Mietzner, “Veto Player no more? The Declining Political Influence of the Military in Postauthoritarian Indonesia” in *Democratisation and Islam in Indonesia: Religion, Culture and Public Life*, ed. Mijram Kunkler and Alfred Stepan (New York: Columbia University Press, 2013), 122.

¹⁰⁰⁰ Marcus Mietzner, “The Politics of Military Reform,” 59.

¹⁰⁰¹ Donald Horowitz, *Constitutional Change*, 59.

¹⁰⁰² *Ibid.*, 173.

civilian drive¹⁰⁰³ by Indonesian political parties to defeat the military's reluctance to vest political power in civilian parties.¹⁰⁰⁴ It was also a direct outcome of *reformasi* demands for abolishing *dwifungsi*¹⁰⁰⁵ (the dual role of the military) and scrapping 'New Order' laws that placed institutional restrictions on party politics.¹⁰⁰⁶

This concerted push against the Javanese-dominated military's role in politics, coupled with political¹⁰⁰⁷ and fiscal decentralisation¹⁰⁰⁸ for all regions, as well as special autonomy laws for regions like Aceh,¹⁰⁰⁹ fostered ethnic decentralisation.¹⁰¹⁰ In fact, key laws were passed even though the military opposed them (realising "it would no longer dominate regional government once regency heads became [directly] elected").¹⁰¹¹

The intra-ethnic underpinnings of this process are evident when seen against the backdrop of how the Javanese-dominated *reformasi* movement, based in the Javanese regions, stressed the importance of ending *dwifungsi* even more aggressively than non-Javanese student movements based, for instance, in Sulawesi.¹⁰¹² In May 1998, students at the Universitas Gadjah Mada (UGM) in Yogyakarta, as well as those associated with the PRD, not only called for Suharto's removal and the abolition of

¹⁰⁰³ For a more detailed discussion on the role of the civilians in pushing military reforms see Tristan Dreisbach, "Cooperation and Conflict in Indonesia: Civilians March into Military Reform, 1999-2004," *Innovations for Successful Societies* (2015).

¹⁰⁰⁴ Dan Slater, *Ordering Power*, 186.

¹⁰⁰⁵ Max Lane, *Decentralisation and its Discontents*, 3-4.

¹⁰⁰⁶ *Ibid.*

¹⁰⁰⁷ These laws vested most powers in the regions/districts, leaving the Centre with powers (Article 7, clause 1 of regional autonomy law, 1999) related to foreign affairs, defence and security, justice, monetary and fiscal matters, religion and responsibilities in other sectors.

¹⁰⁰⁸ Law No. 25 of 1999 granted all regions 15 per cent of their oil revenues, 30 per cent of natural gas and 80 per cent of forestry, mining and fishing. The law also gave a minimum of 25 per cent of national revenues to the regions through a grant system called General Allocation Fund. Specific Allocation Fund from the Centre transferred additional, 'specific' resources to help regions meet certain national objectives, or maintain a horizontal balance among regions/districts. These funds bypassed provincial governments and went directly to sub-provincial (district level) administrations. Local governments were given autonomous control over their budgets.

¹⁰⁰⁹ These special laws vested powers in the provinces of Aceh and Papua, with special provisions for protecting local people's interests (Article 62 of special laws) and an assembly exclusively for local people.

¹⁰¹⁰ The unit of devolution is district rather than province. Although Indonesia still has provinces, their role is confined to such areas as mediating inter-district disputes and facilitating cross-district development. An important role of the provinces is to represent the central government.

¹⁰¹¹ Jacques Bertrand, "Indonesia: "Special Autonomy" for Aceh and Papua" in *Territory and Power in Constitutional Transitions*, ed. George Anderson and Sujit Choudhry (Oxford: Oxford University Press, 2019), 127.

¹⁰¹² Mikaela Nyman, *Democratising Indonesia*, 72.

dwifungsi but also demanded a “more fundamental restructuring” of political power – a manifestation of a growing rejection *within* the heartland of Javanese culture and power of “all things associated with the New Order.”¹⁰¹³ This restructuring focused on re-ordering ethnic power in ways that would allow people to “give voice to their aspirations and engage in social control.”¹⁰¹⁴

In this context, when Amien Rais combined his demand for ending the role of the military (the ‘Ciganjur declaration’) with a transition to “federalism,” he did so mainly to reset the existing ethnic “imbalances in the social, economic, political and cultural fields.”¹⁰¹⁵ As in Pakistan, Javanese political and social actors pursued decentralisation both as a strategy against the politically dominant military and to resolve inter-ethnic conflict.

Amien’s idea of federalism later changed into his support for ‘strong provinces’ within a *unitary* state.¹⁰¹⁶ But, even so, the Indonesian constitutional reform process sought to reset existing political, cultural, ethnic, and social imbalances in two ways: first, by institutionalising regional (political and fiscal) autonomy (Law No. 22 and Law No. 25 of 1999)¹⁰¹⁷ and, second, by constitutionally abolishing the “deeply entrenched military paradigm of political corporatism and social control.”¹⁰¹⁸ Again, this points to how demilitarisation reinforced de-Javanisation.

The political process of demilitarisation started with the military’s own “new paradigm,” which grew out of (a) widespread antagonism expressed by *reformasi* and (b) civilian elites via the ‘Ciganjur declaration’ of 1998, which demanded both demilitarisation and decentralisation.¹⁰¹⁹ But this process of demilitarisation later graduated to abolishing *dwifungsi* altogether in 2000 (MPR Decree No. 7 of 2000).¹⁰²⁰ This, in turn, led to the constitution’s fourth amendment in 2002, which abolished the

¹⁰¹³ Edward Aspinall, “Political Opposition and the Transition from Authoritarian Rule: The Case of Indonesia” (Ph.D. Diss., Australian National University, 2000), 293.

¹⁰¹⁴ Edward Aspinall, *Opposing Suharto*, 129.

¹⁰¹⁵ Max Lane, *Decentralisation and its Discontents*, 19-20.

¹⁰¹⁶ Gabriele Ferrazzi, “Using the “F” Word,” 77.

¹⁰¹⁷ Denny Indrayana, *Indonesian Constitutional Reform 1999-2002: An Evaluation of Constitution Making in Transition* (Jakarta: Kompas Book Publishing, 2008), 215-216.

¹⁰¹⁸ Marcus Mietzner, “The Politics of Military Reform,” 10.

¹⁰¹⁹ Meredith L. Weiss, *Protest and Possibilities*, 203.

¹⁰²⁰ Denny Indrayana, *Indonesian Constitutional Reform*, 225.

rule of appointed (military) members across national and regional legislatures.¹⁰²¹ While it was initially decided that the military would retain its seats (already reduced from 75 to 38 in 1999) between 1999 and 2009, mounting public opposition to the military's continued political involvement – even after it had articulated its 'new paradigm' and redefined its political role –¹⁰²² pushed the parliament to abolish appointed members altogether by the end of the legislative term in 2004.¹⁰²³

Megawati, who was Indonesia's president at that time, also supported these changes as she "tried to portray herself as the civilian candidate" resisting the "return of the military"¹⁰²⁴ in politics. Therefore, even while the military opposed this legislation,¹⁰²⁵ a broad "national consensus," involving all main political parties and social organisations (see below), around demilitarisation emerged to trump the military's anti-ethnic decentralisation position.¹⁰²⁶

Constitutional demilitarisation not only produced a massive decrease in the military's presence across different state institutions,¹⁰²⁷ but it also had implications for the de-Javanisation of the Indonesian state more generally. Specifically, demilitarisation involved reining in the military's "doctrinal and (ethnically exclusive) ideological" orientation.¹⁰²⁸ These changes left a deep imprint on Indonesia's ethnic landscape. For instance, even though Javanese were still the predominant ethnic group in the Indonesian military elite in 2005,¹⁰²⁹ their dominance did not prevent President Habibbi from deciding to hold a referendum in East Timor,¹⁰³⁰ which led to its independence in 1999. Similarly, even though the Javanese-dominated military was opposed to

¹⁰²¹ Ibid., 307.

¹⁰²² Jun Honna, *Military Politics*, 165.

¹⁰²³ Jurgen Ruland and Maria-Gabriela Mania, "The Legislature and Military Reform in Indonesia" in *The Politics of Military Reform: Experiences from Indonesia and Nigeria*, ed. Jurgen Ruland et.al (Heidelberg: Springer, 2013), 129.

¹⁰²⁴ Harold Crouch, *Political Reform in Indonesia*, 149.

¹⁰²⁵ Denny Indrayana, *Indonesian Constitutional Reform*, 293.

¹⁰²⁶ Tristan Dreisbach, "Back to the Barracks: Getting the Indonesian Military Out of Politics, 1998-2000," *Innovations for Successful Societies* (2015): 9.

¹⁰²⁷ See Leonard C. Sebastian and Lisgindarash, "Demilitarising the state in Indonesia: Losing the Impetus for Reform?" in *Demilitarising the state: The South and Southeast Asian Experience* (Singapore: S. Rajaratnam School of International Studies, 2012), 82-109.

¹⁰²⁸ Jun Honna, *Military and Politics*, 201.

¹⁰²⁹ See "Current Data on the Indonesian Military Elite, September 2005-March 2008," *Indonesia* 85 (April 2008): 79-121.

¹⁰³⁰ Harold Crouch, *Political Reform in Indonesia*, 135.

devolving power,¹⁰³¹ decentralisation laws prepared by a team of experts ('the Team of Seven') in response to demands for devolution within and outside Java¹⁰³² were passed in 1999 and later ratified (unanimously) as a second constitutional amendment in 2000¹⁰³³ even though the military still had a direct presence in the parliament.

The twin processes of demilitarisation and ethnic decentralisation were, as Siti Zuhro has argued, deeply tied to an overall process of democratisation, with the recognition that democratisation (demilitarisation) at the central level "could not be sustained ... without taking account of a similar need at the local level"¹⁰³⁴ i.e., ending the role of the Javanese-dominated military at both a national and a local level by abolishing its territorial command structure as a means to consolidate Indonesia's newly demilitarised and ethnically decentralised system.¹⁰³⁵ Thus, demilitarisation had the effect of localising power in ways that were no longer vulnerable, in a constitutional sense, to direct military (Javanese) control, allowing local governments to become more participatory with local (non-Javanese) inclusion.¹⁰³⁶

What also linked the process of demilitarisation to ethnic decentralisation was the fact that the military's command structure (and, therein, its predominant role in politics, the economy, and bureaucratic administration under the 'New Order') had been motivated by a specific desire to control/repress demands for regional autonomy.¹⁰³⁷ Therefore, demands for demilitarisation reflected and reinforced demands for "greater regional control over political and economic affairs."¹⁰³⁸ Whilst legislation passed in 1999 and ratified in 2000 transferred political, economic, and bureaucratic powers to

¹⁰³¹ Donald Horowitz, *Constitutional Change*, 74.

¹⁰³² Benjamin Smith, "The Origins of Regional Autonomy in Indonesia: Experts and the Marketing of Political Interests," *Journal of East Asian Studies* 8, no. 2 (May-August 2008): 222.

¹⁰³³ Denny Indrayana, *Indonesian Constitutional Reform*, 216.

¹⁰³⁴ R. Siti Zuhro, "The Importance of Habibie's Regional Autonomy Policy for Indonesia" in *Democracy Take-off? The B.J. Habibie Period*, ed. Dewi Fortuna Anwar and Bridget Welsh (Jakarta: PT. Sinar Harapan Persada, 2013), 313.

¹⁰³⁵ Meidi Kosandi and Subur Wahono, "Military Reform in the Post-New Order Indonesia: A Transitional or a New Subtle Role in Indonesian Democracy?" *Asian Politics and Policy* 12, no. 2 (2020): 230.

¹⁰³⁶ Vedi R. Hadiz, *Localising Power in Post-Authoritarian Indonesia: A Southeast Asian Perspective* (California: Stanford University Press, 2010), 35.

¹⁰³⁷ Jacques Bertrand, *Nationalism and Ethnic Conflict*, 192-197.

¹⁰³⁸ Marco Bunte, "Indonesia's protracted decentralisation: contested reforms and their unintended consequences" in *Democratisation in Post-Suharto Indonesia*, ed. Marco Bunte and Andreas Ufen (Abingdon: Routledge, 2009), 105.

the regions, then, the TNI law passed in 2004 specifically sought to change – and de-politicise – the military’s territorial command structure.

Even though the military opposed it,¹⁰³⁹ and even though the bill fell short of completely abolishing the territorial command structure, this new TNI law still removed all references to the use of the territorial command structure for “practical politics.”¹⁰⁴⁰ These changes did have a direct impact on reorganising ethnic power corridors at the local level. Between June 2005 and April 2006, active and retired military officers were outmanoeuvred by ‘new’ local elites in 235 local polls. In fact, very few candidates with a military or police background managed to win the election.¹⁰⁴¹ This defeat clearly pointed to the military’s political “extraction” from formal politics at both a national and a regional level,¹⁰⁴² as well as politically entrenching local elites as dominant players.¹⁰⁴³

The fact that the TNI law was supported by leading civilian parties, including the PDI-P, Golkar, and the PKB,¹⁰⁴⁴ also shows how fragmentation within the dominant ethnic group along ‘civil-military institutional’ lines drove the politics of demilitarisation and ethnic decentralisation in Indonesia. This change was also championed by *reformasi*, which not only *reinforced* political and popular divisions amongst Javanese, but also demanded forms of ethnic decentralisation more directly than is often assumed.

3.2. New Social Movements: *Reformasi* and Ethnic Decentralisation

President Habibie’s reform commission (‘the Team of Seven’) formulated the first laws regarding political and fiscal decentralisation and started the process of constitutional demilitarisation by reducing the military’s presence in the parliament

¹⁰³⁹ Jurgen Ruland and Maria-Gabriela Mania, “The Legislature and Military Reform in Indonesia,” 131.

¹⁰⁴⁰ Harold Crouch, *Political Reform in Indonesia*, 160.

¹⁰⁴¹ Marcus Mietzner, “The Politics of Military Reform,” 57.

¹⁰⁴² Marcus Mietzner, *Military Politics*, 367.

¹⁰⁴³ Vedi R. Hadiz, *Localising Power in Post-Authoritarian Indonesia*, 70.

¹⁰⁴⁴ Harold Crouch, *Political Reform in Indonesia*, 160.

from 75 to 38 seats.¹⁰⁴⁵ This commission also included a student leader,¹⁰⁴⁶ clearly demonstrating the role that *reformasi*¹⁰⁴⁷ played in Indonesia's transition towards ethnic decentralisation.

Even after Suharto's resignation, student demonstrators in Java and Sulawesi continued to demand greater regional autonomy. And, as noted above, Amien Rais, who directly supported *reformasi* and later became the president of the parliament, even recommended a shift toward federalism.¹⁰⁴⁸ Clearly, without the role of the *reformasi* in imagining and articulating an alternative state guaranteeing political, economic, and cultural (ethnic) autonomy,¹⁰⁴⁹ Indonesia might not have seen the ethnically decentralising constitutional reforms that it did.¹⁰⁵⁰

Reformasi – which included both secular and Islamist student groups as well as NGOs – mobilised forcefully in Jakarta and other predominantly Javanese regions, such as Yogyakarta in Central Java, with a focus on mobilising marginalised groups¹⁰⁵¹ and initiating “total reform”¹⁰⁵² to dismantle “the centralised power structures of the New Order.”¹⁰⁵³ Significantly, this politics pre-dated the 1997 financial crisis. For instance, when the PRD was founded in 1994, its founding declaration not only called for the restoration of democracy and a return to civilian rule (demilitarisation) but also a redistribution of political and economic resources vis-à-vis Indonesia's marginalised ethnic groups (ethnic decentralisation).¹⁰⁵⁴ These demands propelled student movements towards a political realm in which any political change without

¹⁰⁴⁵ David Bouchier, “Habibie's Interregnum: Reformasi, Elections, Regionalism and the Struggle for Power” in *Indonesia in Transition: Social Aspects of Reformasi and Crisis*, ed. Chris Manning and Peter van Diermen (Singapore: Institute of Southeast Asian Studies, 2000), 17-19.

¹⁰⁴⁶ Donald Horowitz, *Constitutional Change*, 60.

¹⁰⁴⁷ See Kathleen Woodward, “Violent Masses, Elites and Democratization: The Indonesian Case” (Ph.D. Diss., The Ohio State University, 2002).

¹⁰⁴⁸ David Bouchier, “Habibie's Interregnum,” 23-26.

¹⁰⁴⁹ See Tod Jones, *Culture, Power, and Authoritarianism in the Indonesian State: Cultural Policy across the Twentieth Century to Reform Era* (Leiden and Boston: Brill, 2013), 181-201.

¹⁰⁵⁰ Kathleen Woodward, “Violent Masses,” 112.

¹⁰⁵¹ Edward Aspinall, *Opposing Suharto*, 123-125.

¹⁰⁵² Yatun Sastramidjaja, “Student Movements and Indonesia's Democratic Transition” in *Indonesia in Transition: Social Aspects of Reformasi and Crisis*, ed. Chris Manning and Peter van Diermen (Singapore: Institute of Southeast Asian Studies, 2000), 23.

¹⁰⁵³ Elisabeth Kramer, “Democratisation and Indonesia's Anti-corruption Movement” in *Indonesia in Transition: Social Aspects of Reformasi and Crisis*, ed. Chris Manning and Peter van Diermen (Singapore: Institute of Southeast Asian Studies, 2000), 52.

¹⁰⁵⁴ Max Lane, *Unfinished Nation: Indonesia Before and After Suharto* (London: Verso Books, 2008), 116-117.

decentralisation became impossible, showing how demands for democracy became intrinsically linked with regional (ethnic) autonomy.¹⁰⁵⁵ Harold Crouch concurs: “The burgeoning popular movement to overthrow the Suharto regime spread throughout the country and simultaneously provided the impetus to calls for regional autonomy.”¹⁰⁵⁶

Student demonstrators in, for instance, West Kalimantan typically noted that student movements in Javanese areas had an impact on non-Javanese regions in terms of giving an additional impetus to calls for empowering (ethnic) regional administrations.¹⁰⁵⁷ Indeed, the student movements’ success in spreading throughout Indonesia with a message of ‘total reform’ had a direct impact on the ‘Team of Seven’ that President Habibie established in 1999 to initiate the process of amending the 1945 Constitution in ethnically decentralising ways.

The reform team decided to venture into decentralisation not only because some members of the team, including its leader, Ryaas Rasyid, came from non-Javanese regions like South Sulawesi and had, themselves, advocated for regional autonomy,¹⁰⁵⁸ but also because *reformasi* had been advocating ethnic decentralisation as part of its reform agenda for several years before. For instance, the Yogyakarta-based ‘NGO Forum’ brought together students and civil society activists and demanded “the abolition of the military doctrine of *dwifungsi* and the reduction of military representatives in the MPR,” and, in 1998,¹⁰⁵⁹ “agrarian reform to allow local people’s direct control on local assets,” as well as ending “growing religious and ethnic conflicts in Aceh and Ambon.”¹⁰⁶⁰ The Jakarta-based LBH focused on a broad range of reforms aiming to create “power resources in peripheral regions” – ¹⁰⁶¹ not only to re-configure Indonesia’s political economy away from dominant interests but also to reconstitute a state that, ever since its creation in the late 1940s, had seen “a systematic weakening of alternative [regional/non-Javanese] centres of power.”¹⁰⁶²

¹⁰⁵⁵ A.P. Kusman, *The Vortex of Power: Intellectuals and Politics in Indonesia’s Post-Authoritarian Era* (Singapore: Palgrave Macmillan, 2019), 224.

¹⁰⁵⁶ Harold Crouch, *Political Reform in Indonesia*, 91.

¹⁰⁵⁷ See Taufiq Tanasaldy, *Regime Change and Ethnic Politics in Indonesia: Dayak Politics of West Kalimantan* (Leiden: Royal Netherlands Institute of Southeast Asian and Caribbean Studies, 2012).

¹⁰⁵⁸ Benjamin Smith, “The Origins of Regional Autonomy in Indonesia,” 221.

¹⁰⁵⁹ Bob S. Hadiwinata, *The Politics of NGOs in Indonesia*, 222.

¹⁰⁶⁰ *Ibid.*, 224-225.

¹⁰⁶¹ Edward Aspinall, *Opposing Suharto*, 104.

¹⁰⁶² Max Lane, *Unfinished Nation*, 122.

This focus on ethnically decentralising forms of state reconfiguration was a direct outcome of collaboration between NGOs and students.¹⁰⁶³ For instance, most LBH branches in Javanese-dominated regions such as Bandung (West Java province), Surabaya (East Java province), and Yogyakarta (Special Region of Yogyakarta on Java island) were run by student activists¹⁰⁶⁴ seeking to empower “people at the grass-root level.”¹⁰⁶⁵ This empowerment included the objective of changing the “direction of democracy” by “restructuring the political system and institutions” in ways that would limit military “intervention in social and political life,” as well as empowering the “lower classes and marginalised groups,”¹⁰⁶⁶ thus linking demilitarisation with de-Javanisation.

This line of thinking had direct implications for ethnic decentralisation. According to the founder of the LBH, one of the core objectives of the organisation was to “reconstitute the Indonesian state” by addressing the core issue of “central control versus local autonomy” and, then, pushing for a political system driven by “culturally indigenous, less socially alienating and unequal modes of development” within a “more open polity.”¹⁰⁶⁷ Reinforcing this politics of ethnic decentralisation was the PRD’s 1996 manifesto that specifically called for reforms to undo oppressive forms of centralised authority, ending “Jakarta’s exploitation,” “militarism,” and the “neo-colonialism” of the Javanese dominated (civil and military) elites.¹⁰⁶⁸

By laying these claims, the Javanese-dominated *reformasi* movement deepened divisions within Indonesia’s dominant ethnic group. Student groups, consolidating as early as the 1980s, became sites for critical reflection on the various political, social, and economic problems associated with the ‘New Order.’ The 1987 riots in Pontianak (West Kalimantan province) and Ujung Pandang (South Sulawesi province) directly helped galvanize students in Java, and subsequently made Yogyakarta¹⁰⁶⁹ and

¹⁰⁶³ Ibid., 116.

¹⁰⁶⁴ Edward Aspinall, *Opposing Suharto*, 105.

¹⁰⁶⁵ Ibid., 106-108.

¹⁰⁶⁶ Ibid.

¹⁰⁶⁷ Philip Eldridge, “NGOs and the State in Indonesia” in *State and Civil Society in Indonesia*, ed. Arief Budiman (Clayton: Monash Asia Institute, 1990), 520-523.

¹⁰⁶⁸ As reproduced in Max Lane, *Unfinished Nation*, 132-139.

¹⁰⁶⁹ Ariel Heryanto, “The Student Movement,” *Inside Indonesia*, no. 48 (October-December 1996): 10-12.

“Javanese campuses” centres of “solidarity action”¹⁰⁷⁰ against the ‘New Order.’ In fact, the consequent focus on ‘total reforms,’ combined with a spread of student activism outside Java, mobilised ethnic political elites across Indonesia, making them “more assertive in demanding a change of the overall administrative framework” away from Suharto’s political and ethnic centralisation.¹⁰⁷¹

This increasing discontent provided additional impetus to the ethnically decentralising reform agenda pursued by pro-democracy student and NGO activists,¹⁰⁷² ultimately helping the ‘Team of Seven’ to convince President Habibie and relevant political parties to push for the demilitarisation of parliament (at both national and regional levels) with political and fiscal decentralisation (to the district level).¹⁰⁷³

Significantly enough, within *reformasi*, the push towards ethnic decentralisation cut across religious and secular student groups. As Robin Madrid has shown, while there were some disagreements among the religious and secular groups on the direction of democracy (leftist or Islamist) and political tactics (violence or non-violence), religious student organisations – Indonesian Islamic Student Movement, Muslim Students Unity Action, League of Muslim Students of Yogyakarta – still stressed *ethnic* decentralisation when they combined a rejection of *dwifungsi* (de-militarisation) with demands for *redistributing* economic and political resources by transferring powers to the people.¹⁰⁷⁴

Thus, the politics of *reformasi* in Indonesia, like the Lawyers’ Movement in Pakistan with a variety of groups involved in it, was not confined to bringing down an incumbent ruler.¹⁰⁷⁵ As in Pakistan, where the Lawyers’ Movement (Chapter 4) raised specific demands for ethnic decentralisation, *reformasi* groups’ demands against Suharto stressed a thorough restructuring of the political system in ways that would directly reduce Javanese control of the state’s political and economic structures.

¹⁰⁷⁰ Edward Aspinall, *Opposing Suharto*, 121-122.

¹⁰⁷¹ Marco Bunte, “Indonesia’s protracted decentralisation,” 104.

¹⁰⁷² See P. Sulistiyanto and Maribeth Erb, “Entangled politics in post-Suharto Indonesia” in *Regionalism in Post-Suharto Indonesia*, ed. Maribeth Erb et. al (London: Routledge, 2005), 1-19.

¹⁰⁷³ Benjamin Smith, “The Origins of Regional Autonomy in Indonesia,” 213.

¹⁰⁷⁴ Robin Madrid, “Islamic Students in the Indonesian student movement, 1998-1999: Forces for moderation,” *Bulletin of Concerned Asian Scholars* 31, no. 3 (1999): 24.

¹⁰⁷⁵ Frank Feulner, “At the Forefront of Reform,” 133.

Suharto's resignation, while an immediate objective, was not the ultimate goal.¹⁰⁷⁶ Like the Lawyers' Movement in Pakistan, student activism in Indonesia was inspired by the authoritarian and centralised nature of the regime rather than the authoritarian ruler himself.¹⁰⁷⁷ Defeating the centralised regime was prioritised, even as demands for decentralisation of powers and resources challenged the very Javanese cultural underpinnings of the regime's centralisation of power.¹⁰⁷⁸

The fact that Suharto's successor, B.J. Habibie (a non-Javanese), immediately established the 'Team of Seven' to reform the constitution shows the impact of the demands articulated by *reformasi* -¹⁰⁷⁹ an impact that also brought together the 'Ciganjur Four' in favour of various reforms immediately after Suharto's fall.¹⁰⁸⁰ Like the Lawyers' Movement in Pakistan, *reformasi* in Indonesia did not seek to capture power on its own.¹⁰⁸¹ Rather, they left it to the politicians/parliament to develop a political consensus in the 1999 parliament – a consensus associated with the subsequent promulgation of several decentralising amendments and laws between 1999 and 2004 that together de-militarised the polity at both national and regional levels and transferred political powers and economic resources from Jakarta to districts.¹⁰⁸²

3.3. The Politics of Multi-Party, Cross-ethnic Consensus

Their 1998 declaration allowed the 'Ciganjur Four' to recast *reformasi's* radicalism¹⁰⁸³ into a relatively moderate framework of constitutional reforms.¹⁰⁸⁴ But

¹⁰⁷⁶ Mikaela Nyman, *Democratising Indonesia*, 74.

¹⁰⁷⁷ Edward Aspinall, "Moral Force Politics and the Struggle Against Authoritarianism" in *Student Activism in Indonesia: Between Protest and Powerlessness*, ed. Meredith L. Weiss and Edward Aspinall (Minneapolis: The University of Minnesota, 2012), 156.

¹⁰⁷⁸ During the parliamentary committee's deliberations on the second amendment, a *reformasi* leader pushed for a constitutional shift towards a federal setup. But most parties – especially, the PDI-P – agreed on devolution within a unitary structure. See Denny Indrayana, *Indonesian Constitutional Reform*, 190.

¹⁰⁷⁹ Frank Feulner, "At the Forefront of Reforms," 146.

¹⁰⁸⁰ While some student groups felt betrayed by this agreement, the declaration largely set the stage for the reforms that would later.

¹⁰⁸¹ Edward Aspinall, "Moral Force Politics," 169.

¹⁰⁸² See Patrick Ziegenhain, *The Indonesian Parliament and Democratisation* (Singapore: The Institute of Southeast Asian Studies, 2008).

¹⁰⁸³ Some *reformasi* groups demanded Suharto's trial and an immediate abolition of *dwifungsi*. Politicians, instead, opted for a more gradual exit of the military from politics. See Meredith L. Weiss, *Protest and Possibilities*, 202-203.

¹⁰⁸⁴ Mikaela Nyman, *Democratising Indonesia*, 84.

the actual political process that unfolded in the parliament was still a deeply contested one, even though political parties (as in Pakistan) were able to develop a political convention that favoured consensus over disagreement and contention.¹⁰⁸⁵ A crucial basis for consensus in the parliament was provided by the fact that the cabinets of both presidents (Wahid and Megawati) were multi-party formations,¹⁰⁸⁶ with vice presidents, in both instances, coming from a different party.¹⁰⁸⁷ Besides, the fact that most parties were able to win votes and seats in non-Javanese provinces in the 1999 elections made it a multi-ethnic formation as well.¹⁰⁸⁸

This turn towards a broad-based formation was fostered by a “substantial and enduring” political understanding underpinned by intra-Javanese civil-military institutional tensions.¹⁰⁸⁹ Key parties’ *anti-military* understanding allowed them to resist the Indonesian military’s opposition to several constitutional changes, both in the cabinet and in the parliament, between 1999 and 2004. As Marcus Mietzner has argued:

“... in almost all ground-breaking decisions that created post-1998 Indonesia as a competitive, open and pluralist democracy, TNI’s [military] input was ignored The military, deeply engrained in the paradigm of centralist hierarchy and thus opposed to decentralization, found no way of opposing it.”¹⁰⁹⁰

Since it was mainly the military that opposed various ethnically decentralising constitutional changes,¹⁰⁹¹ it was specifically told by the relevant parties to either support reforms or face a politically humiliating civilian walkover.¹⁰⁹² The military’s position was further weakened by the inability of the conservative (anti-reform) factions – which were present in almost all parties – to support the military’s stance.

¹⁰⁸⁵ Donald Horowitz, *Constitutional Change*, 74.

¹⁰⁸⁶ *Ibid.*, 75.

¹⁰⁸⁷ Wahid’s vice president was Megawati. When Megawati became president, her vice president was Hamzah Haz from the PPP.

¹⁰⁸⁸ Most Indonesian parties had a multi-ethnic base in the 1999 parliament. For instance, the PDI-P won 28 seats in the Outer Islands. Golkar won 50 seats in the Outer Islands. The PPP won 22 in the Outer Islands. See Leo Suryadinata, *Elections and Politics*, 104-105.

¹⁰⁸⁹ R. William Liddle and Saiful Mujani, “The Islamic challenge to Democratic Consolidation in Indonesia,” unpublished paper, Ohio State University, 2002, 30.

¹⁰⁹⁰ Marcus Mietzner, “Veto Player no more?,” 125.

¹⁰⁹¹ Political parties, on the contrary, were able to overcome their differences through compromises.

¹⁰⁹² Marcus Mietzner, “Veto Player no more?,” 127.

These elements were neutralised through a “slow, patchy and tentative process marked by constant negotiations.”¹⁰⁹³ As a result, the Indonesian military’s push for re-enacting the original 1945 Constitution was defeated, with civilian players even deciding to terminate the military’s representation in the parliament in 2004, five years earlier than originally planned.¹⁰⁹⁴

As in Pakistan, the process involved consensus building at both inter and intra party levels, both to alleviate the fears of centrists/nationalists¹⁰⁹⁵ and to institutionalise the ethnically decentralising demands that defined the politics that caused Suharto’s fall and provided the civilian politicians with an opportunity to consolidate democracy in the first place.¹⁰⁹⁶ This can be illustrated, specifically, with reference to the (Javanese dominated) PDI-P’s post-Suharto transition from a conservative posture to supporting a politics of ethnically decentralising constitutional reforms.

Even though Megawati herself initially maintained a cautiously conservative stance towards reforms,¹⁰⁹⁷ two crucial factors changed the PDI-P’s overall approach vis-à-vis key constitutional amendments, including the question of the military’s representation in the parliament. These factors included (a) consistent pressure for reforms exerted by *reformasi* and other parties’ – including Islamist parties like the PPP – support for it,¹⁰⁹⁸ and (b) the continuing role of the military in politics. This role came to the fore during the impeachment of President Wahid in 2001.¹⁰⁹⁹ The military, as a key political player, not only built on growing political opposition to Wahid’s various policies – in particular, his dismissals of non-PKB cabinet ministers –¹¹⁰⁰ but they also supported Wahid’s impeachment to off-set his agenda of reforming the military’s involvement in politics.¹¹⁰¹ While the PDI-P was involved in

¹⁰⁹³ Denny Indrayana, *Indonesian Constitutional Reform*, 269-270.

¹⁰⁹⁴ Marcus Mietzner, “Veto Player no more?,” 126-127.

¹⁰⁹⁵ Denny Indrayana, *Indonesian Constitutional Reform*, 269-270.

¹⁰⁹⁶ Andreas Ufen, “Political Parties and democratisation in Indonesia”, in *Democratisation in Post-Suharto Indonesia*, ed. Marco Bunte and Andreas Ufen (Abingdon: Routledge, 2009), 160-161.

¹⁰⁹⁷ Denny Indrayana, *Indonesian Constitutional Reform*, 210.

¹⁰⁹⁸ Denny Indrayana, *Indonesian Constitutional Reform*, 215-216.

¹⁰⁹⁹ See Blair Andrew King, “Empowering the Presidency: Interests and Perceptions in Indonesia’s Constitutional Reforms, 1999-2002” (Ph.D. Diss., The Ohio State University, 2004), 92-133.

¹¹⁰⁰ See Arief Budiman, “Indonesia: The Trials of President Wahid,” *Southeast Asian Affairs* (2001): 145-158.

¹¹⁰¹ Jun Honna, *Military Politics*, 194-195.

the politics of impeachment,¹¹⁰² the impeachment also made Megawati, who became president after Wahid in July 2001, realise that the presidency was still weak and vulnerable to external (military) manipulation. Megawati's subsequent open support for all amendments was, in part, motivated by her desire to strengthen the presidency vis-à-vis the parliament,¹¹⁰³ which she did with help from other parties in exchange for her support for *all* ethnically decentralising reforms.¹¹⁰⁴ In fact, this bargain specifically led to the PDI-P's support for other parties' demands – especially, Golkar, which had a strong base in regions outside of Java – for a directly elected second chamber of the parliament vested with powers to protect regional autonomy and interests.¹¹⁰⁵

As in Pakistan, constitutional changes in Indonesia were, thus, internally debated before eventually leading to an acceptable compromise. Unlike Pakistan, however, where the parliament did not engage in an extensive debate on the 18th amendment, the parliament in Indonesia played a more extensive role. Though the amendments were prepared by *ad hoc* committees, none of the bills was passed by the parliament without full debate and amendment before adoption.¹¹⁰⁶ For instance, even though some political parties, including the PDI-P, were concerned that amending the constitution could lead to what Megawati called an alteration in the “basic philosophy”¹¹⁰⁷ of Indonesia – which included aspects of the unitary state – political parties were still able to develop a consensus¹¹⁰⁸ around decentralisation *without* changing the unitary character of the state.¹¹⁰⁹

¹¹⁰² The PDI-P was not simply allied with the military faction. In fact, the PDI-P had been excluded from Wahid's new cabinet that he formed in August 2000 to consolidate his position by having pro-president ministers. The impeachment process began five days later on August 28, 2000.

¹¹⁰³ Apart from supporting direct elections to make the president powerful, impeachment procedures, too, were tightened and narrowed. Before the amendment, the parliament could impeach the president for any charges. Through the amendment to Article 3, the parliament could impeach only when constitutional/legal, as opposed to merely political, violations might be involved. The evidence against the president was to be weighed by the Constitutional Court as well (Article 7B). The voting requirement was also raised from simple majority to absolute/two-thirds majority. These changes were ratified via the third amendment.

¹¹⁰⁴ Blair Andrew King, “Empowering the Presidency,” 122-127.

¹¹⁰⁵ Denny Indrayana, *Indonesian Constitutional Reform*, 249.

¹¹⁰⁶ Harold Crouch, *Political Reform in Indonesia*, 34.

¹¹⁰⁷ Denny Indrayana, *Indonesian Constitutional Reform*, 163.

¹¹⁰⁸ *Ibid.*, 277.

¹¹⁰⁹ Paul J. Carnegie, “Reorganising Constitutional Power in Indonesia: The Politics of Reform,” *Journal of Politics and Democratization* 4, no. 4 (December 2000): 59.

To a considerable extent, the compromise, as in Pakistan, was a result of the fact that no single party held an absolute majority in the parliament. Consequently, no party could impose its agenda single-handedly.¹¹¹⁰ Compromise and consensus also became possible because the parliament decided to take responsibility for reforms as an “insider job rather than outsourcing it to some external body” such as an ‘expert commission.’¹¹¹¹ It is for these reasons, too, that even though *reformasi* had proposed a federal state (even Amien Rais favoured federalism), major political parties’ support for continuing the unitary structure became an important point of compromise i.e., political and economic demilitarisation and decentralisation within a unitary configuration.¹¹¹² Similarly, a crucial factor that led to the demilitarisation of the parliament through the fourth amendment was an agreement between the PDI-P and Golkar, the two largest parties in the parliament.¹¹¹³ Their compromise became possible not only because the PDI-P had been asserting, as mentioned above, political autonomy from the military since the mid-1990s and wanted to de-militarise the parliament for the same reason, but also because Golkar, too, had ideologically evolved after adopting its own institutionally assertive ‘new paradigm’ to demilitarise itself in 2001.¹¹¹⁴

A change in the overall composition of the parliament also happened in tandem with the creation of a second chamber to represent the provinces (third amendment), with powers to discuss bills related to regional autonomy, the management of natural resources, and the fiscal balance between the Centre and the regions.¹¹¹⁵ The shift from terminating military representation in the parliament to creating a second (regionally focused) chamber, even with limited powers, clearly reflects the shift from a military-dominated Javanised political system to a demilitarised and de-Javanised system – a transformation that was borne out of extensive debates within the parliamentary committees representing all 11 factions (parties) of the parliament.¹¹¹⁶

¹¹¹⁰ Tim Lindsey, “Indonesian Constitutional Reform: Muddling Towards Democracy,” *Singapore Journal of International and Comparative Law* (2002): 1.

¹¹¹¹ Paul J. Carnegie, “Reorganising Constitutional Power in Indonesia,” 60.

¹¹¹² Denny Indrayana, *Indonesian Constitutional Reform*, 191-192.

¹¹¹³ *Ibid.*, 287-289.

¹¹¹⁴ Dirk Tomsa, *Party Politics and Democratisation in Indonesia: Golkar in the post-Suharto era* (Abingdon: Routledge, 2008), 72-73.

¹¹¹⁵ Denny Indrayana, *Indonesian Constitutional Reform*, 265.

¹¹¹⁶ See Andrew Ellis, “The Indonesian Constitutional Transition: Conservatism or Fundamental Change,” *Singapore Journal of International and Comparative Law* 6, no. 1 (2002): 116-153.

A crucial factor that enabled this consensus favouring decentralisation was, as mentioned above, the consistent pressure for decentralisation exerted by *reformasi*. All the NGOs¹¹¹⁷ that submitted proposals to the reform committees during the amendment process supported adopting decentralisation within a unitary configuration.¹¹¹⁸ Thus, the second amendment – which ratified the regional autonomy laws passed in 1999 by the Habibie administration – was *unanimously* passed in August 2000.¹¹¹⁹ It was an amendment that satisfied demands for decentralisation *without* forcing the largest political party, with the most seats in Javanese regions, to change its stance on the unitary character of the state. Even though there were factions within the PDI-P that opposed regional autonomy and wanted to reverse some of the powers transferred to the regions, their attempts were defeated when a counter-consensus involving political parties and a pro-decentralisation faction led by PDI-P's Jakob Tobing – who also headed reform commissions for the amendments and was directly supported by Megawati herself during the entire reform process against the PDI-P's own conservative factions -¹¹²⁰ and civil society associations developed against a radical revision of the regional autonomy laws.¹¹²¹ While the 2004 revision of regional autonomy laws reset some of the powers in ways that empowered the central government vis-à-vis regional administrations,¹¹²² it retained the overall ethnically decentralised framework of the post-Suharto era,¹¹²³ as the 2004 TNI law continued to institutionalise ethnic decentralisation by pushing the military out of national and local politics.

As a result of these constitutional changes, including the TNI law, the (Javanese dominated) military was barred from appointing officers in the bureaucracy; it was required to hand over its businesses to the government; the territorial structure was redefined in non-political and non-administrative terms; and, finally, the military's

¹¹¹⁷ It included: Legislation and Legal Reforms Groups (KRHP), the University of Gadjah Mada (UGM) and the Indonesian Transparency Society.

¹¹¹⁸ Denny Indrayana, *Indonesian Constitutional Reform*, 175.

¹¹¹⁹ *Ibid.*, 216.

¹¹²⁰ Blair Andrew King, "Empowering the Presidency," 124.

¹¹²¹ Harold Crouch, *Political Reform in Indonesia*, 102-106.

¹¹²² This law specifically empowered, as an extended arm of Jakarta, provincial governors' supervisory role vis-à-vis district governments. The stated intention was to make district executives more 'responsible' in the use of their powers. See Marco Bunte, "Indonesia's protracted decentralisation," 112.

¹¹²³ Harold Crouch, *Political Reform in Indonesia*, 106.

representation in the parliament was abolished, marking an end to military dominance – and, thus, Javanese dominance – at the hands of (Javanese-dominated) political parties (the PDI-P, the PKB, Golkar, etc.)¹¹²⁴ and the Javanese-dominated *reformasi*.

Like Pakistan, institutional, political, and popular divisions within the dominant ethnic group in Indonesia causally, contingently, and temporally combined to drive an overall political process of ethnically decentralising constitutional change. While Pakistan and Indonesia show an identical configuration of the identified variables with only context-based differences (e.g. the much more elaborate role of the parliament and the long resistance of *reformasi* as compared to the two years of the Lawyers' Movement and how both variables coalesced), the next chapter, focusing on Fiji as a second pathway case, further shows how the same intra-ethnic institutional, political, and popular divisions combine, in different ways, to produce an ethnically decentralising constitutional change in the South Pacific. Although these divisions show a causal configuration different from Pakistan and Indonesia, they still fit the overall causal mechanism – intra-ethnic civil-military institutional tensions, social movements and cross-ethnic consensus – identified and examined in Pakistan and Indonesia to produce constitutional forms of ethnic decentralisation.

¹¹²⁴ *Ibid.*, 150.

Ethnic Decentralisation: The Politics of Constitutional Change in Fiji

This chapter illuminates how the causal mechanism of ethnically decentralising constitutional change can configure differently across cases to produce the same outcome of interest. Unlike Pakistan and Indonesia, it was the Fijian military that promoted a multi-ethnic hybrid regime to constitutionally dismantle an ethnically exclusionary system associated with civilian Fijian (ethnic) institutions. And, unlike anti-regime social movements in Pakistan and Indonesia, ‘Church Movements’ in Fiji actively collaborated with the military to dismantle the (civilian) ethnically hegemonic structures. Finally, unlike the parliamentary process in Pakistan and Indonesia, a multi-ethnic hybrid regime in Fiji drafted and implemented an ethnically decentralising constitution in 2013. The military regime’s later transformation into a political party (FijiFirst) and its overwhelming electoral victory across all ethnic groups in the 2014 elections expanded multi-ethnic support for ethnic decentralisation.

1. Introduction: The Politics of Fijian Domination

In 1987, when Sitiveni Rabuka launched Fiji’s first-ever military coup, he purportedly targeted the “Indian-dominated government”¹¹²⁵ to preserve a Fijian¹¹²⁶ way of life under the leadership of Fijian chiefs, ensuring Fiji’s “cultural survival.”¹¹²⁷ This was, in other words, a coup that sought to prevent a system historically dominated by the Fijian chiefly class, which had been maintaining its power since the beginning of colonial rule in 1874, from collapsing.¹¹²⁸

The collapse was feared due to the rise of *Indo-Fijians* as a class pursuing its own political interests.¹¹²⁹ While Indo-Fijians were initially imported to Fiji as indentured labourers to work in the sugar industry during the 1870s and 1880s, they soon displaced Fijians as the dominant workforce.¹¹³⁰ While thousands of labourers were brought from other Melanesian islands as well, most of them, unlike Indo-Fijians, left

¹¹²⁵ Brij V. Lal, *Power and Prejudice: The Making of the Fiji Crisis* (Wellington: New Zealand Institute of International Affairs), 2.

¹¹²⁶ By Fijians I refer to the indigenous Fijians. Indo-Fijians refer to those who were brought from India by the British colonial authorities as labourers and settled down in Fiji.

¹¹²⁷ Brij V. Lal, *Power and Prejudice*, 2.

¹¹²⁸ See Sanjay Ramesh, “State Hegemony and Ethnicity: Fiji’s Problematic Colonial Past” in *The Palgrave Handbook of Ethnicity*, ed. Steven Rabuka (Singapore: Palgrave MacMillan, 2019), 247-264.

¹¹²⁹ In 1986, Indo-Fijians were a little over 48 per cent of the total population. Fijians were 47 per cent. Indo-Fijians now comprise a third (33 per cent) of the total population.

¹¹³⁰ Michael C. Howard, *Fiji: Race and Politics in an Island State* (Vancouver: UBC Press, 1991), 30.

Fiji by the mid-20th century.¹¹³¹ Indo-Fijians, however, began to settle down in Fiji as labourers, shopkeepers and cultivators, leading Fijian chiefs to fear losing their traditional dominance.¹¹³² These fears grew further in the early 20th century when Indo-Fijians started organising politically, leading to a communal franchise in 1929.¹¹³³ This was, however, only a prelude to their demand for equal rights for all racial and ethnic groups in Fiji based on a common (open) roll rather than separate communal (ethnic/racial) rolls.¹¹³⁴ While this demand led to symbolic recognition¹¹³⁵ of the role of Indo-Fijians as one of the key pillars that kept Fiji together,¹¹³⁶ it did not displace the doctrine of ‘Paramouncy of Fijian Interests’ as enshrined in the Fijian Deed of Cession.¹¹³⁷ It was this paramouncy that consolidated Fijians’ position within the political system through colonial institutions like the GCC,¹¹³⁸ which opposed, through a resolution passed in 1933, all Indo-Fijian efforts to give “immigrant Indians” direct or indirect control over “matters affecting the interests of the Fijian race.”¹¹³⁹ Even though changes to the constitution in 1937 put Indo-Fijians on a par with Fijians in terms of the (five) seats allocated to each community in the Legislative Council, an atmosphere of mistrust and hostility amid opposing demands for common and/or communal rolls continued to prevail for the next 25 years.¹¹⁴⁰

When the end of colonial rule looked imminent in 1963, politics in Fiji was deeply divided along racial lines, with the Fijian Association (formed in 1956) looking to take over power from Britain, and Indo-Fijians, organised around the National Federation Party (NFP, formed in 1965), demanding a common roll.¹¹⁴¹ Fijian chiefs believed that Indo-Fijians were seeking absolute domination after independence.¹¹⁴²

¹¹³¹ *Ibid.*, 407.

¹¹³² *Ibid.*, 31.

¹¹³³ Victor Lal, *Fiji Coups in Paradise: Race, Politics and Military Intervention* (London and New Jersey: Zed Books, 1990), 3.

¹¹³⁴ Susana Trnka, “Land, Life and Labour: Indo-Fijian Claims to Citizenship in a Changing Fiji,” *Oceania* 75, no. 4 (2005): 357.

¹¹³⁵ *Ibid.*

¹¹³⁶ The other two pillars included the Fijian land and indigenous people and the British colonial system.

¹¹³⁷ Stephanie Lawson, *The Failure of Democratic Politics in Fiji* (Oxford: Oxford University Press, 1991), 58.

¹¹³⁸ *Ibid.*, 69.

¹¹³⁹ *Ibid.*, 152.

¹¹⁴⁰ Victor Lal, *Fiji Coups in Paradise*, 4-5.

¹¹⁴¹ *Ibid.*, 6-7.

¹¹⁴² *Ibid.*, 12.

So, to offset this possibility, communal rolls were retained in the pre-independence 1966 constitution.

Fijian politics was further reshaped when existing Fijian organisations merged in 1966 to form the Alliance Party (AP) under the leadership of Ratu Mara, a prominent Fijian hereditary chief.¹¹⁴³ While the Fijian AP and the Indo-Fijian NFP were both involved in the negotiations that led to Fiji's independence in 1970,¹¹⁴⁴ the 1970 constitution still protected Fijian interests in many ways. Specifically, it gave an equal number of communal seats (12) to Fijians and Indo-Fijians, but it retained separate electoral rolls. This arrangement meant that Fijians could still win more seats – especially, in the General Electoral category – because the general Fijian electors, which included people of Chinese and European origins living in Fiji for decades, traditionally showed overwhelming support for Fijian elites.¹¹⁴⁵ The 1970 seat distribution, in other words, ensured that Fiji's control remained in Fijian hands.¹¹⁴⁶ Besides, the fact that the GCC was given the power to *nominate* 8 members in a 22-member Senate – which had substantial control over the legislative process – further consolidated Fijian dominance.¹¹⁴⁷ The AP's victory in the 1972 elections was, therefore, widely seen as a foregone conclusion.¹¹⁴⁸

Fijian politics, however, began to unravel during the mid-1970s when the Fijian Nationalist Party (FNP), formed in 1974 to resist the AP's attempts to woo Indo-Fijians to further increase its vote bank against competing (Fijian and Indo-Fijian) parties, began to challenge the AP's dominance.¹¹⁴⁹ It had two key consequences. First, it divided the Fijian vote internally, as the FNP captured over 25 per cent of the Fijian vote and reduced the AP's seats from 33 (1972) to 24 (1977). Second, the rise of hard-line nationalists pushed more Indo-Fijians away from the AP towards the Indo-Fijian NFP, allowing it to increase its seats from 19 (1972) to 26 (1977).¹¹⁵⁰

¹¹⁴³ Michael C. Howard, *Fiji: Race and Politics*, 53-54.

¹¹⁴⁴ Victor Lal, *Fiji Coups in Paradise*, 13.

¹¹⁴⁵ Stephanie Lawson, *The Failure of Democratic Politics*, 187.

¹¹⁴⁶ Biman C. Prasad and Clem Tisdell, *Institutions, Economic Performance and Sustainable Development: A Case Study of the Fiji Islands* (New York: Nova Science Publishers, 2006), 54.

¹¹⁴⁷ Stephanie Lawson, *The Failure of Democratic Politics*, 187-190.

¹¹⁴⁸ Ahmed Ali, "The Fiji General Election of 1972," *The Journal of Pacific History* 8 (1973): 179.

¹¹⁴⁹ Stephanie Lawson, *The Failure of Democratic Politics*, 208-209.

¹¹⁵⁰ *Ibid.*

Even though the Indo-Fijian NFP won the most seats in the elections of 1977, however, it too got divided internally over leadership questions, prompting the Governor-General to invite the AP to form a minority government.¹¹⁵¹ The AP was, however, defeated when it failed to win parliamentary support in May 1977.¹¹⁵² While this episode exacerbated ethnic tensions, it also had the effect of re-unifying Fijian votes under the AP, which replaced the FNP's nationalist rhetoric with its own racial narrative of Fijian domination.¹¹⁵³ The AP won the second election in 1977 as well as the next election in 1982.

Growing ideological polarisation amongst Fijians was, however, only one dimension of the divisions emerging *within* the dominant ethnic group. A growing conflict between the AP and organised labour in the late 1970s and early 1980s, during a growing economic crisis, a shrinking economy, and its impact on government-labour relations (in particular, how hundreds of workers were laid off), led Fijian *labour* leaders to organise themselves politically. At the same time, a split within the Indo-Fijian NFP and its inability to act as a strong opposition to the AP allowed the NFP splinter factions to ally with labour leaders to give birth to a cross-ethnic Fiji Labour Party (FLP) in 1985¹¹⁵⁴ (effectively shifting the focus away from ethnicity to class).¹¹⁵⁵ The FLP's election manifesto specifically declared that "any government in Fiji cannot be identified with race or religion or a section of our people."¹¹⁵⁶ The FLP, which developed an electoral coalition with the Indo-Fijian NFP, defeated the AP in 1987 by winning 28 seats as compared to the latter's 24.

This victory had consequences for Fijians. Most importantly, it changed the ethnic composition of the ruling elite through a heavy presence of Indo-Fijians in both the FLP and the NFP – ¹¹⁵⁷ a change that seemed to pose a direct threat¹¹⁵⁸ to the 'Fijian

¹¹⁵¹ Victor Lal, *Fiji Coups in Paradise*, 56-57.

¹¹⁵² *Ibid.*, 62.

¹¹⁵³ *Ibid.*, 65.

¹¹⁵⁴ Michael C. Howard, *Fiji: Race and Politics*, 147-159.

¹¹⁵⁵ Shalendra Sharma, "The Politics of Race in Fiji," *Economic and Political Weekly* 22, no. 49 (December 1987): 2097.

¹¹⁵⁶ Michael C. Howard, *Fiji: Race and Politics*, 212.

¹¹⁵⁷ John D. Kelly and Martha Kaplan, *Repressed Communities: Fiji and World Decolonization* (Chicago: Chicago University Press, 2001), 133.

¹¹⁵⁸ See Asesela Ravuvu, *The Façade of Democracy: Fijian Struggles for Political Control, 1930-1987* (Suva: Reader Publishing House, 1991).

values¹¹⁵⁹ that the AP, in alliance with the GCC¹¹⁶⁰ and the Methodist Church,¹¹⁶¹ had sought to maintain since independence.¹¹⁶²

A key pillar of this ethnically exclusive system was the ethnically exclusive (95 per cent Fijian) military,¹¹⁶³ which was largely developed, unlike the militaries of Pakistan and Indonesia, in the post-independence period – in particular, after the AP's defeat in 1977 – to tackle the 'threat' of Indo-Fijian domination.¹¹⁶⁴ This ethnically exclusive military operated alongside, and in addition to, the institutional protection given to Fijian interests through statutory bodies like the Fijian Affairs Board (FAB), the GCC, the Native Land Trust Board (NLTB), and the Native Land Development Board (NLDB).¹¹⁶⁵

When the multi-ethnic FLP/NFP coalition came into power in 1987, it displaced this history of Fijian supremacy – ¹¹⁶⁶ an eventuality that an ethnically exclusive social movement known as the *Taukei Movement* sought to prevent. Set up by key members of the AP, namely Apisai Tora and Jona Qio (who was also a GCC-appointed senator from 1982 to 1987),¹¹⁶⁷ this ethnic Fijian dispensation brought together Fiji's ethnic supremacists, including those from the Fiji Church Council,¹¹⁶⁸ to overthrow the government¹¹⁶⁹ and permanently establish Fijian supremacy¹¹⁷⁰ via the Fijian Chiefs.¹¹⁷¹ Destabilising the coalition government through massive street demonstrations,¹¹⁷²

¹¹⁵⁹ Brain Shoup, *Conflict and Cooperation in the Multi-Ethnic States: Institutional Incentives, myths, and counterbalancing* (Abingdon: Routledge, 2008), 87.

¹¹⁶⁰ Carmen M. White, "Chiefs, Moral Imperatives and the Specter of Class in Fiji," *Journal of Anthropological Research* 71, no. 2 (Summer 2015): 183.

¹¹⁶¹ Jone Baledrokadroka, "Sacred King and Warrior Chief: The Role of the Military in Fijian Politics" (Ph.D Diss., The Australian National University, 2012), 106.

¹¹⁶² Shalendra Sharma, "The Politics of race in Fiji," 2096.

¹¹⁶³ Ralph R. Premdas, "Military Intervention in Fiji: Fear of Ethnic Domination," *Social and Economic Studies* 41, no. 1 (March 1992): 105.

¹¹⁶⁴ Daniel Zirker et al., "The Military as a Distinct Ethnic or Quasi-Ethnic Identity in Developing Countries," *Armed Forces and Society* 34, no. 2 (January 2008): 325.

¹¹⁶⁵ Victor Lal, *Fiji Coups in Paradise*, 29.

¹¹⁶⁶ See Andres Scobell, "Politics, Professionalism, and Peacekeeping: An Analysis of the 1987 Military Coup in Fiji," *Comparative Politics* 26, no. 2 (January 1994): 187-201.

¹¹⁶⁷ Stephanie Hagan, "Race, politics and the coup in Fiji," *Bulletin of Concerned Asian Scholars* 19, no. 4 (1987): 16.

¹¹⁶⁸ Michael C. Howard, *Fiji: Race and Politics*, 292.

¹¹⁶⁹ Stephanie Lawson, *The Failure of Democratic Politics*, 259-260.

¹¹⁷⁰ Stephanie Hagan, "Race, politics," 16.

¹¹⁷¹ Ralph R. Premdas, "Military Intervention in Fiji," 135-136.

¹¹⁷² Michael C. Howard, *Fiji: Race and Politics*, 275.

a pretext for the ethnically exclusive Fijian military to intervene in politics was created.¹¹⁷³ When the Fijian military took over in 1987, it declared, reinforcing the underlying (racial) rationale of its existence, unequivocally that *Fiji was for Fijians only*.¹¹⁷⁴

The interim government established after this 1987 military coup, with approval from the GCC¹¹⁷⁵ to entrench Fijian domination,¹¹⁷⁶ failed to consolidate itself – not only because of international condemnation, but also because of continuing cross-ethnic Fijian and Indo-Fijian support for the deposed FLP-NFP coalition government.¹¹⁷⁷

In fact, this crisis-laden period led to yet another coup by Sitiveni Rabuka in September 1987,¹¹⁷⁸ which, seeking to re-establish Fijian hegemony,¹¹⁷⁹ also became the basis for Fiji's long term ethnicisation¹¹⁸⁰ through an ethnically centralising 1990 Constitution.¹¹⁸¹ While the 1990 Constitution gave Fijians a permanent majority in the legislature¹¹⁸² and enhanced the constitutional role of the GCC (it appointed Fiji's president) and other Fijian institutions (Native Land Commission, the Native Fisheries Commission, and the NLTB, protecting their decisions from court reviews),¹¹⁸³ it also gave the Fijian military greater executive power, making it responsible for the “well-being” (Article 94/3) of Fijians.¹¹⁸⁴ In addition to removing Indo-Fijians from power, these changes were also deemed necessary to neutralise, via

¹¹⁷³ Ralph R. Premdas, “Military Intervention in Fiji,” 137.

¹¹⁷⁴ Brij V. Lal, *Power and Prejudice*, 2.

¹¹⁷⁵ Michael C. Howard, *Fiji: Race and Politics*, 276.

¹¹⁷⁶ See Ralph R. Premdas, “Balance and Ethnic Conflict in Fiji” in *The Politics of Ethnic Conflict Regulation in Fiji: Case Studies of Protracted Ethnic Conflicts*, ed. John McGarry and Brendon O’Leary (London: Routledge, 1993), 251- 274.

¹¹⁷⁷ *Ibid.*, 274-311.

¹¹⁷⁸ *Ibid.*, 310-313.

¹¹⁷⁹ Brij V. Lal, *Power and Prejudice*, 3-5.

¹¹⁸⁰ Sanjay Ramesh, “Colonial and Post-Colonial Ethnocracy in Fiji,” *Cosmopolitan Civil Societies* 8, no.3 (2016): 116.

¹¹⁸¹ Yash Pal Ghai and Jill Cottrell, “A Tale of three Constitutions: Ethnicity and Politics in Fiji,” *International Journal of Constitutional Law* 5, no. 4 (2007): 645-646.

¹¹⁸² In a house of 70, Fijians were given 37 seats. Indo Fijians were given 27 seats.

¹¹⁸³ Yash Pal Ghai, “Ethnicity, Politics and Constitutions in Fiji” in *Bearing Witness: Essays in honour of Brij V. Lal*, ed. Doug Munro and Jack Corbett (Canberra: The ANU Press, 2017), 184-187.

¹¹⁸⁴ See Fiji 1990 Constitution text.

Fijian control of the Fiji state, Indo-Fijian domination “in professional jobs, managerial, and other white-collar professions.”¹¹⁸⁵

But this erosion of any fear of Indo-Fijian domination also brought to light, as Yash Ghai has shown, existing political divisions *amongst* Fijians,¹¹⁸⁶ particularly as Rabuka – who became Fiji’s prime minister in 1992 – sought to strengthen his political position vis-à-vis rival Fijian political elites and Fijian chiefs by defeating the latter’s representatives in an election for the presidency of the GCC-backed Fijian Political Party (SVT)¹¹⁸⁷ in 1991.¹¹⁸⁸ In fact, by the time elections took place in 1992, infighting had already divided Fijian politics, as new Fijian parties opposing the SVT continued to proliferate.¹¹⁸⁹ So, with divided Fijians leaving no Fijian party in a position to win elections and form a government on its own,¹¹⁹⁰ Rabuka himself allied with Indo-Fijian parties, including the FLP.¹¹⁹¹ In exchange for their support, these Indo-Fijian parties convinced him to review the 1990 Constitution.¹¹⁹² This led to the establishment of the ‘Reeves Commission’ in 1995, which reviewed the 1990 Constitution and made recommendations for “promoting racial harmony and national unity and the economic and social advancement of all communities.”¹¹⁹³

The commission’s ethnically inclusive recommendations, however, were later watered down by a Joint Parliamentary Select Committee, which strengthened the Fijian position once again,¹¹⁹⁴ as it increased Fijian seats in the lower house of the

¹¹⁸⁵ William M. Sutherland, *Beyond the Politics of Race: An Alternative History of Fiji to 1992* (Canberra: Department of Political and Social Change, Research School of Pacific Studies, Australian National University, 1992), 153.

¹¹⁸⁶ Yash Pal Ghai, “Ethnicity, Politics and Constitutions,” 187.

¹¹⁸⁷ It is an English translation of the party’s original name: The Soqosoqo ni Vakavulewa ni Taukei (SVT).

¹¹⁸⁸ Brij V. Lal, “Chiefs and Indians: Elections and Politics in Contemporary Fiji,” *The Contemporary Pacific* 5, no.2 (Fall 1993): 283.

¹¹⁸⁹ *Ibid.*, 285-286.

¹¹⁹⁰ Robert Norton, “Reconciling Ethnicity and Nation: Contending Discourses in Fiji’s Constitutional Reform,” *The Contemporary Pacific* 12, no. 1 (Spring 2000): 85.

¹¹⁹¹ Brij V. Lal, “Chiefs and Indians,” 295-296.

¹¹⁹² Yash Pal Ghai, “Ethnicity, Politics and Constitutions,” 187-188.

¹¹⁹³ Yash Pal Ghai and Jill Cottrell, “A Tale of three constitutions,” 653.

¹¹⁹⁴ While the ‘Reeves Commission’ had recommended 45 open seats and 25 ethnicity-based seats, the committee reduced open seats i.e., seats where voters could vote for any candidate regardless of his/her ethnic identity, to 25 while increasing Fijian seats to 23 and limiting Indo-Fijian seats to 19.

parliament to 23 from 12 and allowed the GCC to nominate¹¹⁹⁵ 14 members of the upper house.¹¹⁹⁶ But the 1999 elections held under the new constitution and Alternative Vote (AV) still led to a multi-party/multi-ethnic government led by Mahendra Chaudhary of the FLP – ¹¹⁹⁷ a victory¹¹⁹⁸ that once again reinforced Fijian fears of Indo-Fijian domination.¹¹⁹⁹ Chaudhary’s government was then overthrown in a coup (2000) led by a civilian Fijian nationalist named George Speight.¹²⁰⁰ Speight not only represented Fijian racial interests but was also supported by the *Taukei Movement* that had re-emerged in 2000 to re-establish Fijian supremacy.¹²⁰¹

The 1997 Constitution was abrogated, and the GCC, supported by the Methodist Church – ¹²⁰² which favoured Fijian interests – promised to entrench Fijian supremacy through a new system.¹²⁰³ George Speight’s coup again brought Fijians to power, but it also proved how, in the absence of a wholesale deconstruction of the “deeply embedded ethnic cleavages” (and ethnic institutions), ethnic tensions could not be reduced merely through electoral changes – for example, from a racially aligned 1990 Constitution ¹²⁰⁴ to a seemingly non-racial AV system created via the 1997

¹¹⁹⁵ The president was given powers to appoint 9 members of the Senate on the advice of the prime minister.

¹¹⁹⁶ Yash Pal Ghai, “Ethnicity, Politics and Constitutions,” 190-191.

¹¹⁹⁷ For a detailed discussion on the politics leading to this election see Satendra Prasad, “Fiji’s 1999 general elections: outcomes and prospects” in *Confronting Fiji Futures*, ed. A. Haroon Akram-Lodhi (Canberra: The ANU Press, 2016), 50-70.

¹¹⁹⁸ See *Ibid.* The FLP’s victory became possible due to its success in winning 18 seats in the open-seat category. It allied with two Fijian parties - the Fijian Association Party (FAP) and the Party of National Unity (PANU) - for this election. It also won all 19 seats reserved for the Indo-Fijians. Its rival Indo-Fijian party, the NFP allied with the SVT, was routed. The SVT, on the other hand, could win only 3 seats in the open-seat category. With the Fijian vote and seats divided among competing Fijian parties, the FLP ended up winning 36 seats in a house of 71, becoming the largest party.

¹¹⁹⁹ See Robbie Robertson and William Sutherland, *Government by the Gun: Unfinished Business of Fiji’s 2000 Coup* (Australia: Pluto Press, 2001), 62-84.

¹²⁰⁰ For a detailed account of this insurrection see Michel Field et al., *Speight of Violence: Inside Fiji’s 2000 Coup* (Canberra: Pandanus Books, 2005).

¹²⁰¹ Robbie Robertson, *The General’s Goose: Fiji’s Tale of Contemporary Misadventure* (Canberra: The ANU Press, 2017), 136.

¹²⁰² See Iliatia Sevati Tuwere, “Statement of the Methodist Church in Fiji and Rotuma on the Armed Seizure of Government” in *Coup: Reflections on the Political Crisis in Fiji*, ed. Brij V. Lal and Michael Pretes (Canberra: The ANU Press, 2001), 168-173.

¹²⁰³ Brij V. Lal, “Madness in May: George Speight and the unmaking of modern Fiji” in *Fiji Before the Storm: Elections and the politics of development*, ed. Brij V. Lal (Canberra: The ANU Press, 2012), 186-187.

¹²⁰⁴ The 1990 Constitution gave the GCC the powers to nominate 24 members of the Senate, which consisted of 34 members. The president had the power to nominate nine members to represent other communities (without any requirement for consultation). In the 70 member House of Representatives, 37 seats were reserved for Fijians. Only a Fijian could be a prime minister. This

Constitution.¹²⁰⁵ Addressing existing tensions more substantially began when institutionalised divisions *within* the dominant ethnic group were reinforced by social movements and a cross-ethnic political consensus post-2006 coup (see below).

In due course, the overthrow of Mahendra Chaudhary's FLP government by George Speight in 2000 led to the establishment of an exclusively Fijian dominated government – first, as an interim set-up in May 2000¹²⁰⁶ and, later, as an elected government when the newly established United Fiji Party (known as the SDL)¹²⁰⁷ won the 2001 elections and a Fijian leader named Laisenia Qarase became Fiji's new prime minister. While the 1997 Constitution provided that any party with at least 10 per cent of the seats in the House of Representatives was entitled to a proportional share of cabinet posts, the SDL government refused to include Mahendra Chaudhary's FLP – which won 27 seats out of 71 in the 2001 elections – as a coalition partner. Instead, it included the Conservative Alliance (CAMV),¹²⁰⁸ a racist Fijian party that won only 6 seats on a manifesto that sought exclusive Fijian control of the country.¹²⁰⁹

Fiji's AV system, which Donald Horowitz¹²¹⁰ believed could promote ethnic decentralisation without requiring the majority ethnic group to give up power, failed to erode ethnic majoritarianism,¹²¹¹ especially because the Fijian elite, including the military, still had an interest in preserving an ethnically centralised set-up. It was this

constitution also gave special status to Fijian customary law, with the executive given special powers to promote and safeguard the core economic, social, cultural and other interests of the Fijian people (Article 21).

¹²⁰⁵ Steven Ratuva, "Shifting Democracy: Electoral Changes in Fiji" in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 27.

¹²⁰⁶ Biman C. Prasad and Clem Tisdell, *Institutions, Economic Performance*, 55.

¹²⁰⁷ This is an English translation of the party's original name: Soqosoqo Duavata ni Lewenivanua (SDL).

¹²⁰⁸ The party was known as Conservative Alliance (Matanitu Vanua) i.e., CAMV.

¹²⁰⁹ Alumita Durutalo, "Defending the Inheritance: The SDL and the 2006 Election" in *From Election to Coup in Fiji: The 2006 Campaign and its Aftermath*, ed. Jon Fraenkel and S. Firth (Canberra: The ANU Press, 2007), 181-182.

¹²¹⁰ See Donald A. Horowitz, "Constitutional Design: Proposals Versus Processes" in *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, ed. Andrew Reynolds (Oxford: Oxford University Press, 2001), 15-36.

¹²¹¹ Steven Ratuva, "Shifting Democracy," 29.

interest that allowed Laisenia Qarase's government to further entrench Fijian interest through "affirmative action programmes" favouring Fijians (see below).¹²¹²

In 2006, elections repeated the SDL's victory. The apparent consolidation of a Fijian government also gave birth, as in the early-1990s, to new contradictions — above all, when the GCC and the Methodist Church-backed SDL government started pushing *against* the Fijian military's post-2000 involvement in politics, pitting Frank Bainimarama, the military's commander, against all of these civilian Fijian institutions (see below). This *intra*-ethnic military-civilian division unsettled the 'structural domination' of the Fijian elite¹²¹³ through an institutionalised conflict within that elite. The military's consequent tussle with the SDL government allowed Fijian military elites to redefine their ties with Indo-Fijians *as well as* sections of the Fijian political and religious elite — a cross-ethnic compromise that not only reinforced divisions amongst Fijians, but also consolidated popular support for an ethnically decentralised constitution of 2013.

2. Intra-ethnic Divisions: Unravelling Fijian Supremacy

Whereas the Fijian military was directly involved in previous coups to establish Fijian supremacy, Frank Bainimarama's coup in 2006 dismissed the Fijian-focused SDL government led by Laisenia Qarase.¹²¹⁴ While the civil-military tensions that ensued institutionally divided Fijians,¹²¹⁵ this internal disintegration itself happened, as in Pakistan and Indonesia, in ways that directly involved questions of ethnic decentralisation. So, whereas *civilians* in Pakistan and Indonesia struggled to push a military-dominated ethnically centralised system out of politics; in Fiji, it was the *military* that *rejected* the ethnically exclusive system and its role as an instrument of ethnic power.¹²¹⁶

¹²¹² Stephanie Lawson, "Fiji: Divided and Weak" in *State Failure and State Weakness in Times of Terror*, ed. Robert I. Rotberg (Washington D.C: Brookings Institution Press, 2003), 279.

¹²¹³ See Movindri Reddy, "Challenging Democracy: Ethnicity in Postcolonial Fiji and Trinidad," *Nationalism and Ethnic Politics* 17 (2011), 182-202.

¹²¹⁴ Jon Fraenkel and Stewart Firth, "The enigmas of Fiji's good governance coup" in *The 2006 Military Takeover in Fiji: A Coup to End All Coups?*, ed. Jon Frankel et al. (Canberra: The ANU Press, 2009), 3.

¹²¹⁵ See Sanjay Ramesh, "Fiji: Inter-group competition and in-group fragmentation," *Peace and Conflict Review* 2, no. 2 (2008): 1-15.

¹²¹⁶ See Vijay Naidu, "Fiji: The Militarization of Politics in a Small-Island Developing State," *Oxford Encyclopedia of Politics* (March 2021).

The Qarase government consolidated ethnic exclusion through new pieces of legislation, including a discriminatory Social Justice Act in 2001¹²¹⁷ that, reflecting the SDL government's overall ethnic exclusivity, gave special protection to Fijian interests across educational, economic, and social sectors via a substantial "affirmative action" programme.¹²¹⁸ However, such legislation, coupled with the SDL's push against the Fijian military (see below), had the effect of alienating the military, helping to transform it from an "agent" of Fijian chiefs into a "political nemesis" targeting their system.¹²¹⁹ As Frank Bainimarama himself explained four years later:

"...regression as opposed to progression. It led to stagnation as opposed to modernisation [and] resulted in the absence of true nationhood and political and institutional systems that were replete with discrimination, prejudices, chauvinism, and marginalisation ... We Fijians today are able to overcome these challenges. We have [the] tenacity and indeed we now have a vision. A vision to modernise and liberalise."¹²²⁰

It was a vision that, as Bainimarama argued, only the military could implement.¹²²¹ Tussles with the SDL, however, first started growing when the Qarase government started taking steps – cutting down the size of the military, controlling the military budget, and not supporting Bainimarama's tenure as military chief –¹²²² to reverse the military's growing involvement in politics. These steps led the military to pursue greater autonomy from the government,¹²²³ even starting an anti-government political campaign that highlighted the regime's "ethnonational agenda and ... despotic character."¹²²⁴

¹²¹⁷ See Jill Cottrell and Yash Ghai, "Constitutionalising Affirmative Action in the Fiji Islands," *International Journal of Human Rights* 11, no. 1-2 (March 2007): 227-257.

¹²¹⁸ Kevin Chang, "After the Storm of 2000: Fiji's Troubled Path toward Justice and Reconciliation" in *Sustaining A Resilient Asia Pacific Community*, ed. Wilmar Salim and Kiran Sagoo (Newcastle: Cambridge Scholars Publishing, 2008), 125.

¹²¹⁹ Jone Baledrokadroka, "The Super Confederacy: the Military in Fiji's Politics," *The Roundtable* 104, no. 2 (2015): 127.

¹²²⁰ Dominik Schieder, "Fiji has a Coup Culture: Discussing Fiji's ongoing political instability," *Paideuma: Mitteilungen Zur Kulturkunde* 58 (2012): 47.

¹²²¹ Jone Baledrokadroka, "The Fiji military and the 2014 elections" in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 179.

¹²²² Steven Ratuva, "The pre-election 'cold war': the role of the Fiji military during the 2006 election" in *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, ed. Jon Fraenkel and Stewart Firth (Canberra: The ANU Press, 2007), 35.

¹²²³ Jon Fraenkel, "The origins of military autonomy in Fiji: a tale of three coups," *Australian Journal of International Affairs* 67, no. 3 (2013): 335.

¹²²⁴ Dominik Schieder, "Fiji has a Coup Culture," 4.

Like political parties in Pakistan and Indonesia, the Fijian military adopted a political narrative that targeted the ethnic foundations of its rival institution. This was, however, not just a political tactic. It was also a reflection of the Fijian military's ideological transition away from a politics of ethnic hegemony, as it saw this running contrary to its self-projection as a national, rather than as an ethnic, institution. It was this vision that led the military to withdraw from politics following the 1987 coup.¹²²⁵

Growing political competition within the Fijian political class, however, brought the military back into politics in the early 2000s,¹²²⁶ allowing it to position itself as an interlocutor between opposing Fijian political factions.¹²²⁷ But, given Frank Bainimarama's close association with the Ratu Mara faction of Fijian chiefly class/elites – a rival of the Qarase regime – the military leader, too, was seen by the SDL government as an intra-ethnic rival¹²²⁸ who needed to be removed to bring the military under their control.¹²²⁹

However, the SDL government's bid to push the Bainimarama-led military away¹²³⁰ led the military to withdraw its support for the government and, then, to push for a defeat of the government's ethnonational agenda.¹²³¹ This included the military's opposition to the Reconciliation, Tolerance, and Unity (RTU) bill that was intended to give amnesty (even as the military characterised it¹²³² as “detrimental to the public good”)¹²³³ to the perpetrators of the 2000 civilian coup,¹²³⁴ as well as military officers involved in a mutiny against Bainimarama in November 2000 that almost killed

¹²²⁵ Steven Ratuva, “The Military Coups in Fiji: Reactive and Transformative Tendencies,” *Asian Journal of Political Science* 19, no. 1 (April 2011): 109.

¹²²⁶ *Ibid.*

¹²²⁷ *Ibid.*, 111.

¹²²⁸ Stewart Firth and Jon Fraenkel, “The Fiji military and ethno-nationalism: Analysing the paradox” in *The 2006 Military Takeover in Fiji: A Coup to End all Coups?*, ed. Jon Fraenkel et.al (Canberra: The ANU Press, 2009), 123.

¹²²⁹ See Stephanie Lawson, “Indigenous nationalism in Fiji: rethinking the politics of ethnicity,” *International Political Science Association 21st World Congress IPSA* (2009).

¹²³⁰ Brij V. Lal, *Levelling Wind: Remembering Fiji* (Canberra: The ANU Press, 2019), 432.

¹²³¹ Steven Ratuva, “The Military Coups in Fiji,” 111-112.

¹²³² See Mosmi Bhim, “The Impact of the Promotion of Reconciliation, Tolerance and Unity Bill on the 2006 election” in *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, ed. Jon Fraenkel and Stewart Firth (Canberra: The ANU Press, 2007), 111-143.

¹²³³ Susana Trnka, *State of Suffering: Political Violence and Community Survival in Fiji* (Ithaca and London: Cornell University Press, 2008), 183.

¹²³⁴ Steven Ratuva, “The pre-election ‘cold war’,” 35.

him.¹²³⁵ If, for the military, the RTU bill reflected the Qarase government's anti-military and ethnonational agenda, the Qoliqoli Bill – meant to legally enforce indigenous Fijian ownership of traditional fishing grounds –¹²³⁶ fully consolidated its exclusionary focus,¹²³⁷ empowering racist forces to shift the balance of power in favour of the SDL government against the ethnically exclusive but seemingly non-racist Fijian military.¹²³⁸

These bills, as Brij V. Lal has argued, pitted Bainimarama against the government,¹²³⁹ particularly as Bainimarama set about changing the political debate in Fiji from protecting “indigenous rights” to “cleaning up” the corruption of Fijian elites.¹²⁴⁰ What gave the military an additional impetus was growing public anger over the RTU bill, especially amongst a cohort of (Fijian and Indo Fijian) religious organisations, civil groups, trade unions, and NGOs concerned about how the bill might reward rather than punish the coup plotters.¹²⁴¹

So, whereas the 1987 coup was the first major instance of the military's politicisation and its refusal to accept civilian supremacy – especially if it meant accepting an Indo-Fijian civilian government –¹²⁴² the 2006 coup pushed the military to oppose civilian supremacy outright even if it involved overthrowing a government of its own ethnic group.¹²⁴³ The 2006 coup was followed by what can be called an ‘institutional purge’ against the GCC and the Methodist Church – two major institutions that not only represented the main face of Fijians but also refused to support the coup.¹²⁴⁴ As a

¹²³⁵ Susana Trnka, *State of Suffering*, 183.

¹²³⁶ Ethnic Fijians, especially those involved in the tourism and hotel industry, opposed this bill because it would have made owners of fishing lands – an important tourism site – the sole regulators of the land. The Fijian law society called this bill a step towards making fishing lands (Qoliqoli) “autonomous areas” within Fiji. See Brij V. Lal, *Levelling Wind*, 354-355.

¹²³⁷ Susana Trnka, *State of Suffering*, 39.

¹²³⁸ Robbie Robertson, *The General's Goose*, 200.

¹²³⁹ Brij V. Lal, *Levelling Wind*, 431.

¹²⁴⁰ Susana Trnka, *State of Suffering*, 183.

¹²⁴¹ *Ibid.*, 181-182.

¹²⁴² See Yaw Saffu, “Changing civil-military relations in Fiji,” *Australian Journal of International Affairs* 44, no. 2 (1990): 159-170.

¹²⁴³ See Stephanie Lawson, “Indigenous nationalism in Fiji.”

¹²⁴⁴ Stephan McCarthy, “Soldiers, chiefs and church: unstable democracy in Fiji,” *International Political Science Review* 32, no. 5 (December 2011): 569.

result of these *institutionalised* intra-ethnic divisions, the GCC was abolished in 2012, as Bainimarama saw its ethnonational politics as a direct threat to his rule.¹²⁴⁵

Quite unlike Pakistan and Indonesia, where civilian elites saw the military's dominance and its ethnically centralised system as a threat to their interests, in Fiji, Frank Bainimarama saw civilian institutions' ethnically centralising agenda as a threat to his survival.¹²⁴⁶ It was, therefore, hardly surprising that Fiji's powerful Methodist Church – which, too, considered the military regime illegal – found itself pitted against the 'New' Methodist Church and the Roman Catholic Church,¹²⁴⁷ which, departing from their opposition to the previous coups of Rabuka and Speight, extended crucial support to Bainimarama vis-à-vis his intra-ethnic rivals¹²⁴⁸ and received support from his regime against a church – and racial politics – they opposed.¹²⁴⁹ This growing convergence brought together the political and the social from *within* Fijians vis-à-vis the politics of ethnic decentralisation that unfolded in the years immediately following the coup in 2006.

The narrative of building a 'new' Fiji by discarding the 'old' Fiji, as articulated by the New Methodists, found its institutional expression in the NCBBF. This Council, headed jointly by Bainimarama and the head of the Catholic Church, Petero Mataca, produced a new People's Charter in 2008 –¹²⁵⁰ a pre-constitutional document much like the Charter of Democracy in Pakistan and the 'Ciganjur declaration' in Indonesia that suggested an 'ethnically blind constitution.'¹²⁵¹

While the military's position in Fiji may be an anomaly for the proponents of democracy and civilian supremacy, it still played a key role in steering Fiji's path

¹²⁴⁵ Robert Norton, "The changing role of the Great Council of Chiefs" in *The 2006 Military Takeover in Fiji: A Coup to End all Coups?*, ed. Jon Fraenkel et al. (Canberra: The ANU Press, 2009), 97.

¹²⁴⁶ Mosmi Bhim, "The Impact of the Promotion of Reconciliation," 125.

¹²⁴⁷ Matt Tomlinson, "The Generation of the New: Denominational Politics in Fijian Christianity" in *Christian Politics in Oceania*, ed. Matt Tomlinson and Debra McDougall (New York: Berghahn Books, 2013), 82.

¹²⁴⁸ *Ibid.*, 83.

¹²⁴⁹ *Ibid.*, 83-96.

¹²⁵⁰ Steven Ratuva, "The Military Coups in Fiji," 114.

¹²⁵¹ Romitesh Kant, "Casting a Blind Eye: Is Fiji's 2013 'Ethnically-Blind' Constitution a Path to Democratic Stability?," *Journal of South Pacific Law*, Special Issue, 3-36 (2017): 22-25.

toward an ethnically decentralised constitution.¹²⁵² Therefore, even though the military was keen to protect its institutional interests through the 2013 Constitution,¹²⁵³ it remains that, in the absence of its institutional tussle with Qarase's Fijian-dominated civilian government, the GCC and the Methodist Church, Fiji would have remained an ethnically centralised state.

Yet the Fijian military was not the only actor involved in this constitutional shift. In what follows, I discuss the political process of ethnically decentralising constitutional change in Fiji, which, while dominated by the military, also included important social, religious, and political players drawn from both Fijians and Indo-Fijians. Like Pakistan and Indonesia, it was the causal, contingent and temporal convergence of all of these factors – intra-ethnic civil-military institutional tensions, social (Church) movements, and the post-2006 cross-ethnic regime – that drove the political process of ethnic decentralisation institutionalised via the 2013 Constitution.

3. The Politics of Ethnic Decentralisation in Fiji

Fiji's transition from an ethnically exclusive system to an ethnically inclusive system has mostly been studied as a change "from above"¹²⁵⁴ driven by the military's tussle with other Fijian political actors.¹²⁵⁵ This view, however, ignores other relevant factors, including the role of social and political actors proceeding from below. Even in his analysis of constitution-making in Fiji, Yash Ghai,¹²⁵⁶ who led the 'Ghai Commission' to produce the first draft of the 2013 constitution, does not frame the political process in terms of institutional divisions amongst the dominant Fijians. Nor does he appear to grasp the full importance of institutions like the NCBBF, the New Methodist Church, and the Roman Catholic Church when it came to dismantling the ethnic hegemony of the Methodist Church and the GCC.¹²⁵⁷ Even studies that take into account these factors hardly consider how institutionalised divisions *within* the

¹²⁵² Stacey-Ann Wilson, *Politics of Identity in Small Plural Societies: Guyana, the Fiji Islands, and Trinidad and Tobago* (New York: Palgrave Macmillan, 2012), 116.

¹²⁵³ Yash Pal Ghai, "Ethnicity, Politics and Constitutions in Fiji," 202.

¹²⁵⁴ See Paul Carnegie and Sandra Tarte, "The Politics of Transition in Fiji: Is it Charting a Democratic Course?," *Australian Journal of Politics and History* 64, no. 2 (2018): 277-292.

¹²⁵⁵ See Amba Pande, "Coups, Constitutions and the Struggle for Power: the Contours of Racial Politics in Fiji," *Proceedings of the Indian History Congress* 75 (2014): 893-900.

¹²⁵⁶ See Yash Pal Ghai, "Ethnicity, Politics and Constitutions in Fiji," 193-203.

¹²⁵⁷ See Sekove Bigitibay Degei, "The Challenge to Fijian Methodism – the *Vanua*, identity, ethnicity and change" (M.A Thesis., University of Waikato, 2007).

dominant ethnic group directly underpinned the ethnically decentralising 2013 Constitution.¹²⁵⁸

Similarly, authors who attribute Fiji's constitutional change to the military's collaboration with different political and religious actors fail to show how all of these factors causally came together to inform a new politics of ethnic decentralisation.¹²⁵⁹ Existing analyses also fall short of explaining how the military's co-optation of both Indo-Fijians and Fijians helped it expand the multi-ethnic roots of its politics, as well as turning the military regime itself into a multi-ethnic hybrid (civil-military) regime in 2006¹²⁶⁰ and, later, into The FijiFirst party in 2014.

Even though the Fijian military continued to dominate the political scene and practically ruled by decree after it abrogated the 1997 Constitution in 2009,¹²⁶¹ it remains that the same military later undermined the power of the GCC and the Methodist Church by creating a support base amongst its co-ethnics as well as other marginalised ethnic groups. Therefore, even though a military-dominated system may not become truly democratic, the Fijian case shows that militaries can still play a key role – in alliance with other political and social actors – in driving the political process of ethnic decentralisation.

3.1. Civil-Military Institutional Tensions

Until 2000, the Fijian military, as Sanjay Ramesh has shown, was a key player in sustaining an ethnocratic system in Fiji.¹²⁶² The 2000 civilian coup led by George Speight, however, brought changes, as mentioned above, that not only pitted the military against the Qarase government, the GCC, and the Methodist Church but also gave emerging intra-ethnic divisions a civil-military institutional character. In effect, as Firth and Fraenkel have argued, the coup turned the 99 per cent ethnic Fijian

¹²⁵⁸ See Stephanie Lawson, "Indigenous Nationalism, "Ethnic Democracy", and the Prospects for a Liberal Constitutional Order in Fiji," *Nationalism and Ethnic Politics* 18 (2012): 293-315.

¹²⁵⁹ See Jon Fraenkel, "The origins of military autonomy in Fiji."

¹²⁶⁰ Brij V. Lal, "This process of political readjustment: The aftermath of the 2006 Fiji Coup," in *The 2006 Military Takeover in Fiji: A Coup to End all Coups?*, ed. Jon Fraenkel et.al (Canberra: The ANU Press, 2009), 72.

¹²⁶¹ Romitesh Kent, "Ethnic Blindness in Ethnically Divided Society: Implications for Ethnic Relations in Fiji" in *The Palgrave Handbook of Ethnicity*, ed. S. Ratuva (Singapore: Palgrave Macmillan, 2019), 119.

¹²⁶² Sanjay Ramesh, "Colonial and Post-Colonial Ethnocracy," 126.

military from the “key instrument of ethno-nationalist Fijian rule in 1987 into its nemesis in 2006.”¹²⁶³ Indeed, the Fijian military was far more directly involved in the political and constitutional process of ethnic decentralisation than is often found in the scholarship on the politics of military-assisted constitutional change¹²⁶⁴ and/or transitions to civilian rule.¹²⁶⁵

The military’s conflict with the Qarase regime happened not only because the military, after the 2001 elections, started to question the ethnically exclusive policies of the government, but also because the latter, in coalition with the ultra-nationalist parties like the CAMV, aimed to push the military, led by a leader from a rival faction, into a subordinate position,¹²⁶⁶ even accusing Bainimarama of a “conspiracy” as it tried to depose him in 2001.¹²⁶⁷ The tension not only deepened intra-ethnic divisions between the Qarase (Fijian) regime and the (Fijian) military but, as mentioned above, growing popular opposition to the RTU and Qoliqoli bills from both Fijians and Indo-Fijians led the military to encourage collective opposition to the government.¹²⁶⁸ Besides civic and religious organisations, even Fijian businessmen, whose interests were threatened by the Qoliqoli bill, also started supporting the military’s ‘Truth and Justice’ campaign against the Qarase government before the 2006 elections.¹²⁶⁹

This coming together of the military and popular groups, both Fijian and Indo-Fijian, deepened and reinforced political and popular divisions within the dominant Fijians and helped the military topple a government that wanted to (a) depose Bainimarama, (b) reconcile the 2000 coup plotters and officers involved in mutiny against Bainimarama, (c) and entrench Fijian dominance through the two bills.¹²⁷⁰ More importantly, it was because of these intra-ethnic divisions that Bainimarama, who

¹²⁶³ Stewart Firth and Jon Fraenkel, “The Fiji military and ethno-nationalism,” 117.

¹²⁶⁴ See Claudia Heiss and Patricio Navia, “You Win Some, You Lose Some: Constitutional Reforms in Chile’s Transition to Democracy,” *Latin American Politics and Society* 49, no. 3 (Fall 2007): 163-190.

¹²⁶⁵ See Yaniv Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers* (Oxford University Press, 2017).

¹²⁶⁶ The Qarase government’s 2006 National Security White Paper called the military’s involvement in politics a “threat” to national security. See Stewart Firth and Jon Fraenkel, “The Fiji military and ethno-nationalism,” 126.

¹²⁶⁷ Jone Baledrokadroka, “Sacred King and Warrior Chief,” 199.

¹²⁶⁸ *Ibid.*, 201.

¹²⁶⁹ *Ibid.*, 123.

¹²⁷⁰ See Shaunnagh Dorsett, “The Act that almost was: the Fijian *Qoliqoli Bill* 2006” in *Comparative Perspectives on Communal Lands and Individual Ownership*, ed. Lee Godden and Maureen Tehan (Abingdon: Routledge, 2010), 290-306.

considered the FLP's Indo-Fijian Mahendra Chaudhary a threat to national security until 2000,¹²⁷¹ actually *included* Chaudhary as his finance minister in his post-coup interim government.¹²⁷² Bainimarama's post-coup political adjustments also included many prominent Fijian politicians as well (see Section 3.3).¹²⁷³ Emerging institutional cleavages thus facilitated a cross-ethnic formation that would ultimately survive to make ethnically decentralising changes in Fiji via the 2013 Constitution.

Even as the Fijian military established itself in the political system as the guardian of people's interests and "well-being" (Article 131), it ended Fiji's racially oriented electoral system and abolished the GCC in 2012. And, in 2013, the constitution also abolished the Senate, which was, as mentioned above, a GCC/Fijian-dominated chamber. While a key purpose of these changes was to muzzle rival Fijian political opposition forces, it was also meant to permanently suppress what Bainimarama described as an anachronistic and ethnically exclusionary Fijian landscape.¹²⁷⁴ The Fijian military's tussle with a faction of the Fijian elite was thus directly related to subsequent constitutional changes, as the former sought to erode the racially focused politics of its rival ethnic faction.

In abolishing the GCC, the Fijian military was assisted by existing political divisions within the Fijian chiefly class itself – especially, divisions between the Kubuna (western provinces) and the Tovata (north-eastern provinces) chiefly confederacies (two of the three major confederacies comprising the entire Fijian chiefly class).¹²⁷⁵ In fact, besides being a coup against the FLP government, George Speight also declared his 2000 coup as "a rising" of the Kubuna confederacy against the Tovata confederacy,¹²⁷⁶ which he consolidated by forcibly removing President Ratu Mata

¹²⁷¹ Jone Baledrokadroka, "Sacred King and Warrior Chief," 198.

¹²⁷² Vijay Naidu, "Heading for the scrap heap of history? The consequences of the coup for the Fiji Labour Movement" in *The 2006 Military Takeover in Fiji: A Coup to End all Coups?*, ed. Jon Fraenkel et. al (Canberra: The ANU Press, 2009), 244.

¹²⁷³ Brij V. Lal, "This process of political readjustment," 71-72.

¹²⁷⁴ Stephanie J. Lawson and Elizabeth Lawson, "Chiefly leadership in Fiji: past, present, and future," *State, Society and Governance in Melanesia*, Discussion Paper 2015/5: 11.

¹²⁷⁵ For details on the clash of confederacies see Jon Fraenkel, "The Clash of Dynasties and Rise of Demagogues; Fiji's Tauri Vakaukauwa of May 2000," *The Journal of Pacific History* 35, no. 3 (2000): 295-308.

¹²⁷⁶ *Ibid.*, 301.

(Tovata confederacy) in July 2000.¹²⁷⁷ These divisions allowed the Bainimarama-led military to become an interlocutor between rival Fijian factions, as it even set conditions for the new Fijian government to take Fiji forward. These conditions included prosecuting the perpetrators of the 2000 coup and declaring the coup “racially motivated.”¹²⁷⁸ The fact that the RTU bill violated these conditions in ways that threatened, as mentioned above, Bainimarama’s own interests and future as the military commander led him to mobilise political divisions within the Fijian chiefly class – in particular, by allying with the ‘moderate’ eastern chiefs¹²⁷⁹ against chiefs opposing him in the GCC –¹²⁸⁰ to consolidate his power.¹²⁸¹

Apart from the *inter*-confederacy divisions, *intra*-confederacy divisions, too, helped him against rival chiefs/Fijian institutions. For instance, Ratu Epeli Ganilau from the Tovata confederacy and a member of the Ratu Mara faction (the Mara dynasty was allied with Bainimarama¹²⁸²), had been removed by Prime Minister Qarase (who belonged to the Tovata confederacy but opposed the Mara dynasty of the same confederacy) as chair of the GCC before the 2006 coup because of his moderate and multicultural orientation and his criticism of the government’s ethno-nationalistic policies.¹²⁸³ Following the military coup, Bainimarama appointed Epeli as his minister for Fijian Affairs. Epeli then suspended the GCC itself before abolishing it in March 2012, with Bainimarama declaring the GCC “a product of our colonial past” and an obstacle to the ‘new’ Fiji.¹²⁸⁴

By abolishing the GCC, the Bainimarama regime was also able to break the Fijian chief’s monopoly over economic gains from Fijian land. It also paved the way for investors (mostly Indo-Fijians) to acquire Fijian land on lease for 99 years.¹²⁸⁵ This

¹²⁷⁷ *Ibid.*, 303.

¹²⁷⁸ Stewart Firth and Jon Fraenkel, “The Fiji military and ethno-nationalism,” 127.

¹²⁷⁹ Jon Fraenkel and Stewart Firth, “The enigmas of Fiji’s good governance,” 7.

¹²⁸⁰ After the 2006 coup, Bainimarama removed a western chief belonging to the Kubuna confederacy, Joni Madraiwiwi, from the vice-presidency of the GCC.

¹²⁸¹ Stewart Firth and Jon Fraenkel, “The Fiji military and ethno-nationalism,” 127.

¹²⁸² *Ibid.*, 123

¹²⁸³ *Ibid.*, 127.

¹²⁸⁴ Steven Ratuva, *Politics of preferential development: Trans-global study of affirmative action and ethnic conflict in Fiji, Malaysia and South Africa* (Canberra: The ANU Press, 2013), 174-175.

¹²⁸⁵ See Sefanaia Sakai, “Native land policy in the 2014 elections” in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 135-156.

change represented a major step away from the previous system allowing a 30-year land lease with no legal right of renewal. As the data shows, From 1997 to 2010, before the new decree was implemented, 54 per cent of the leases were not renewed, thus displacing thousands of Indo-Fijian households.¹²⁸⁶ Accordingly, the Taukei Land Trust Board (TLTB) – which was originally established as the NLTB in 1940 by the colonial administration to specifically protect both native land and chiefs’ class interests – was thoroughly restructured. Before Bainimarama’s reforms, the GCC appointed its majority members. After the reforms, the prime minister became its chairman and appointed three members of the board,¹²⁸⁷ thus stripping Fiji’s chiefly class of its land-management powers vis-à-vis both Fijians and Indo-Fijians.

Bainimarama’s reforms – which also provided for an open-ended appropriation of unused land by the government for an indefinite period (Land Use Decree, 2010) –¹²⁸⁸ not only claimed to make the distribution of economic resources from Fijian lands/cultivation more equal for *all* Fijians (by abolishing the share Fijian chiefs would previously appropriate for themselves),¹²⁸⁹ but the 99-year lease period also gave Indo-Fijians a sense of economic security. These reforms, in fact, largely undid the land-based foundations of Fiji’s “communal capitalism” serving Fijian chiefs.¹²⁹⁰ These reforms also explain why a substantial number of Fijians and most Indo-Fijians supported Bainimarama’s FijiFirst party in the 2014 general elections,¹²⁹¹ helping it win 59 per cent of the votes. It was, as Jon Fraenkel has argued, an unprecedented show of opposition by a large number of Fijians against the Fijian-dominated SODELPA, which had succeeded the SDL in 2013.¹²⁹²

¹²⁸⁶ Patrick Leonard, “Land and Belonging in an Indo-Fijian Rural Settlement” (Ph.D Diss., The University of Manchester, 2019), 78.

¹²⁸⁷ Sefanaia Sakai, “Native land policy in the 2014 elections,” 148.

¹²⁸⁸ The Citizen’s Constitutional Forum, *Fiji in Transition: Towards a Sustainable Constitutional Democracy* (Suva: The Citizen’s Constitutional Forum, 2014), 60.

¹²⁸⁹ Scott MacWilliam, “Not with a bang but a whimper: SODELPA and the 2014 elections” in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 215.

¹²⁹⁰ See Steven Ratuva, “Addressing inequality? Economic affirmative action and communal capitalism in post-coup Fiji” in *Confronting Fiji Futures*, ed. Haroon Akram-Lodhi (Canberra: The ANU Press, 2006), 226-248.

¹²⁹¹ See Patrick Leonard, “Land and Belonging in an Indo-Fijian Rural Settlement,” 78-95.

¹²⁹² See Jon Fraenkel, “An Analysis of Provincial, Urban and Ethnic Loyalties in Fiji’s 2014 Election,” *The Journal of Pacific History* 50, no. 1 (2015): 38-53.

The political process underpinning these changes also involved a Fijian military counter-hegemonic assault on Fiji's 'native ideologies'—for example, when it moved against the Methodist Church to erode the ideological-cum-religious foundations of Fiji's racist orientation.¹²⁹³ On the one hand, the military encouraged rival church movements – the 'New' Methodist Church and the Roman Catholic Church (see below) – to decrease the Methodist Church's cultural and social grip. And, on the other, it restricted the Methodist Church's institutional operation by preventing it from holding its annual conference.¹²⁹⁴ These steps punctured the Church's ability to generate an anti-regime, anti-decentralisation narrative either at a popular level or at a political level by extending its traditional support to the GCC and the SDL/SODELPA. Breaking this link, which Bainimarama called an "entangling ... corrupt web,"¹²⁹⁵ was vital for him to defeat his rival co-ethnics in an emerging politics of ethnically decentralised constitutionalism.

Departing from the past, the Fijian military did not act as an 'agent' of the dominant Fijians,¹²⁹⁶ but assumed, as an ethnic *faction* competing against its co-ethnics, an overtly political role to remove Fiji from its ethnically exclusionary institutional set-up. Thus, Bainimarama's coup triggered "a wholesale transformation" of ethnic elites and their power base.¹²⁹⁷ In engineering this transformation, the Fijian military, like the civilian players in Pakistan and Indonesia, allied with relevant social players to defeat its co-ethnic rivals and generate social support for ethnically decentralising constitutional change.

3.2. The Social Movement Politics of Churches

The Methodist Church of Fiji was not a typical religious dispensation devoted to religious services only. It had an active political agenda to establish a Fijian-

¹²⁹³ Matt Tomlinson, "The Generation of the New," 83.

¹²⁹⁴ Steven Ratuva, *Politics of preferential development*, 176.

¹²⁹⁵ Lynda Newland, "Religion and Politics: The Christian Churches and the 2006 coup in Fiji" in *The 2006 Military Takeover in Fiji: A Coup to End All Coups*, ed. Jon Fraenkel and Stewart Firth (Canberra: The ANU Press, 2009), 192.

¹²⁹⁶ Jon Fraenkel, "Fiji: The politics of conflict resolution" in *Diminishing Conflicts in Asia and The Pacific: Why some subside and others don't*, ed. Edward Aspinall et. al (Abingdon: Routledge, 2013), 179.

¹²⁹⁷ Robbie Robertson, *The General's Goose*, 207.

dominated Christian state – ¹²⁹⁸ a political objective it sought to achieve by supporting different political actors, including the SDL and the GCC.¹²⁹⁹ The Assembly of Christian Churches in Fiji, dominated as it was by the Methodist Church, was at the forefront of the SDL’s election campaign in 2006.¹³⁰⁰ For the military, therefore, the Church was (a) an exclusionary structure that needed to be downsized, like the GCC, for (b) an ethnically decentralised Fiji to emerge. The regime accomplished both objectives by encouraging, as new centres of religious power, the ‘New’ Methodist Church¹³⁰¹ and, then, by allying with the Roman Catholic Church to produce a ‘Charter for Change’ in 2008.¹³⁰²

While there was a considerable convergence between the ‘New’ Methodist Church and the military regime (indeed, the regime encouraged the Fijian police force to *convert* to the ‘New’ Methodist Church to “undo the core structures and attendant values of orthodox Methodism”),¹³⁰³ the ‘New’ Methodist Church emerged independently of the military in 2000. The founder of the ‘New’ Methodist Church, Paula Tekei, founded the new church after he was expelled from the Methodist Church in 2000 over theological differences with the Church leadership vis-à-vis his support for inter-faith worship.¹³⁰⁴ In other words, whereas the ongoing tussle between the Fijian military and the GCC, the SDL, and the Methodist Church represented political divisions amongst Fijians, the internal fragmentation of the Church also evidenced broader religious (social) divisions amongst Fijians that the military exploited to its advantage against rival co-ethnics to build a narrative of ‘new,’ ethnically decentralised Fiji. By specifically mobilising Fijians away from the norms of the ‘old’ church, the ‘new’ church was able to undermine the Methodist

¹²⁹⁸ Christine Weir, “The 2014 Fiji Elections and the Methodist Church,” *The Roundtable: The Commonwealth Journal of International Affairs* 104, no. 2 (2015): 167.

¹²⁹⁹ A.L. Durutalo, “Melanesia in Review: issues and events 2006 – Fiji,” *The Contemporary Pacific* 19, no. 2 (2007): 83-84.

¹³⁰⁰ See Lynda Newland, “The Role of the Assembly of Christian Churches in Fiji in the 2006 elections” in *From Election to Coup in Fiji: The 2006 campaign and its aftermath*, ed. Jon Fraenkel and Stewart Firth (Canberra: The ANU Press, 2007), 300-314.

¹³⁰¹ Christine Weir, “The 2014 Fiji Elections,” 168.

¹³⁰² Gary D. Bouma et.al, *Religious Diversity in Southeast Asia and the Pacific* (New York: Springer, 2010), 135.

¹³⁰³ Lynda Newland, “New Methodism and Old: Churches, Police and State in Fiji, 2008-09,” *The Round Table: The Commonwealth Journal of International Affairs* 101, no. 06 (December 2012): 549-550.

¹³⁰⁴ *Ibid.*, 539.

Church's religious and political hegemony¹³⁰⁵ by extending support to what a leader of the 'New' Methodist Church, Pastor Vulaono, called the "God-given" programme of the Bainimarama regime,¹³⁰⁶ further calling upon all Fijians to support the military government as a religious duty.¹³⁰⁷

The Roman Catholic Church, which did not support previous military coups, also praised the regime for its resolve to "rebuild our beloved country."¹³⁰⁸ As Archbishop of Suva Petero Mataca himself explained, the new Fiji must be the one that "upholds human dignity and equality, rights and responsibilities, the common good and protection of the minorities."¹³⁰⁹ The Roman Catholic Church's support for the military regime underpinned the Archbishop's decision to co-chair, alongside Bainimarama, the 46-member NCBBF – a council of pro-reform political leaders, civil society and religious activists formed, in 2007, to produce a blueprint for an ethnically decentralised constitutionalism.¹³¹⁰ Importantly, the NCBBF also included members of Indo-Fijian and Christian organisations like (Hindu) Sanatan Dharm and the Christian Ecumenical Centre for Research Education and Advocacy, respectively.¹³¹¹

In propping up these Church movements, the military regime was largely facilitated by the Methodist Church's tendency to create rifts at the popular level.¹³¹² While the Roman Catholic Church had been the Methodist Church's traditional rival in Fiji since the mid-19th century,¹³¹³ Tekei's theological disagreement with the Methodist Church authorities – which were carried on by his successor Pastor Vulaono – and his consequent ouster from the Methodist Church in 2000 split the dominant Church from within.

¹³⁰⁵ Ibid., 551.

¹³⁰⁶ Matt Tomlinson, "The Generation of the New," 88-90.

¹³⁰⁷ Ibid.

¹³⁰⁸ Ibid., 83.

¹³⁰⁹ Dominic O'Sullivan, *Indigeneity: A Politics of Potential: Australia, Fiji and New Zealand* (Bristol: Policy Press, 2017), 32.

¹³¹⁰ Stewart Firth and Jon Fraenkel, "The Fiji military and ethno-nationalism," 130.

¹³¹¹ Gary D. Bouma et.al, *Religious Diversity in Southeast Asia*, 135.

¹³¹² Matt Tomlinson, "The Generation of the New," 79.

¹³¹³ Ibid., 80.

In this context, while the ‘old’ Methodist Church was critical of the NCBBF,¹³¹⁴ as well as the ‘People’s Charter for Change, Peace and Progress’ it produced later on, the NCBBF and the Charter reflected a counter-political, religious and multi-ethnic consensus at both a political and a social level.¹³¹⁵ The Charter was accordingly described by its Indo-Fijians and Fijians members alike as a “sacred text” and a “covenant”¹³¹⁶ to politically consolidate ethnic decentralisation. That the new multi-ethnic covenant was spurred by intra-ethnic divisions is evident from how the intra-Church rivalry did not simply reveal theological disagreements, but directly expressed an intra-Fijian rivalry unfolding against the backdrop of what Manfred Ernst described as socio-political and economic conflicts amongst Fijians.¹³¹⁷ In other words, just as civilian actors in Pakistan created new centres of power in the provinces to create political roadblocks against military coups, the Fijian military created new centres of religious influence to weaken the Methodist Church’s ethnically centralised power and dilute its support for the GCC and the SDL. Had these church allies not existed, or were not “strategically” co-opted by the military regime,¹³¹⁸ as a counterweight to the Methodist Church, the regime might have failed to (a) push the anti-regime Methodist Church out of practical politics as an ally of the GCC and the SDL, and (b) failed to generate popular support for the 2013 Constitution. These allies were crucial in generating and popularising the idea of ethnic decentralisation.

Epitomising a cultural and political shift to reconstitute Fiji as a multi-ethnic polity, as well as allowing Bainimarama to establish firm social roots against his rival co-ethnics,¹³¹⁹ the counter-religiously supported ‘People’s Charter for Change, Peace, and Progress’ stressed “inclusiveness” as well as “unity ... and belongingness to Fiji”¹³²⁰ through a multi-ethnic, multi-religious and multi-party “broad-based

¹³¹⁴ Lynda Newland, “New Methodism and Old,” 547.

¹³¹⁵ Christine Weir, “The 2014 Fiji Elections,” 170.

¹³¹⁶ Matt Tomlinson, *Ritual Textuality: Pattern and Motion in Performance* (New York: Oxford University Press, 2014), 111.

¹³¹⁷ See Manfred Ernst, ed. *Globalisation and the Re-shaping of Christianity in the Pacific Islands* (Suva: Pacific Theological College, 2006).

¹³¹⁸ Lynda Newland, “New Methodism and Old,” 549.

¹³¹⁹ Brij V. Lal, *Levelling Wind*, 434.

¹³²⁰ National Council for Building a Better Fiji, *People’s Charter for Change, Peace and Progress* (Suva: National Council for Building a Better Fiji, 2008), 5.

consensus”¹³²¹ in a system based on an ‘ethnically blind’ “common roll system.”¹³²² Targeting the “racially divisive leadership” of the past, the Charter sought to articulate a common Fijian national identity.¹³²³

A corollary step was to shift the focus away from (ethnic) land ownership to land access and productive use irrespective of who cultivated it. This shift was motivated by an awareness of how “ethno-nationalists and those politicians who seek power on the basis of divisive, race-based politics have tended to make the land a highly emotive issue.”¹³²⁴ This constitutional shift was further consolidated by declaring Fiji a secular state (Section 4 of the 2013 Constitution), thus depriving the Methodist Church of its ability to provide a religious sanction to its ethnically exclusionary institutional arrangements¹³²⁵ and forcing it to downgrade its role to guiding the “spiritual life of its members” only.¹³²⁶ This helps to explain why the SODELPA, the SDL’s successor, pushed for scrapping the 2013 Constitution to reestablish Fiji as a Christian state (see Chapter 9).¹³²⁷

That the military’s ascendance coupled with its ethnically decentralising agenda led the Methodist Church to reject the Charter and mobilise against it shows how the overall political process of ethnic decentralisation was underpinned by intra-ethnic divisions at both an institutional level (military versus the SDL, the GCC, and the Methodist Church) and a popular level, as both the Methodist Church and the NCBBF claimed to have the support of the majority of Fijians for their ethnically exclusionary (Methodist) and inclusive (NCBBF) programs.¹³²⁸ With the SDL opposing the Charter, and with Bainimarama succeeding in pushing 18 different Fijian and Indo-Fijian parties to support it in 2009, the path for Fiji’s ethnically decentralising constitutional

¹³²¹ Ibid., 6.

¹³²² Ibid., 12.

¹³²³ Ibid., 18.

¹³²⁴ Ibid., 27.

¹³²⁵ See Lynda Newland, “Imagining nationhood: Narratives of belonging and the question of Christian state in Fiji,” *Global Change, Peace and Security* 25, no. 2 (2013): 227-242.

¹³²⁶ Lynda Newland, “From the land to the sea: Christianity, community and state in Fiji – and the 2014 elections” in *The People have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: the ANU Press, 2016), 114.

¹³²⁷ Scott MacWilliam, “Not with a bang but a whimper,” 218.

¹³²⁸ Lynda Newland, “New Methodism and Old,” 547.

shift via intra-ethnic divisions emerged.¹³²⁹ To trigger popular support for the regime's constitutional agenda, about 250,000 copies of the Charter were circulated.¹³³⁰ This was further supported by promotional teams sent to villages to encourage support for the proposed package of reforms and help the regime (FijiFirst) win popular/electoral legitimacy in the 2014 elections.¹³³¹ FijiFirst later consolidated the multi-ethnic regime that the Fijian military had established in 2007.

While these changes were codified, consolidated and institutionalised via a political process that included the Fijian military as a leading player, Bainimarama's close alliance with religious and social organisations – the Arya Samaj, the Fiji Muslim League, and the Citizen's Constitutional Forum – as well as support from individuals like Shaista Shameem, former chair of Fiji's Human Rights Commission,¹³³² shows that even military leaders, in contexts framed by intra-ethnic institutional divisions, find it hard to impose their political programmes without eliciting broad social support from below, including from within the dominant ethnic group as well as marginalised ethnicities.

3.3. The Politics of Cross-Ethnic Consensus

Unlike the role played by political parties from within both the dominant ethnic group and marginalised ethnic groups when it came to drafting and implementing constitutional amendments in Pakistan and Indonesia, an inter-ethnic political consensus for ethnically decentralising constitutional reform in Fiji took place under the shadow of the military regime, with Frank Bainimarama's multi-ethnic cabinet first sanctioning the 'Ghai Commission' in March 2012 for a new constitution and, then, rejecting the Ghai commission draft in favour of its own. However, even though the 'Ghai draft' was rejected (because it did not provide sufficient protection to the military's political role and interests), the military regime retained its ethnically decentralising provisions. A crucial reason for this was the fact that it was the multi-ethnic military regime itself that provided the commission with guidelines for an ethnically decentralised constitutional framework.

¹³²⁹ Robbie Robertson, *The General's Goose*, 227.

¹³³⁰ Matt Tomlinson, *Ritual Textuality*, 105.

¹³³¹ *Ibid.*, 108.

¹³³² See Brij V. Lal, *Levelling Wind*, 435-442.

In 2012, Bainimarama's Decree number 57 outlined 11 "non-negotiable principles," which included a common and equal citizenry; a secular state; elimination of (racial and ethnic) discrimination; one person, one vote (ending racially oriented electoral rolls); the elimination of ethnic voting patterns; and a lowering of the voting age to 18.¹³³³ This decree reflected the path Bainimarama had charted in a speech at the 62nd session of the United Nations General Assembly in 2007, where he argued that Fiji's independence was built on a shaky foundation, marred by "divisive, adversarial, inward-looking, race-based politics" in which Indo-Fijians were accorded a "second-class citizen" status.¹³³⁴ As such, even though the subsequent institutional process of constitution-making was fraught with controversies,¹³³⁵ the final draft promulgated by the military in September 2013 was declared by Bainimarama himself to have permanently put to "rest the institutionalized divisions and inefficiencies that have plagued us and embrace a common future in which we all have an equal stake."¹³³⁶ The role the military-dominated regime played makes Fiji a theory-reinforcing 'outlier' insofar as the ethnically exclusive *military*, unlike other countries (Pakistan, Indonesia, and Sri Lanka), was no longer suppressing the minority separatist ethnic groups. On the contrary, the military's role effectively changed Fiji in ways that largely diminished ethnic centralisation.¹³³⁷

While Bainimarama was keen to protect the Fijian military's political interests, his ethnically decentralising agenda was also backed by a regime that included politicians from the Indo-Fijian-dominated FLP and those previously allied with the GCC and the SDL. For instance, Fiji's former Prime Minister Mahendra Chaudhary became his finance minister. Although Chaudhary later left the government in 2008 after he developed disagreements with Bainimarama, his presence in the cabinet as a finance minister provided, as Brij V. Lal has argued, a "multicultural face and a large, if not

¹³³³ Abrak Saati, "Participatory constitution-building in Fiji: A Comparison of the 1993-1997 and the 2012-2013 processes," *International Journal of Constitutional Law* 18, no. 1 (January 2020): 271.

¹³³⁴ Jon Fraenkel, "The great roadmap charade: Electoral issues in post-coup Fiji" in *The 2006 Military Takeover in Fiji: A Coup to End All Coups?*, ed. Jon Fraenkel et.al (Canberra: The ANU Press, 2009), 166-167.

¹³³⁵ See Romitesh Kant and Eroni Rakuita, "Public Participation and Constitution-Making in Fiji: A Critique of the 2012 Constitution-Making Process," *State, Society and Governance in Melanesia*, Discussion Paper 2014/16: 1-20.

¹³³⁶ *Ibid.*, 14-15.

¹³³⁷ Jon Fraenkel, "Fiji: The Politics of Conflict Resolution," 179-181.

silent and puzzled, Indo-Fijian base”¹³³⁸ that continued to support the regime and the FijiFirst party in the following years.

The ‘politics of adjustment’ that consolidated the regime’s multi-ethnic face also included people like Ratu Epeli Ganilau, a former AP member; Bernadette Rounds Ganilau, a former member of the small but multi-racial United Peoples Party (UPP); Ratu Epeli Nailatikau, former speaker of the House during the Qarase government; Poseci Bune, an indigenous-Fijian and a former member of the FLP; Lekh Ram Vayeshnoi, a former FLP member; Ratu Jone Navakamocea, former SDL government minister, and Taito Waradi, president of the Fiji Chamber of Commerce. The regime also appointed Aiyaz Sayed-Khaiyum, a student of Yash Ghai, as interim Attorney General and Justice Minister. After the regime rejected the Ghai draft constitution, it was the office of the Attorney-General that altered the ‘Ghai draft’ by including parts of the 1997 Constitution, as well as incorporating various post-2006 regime decrees.¹³³⁹

While the 2013 constitution centralised power in the office of the prime minister and set the foundation for Fiji’s militarisation,¹³⁴⁰ Bainimarama’s ‘liberal authoritarian’ regime also extended and transformed its multi-ethnic cabinet into a political party, FijiFirst, which won the elections in 2014. Despite the regime’s alteration of the ‘Ghai draft’ – which had abolished the Senate, stripped the GCC of all its powers, and gave immunity to the coup plotters after they acknowledged their role in it – to suit its own specific needs regarding a military autonomous of civilian control, FijiFirst still won an overwhelming majority in 2014. The 2014 elections, held under authoritarian decrees that imposed restrictions on the media¹³⁴¹ and put rival political parties at a disadvantage, were still regarded by independent bodies, such as the Multinational

¹³³⁸ Brij V. Lal, “This process of political readjustment,” 72.

¹³³⁹ Coel Kirkby, “A Cure for Coups: The South African Influence on Fijian Constitutionalism” in *Constitutional Triumphs, Constitutional Disappointments: A Critical Assessment of the 1996 South African Constitution’s Local and International Influences*, ed. Rosalind Dixon and Theunis Roux (Cambridge: Cambridge University Press, 2018), 331.

¹³⁴⁰ *Ibid.*, 334.

¹³⁴¹ See Mosmi Bhim, “Stifled Aspirations: the 2014 general election under restrictive law,” *Pacific Journalism Review* 21, no. 1 (2015): 108-125.

Observer Group, as free and fair and “broadly representing the will of the Fijian voters.”¹³⁴²

Contesting power on the basis of its ethnically decentralising constitutional reforms – abolishing the GCC and the Senate to end race-based politics and chiefly hegemony, introducing land reforms that benefited common Fijians and Indo-Fijians, and making Fiji a secular state to erode the religiously sanctioned race-based politics of the Methodist Church – and being voted into power by 71 per cent of Indo-Fijians, 50 per cent of Fijians, and 80 per cent of other minorities, FijiFirst’s 2014 electoral victory (59.2 per cent of total votes) also became, for FijiFirst, a proxy for political and popular legitimacy for the 2013 Constitution.¹³⁴³

Unlike Pakistan and Indonesia, where elections *preceded* constitutional changes (and the popular bases for a multi-party, multi-ethnic reform consensus was provided by social movements *before* elections), elections in Fiji *followed* the constitutional change and allowed the interim administration to widen its multi-ethnic, multi-party (civil and military) popular base.

In this context, FijiFirst’s 2014 election campaign reflected the regime’s consistent attempt to downgrade all things associated with the past to generate popular support for its non-racial and ethically decentralised constitution.¹³⁴⁴ The fact that the SODELPA could secure only 28 per cent of votes (as compared to almost 45 per cent for the SDL in 2006) reflected the declining appeal of its ethnically exclusive rhetoric, showing the success of a military-led counter-political, popular, and counter-religious narrative that highlighted ethnic inclusivity and an end to race-based institutions like the GCC.¹³⁴⁵

¹³⁴² Multinational Observer Group, *Fijian Elections: Final Report of the Multinational Observer Group, 2015*, 4.

¹³⁴³ See Vijay Naidu and Sandra Tarte, “No Ordinary Election: The Fiji General Election of 2014,” *The Journal of Pacific Studies* 35, no. 2 (Special Issue, 2015).

¹³⁴⁴ Stewart Firth, “The Fiji Elections of 2014: Rights, Representation and Legitimacy in Fiji Politics” in *Bearing Witness: Essays in honour of Brij V. Lal*, ed. Doug Munro and Jack Corbett (Canberra: The ANU Press, 2017), 207.

¹³⁴⁵ Patrick Vakaoti, “Fiji Elections and the youth vote – token or active citizenship?” in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 162.

Even though the 2013 Constitution gave the military a direct political role, it remains the case that the ethnically decentralising arrangements the constitution includes would not have been possible without the military's decisive shift away from the GCC. While the military's shift, as well as 'liberal authoritarianism,' did involve political restrictions,¹³⁴⁶ the "commendable"¹³⁴⁷ constitutional changes made through the 2013 Constitution still require explanation.

Again, this chapter shows how ethnic power is constitutionally decentralised – specifically, how divisions *within* a dominant ethnic group underpin, in combination with other factors, a politics of ethnic decentralisation. It was the causal link between institutionalised intra-ethnic divisions and other manifestations of political and religious divisions (within the dominant-but-fragmented Fijian community) that, as in Pakistan and Indonesia, explains Fiji's constitutional ethnic decentralisation. In the next chapter, it is primarily the absence of these conditions that explains why some ethnic majoritarian states – here, Sri Lanka – fail to constitutionalise ethnic decentralisation.

¹³⁴⁶ See David Robie, 'Unfree and unfair? Media intimidation in Fiji's 2014 elections' in *The People have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: the ANU Press, 2016), 83-107.

¹³⁴⁷ Brij V. Lal, *Levelling Wind*, 449.

The Mechanism of Failure: The Politics of Ethnic Decentralisation in Sri Lanka

Focusing on Sri Lanka, this chapter examines how the absence of the causal mechanism underpinning this thesis translates into a failure of ethnically decentralising constitutional change. Building on interview-based and archival evidence whilst contrasting Sri Lanka with other cases, this chapter shows how Sri Lankan political parties, in the absence of institutional (civil-military) and popular (social movement) pressures, used debates about ethnic power-sharing, not to build a cross-ethnic, multi-party consensus around ethnically decentralising constitutional change, but to advance each party's short-term political and electoral interests. From a comparative perspective, it is the absence of key conditions that explains the failure of constitutional reform.

1. Introduction: Sri Lanka's Majoritarian Politics

In 1956, Prime Minister S.W.R.D. Bandaranaike's enactment of a 'Sinhala-only' language bill amplified Sri Lanka's shift towards a post-independence ethnic-majoritarian system.¹³⁴⁸ Later, the 1972 Constitution – which replaced Sri Lanka's pre-independence Soulbury Constitution and continued the trend started in 1956 – accorded Buddhism a 'foremost place' in the polity.¹³⁴⁹ While both changes were made by governments led by the SLFP, the 1978 Constitution – which replaced the 1972 Constitution and centralised political power in an executive presidency – was promulgated by the UNP.

By 1978 Sri Lanka was, in constitutional terms, an ethnically, religiously, and politically majoritarian state with a highly centralised regime.¹³⁵⁰ This regime was further consolidated through the 'Sinhalisation' of the Sri Lankan military, as Tamil representation in the Sri Lankan armed forces fell from 40 per cent in 1956 to just 1

¹³⁴⁸ See A. Sivanandan, "Sri Lanka: racism and the politics of underdevelopment," *Race and Class* 24, no. 1 (1984): 1-37.

¹³⁴⁹ Tessa Bartholomeusz, "First Among Equals: Buddhism and the Sri Lankan State" in *Buddhism and Politics in Twentieth-Century Asia*, ed. Ian Harris (London: Continuum, 1999), 182.

¹³⁵⁰ See Kristian Stokke and Anne Kirsti Ryntveit, "The Struggle for Tamil Elam in Sri Lanka" *Growth and Change* 31 (Spring 2000): 285-304.

per cent in 1970.¹³⁵¹ This was part of a larger Sinhalisation of political and economic structures within the Sri Lankan state –¹³⁵² a majoritarian state that was based, according to the leader of the Tamil National Alliance (TNA), on ethnic “discrimination.”¹³⁵³

While the cases studied in previous chapters empirically established that majoritarian structures are not permanent, this chapter aims to show how/why they persist – above all, when an ethnic majoritarian state, such as in Sri Lanka, *lacks* internal (civil-military) institutional tensions and intra-ethnic (social movement) popular pressures for constitutional reforms, as well as a cross-ethnic multi-party consensus regarding the value of these reforms. The persistence of an ethnic majoritarian system, I argue, is not tied to ‘majoritarian intransigence’ alone.¹³⁵⁴ It is tied to the structural properties of a given state, which I examine in light of the above-mentioned variables.

The persistence of ethnic domination is not an outcome of ‘irreconcilable’ differences between opposing ethnic groups,¹³⁵⁵ nor is the presence of a Sinhala-Buddhist majority in Sri Lanka an inherent constraint on power-sharing.¹³⁵⁶ Comparative insights from Fiji and Indonesia, where state-sponsored ideologies of ethno-religious domination shaped the overall ethnic landscape for decades, show that deep-seated ideologies of ethnic difference can be defeated when the dominant ethnic group faces internal divisions at both institutional and popular levels *and* when those divisions allow for a cross-ethnic, multi-party consensus regarding ethnically decentralising constitutional reforms. The key to understanding Sri Lanka’s failure to promote ethnically decentralising forms of constitutional change, then, lies in an *absence* of important institutional and popular factors, effectively reinforcing a pattern of ‘competitive majoritarianism’ rooted, according to one former Tamil militant now

¹³⁵¹ Neloufer De Mel, *Militarizing Sri Lanka: Popular Culture, Memory and Narrative in the Armed Conflict* (New Delhi: SAGE Publications, 2007), 32-33.

¹³⁵² Elizabeth Nissan, *Sri Lanka: A Bitter Harvest* (Minority Rights Group, 1996), 23.

¹³⁵³ Interview of R. Sampanthan (Leader of the Tamil National Alliance, member of the 2016 Steering Committee) by the author, Colombo, January 28, 2020.

¹³⁵⁴ See Lasse Lykke Rorbaek and Alan Toft Knudsen, “Maintaining ethnic dominance: Diversity, power, and violent repression,” *Conflict Management and Peace Science* 34, no. 6 (2015): 640-659.

¹³⁵⁵ See A.R.M. Imtiyaz and Ben Stavis, “Ethno-Political Conflict in Sri Lanka,” *Journal of Third World Studies* 25, no.2 (2008): 135-152.

¹³⁵⁶ See Benjamin Schonthal, “Constitutionalising Religion: The Pyrrhic Success of Religious Rights in Postcolonial Sri Lanka,” *Journal of Law and Religion* 29, no. 3 (October 2014): 470-490.

allied with the TNA, in a persistent – and politically “expedient” – focus on partisan political advantage rather than constitutionally significant forms of counter-majoritarianism.¹³⁵⁷

In this context, when S.W.R.D. Bandaranaike entered into an inter-ethnic agreement with Tamil Federal Party leader S.J.V. Chelvanayakam in 1957 (the so-called B.C. Pact) – providing for regional councils with limited powers and recognising Tamil as a ‘minority language’ – it was defeated by a mix of opposition forces including the Buddhist *sangha* and the UNP.¹³⁵⁸ However, in 1965, the UNP itself entered into the Dudley Senanayake-Chelvanayakam Pact (the D.C. Pact), which, whilst envisioning limited political decentralisation and recognising Tamil as a parallel national language, was counteracted by the SLFP in its ethnically centralising 1972 Constitution.¹³⁵⁹ The 1978 Constitution, in turn, replaced the 1972 system, but it only further institutionalised Sri Lanka as an ethnically “over-centralised state” via an executive presidency created by J.R Jayewardene of the UNP.¹³⁶⁰

A militant turn in the Tamil movement during the late 1970s led to an Indian-mediated 13th constitutional amendment under the UNP in 1987. That amendment provided for limited political, rather than ethnic, decentralisation, as the “heavily loaded concurrent list” and powerful governors allowed the Sinhala-dominated centre to intervene in Tamil provincial affairs (and, thus, to neutralise most forms of ethnic ‘autonomy’).¹³⁶¹ Even though the 13th amendment did *not* empower provinces, then, it was still seen as “divisive,”¹³⁶² with the SLFP, the main opposition party at the time, calling it a step towards devaluing “our language” and shattering “our nationhood and our sovereignty.”¹³⁶³

¹³⁵⁷ Interview of D. Sidhartan (Tamil National Alliance member of Parliament) by the author, Colombo, January 22, 2020.

¹³⁵⁸ Neil DeVotta, “Control Democracy, Institutional Decay, and the Quest for Elam. Explaining Ethnic Conflict in Sri Lanka,” *Pacific Affairs* 73, no. 1 (Spring 2000): 59.

¹³⁵⁹ R.B. Herath, *Sri Lankan Ethnic Crisis: Towards a Resolution* (Victoria: Trafford Publishing, 2002), 54.

¹³⁶⁰ A.M. Navaratna-Bandara, “Ethnic Relations and State Crafting in Post-Independence Sri Lanka” in *Sri Lanka: Current Issues and Historical Background*, ed. Walter Nubin (New York: Nova Science Publishers, Inc), 67.

¹³⁶¹ Interview of R. Sampanthan.

¹³⁶² Interview of Bimal Rathnayake (Janatha Vimukthi Peramuna member of the 2016 Steering Committee) by the author, Colombo, January 31, 2020.

¹³⁶³ Sri Lanka. *The Parliament of Sri Lanka Debates*, November 10, 1987, Vol 48, no. 16, 1393 (Lakshman Jayakody).

Later, despite five years of direct collaboration between the SLFP and the UNP in a Parliamentary Select Committee ¹³⁶⁴ that drafted an ethnically decentralising Constitutional Bill in 2000, the leader of the Communist Party of Sri Lanka (now allied with the ruling Rajapaksa regime) noted that the bill was defeated when the UNP itself rejected it, “opportunistically”, to “win elections in 2001.”¹³⁶⁵ Thereafter, however, the UNP started its own internationally mediated constitutional reform process, which was shot down by the SLFP leader, Chandrika Kumaratunga, who was still president in 2003,¹³⁶⁶ to pave the way for the SLFP’s return to power in 2004.¹³⁶⁷ Again, Sri Lankan parties simply “took turns” opposing devolution for the sake of narrow partisan advantage.¹³⁶⁸

An All-Parties Representative Committee (APRC) – joined by all major Sinhala parties¹³⁶⁹ to find a constitutional solution to the ‘Tamil problem’ – was established by President Mahinda Rajapaksa in 2006. But, as Udaya Gammanpila, a leader of the Sinhala-Buddhist nationalist party Sihala Urumaya (later Jathika Hela Urumaya) – a key ally of the SLFP and a member of the APRC – said, it was only a “smokescreen” to provide policy cover for Mahinda Rajapaksa’s “military operation against the Liberation Tigers of Tamil Eelam (LTTE)” in 2009.¹³⁷⁰

The LTTE’s decisive military defeat in 2009 shelved the question of ethnic decentralisation until 2016, when a new multi-party process was started. While this process began against the backdrop of an anti-Rajapaksa cross-ethnic and multi-party alliance spearheaded by the UNP and the (anti-Rajapaksa) Maithripala Sirisena-led faction of the SLFP in 2014-2015, this process also failed because of each party’s

¹³⁶⁴ Chandrika Kumaratunga’s Speech to the Sri Lankan Parliament as reproduced in *Constitution 2000: Parliamentary Debates*, ed. M. Somasundram (Colombo: Ministry of Justice and Constitutional Affairs: Ethnic Affairs and National Integration Division, 2000), 187.

¹³⁶⁵ Interview of D.W.E. Gunasekara (Leader of the Communist Party of Sri Lanka) by the author, Colombo, January 22, 2020

¹³⁶⁶ Interview of Asanga Welikala (Academic and civil society activist) by the author, online, January 18, 2020.

¹³⁶⁷ Interview of D.W.E. Gunasekara.

¹³⁶⁸ Interview of Jayampathy Wickramaratne (United National Party member of the 2016 Steering Committee) by the author, online, January 19, 2020.

¹³⁶⁹ The TNA, according to its leader, R. Sampanthan, was not invited to join the APRC. As other members of the APRC said, the TNA was also under pressure from the LTTE to refrain from joining the committee.

¹³⁷⁰ Interview of Udaya Gammanpila (Pivithuru Hella Urumaya member of the 2006 All Parties Representative Committee) by the author, Colombo, January 31, 2020.

inability to reconcile its differences over key questions of ethnic decentralisation.¹³⁷¹ Even though this coalition included both Sinhala and Tamil parties, it still lacked (unlike cross-ethnic coalitions in Pakistan, Indonesia, and Fiji involved in similar reform processes) both (a) a sense of motivation driven by intra-ethnic civil-military institutional tensions and (b) supporting pro-reform social movement pressures to develop and sustain a consensus. According to a key leader of the Sri Lanka Muslim Congress (SLMC) and member of the 2006 APRC, these two factors might bring more “discipline” to party politics, helping them overcome narrow partisanship and, in doing so, reinforcing “popular support for devolution.”¹³⁷² But, since 1962, Sri Lankan parties have never faced an interventionist military that might push them in this direction.¹³⁷³ As a result, parties have always pushed to “impose” (or oppose, as the case may be) their partisan versions of reform to stay in power (or defeat the party in power).¹³⁷⁴

As this brief overview shows, intra-ethnic power struggles between Sinhala political parties have played a key role in defeating various constitutional reform processes.¹³⁷⁵ But, unlike Pakistan, Indonesia and Fiji, this tussle lacked ties to intra-ethnic (civil-military) institutional and (social) popular divisions – divisions that helped rival political parties in Pakistan and Indonesia overcome their rivalries and enabled them to push for ethnically decentralising reforms against a rival institution. Even in Fiji, institutional divisions made the Fijian military reconcile its earlier differences with both Fijian and Indo-Fijian leaders to defeat rival Fijian civilian institutions and implement the 2013 Constitution.

I will return to Sri Lanka’s lack of intra-ethnic institutional tensions later. For now, it is sufficient to say that Sri Lanka, since a 1962 failed military coup, has not, until very recently, seen much in the way of direct military involvement in politics. Instead, the

¹³⁷¹ Based upon the author’s interviews.

¹³⁷² Interview of Nizam Kariapper (The Sri Lanka Muslim Congress member of the 2006 All Parties Representative Committee) by the author, Colombo, January 27, 2020.

¹³⁷³ Based upon the author’s interviews.

¹³⁷⁴ Interview of Dilan Perera (Sri Lanka Freedom Party member of the 2016 Steering Committee) by the author, Colombo, January 22, 2020.

¹³⁷⁵ Interview of Rauff Hakeem (Leader of the Sri Lanka Muslim Congress, member of the 2016 Steering Committee) by the author, Colombo, January 21, 2020.

failed coup attempt in 1962 drove a powerful civilian consensus¹³⁷⁶ to pass the Criminal Law Special Provision Act (1962) to try the perpetrators. Thereafter, as Donald Horowitz argues, there was no “ideology stressing the duty of officers to intervene when things go wrong.”¹³⁷⁷ This double failure was crucial insofar as it prevented the possibility of intra-ethnic institutional tensions developing after 1962.¹³⁷⁸ It was also crucial in forestalling, according to a Tamil political scientist based at the University of Jaffna, military efforts to become “independently powerful” to be able to capture civilian space.¹³⁷⁹

As one constitutional expert involved with the 2016 constitutional reform process reasoned, “because Sri Lankan parties have never faced such threats from the military,” they did not ally with their co-ethnic social actors to create a “Lawyers’ Movement”-like phenomenon in favour of political and ethnic decentralisation.¹³⁸⁰ Even when opportunities for alliances promoting a “national consensus” around devolution existed in theory, Jayampathy Wickramaratne of the UNP described them as politically impossible to flourish because of the lack of support from national-level political parties – especially the UNP.¹³⁸¹ This absence of intra-ethnic institutional pressures allowed Sinhala parties to pursue their interests without third-party pressure. At the same time, political “in-fighting”¹³⁸² reinforced by the absence of a pro-devolution “organic mass movement” within the Sinhala people also caused the political process to fail to create a national “consensus” favouring ethnic devolution.¹³⁸³

¹³⁷⁶ Angela S. Burger, “Civilian Rule and Abortive Coups in Sri Lanka” in *Civilian Rule in the Developing World: Democracy on the March?*, ed. Constantine P. Danopoulos (Abingdon and New York: Routledge, 1992), 201.

¹³⁷⁷ Donald Horowitz, *Coup Theories and Officers’ Motives: Sri Lanka in Comparative Perspective* (New Jersey: Princeton University Press, 1980), 215.

¹³⁷⁸ Interview of Kalana Senaratne (Academic and civil society activist) by the author, Colombo, January 23, 2020.

¹³⁷⁹ Interview of Ahilan Kadirgamar (Academic and civil society activist) by the author, online, January 26, 2020.

¹³⁸⁰ Interview of Camena Guneratne (A constitutional expert involved with the 2016 Steering Committee) by the author, Colombo, January 20, 2020.

¹³⁸¹ Interview of Jayampathy Wickramaratne.

¹³⁸² Interview of D.W.E. Gunasekara.

¹³⁸³ Interview of Kalana Senaratne.

2. Intra-ethnic Divisions and the Failure of Ethnic Decentralisation Politics

Consistent with his general assumptions about the politics of ethnic majority groups (see Chapter 2), Donald Horowitz links the failure of Sri Lanka's various constitutional reform processes to a political intransigence on the part of a (cohesive) majority group – an intransigence rooted in post-independence constitutional arrangements that entrenched majority rule.¹³⁸⁴ He, however, does not explain what might cause a pro-reform consensus to develop.¹³⁸⁵ Nor does he appear to recognize any positive role for social (grassroots) participation in developing such a consensus.¹³⁸⁶

While scholars have emphasised the “hyper-competitive”¹³⁸⁷ nature of intra-Sinhalese Sri Lankan politics, and the LTTE's war on the Sinhala people,¹³⁸⁸ as key reasons for the failure of various processes of ethnic decentralisation, the evidence presented in this chapter shows that Sinhala elites, unlike their counterparts in Pakistan, Indonesia and Fiji, mostly failed to develop a cross-ethnic consensus owing to a lack of intra-ethnic institutional and grassroots social pressures. While Sri Lankan constitutionalists involved in various processes of ethnic decentralisation, like Jayampathy Wickramaratne, see intra-ethnic institutional tensions as a potential source of pressure for bringing rival Sinhala parties together vis-à-vis devolution,¹³⁸⁹ the *absence* of these institutional tensions after 1962 helps to explain why Sinhala parties ultimately *failed* to overcome their differences in the 1990s (when Tamil political and militant groups,¹³⁹⁰ except the LTTE, openly supported Chandrika

¹³⁸⁴ Donald Horowitz, *Constitutional Processes and Democratic Commitment* (New Haven: Yale University Press, 2021), 23.

¹³⁸⁵ Interview of Ameer Faiz (The Sri Lanka Muslim Congress leader) by the author, Colombo, January 23, 2020.

¹³⁸⁶ Donald Horowitz, *Constitutional Processes*, 11.

¹³⁸⁷ Asanga Welikala, “Sri Lanka's Failed Peace Process and the Continuing Challenge of Ethno-territorial Cleavages” in *Territory and Power in Constitutional Transitions*, ed. George Anderson and Sujit Choudhry (Oxford: Oxford University Press, 2019), 271.

¹³⁸⁸ See Idil Tuncer-Kilavuz, “Success or Failure in the Peace Processes of Aceh and Sri Lanka: A Comparative Study,” *Terrorism and Political Violence* 31, no. 4 (2019): 712-732; Rajat Ganguly, “Sri Lanka's Ethnic Conflict: At a Crossroad between Peace and War,” *Third World Quarterly* 25, no. 2 (2004): 903-917.

¹³⁸⁹ Interview of Jayampathy Wickramaratne.

¹³⁹⁰ Interview of D. Sidhartan.

Kumaratunga,¹³⁹¹ or when the LTTE, too, was on board in 2003-2004). This absence of intra-ethnic institutional tensions also helps to explain why, turning to social movements, the SLFP government-sponsored White Lotus Movement was not entirely successful in winning cross-party support for devolution in the late 1990s. An SLFP leader involved with the Movement remarked that the movement's failure happened because "Ranil [the UNP] sabotaged" the whole process for partisan gains.¹³⁹²

Even in 2009, after the LTTE had been defeated, a key member of the APRC representing the SLMC notes that Sri Lanka's ruling Sinhala elite deliberately shelved the rather promising 2007 APRC report on political and administrative devolution¹³⁹³ to focus, instead, according to the (Sinhalese) chairman of the APRC, on an "economic solution" to Tamil grievances.¹³⁹⁴

And, in 2016-2018, when there was no LTTE insurgency at all and the TNA was actively involved in post-war negotiations, a member of the sub-committee on devolution established by the 2016 Steering Committee noted that the process failed because of the seemingly unending "power struggle" between Sinhala parties.¹³⁹⁵ As the leader of the TNA explained, it is this "disease" of intra-ethnic partisan struggle, unaffected by intra-ethnic institutional tensions or pressures emanating from intra- and inter-ethnic social movements, that has long "infested the ranks of these parties" to produce persistent failure.¹³⁹⁶

According to the leader of the TNA, the "militarisation of politics" *could* "radically change" Sri Lanka's political landscape.¹³⁹⁷ Indeed, Sri Lanka is not inherently

¹³⁹¹ Partha S.Ghosh, *Ethnicity versus Nationalism: The Devolution Discourse in Sri Lanka* (New Delhi: Sage Publications, 2003), 352.

¹³⁹² Interview of Dilan Perera.

¹³⁹³ Interview of Nizam Kariapper.

¹³⁹⁴ Interview of Tissa Vitharana (Leader of the Lanka Sama Samaja Party, chairman of the 2006 All Parties Representative Committee) by the author, Colombo, January 25, 2020.

¹³⁹⁵ Interview of Shiral Lakthilaka (Sri Lanka Freedom Party member of the 2016 sub-committee on Centre-Periphery relations) by the author, Colombo, January 16, 2020.

¹³⁹⁶ Interview of R. Sampanthan.

¹³⁹⁷ *Ibid.*

immune to such a change.¹³⁹⁸ Under the Gotabaya Rajapaksa regime, increasing political intervention by the anti-devolution Sri Lankan military - ¹³⁹⁹ especially, in Sinhala-dominated southern Sri Lanka – may generate, as one expert of Sri Lanka based at the University of Colombo warned, (institutional) “rifts” that could, in turn, become “politicised” in combination with other popular, political, and regional divisions – including from within Sinhala-Buddhist groups – vis-à-vis the “question of devolution.”¹⁴⁰⁰ So far, however, it is still the *absence* of this pressure that has (a) kept competitive-centralisation politics amongst Sri Lanka’s Sinhala parties alive and (b) failed to generate any imperative (unlike Pakistan, Indonesia, and Fiji) for political actors/parties to ally with grassroots, pro-decentralisation social actors.

The persistent failure of pro-decentralisation consensus lies in Sri Lanka’s structural ‘deficiencies,’ which I examine, one by one, across institutional, political, and social movement factors to offer an integrated explanation for (a) why Sri Lanka has these structural deficiencies and (b) how these deficiencies impacted the overall politics of ethnic decentralisation, as the Sri Lankan parties continued to contest for power (often by opposing decentralisation).¹⁴⁰¹

As an expert involved with the 2016 process but now allied with the Rajapaksas said, major Sinhala parties – the SLFP and the UNP – cannot be categorised into “pro or anti devolution” groups.¹⁴⁰² It means that their struggle, unlike their counterparts in Pakistan, Indonesia and Fiji, cannot be defined in terms of a struggle over two conflicting systems of power (e.g., ethnically centralised versus ethnically decentralised). It also explains why, as the expert added, these parties often switched their positions vis-à-vis power-sharing depending on whether they were in or out of power.¹⁴⁰³ This pattern persisted even when the UNP and an anti-Rajapaksa faction of the SLFP became allies in 2014-2015 to defeat the Rajapaksa regime, abolish the

¹³⁹⁸ Interview of Mario Gomes (Head of the International Centre of Ethnic Studies, civil society activist) by the author, Colombo, January 30, 2020.

¹³⁹⁹ Interview of Asanga Welikala.

¹⁴⁰⁰ Interview of Pradeep Pieris (Academic and civil society activist) by the author, Colombo, January 21, 2020.

¹⁴⁰¹ Interview of Javid Yusuf (The Sri Lanka Muslim Congress leader, activist of the National Movement for Social Justice) by the author, Colombo, January 25, 2020.

¹⁴⁰² Interview of Chamindry Saparamadu (Sri Lanka Freedom Party member of the 2016 Steering Committee’s Panel of Experts) by the author, Colombo, January 15, 2020.

¹⁴⁰³ *Ibid.*

executive presidency, and constitutionally devolve power. The whole process became an arena of mutually competing – and irreconcilable – ideas for constitutional reforms (see below).¹⁴⁰⁴

3. Structural Deficiencies: The Mechanism of Failure

While the intra-group dynamics of failure have been highlighted elsewhere – in particular, how groups from within the dominant Sinhalese defeated the process of ethnic conflict resolution through an invocation of Sinhala nationalism (promoting intra-group Sinhala homogeneity vis-à-vis the island’s Tamils) –¹⁴⁰⁵ this thesis goes beyond the politics of ethnic ‘ideology’ to trace various factions’ inability to pursue ethnically decentralising constitutional change in specific structural and political terms. The question is: why did Sri Lanka, unlike other ethnic majoritarian states characterised by identical levels of ethnic hegemony and inter-ethnic conflict, *fail* to decentralise?

The failure of Sri Lanka in developing a cross-ethnic consensus around constitutional forms of ethnic decentralisation cannot be explained with reference to the mobilisation of ideas regarding Sinhala homogeneity and nationalism alone.¹⁴⁰⁶ In fact, a focus on homogeneity and nationalist mobilisation overshadows *intra*-group divisions and ignores the absence of intra-ethnic *institutional* (civil-military) tensions that might have weakened simple appeals to ethnic solidarity, as well as an absence of popular (*social*) pressure rooted in inter-ethnic cooperation. The absence of these conditions, I argue, is what allowed Sinhala political elites to avoid an ethnically decentralising politics of constitutional change, as parties not facing an interventionist military did not “come together”¹⁴⁰⁷ on their own or in alliance with social movements. As a leader of the SLFP remarked, “If there had been a broad social movement in Sri Lanka seeking devolution, developing a political consensus within and between parties would have been easier.”¹⁴⁰⁸ But such a movement (and

¹⁴⁰⁴ Based upon the author’s interviews with members of the 2016 Steering Committee.

¹⁴⁰⁵ See Kenneth D. Bush, *The Intra-Group Dimensions of Ethnic Conflict in Sri Lanka: Learning to Read between the Lines* (New York: Palgrave Macmillan, 2003).

¹⁴⁰⁶ See Rajesh Venugopal, *Nationalism, Development and Ethnic Conflict in Sri Lanka* (Cambridge: Cambridge University Press, 2018).

¹⁴⁰⁷ Interview of Mario Gomes.

¹⁴⁰⁸ Interview of Dilan Perera.

associated forms of inter-party consensus) could not develop, because Sri Lankan parties never faced the same kind of intra-ethnic institutional pressures that their civilian counterparts in Pakistan and Indonesia, or the military in Fiji, encountered. In the absence of these enabling conditions and pressures ('intervening variables'), the political process of ethnically decentralising constitutional changes in Sri Lanka was characterised by a power struggle between major power Sinhala contenders i.e., the SLFP and the UNP, even when these forces were allies in 2016.¹⁴⁰⁹

3.1. Civil-Military Institutional Concordance

While Pakistan, Indonesia, and Fiji, because of their deeply politicised militaries, were, to borrow from Theda Skocpol, "structurally prone"¹⁴¹⁰ to civil-military institutional tensions, Sri Lanka lacks this feature. Politically and ethnically centralised military dictatorships generally create two key possibilities with respect to civil-military institutional tensions. First, they encourage *party-backed* contentious politics against the military to revive civilian rule.¹⁴¹¹ And, second, authoritarianism associated with military dictatorship often encourages *popular* mobilisation towards the same end.¹⁴¹² It is this anti-military contentious politics that often fuses the political and the social into a union that becomes the key to political – and constitutional – changes,¹⁴¹³ including, as shown in previous chapters, ethnic decentralisation. The *absence* of intra-ethnic civil-military institutional tensions in Sri Lanka, stemming from the Sri Lankan civilian elite's successes against military interventions in the 1960s, however, means that Sri Lankan civilian elites were not specifically threatened by the military. This absence of a direct threat to civilian rule – and political parties – translated into an absence of threats that Arend Lijphart considers vital for elite-based consociational cooperation in multi-ethnic states.¹⁴¹⁴

¹⁴⁰⁹ Interview of Akila Viraj (United National Party Secretary-General) by the author, Colombo, January 24, 2020.

¹⁴¹⁰ Theda Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia and China* (Cambridge: Cambridge University Press, 1979), 140.

¹⁴¹¹ See James C. Franklin, "Political Party Opposition to Non-competitive Regimes: A Cross-National Analysis," *Political Research Quarterly* 55, no. 3 (September 2002): 521-546.

¹⁴¹² See Guya Accornero, "Contentious politics and student dissent in the twilight of the Portuguese dictatorship: analysis of a protest cycle," *Democratization* 20, no.6 (2013): 1036-1055.

¹⁴¹³ See Daniel R. Piccio, "The impact of social movements on political parties" in *The Consequences of Social Movements*, ed. Lorenzo Bosi et. al. (Cambridge: Cambridge University Press, 2016), 263-284.

¹⁴¹⁴ Arend Lijphart, "Consociational Democracy," *World Politics* 21, no. 2 (January 1969): 217.

In this context, while some scholars have paid attention to partisan politics as a cause of failure,¹⁴¹⁵ there is little explanation as to why these parties failed to transcend their differences, or what “conducive conditions”¹⁴¹⁶ might have led them to transcend partisan politics. To the extent that dominant militaries often encounter assertive civilian actors,¹⁴¹⁷ the Sri Lankan military, unlike the militaries of Pakistan, Indonesia, and Fiji, never became a political player post-1962, when a coup attempt was successfully foiled by civilian elites and “deterrent punishment of severe character” was given to the perpetrators through special legislation i.e., the 1962 Criminal Law Special Provision Act.¹⁴¹⁸

Troubled by Sri Lanka’s prevailing ethnic/racial and religious polarisation, as well as growing economic problems,¹⁴¹⁹ a cohort of army and police officers, excluding both the army commander and the police chief, conspired to overthrow the SLFP government in 1962. “Operation Holdfast” – which involved arresting cabinet ministers and dismissing and replacing the government of Prime Minister Bandaranaike with a new set-up – failed when the Sri Lankan ruling authorities found out about the conspiracy via one of the conspirators and, then, arrested the perpetrators. Twenty-four men, most coming from wealthy families of Colombo, from the army¹⁴²⁰ and the police were arrested and tried¹⁴²¹ through the above-mentioned act, which the SLFP-led ruling coalition was able to pass quickly after the coup via a broad-based political consensus involving Sinhala parties, including those on the left.¹⁴²² Unlike the success of military coups in Pakistan and Indonesia in militarising the polity at the expense of established political parties, the failure of the 1962 coup “entrenched civilian rule ... in Sri Lanka.”¹⁴²³

¹⁴¹⁵ See Lawrence Saez, “Sri Lankan in 2000: The Politics of Despair,” *Asian Survey* 41, no. 1 (January-February 2001): 116-121; Malin Akebo and Sunil Bastian, “Beyond Liberal Peace in Sri Lanka: Victory, Politics and State Formation,” *Journal of Peace Building and Development* 16, no.1 (December 2020): 70-84.

¹⁴¹⁶ Theda Skocpol, *States and Social Revolutions*, 140.

¹⁴¹⁷ This is true even in Fiji where the SDL (now SODELPA) continues to oppose the military’s involvement in politics.

¹⁴¹⁸ Mannamarakkalage Joseph Anthony Cooray, “The Judicial Role Under the Constitution of Ceylon: An Historical and Comparative Study” (Ph.D Diss. School of Oriental and African Studies, University of London, 1979), 268-269.

¹⁴¹⁹ Donald Horowitz, *Coup Theories*, 174.

¹⁴²⁰ No officer from the Navy or the Air Force was involved.

¹⁴²¹ Robert N. Kearney, “Ceylon: The Continuing Crisis,” *Asian Survey* 3, no. 2 (February 1962): 123.

¹⁴²² Based upon the author’s interviews.

¹⁴²³ Interview of Ahilan Kadirgamar.

Even though the military subsequently became involved in ethnic conflict in the 1990s, it remained subservient to firmly established patterns of civilian authority.¹⁴²⁴ The institutional predominance of the civilian actors also prevented the Sri Lankan military from acquiring autonomous political and corporate interests - ¹⁴²⁵ a key departure from the Pakistani and Indonesian militaries' large corporate empires. (This lack of any military corporate empire in Sri Lanka also helps to explain why the militarisation of Sri Lanka during the anti-LTTE war¹⁴²⁶ did *not* produce a politically interventionist military.¹⁴²⁷) In short, a civil-military institutional "concordance"¹⁴²⁸ was achieved, with two consequences for the politics of ethnic decentralisation. First, this concordance helped maintain the balance of power in favour of civilian elites, which prevented a civil-military institutional problem from growing.¹⁴²⁹ Secondly, because the Sri Lankan military never intervened in politics post-1962, or overthrew elected governments, it never became "a factor that the political leaders were to take into account in their politics of devolution."¹⁴³⁰

While scholars have argued that one key way through which this concordance was achieved involved greater 'Sinhalisation' of the military,¹⁴³¹ the 'Sinhalisation' of the military does not explain an absence of coups in subsequent years. If, as I argue, the 'Sinhalisation' (ethnic exclusion) of the military was a guarantee of civil-military concordance, the Pakistani, Indonesian, and Fijian militaries (all ethnically exclusive) would not have been expected to pursue coups against their own co-ethnic political elites. But they did. In Sri Lanka, however, it was careful management of military appointments on top of 'Sinhalisation' by both major parties that maintained civilian control and discouraged coups.¹⁴³² This careful management has become a political

¹⁴²⁴ Interview of D. Sidhartan.

¹⁴²⁵ Angela S. Burger, "Changing Civil-Military Relations in Sri Lanka," *Asian Survey* 32, no. 8 (August 1992): 756.

¹⁴²⁶ Neloufer De Mel, *Militarizing Sri Lanka*, 23.

¹⁴²⁷ See K.M. de Silva, *Sri Lanka and the Defeat of the LTTE* (New Delhi: Penguin Books, 2012).

¹⁴²⁸ For a discussion on how concordance prevents military interventions see Rebecca L. Schiff, *The Military and Domestic Politics: A Concordance Theory of civil-military relations* (Abingdon and New York: Routledge, 2009).

¹⁴²⁹ Interview of Ahilan Kadirgamar.

¹⁴³⁰ Interview of Ameer Faiz.

¹⁴³¹ Donald Horowitz, *Coup Theories*, 211-212; Ayesha Siddiq, "Sri Lanka's Military: From Ceremonial to Professional," *Oxford Encyclopedia of Politics* 25 (March 2001).

¹⁴³² Based upon the author's interviews.

tradition—one that, according to a constitutional expert involved with constitutional debates in the 1990s, Sri Lankan ruling parties have consistently followed.¹⁴³³

Still, the Sri Lankan military's more recent involvement in politics might "change"¹⁴³⁴ the post-1962 institutional equation, triggering intra-ethnic institutional tensions.¹⁴³⁵ To the extent that the incumbent Gotabaya Rajapaksa regime has been inserting the Sri Lankan army into politics since coming into power in 2019, a 'Pakistan-like scenario' could, as a number of my interviewees suggested, take place whereby the military's influence could expand from security into politics at the expense of civilian actors.¹⁴³⁶ Growing militarisation could, some fear, transform civil-military relations in ways that could offset established civilian parties¹⁴³⁷ while entrenching ethnic hegemony through the ethnically exclusive military's opposition to any form of devolution whatsoever.¹⁴³⁸

Sri Lanka's current institutional trajectory confirms existing theories that show how ethnically centralised/exclusive militaries tend to consolidate ethnically centralised/exclusive systems.¹⁴³⁹ But the militarisation of politics on a "pattern similar to Pakistan and Indonesia"¹⁴⁴⁰ could cause *intra*-ethnic divisions in Sri Lanka to emerge, forcing some of Sri Lanka's Sinhalese civilian players – including the left-oriented parties – to "resist" militarisation.¹⁴⁴¹

This resistance could also facilitate, for two principal reasons, a cross-ethnic multi-party consensus on ethnic decentralisation. First, given Sri Lanka's history and general opposition to the military's role in politics,¹⁴⁴² Sinhala parties – including Sinhala-Buddhist parties like Jathika Hela Urumaya (JHU) – would themselves want to resist and reverse, according to a leader of the JHU, the fast-expanding

¹⁴³³ Interview of Jayadeva Uyangoda (Academic and part of the Sri Lanka Freedom Party's 1990s constitutional process) by the author, Colombo, January 26, 2020.

¹⁴³⁴ Interview of Ameer Faiz.

¹⁴³⁵ Interview of Jayadeva Uyangoda.

¹⁴³⁶ Interview of Rauff Hakeem.

¹⁴³⁷ Interview of Shamal Senarath (United National Party leader) by the author, Colombo, January 19, 2020.

¹⁴³⁸ Interview of Asanga Welikala.

¹⁴³⁹ Donald Horowitz, *Ethnic Groups in Conflict* (Los Angeles: University of California Press, 1985), 526.

¹⁴⁴⁰ Interview of Asanga Welikala.

¹⁴⁴¹ Interview of Ravi Karunanayake (United National Party leader) by the author, Colombo, January 31, 2020.

¹⁴⁴² Interview of Nizam Kariapper.

“militarisation of politics.”¹⁴⁴³ In fact, ever since the LTTE’s defeat in 2009, the military’s influence has been expanding into southern Sinhala-dominated regions,¹⁴⁴⁴ unsettling the post-1962 institutional balance¹⁴⁴⁵ in ways that could “alter the Sri Lankan state” itself through a military-backed authoritarian system.¹⁴⁴⁶ Second, given the military’s role in the north and its opposition to devolution,¹⁴⁴⁷ there is a natural demand from Tamil political parties to demilitarise their region.¹⁴⁴⁸ Thus, militarisation is providing Sinhala,¹⁴⁴⁹ Tamil, and Muslim political parties - ¹⁴⁵⁰ including anti-military actors within the ruling Sri Lanka Podujana Peramuna (SLPP) – ¹⁴⁵¹ with reasons to come together¹⁴⁵² for cooperation¹⁴⁵³ regarding demilitarisation and ethnic devolution.¹⁴⁵⁴

However, as compared to Pakistan, Indonesia, and Fiji, the absence of intra-ethnic institutional tensions in Sri Lanka so far has not only kept the ‘gaps’ between the same Sinhala parties unbridgeable, but also ensured that those involved in constitutional processes never co-opted, or triggered, pro-decentralisation social movements, except as a means to address fears of the Sinhala majority.¹⁴⁵⁵

As a result, a constant disconnection (unlike direct collaboration between political actors and social movements in Pakistan, Indonesia, and Fiji) has persisted in Sri Lanka, keeping the process “overly legalistic” i.e., “not mobilising people” in favour of an ethnic devolution process.¹⁴⁵⁶ This structural deficiency has had the effect of allowing Sri Lankan parties to exploit the issue of ethnic conflict “for political

¹⁴⁴³ Interview of Karunaratna Paranwithana (Jathika Hela Urumaya leader) by the author, Colombo, January 30, 2020.

¹⁴⁴⁴ Interview of Jayadeva Uyangoda.

¹⁴⁴⁵ Tisarane Gunasekara, “Militarisation, Lankan Style,” *Economic and Political Weekly* 48, no. 7 (February 2013): 34.

¹⁴⁴⁶ Interview of Jayadeva Uyangoda.

¹⁴⁴⁷ Based upon the author’s interviews.

¹⁴⁴⁸ Interview of D. Sidhartan.

¹⁴⁴⁹ Interview of Sunil Handunneti (Janatha Vimukthi Peramuna leader) by the author, Colombo, January 27, 2020.

¹⁴⁵⁰ Interview of Rauff Hakeem.

¹⁴⁵¹ Interview of Akila Viraj.

¹⁴⁵² Interview of Mario Gomes.

¹⁴⁵³ Interview of Indik Perera (Civil society activist) by the author, Colombo, January 20, 2020.

¹⁴⁵⁴ Interview of Jayampathy Wickramaratne.

¹⁴⁵⁵ Ibid.

¹⁴⁵⁶ Interview of Ahilan Kadirgamar.

gains ... in a zero-sum political competition.”¹⁴⁵⁷ Unlike the role of intra-ethnic social movements in Pakistan, Indonesia, and Fiji vis-à-vis ethnic decentralisation, party-based political competition – exacerbated by the absence of a social movement involving the majority “Sinhala people” to reinforce demands for ethnic decentralisation – ¹⁴⁵⁸ has thwarted Sri Lanka’s transition to an ethnically decentralised constitutional system.¹⁴⁵⁹ But before I examine the failure of various constitutional processes at the level of parliamentary practice, it is pertinent to empirically examine the absence of a social movement favouring constitutional ethnic decentralisation in Sri Lanka.

3.2. The Infertility of the Social in Sri Lanka

As Jayadeva Uyangoda has pointed out, one key reason for the consistent failure of constitutional reform processes in Sri Lanka has been the absence of a counter-hegemonic grassroots social movement *within* the dominant Sinhalese.¹⁴⁶⁰ While Jayadeva explains this absence with reference to the absence of “regional elites”¹⁴⁶¹ across southern (Sinhala-dominated) Sri Lanka who might identify their interests with devolution on an *inter*-ethnic basis, my evidence shows that *intra*-Sinhalese social movements favouring devolution failed to emerge *despite* the presence of ‘regional elites’ in Sri Lanka’s southern region. In fact, the evidence shows that ‘regional elites’ from Sinhala-dominated regions actually complained to the 2006 APRC that the interventionist “Colombo would not allow them to exercise their [provincial] powers” via the 13th constitutional amendment in 1987.¹⁴⁶² Still, these elites never launched a social movement that might connect them with other (Tamil and Muslim) groups demanding greater devolution.

A key reason for this failure to mobilise the masses in favour of power-sharing is, contrary to Pakistan, Indonesia, and Fiji, a visible disconnect between political parties

¹⁴⁵⁷ Interview of Chamindry Saparamadu.

¹⁴⁵⁸ Interview of Kalana Senaratne.

¹⁴⁵⁹ Interview of Chamindry Saparamadu.

¹⁴⁶⁰ Jayadeva Uyangoda, “Travails of State Reform in the Context of Protracted Civil War in Sri Lanka” in *Liberal Peace in Question: Politics of State and Market Reform in Sri Lanka*, ed. Kristian Stokke and Jayadeva Uyangoda (London and New York: Anthem Press, 2011), 41-42.

¹⁴⁶¹ *Ibid.*

¹⁴⁶² Interview of Nizam Kariapper.

and social actors vis-à-vis devolution.¹⁴⁶³ As the secretary-general of the UNP said, “the UNP does not collaborate with civil society” regarding devolution.¹⁴⁶⁴ Indeed, as a Colombo-based civil society activist reiterated, NGOs/movements working to popularise devolution failed, partly because of this disconnection, to “contribute meaningfully to the national question.”¹⁴⁶⁵ This failure was exacerbated by the fact that Sri Lanka’s civilian political actors, unlike those in Pakistan, Indonesia and Fiji, were never pushed into co-opting, or sponsoring, social movements against an intra-ethnic *institutional* rival (e.g. the military).¹⁴⁶⁶ In fact, this disconnect persisted even when some small-scale movements, NGOs¹⁴⁶⁷ or pro-devolution groups supporting devolution existed.¹⁴⁶⁸

Evidence highlighting this disconnect between the social and the political challenges analyses that seek to explain the failure of the social in Sri Lanka with reference to its ethnically polarised environment.¹⁴⁶⁹ Counter-hegemonic movements in Pakistan, Indonesia, and Fiji also faced an ethnically polarised landscape, but again it was the intra-ethnic civil-military *institutional* rivalry that allowed these social and political actors to overcome ethnic polarisation in favour of a broad-based cross-ethnic formation. In Sri Lanka, in other words, it was the absence of intra-ethnic institutional tensions that caused the absence of a cross-party social movement.

When the SLFP started The White Lotus Movement in 1995 – a movement that sought to popularise ethnic decentralisation (a) by giving “full and equal rights” to all ethnic groups and (b) by dismantling “racism, religious intolerance and separatism” –¹⁴⁷⁰ it did not receive any meaningful support – in particular, from the UNP –¹⁴⁷¹ from other parties involved in the parliamentary committee drafting the 2000 Constitution

¹⁴⁶³ Several interviews stressed the distance between political parties and social movements.

¹⁴⁶⁴ Interview of Akila Viraj.

¹⁴⁶⁵ Interview of Indik Perera.

¹⁴⁶⁶ For more cross-case evidence in support of this argument see Eugenio Sosa, “The Movement Against the Coup in Honduras” in *Handbook of Social Movements Across Latin America*, ed. Almeida P. and Cordero Ulate A. (New York and London: Springer, 2015), 313-326.

¹⁴⁶⁷ Interview of Indik Perera.

¹⁴⁶⁸ Interview of Kalana Senaratne.

¹⁴⁶⁹ See Camilla Orjuela, “Building peace in Sri Lanka: A Role for Civil society?,” *Journal of Peace Research* 40, no. 2 (March 2003): 195-212.

¹⁴⁷⁰ Chandrika Bandaranaike Kumaratunga, *Glimpses of a New Vision: Selected Speeches of Her Excellency the President Chandrika Bandaranaike Kumaratunga* (Colombo: Desathiya Publication Unit, Department of Government Information, 2000), 26.

¹⁴⁷¹ Interview of Tissa Vitharana.

Bill.¹⁴⁷² In fact, the UNP,¹⁴⁷³ as its leader explained, saw The White Lotus Movement as part of Kumaratunga's plan "to prolong her rule" at the expense of the UNP.¹⁴⁷⁴ Therefore, even though The White Lotus Movement was able to draw popular support through its street performances, civic education campaigns, and lectures,¹⁴⁷⁵ indicating that supposedly entrenched majoritarian nationalist ideologies could be challenged even within majority communities,¹⁴⁷⁶ the fact that it was only a civic-education campaign from above, rather than a mass-based, cross-party street agitation seeking to undo a politically and ethnically centralised regime from below (as in Pakistan and Indonesia) meant that, ultimately, there was no popular pressure for, or agitation in favour of, reforms involving supporters of both the SLFP and the UNP.¹⁴⁷⁷ Instead, according to one UNP leader, the UNP – which was not facing any political threat *except* from the ruling SLFP – rejected the 2000 bill for purely "political reasons."¹⁴⁷⁸

Thus, the causal power of The White Lotus Movement vis-à-vis ethnic decentralisation was constrained by the absence of other key factors. Even though The White Lotus Movement, like 'Church Movements' in Fiji, received support from the regime, there is a crucial difference. In Fiji, both the New Methodist Church and the Roman Catholic Church had their own organic, anti-Methodist roots amongst the dominant Fijians; further, the military-led multi-ethnic regime, facing direct threats from rival *civilian* institutions (the GCC, the SDL and the Methodist Church), not only co-opted and cultivated these roots for its own political advantage, but this cultivation also led the leaders of both churches to play a key role in directly popularising ethnic decentralisation via mass mobilisation and participation in the multi-ethnic NCBBF (see Chapter 6).

In Sri Lanka, however, with the absence of intra-ethnic institutional divisions eliminating any need for the elitist UNP¹⁴⁷⁹ to support The White Lotus Movement,

¹⁴⁷² Based upon the author's interviews.

¹⁴⁷³ No UNP leader I interviewed considered The White Lotus Movement to be an important movement, except as part of Kumaratunga's own politics.

¹⁴⁷⁴ Interview of Ravi Karunanayake.

¹⁴⁷⁵ Interview of Dilan Perera.

¹⁴⁷⁶ Interview of Mario Gomes.

¹⁴⁷⁷ Based upon the author's interviews.

¹⁴⁷⁸ Interview of Ravi Karunanayake.

¹⁴⁷⁹ Interview of Akila Viraj.

the UNP rejected¹⁴⁸⁰ both the Movement and the 2000 bill to deny Kumaratunga any credit for resolving Sri Lanka's ethnic question and win elections.¹⁴⁸¹ Ultimately, this rejection proved sufficient for the UNP to win elections in 2001 and start its own process of constitutional reforms (see below).

A second major movement seeking constitutional reforms emerged in 2013-14 when a cohort of civil society groups and political parties – including the UNP and the Maithripala Sirisena-led faction of the SLFP (which had broken away over disagreements concerning the concentration of power around the Rajapaksa family) – coalesced into the National Movement for Social Justice (NMSJ). The NMSJ, founded and led by a well-known Buddhist monk named Maduluwawe Sobitha Thero (to get rid of a corrupt regime centralised around the Rajapaksa family),¹⁴⁸² confined itself to defeating President Rajapaksa in the next presidential elections.¹⁴⁸³ Although political parties involved in the movement were expected to pursue devolution *after* the elections – the UNP's manifesto included a devolution-based new constitution –¹⁴⁸⁴ the NMSJ itself did not venture into the politics of power-sharing at all for two reasons.¹⁴⁸⁵

First, the leading Monk himself did not favour constitutional devolution. And, second, Sinhala elites themselves, unlike their counterparts in Pakistan, Indonesia and Fiji, did not pursue devolution as a counter-hegemonic strategy against the regime – a regime that, unlike a typical military dictatorship, neither threatened the opposition parties' political future (e.g. a long term disappearance from the political field, or suppression that parties in Pakistan and Indonesia faced) nor was impossible to be defeated electorally.¹⁴⁸⁶

Therefore, the NMSJ adopted a strategy that could bring an electoral victory to the opposition. It involved weaning “the radical Sinhala nationalist votes away from the corrupt and despotic Rajapaksa regime.”¹⁴⁸⁷ As a consequence, the NMSJ did not

¹⁴⁸⁰ Interview of Indik Perera

¹⁴⁸¹ Based upon the author's interviews.

¹⁴⁸² Interview of Rauff Hakeem.

¹⁴⁸³ Ibid.

¹⁴⁸⁴ Interview of Jayampathy Wickramaratne.

¹⁴⁸⁵ Interview of Javid Yusuf.

¹⁴⁸⁶ Based upon the author's interviews.

¹⁴⁸⁷ Interview of Rauff Hakeem.

involve a struggle – unlike anti-regime struggles in Pakistan, Indonesia, and Fiji – that specifically sought to re-order ethnic power to defeat an ethnically exclusive regime.¹⁴⁸⁸ In fact, even though the Rajapaksa regime was an ethnically centralised configuration,¹⁴⁸⁹ the NMSJ’s total disregard for the question of ethnic devolution suppressed, rather than reinforced, intra-ethnic divisions vis-à-vis matters of ethnic decentralisation.¹⁴⁹⁰ Following Rajapaksa’s defeat, the NMSJ was simply “side-lined,”¹⁴⁹¹ with Ranil Wickremasinghe, “who does not believe in mass movements,” also rejecting the need to start a new movement to support the devolution reform process that started within less than a year.¹⁴⁹²

While political parties in Pakistan and Indonesia, and the military in Fiji, co-opted, or sponsored, pro-reform social movements to reinforce the politics of ethnic decentralisation as a strategy against their rival institutions, the NMSJ’s post-2015 side-lining was facilitated by the fact that the political parties involved in the 2016 process were not informed by intra-ethnic institutional tensions at all. Unlike the intra-ethnic institutional threat that dominant militaries in Pakistan and Indonesia posed to the relevant political parties, the Rajapaksa regime did not present any existential/institutional (military) threat to the political future of the relevant parties in 2016.¹⁴⁹³ An intra-ethnic institutional threat could have emerged if the Sri Lankan military had intervened in politics after Mahinda Rajapaksa’s defeat.¹⁴⁹⁴ After his defeat, Rajapaksa actually asked the military for its support,¹⁴⁹⁵ but the Sri Lankan military, in keeping with its post-1962 institutional distance from politics, “turned down” Rajapaksa’s request.¹⁴⁹⁶

Rajapaksa’s defeat in elections, the military’s refusal to intervene, and the side-lining of the NMSJ after the 2015 presidential elections combined to produce a *mechanism of failure* in Sri Lanka. In essence, Sri Lankan (Sinhala) parties, unlike their

¹⁴⁸⁸ Interview of Camena Guneratne.

¹⁴⁸⁹ For more on this subject see Rajni Gamage, “Buddhist Nationalism, Authoritarian Populism, and The Muslim other in Sri Lanka,” *Islamophobia Studies Journal* 6, no. 2 (Fall 2021): 130-149.

¹⁴⁹⁰ Interview of Mario Gomes.

¹⁴⁹¹ Interview of Javid Yusuf.

¹⁴⁹² Interview of Jayampathy Wickramaratne.

¹⁴⁹³ None of my interviewees – especially, from the UNP and other political parties and civil society – saw the Rajapaksa regime as a threat specifically to *their* political future. Most of them saw it as a corrupt regime that needed to go.

¹⁴⁹⁴ Based upon the author’s interviews.

¹⁴⁹⁵ Ibid.

¹⁴⁹⁶ Interview of Mario Gomes.

counterparts in Pakistan, Indonesia, and Fiji, were not under any intra-ethnic popular and institutional pressure to exploit political and popular “cleavages within the Sinhala community” to expand the “support base for devolution” that they had sought to achieve via the 2016 process.¹⁴⁹⁷

Had the Sri Lankan military launched a coup in 2015, it might have radically altered the scenario, spurring both political and social leaders, already coalesced via the NMSJ, to come together against the military.¹⁴⁹⁸ Even though the NMSJ itself was not explicit about devolution, Sinhala political parties had “an understanding with minority parties that there will be constitutional reforms that would address the minority demands.”¹⁴⁹⁹ In this context, a military coup in 2015 could have combined the question of de-militarisation with a combined Sinhala and Tamil push for devolution – not only because devolution was already on the political agenda, but also because of the military’s own anti-devolution position.¹⁵⁰⁰ Seen in combination with the Sri Lankan people’s opposition to militarisation,¹⁵⁰¹ military intervention could have given birth to a new politically backed social movement combining, according to one leader of the NMSJ, the “enlightened Sinhalese” vis-à-vis both de-militarisation and ethnic devolution.¹⁵⁰²

In other words, a military coup could have given birth to the contingent – and temporal – co-existence of intra-ethnic institutional divisions, social movements, and a cross-ethnic multi-party coalition (the UNP-SLPF led 2016 coalition government) focused on devolution (there was already a multi-party cross-ethnic ‘understanding’ to pursue devolution).¹⁵⁰³ In the absence of these institutional conditions, however, the cross-ethnic coalition established as a Constituent Assembly in 2016 under the leadership of Prime Minister Ranil Wickramasinghe, to pursue devolution, unravelled from *within*. Despite Wickremasinghe’s description of himself as a “great

¹⁴⁹⁷ Ibid.

¹⁴⁹⁸ Ibid.

¹⁴⁹⁹ Interview of Jayadeva Uyangoda.

¹⁵⁰⁰ Based upon the author’s interviews.

¹⁵⁰¹ Interview of Asanga Welikala.

¹⁵⁰² Interview of Javid Yusuf.

¹⁵⁰³ Based upon the author’s interviews.

constitutionalist,”¹⁵⁰⁴ this had the effect of “debunking the whole process” once again under the weight of partisan power struggle.¹⁵⁰⁵

According to the SLFP, Wickramasinghe, or the UNP, merely set about making changes in ways that would perpetuate his own rule at the expense of President Sirisena (see next section).¹⁵⁰⁶ Consistent with his elitist style,¹⁵⁰⁷ Ranil also opposed the advice to start a new movement dedicated to devolution – ¹⁵⁰⁸ one that might simultaneously generate popular pressure on opposition parties like the Sirisena-led SLFP and Mahinda-led SLPP¹⁵⁰⁹ to make them support the process.¹⁵¹⁰ This lack of grassroots action had the effect of confining the constitutional process “to committees,”¹⁵¹¹ further weakening the cultivation of a national-level pro-devolution consensus.¹⁵¹²

Whereas the complete absence of institutional threats allowed political elites to reject pro-devolution social movements, Sri Lanka’s structural deficiencies also had the effect of providing ample space, as Neil DeVotta has also argued,¹⁵¹³ for pro-Sinhala / pro-hegemonic movements like the National Movement Against Terrorism (NMAT) led by Sinhala-Buddhist nationalists like Udaya Gammanpila. This movement, as its leaders told me, worked with the then Defense Minister Gotabaya Rajapaksa to wean the regime away from pursuing a constitutional settlement. It convinced Prime Minister Mahinda Rajapaksa that “the LTTE could be militarily defeated” and that the “demand for devolution is a stepping-stone to a separate Tamil state.”¹⁵¹⁴

Another movement known as the Sinhala Commission (SC) – which was established in 1996 by a cohort of Sinhala-Buddhist NGOs to inquire into the “injustice done to the Sinhala people” – also rejected devolution as “the biggest threat faced by Sri

¹⁵⁰⁴ Interview of Asanga Welikala.

¹⁵⁰⁵ Interview of Tissa Vitharana.

¹⁵⁰⁶ Based upon the author’s interviews with the SLFP politicians.

¹⁵⁰⁷ Interview of Javid Yusuf.

¹⁵⁰⁸ Interview of Jayampathy Wickramaratne.

¹⁵⁰⁹ After the SLFP split in 2014-15, a faction of the SLFP founded the Sri Lanka Podujana Peramuna (SLPP), which won both presidential and parliamentary elections in 2019 and 2020, respectively. The SLPP was an active opposition to the reform process.

¹⁵¹⁰ Interview of Ameer Faiz.

¹⁵¹¹ Interview of Ahilan Kadirgamar.

¹⁵¹² Interview of Kalana Senaratne.

¹⁵¹³ See P. Sahadevan and Neil DeVotta, *Politics of Conflict and Peace in Sri Lanka* (New Delhi: Manak Publications, 2006), 110-153.

¹⁵¹⁴ Interview of Udaya Gammanpila.

Lanka in its entire history of more than 2,500 years.”¹⁵¹⁵ In 2000, while the UNP opposed – and burnt – the bill inside the parliament, the SC “successfully obstructed” its passage by mobilising Sinhala nationalists outside parliament.¹⁵¹⁶

These anti-devolution movements yielded at least two consequences for the political process of ethnic decentralisation. First, as a key leader of the NMAT argued, their decision to participate in the 2007 APRC process was intended to prevent any political consensus on power-sharing.¹⁵¹⁷ Second, these movements inadvertently kept the question of devolution alive as a political tool for mainstream Sinhala political parties to exploit for their electoral gain in the 1990s, 2007, and 2016. As a constitutional expert involved with the 2016 process concluded, “counter-movements ... made matters worse.”¹⁵¹⁸

While these movements, including counter-hegemonic (pro-decentralisation) movements, tend to dispel the impression that Sri Lanka is inherently infertile for popular mobilisation,¹⁵¹⁹ it remains the case that, if the core purpose of social movements involves creating (intra-ethnic) popular pressure for (ethnically decentralising) reforms,¹⁵²⁰ “anti-progressive ... social movements” - ¹⁵²¹ with sympathisers in many parties -¹⁵²² were able to mobilise the population even more effectively than counter-hegemonic movements.

A key reason for the failure of pro-decentralisation movements was that these were not, as mentioned above, reinforced by cross-party partnerships. In fact, once again, cross-party engagement was prevented by the absence of any institutional pressure on the relevant political elites.¹⁵²³ According to a constitutional expert involved directly with the 2016 process, the absence of such movements meant that even the pro-

¹⁵¹⁵ Rohan Edrisinha, Mario Gomes, V.T. Thamilaran and Asanga Welikala, ed. *Power-Sharing in Sri Lanka: Political and Constitutional Documents* (Colombo: Centre for Policy Alternatives, 2009), 586.

¹⁵¹⁶ Nira Wickramasinghe, *Sri Lanka in the Modern Age: A History* (New York: Oxford University Press, 2014), 345.

¹⁵¹⁷ Interview of Udaya Gammanpila.

¹⁵¹⁸ Interview of Chamindry Saparamadu.

¹⁵¹⁹ Based upon the author’s interviews.

¹⁵²⁰ See Donatella Della Porta, “Democracy in Social Movements” in *The Oxford Handbook of Social Movements*, ed. Donatella Della Ports and Mario Diani (Oxford: Oxford University Press, 2015), 768.

¹⁵²¹ Interview of Pradeep Pieris.

¹⁵²² Interview of Udaya Gammanpila.

¹⁵²³ Based upon the author’s interviews.

devolution Sinhala political elites, both from the UNP and the SFLP, were unable to capture “floating votes” from within the Sinhala majority to support the devolution process.¹⁵²⁴ Moreover, because there was no intra-ethnic institutional or popular pressure, Sinhala elites stuck to what many of my interviewees described as ‘petty politics’¹⁵²⁵ in an institutional environment characterised by “political polarisation”¹⁵²⁶ and dissensus. This presents a useful contrast to Pakistan and Indonesia where political parties from dominant and non-dominant groups, having jointly defeated ethnically centralised military dictatorships with help from intra-ethnic social movements, found a minimum common ground for developing a multi-party, cross-ethnic consensus around ethnic decentralisation to both consolidate civilian supremacy *and* resolve inter-ethnic conflict. And, as shown in previous chapters, both objectives were tied to, and achieved by changing, the ethnically centralised system of military dictatorships.

3.3. The Politics of Dissensus: Defeating Ethnic Decentralisation

While many scholars of the Sri Lankan ethnic conflict have stressed “forgiveness,”¹⁵²⁷ “liberal democracy”¹⁵²⁸ and “power-sharing” arrangements¹⁵²⁹ as the key to a politics of ethnic conflict resolution, none of those options has been able to institutionalise ethnic decentralisation. This failure is associated, primarily, with the absence of favourable structural conditions, including intra-ethnic institutional tensions reinforced by popular pressures as a conduit for cross-party consensus – generally, through political actors involved in the mass-based contentious politics of state transformation against a rival (ethnically centralised) institution. But Sri Lanka shows how party politics, *uninfluenced* by intra-ethnic institutional tensions and popular pressures, persistently catered to the majority vote and diminished “any and all prospects of consensus at both inter and intra-party levels.”¹⁵³⁰

¹⁵²⁴ Interview of Camena Guneratne.

¹⁵²⁵ Based upon the author’s interviews.

¹⁵²⁶ Interview of Jayadeva Uyangoda.

¹⁵²⁷ See Bernadette C. Hayes and John D. Brewer, “The Road to Compromise in Sri Lanka” in *The Sociology of Compromise after Conflict*, ed. John D. Brewer (Switzerland: Palgrave MacMillan, 2018), 157-178.

¹⁵²⁸ See Prashant Amrutkar, “Ethnic Conflict and Conflict Management Process in Sri Lanka,” *The Indian Journal of Political Science* 73, no. 4 (October-December 2012): 745-756.

¹⁵²⁹ See Allison McCulloch, *Power-Sharing and Political Stability in Deeply Divided Societies* (Abingdon and New York: Routledge, 2014).

¹⁵³⁰ Interview of Camena Guneratne.

When Chandrika Kumaratunga won presidential elections in the mid-1990s and started an ambitious process of ethnic decentralisation, her first crucial step involved building a consensus within her party to “neutralise the party’s old [nationalist] guard,” according to Jayadeva Uyangoda, who was directly involved with Kumaratunga’s constitutional process.¹⁵³¹ For instance, the series of proposals that her government spelt out in 1995, 1996 and 1997, as well as The White Lotus Movement she launched as a parallel process to reinforce ideas of ethnic decentralisation at the popular level, were meant to develop a cross-ethnic, multi-party and popular consensus as well as a consensus *within* her party.¹⁵³² Her core objective was to overcome the school of thought – specifically associated with Sinhala Buddhists led by figures like Mahinda Rajapaksa – that did not favour an ethnically decentralised constitutional solution.¹⁵³³ Addressing the same Sinhala Buddhists’ demand for a military solution, she argued as early as 1995 that,

“... even though we may inflict defeat on the LTTE in the North, the problems of the Tamil people that have arisen and grown in the social, political, economic, and cultural spheres of the national life, have to be fairly resolved.”¹⁵³⁴

Through this narrative, Kumaratunga sought an “ideological shift” within the SLFP¹⁵³⁵ and the South.¹⁵³⁶ Addressing the concerns of the conservative factions of the SLFP was not a straightforward task,¹⁵³⁷ as she had to alter her support for a federal set-up into a proposal for making Sri Lanka a “union of regions” in 1995-1996.¹⁵³⁸ Although this whittling down of progressive proposals frustrated Tamil groups,¹⁵³⁹ they did not oppose the 2000 bill *per se*. Tamil militant groups, such as the People’s Liberation Organisation of Tamil Elam (PLOTE) were involved in the

¹⁵³¹ Interview of Jayadeva Uyangoda.

¹⁵³² Based upon the author’s interviews.

¹⁵³³ *Ibid.*

¹⁵³⁴ Chandrika Bandaranaike Kumaratunga, *Glimpses of a New Vision*, 33.

¹⁵³⁵ Interview of Jayampathy Wickramaratne.

¹⁵³⁶ Interview of Asanga Welikala.

¹⁵³⁷ Rohan Edrisinha, Mario Gomes, V.T. Thamilaran and Asanga Welikala, ed. *Power-Sharing in Sri Lanka*, 526.

¹⁵³⁸ Interview of Asanga Welikala.

¹⁵³⁹ Rohan Edrisinha, Mario Gomes, V.T. Thamilaran and Asanga Welikala, ed. *Power-Sharing in Sri Lanka*, 526.

process directly and, as a PLOTE leader explained further, supported the whole process, including the idea of converting Sri Lanka into a “union of regions.”¹⁵⁴⁰

The consensus, however, fell apart and the Kumaratunga government withdrew the bill when the UNP, “smarting under the defeat of its leader at the presidential election of December 1999,”¹⁵⁴¹ “did the dirty thing”¹⁵⁴² to oppose the 2000 bill after remaining involved with the whole process for almost five years.¹⁵⁴³ As the head of the TNA also explained, Kumaratunga was “was genuinely committed to devolution and power-sharing” and there “was substantial progress between 1994 and 2000” towards devolution,¹⁵⁴⁴ but the UNP had *political* differences with the SLFP, which caused the process to crumble.¹⁵⁴⁵ As two UNP leaders explained, the decision to oppose the bill was *not* based on legal disagreements concerning devolution.¹⁵⁴⁶ It was a decision taken on the basis of “what suits our political interests” in a given context.¹⁵⁴⁷ Within the existing political context, Wickremesinghe had lost the 1999 presidential election to Kumaratunga, and the UNP, unaffected by any intra-ethnic institutional pressures (and believing that The White Lotus Movement was part of Kumaratunga’s plan to secure her rule post-transition),¹⁵⁴⁸ rejected, according to the chairman of the SLMC who was allied with the SLFP in the 2000 process, “the bill for their selfish political interests” i.e., winning the next parliamentary elections by creating a controversy around the bill as Kumaratunga’s plan to perpetuate her rule.¹⁵⁴⁹

The fact that the bill was tabled “too close to the elections”¹⁵⁵⁰ allowed Wickremesinghe to politically weaponise¹⁵⁵¹ and “hide behind the interim clause”¹⁵⁵²

¹⁵⁴⁰ Interview of D. Sidharta.

¹⁵⁴¹ Rohan Edrisinha, Mario Gomes, V.T. Thamilan and Asanga Welikala, ed. *Power-Sharing in Sri Lanka*, 526.

¹⁵⁴² Interview of Jayampathy Wickramaratne.

¹⁵⁴³ Interview of Shiral Lakthilaka.

¹⁵⁴⁴ Interview of R. Sampanthan.

¹⁵⁴⁵ *Ibid.*

¹⁵⁴⁶ Interview of Ravi Karunanayake.

¹⁵⁴⁷ Interview of Shamal Senarath.

¹⁵⁴⁸ Interview of Ravia Karunanayake.

¹⁵⁴⁹ Interview of Rauff Hakeem.

¹⁵⁵⁰ Interview of Jayampathy Wickramaratne.

¹⁵⁵¹ Ranil Wickremasinghe’s speech to the parliament as reproduced in *Constitution 2000: Parliamentary Debates*, 281-288.

¹⁵⁵² Interview of Dilan Perera.

about the continuation of Kumaratunga's presidency during the transition period to oppose the bill. By manipulating the interim clause, the UNP "scuttled the process."¹⁵⁵³ According to an SLFP leader involved with the process, the UNP's other motivation was to deny Kumaratunga "the credit" for resolving Sri Lanka's perennial ethnic problem.¹⁵⁵⁴ It was, therefore, "elections rather than the war that defeated the process."¹⁵⁵⁵ Conversely, if the bill had been passed in 2000, the SLFP would have won the next elections as well.¹⁵⁵⁶

As Wickremesinghe won the 2001 parliamentary elections and became the prime minister, however, "the political context changed" once again for the UNP.¹⁵⁵⁷ Whereas it had criticised the 2000 bill as a step towards "dividing the country," it ended up, in 2002, proposing a "constitution that went beyond the concept of federation. It was almost a confederation. The SLFP then opposed it."¹⁵⁵⁸

As "infertile [partisan] competition" prevailed again,¹⁵⁵⁹ Kumaratunga, who was still the executive president, purportedly shot down Wickremesinghe's peace process in late 2003 to help the SLFP make a comeback after its 2001 election defeat.¹⁵⁶⁰ Kumaratunga, thus, did "to UNP what the UNP had done to the SLFP in 2000."¹⁵⁶¹ Again, this failure cannot be attributed simply to the state's war against the LTTE. By the time Kumaratunga struck the UNP process, the LTTE was already observing a ceasefire and had just stepped away from its demand for an independent Tamil state in favour of maximum regional autonomy for the North-East.¹⁵⁶² While the LTTE said it was open to negotiating "a permanent constitutional settlement" for peace in light of its 'Interim Self-Governing Authority' (ISGA) proposal,¹⁵⁶³ Kumaratunga – and her

¹⁵⁵³ Interview of Rauff Hakeem.

¹⁵⁵⁴ Interview of Dillan Perera.

¹⁵⁵⁵ Interview of Javid Yusuf.

¹⁵⁵⁶ Interview of Jayampathy Wickramaratne.

¹⁵⁵⁷ Interview of Shamal Senarath.

¹⁵⁵⁸ Interview of Dilan Perera.

¹⁵⁵⁹ Interview of Asanga Welikala.

¹⁵⁶⁰ Interview of Kalana Senaratne.

¹⁵⁶¹ Interview of Asanga Welikala.

¹⁵⁶² Only a month before Kumaratunga suspended parliament in November 2003, the LTTE had issued its 'Interim Self-Governing Authority Proposal', which demanded substantial regional autonomy for the North-East within an *undivided* Sri Lanka. The SLFP opposed it and the UNP sought to pursue talks with the LTTE.

¹⁵⁶³ Rohan Edrisinha, Mario Gomes, V.T. Thamilaran and Asanga Welikala, ed. *Power-Sharing in Sri Lanka*, 667.

allies –¹⁵⁶⁴ used this situation to project Colombo’s growing weakness vis-à-vis the LTTE under the UNP rule.¹⁵⁶⁵ Therefore, in a bid to ‘protect’ Sri Lanka and consolidate the SLFP’s power, she assumed direct control over the Ministries of Defence, Foreign Affairs and Media in late 2003 before using her executive powers to dissolve the parliament and bury the whole process in February 2004.¹⁵⁶⁶

From the comparative perspective, this whole period was also characterised by the absence of intra-ethnic institutional and popular pressures as well. While the Sri Lankan military, in keeping with its post-1962 tradition, stood aloof from politics, the White Lotus Movement, too, had disappeared after the UNP’s victory in 2001. The ruling UNP, in keeping with its elitist method of politics, made no effort to start a social movement to support its process.¹⁵⁶⁷ Thus, within *this* political context, partisan power struggles prevailed. The SLFP won the April 2004 parliamentary elections and Mahinda Rajapaksa became Sri Lanka’s Prime Minister (before becoming president by winning the 2005 presidential election – again, against Wickremasinghe of the UNP).

But, even though the SLFP shot down the 2001 process, the Rajapaksa regime started its own process of constitutional reforms immediately after winning the presidential elections. However, the APRC that President Rajapaksa subsequently established (2006) never saw its report implemented.¹⁵⁶⁸ Besides the fact that the APRC was weakened by the contradictory ‘majority’ (pro-devolution) and ‘minority’ (anti-devolution) reports of its constitutional experts –¹⁵⁶⁹ a division that “was Rajapaksa’s own game,” according to an expert involved with the process –¹⁵⁷⁰ the final APRC report also lacked broad party support. The UNP decided to withdraw from the APRC because of political differences with the SLFP,¹⁵⁷¹ and the People’s Liberation Front (JVP)¹⁵⁷² opposed the very idea of ethnic devolution as a system that would

¹⁵⁶⁴ Interview of Tissa Vitharana.

¹⁵⁶⁵ Rohan Edrisinha, Mario Gomes, V.T. Thamilaran and Asanga Welikala, ed. *Power-Sharing in Sri Lanka*, 667.

¹⁵⁶⁶ *Ibid.*

¹⁵⁶⁷ Interview of Akila Viraj.

¹⁵⁶⁸ Interview of Nizam Kariapper.

¹⁵⁶⁹ Interview of Tissa Vitharana.

¹⁵⁷⁰ Interview of Jayampathy Wickramaratne.

¹⁵⁷¹ Interview of Tissa Vitharana.

¹⁵⁷² This is an English translation of the party’s local name: Janatha Vimukthi Peramuna (JVP).

“disintegrate” Sri Lanka.¹⁵⁷³ The Sinhala-Buddhist nationalist members of the committee (e.g. Udaya Gammanpila) not only saw devolution as “an illusion” for separation but also successfully pushed for a military solution.¹⁵⁷⁴

In fact, the later success of a final military solution in 2009, and the SLFP’s electoral victory in 2010, combined to kill the APRC permanently.¹⁵⁷⁵ Therefore, if the LTTE was a barrier, as some scholars have argued,¹⁵⁷⁶ its defeat had no effect on the APRC report’s implementation. President Rajapaksa, facing no institutional, political, or popular pressure from within the Sinhala majority to devolve power, conveniently “set aside,” according to the APRC chairman, Tamil political questions (e.g. devolution) in favour of post-war “economic” and “infrastructural development”¹⁵⁷⁷ of Tamil areas without transferring any of the powers – including the abolishment of the concurrent list – proposed in the APRC report.¹⁵⁷⁸

That the presence or the absence of the LTTE did not matter is also evident from the failure of the most recent constitutional process after 2016. As the Interim Report of the Steering Committee highlighted, there was “no agreement” on as important a question as “abolishing the concurrent list,” according to one of its authors from the JVP.¹⁵⁷⁹ Most importantly, a consensus failed to emerge even after both the UNP and the Sirisena-led faction of the SLFP realigned vis-à-vis ethnic decentralisation, becoming allies in a coalition government they established after defeating, with help from the cross-ethnic NMSJ,¹⁵⁸⁰ Mahinda Rajapaksa.¹⁵⁸¹ In other words, even though Sri Lanka had its rare “constitutional moment”¹⁵⁸² when otherwise opposing parties were able to overcome the rival ‘mindset’ (and, thus, a TNA-supported cross-ethnic, multi-party period of “cohabitation” existed),¹⁵⁸³ what Sri Lanka still lacked was

¹⁵⁷³ Interview of Sunil Handunneti.

¹⁵⁷⁴ Interview of Udaya Gammanpila.

¹⁵⁷⁵ Interview of Tissa Vitharana.

¹⁵⁷⁶ See Rajan Sriskandarajah, “Mindset: The Foremost Obstacle to Peace” in *Negotiating Peace in Sri Lanka: Efforts, Failures and Lessons*, ed. Dr. Kumar Rupesinghe (London: International Alert of London, 1998), 329-334.

¹⁵⁷⁷ Interview of Tissa Vitharana.

¹⁵⁷⁸ Ibid.

¹⁵⁷⁹ Interview of Bimal Rathnayake.

¹⁵⁸⁰ The TNA was involved in the NMSJ.

¹⁵⁸¹ Interview of Jayadeva Uyangoda.

¹⁵⁸² Asanga Welikala, “Ethnocracy or republic? Paradigms and choice for constitutional reform and renewal in Sri Lanka,” *The South Asianist* 4, no. 1 (2015): 5.

¹⁵⁸³ Interview of Asanga Welikala.

popular pressure – including the side-lining of the NMSJ and Wickremasinghe’s refusal to start a new movement to support the process.¹⁵⁸⁴ In addition, the Sinhala-dominant military’s refusal to intervene in politics on behalf of President Rajapaksa in 2015 buried any and all prospects of intra-ethnic institutional tensions. In the absence of these two key factors, ‘co-habitation’ turned into a political “dispute” between the SLFP and the UNP committee members on the question of devolution.¹⁵⁸⁵

Popular support for devolution was not completely absent. In 2016, it was expressed through public submissions made to the 2016 Public Representatives Committee on Constitutional Reforms (PRCCR).¹⁵⁸⁶ Submissions made directly to the committee showed general support for power-sharing and devolution via such constitutional arrangements as a second chamber (Senate)¹⁵⁸⁷ and multi-ethnic cabinets.¹⁵⁸⁸ These submissions also supported abolishing the concurrent list¹⁵⁸⁹ to restrict “the majoritarian tendencies.”¹⁵⁹⁰ However, while these submissions challenge the notion of ‘majoritarian intransigence’¹⁵⁹¹ as the reason for the failure of ethnic decentralisation in Sri Lanka, this support from amongst the Sinhala people did *not* translate into an organised movement due to a lack of partnership with the relevant political parties,¹⁵⁹² which, as mentioned above, managed the process in ways to advance their partisan interests rather than achieve a cross-ethnic consensus against a political and constitutional system of a rival institution. This partisan politics rendered the whole process nothing more than an expression of “antagonism between two opposing camps.”¹⁵⁹³

As one SLFP member of the devolution committee, who *opposed* abolishing the concurrent list said, the UNP representatives, such as Jayampathy Wickramaratne, were “emotionally” attached to the removal of the concurrent list. According to him, this stubborn attachment impeded a consensus on the SLFP’s proposal to fully

¹⁵⁸⁴ Interview of Jayampathy Wickramaratne.

¹⁵⁸⁵ Interview of Bimal Rathnayake.

¹⁵⁸⁶ See Public Representations Committee on Constitutional Reform, “Report on Public Representations on Constitutional Reform,” (Colombo: 2016).

¹⁵⁸⁷ *Ibid.*, 42.

¹⁵⁸⁸ *Ibid.*, 41

¹⁵⁸⁹ *Ibid.*, 53.

¹⁵⁹⁰ *Ibid.*, 43.

¹⁵⁹¹ Rachel Seoighe, *War, Denial and Nation-Building in Sri Lanka: After the End* (Switzerland: Palgrave Macmillan, 2017), 39.

¹⁵⁹² Interview of Kalana Senaratne.

¹⁵⁹³ Interview of Jayadeva Uyangoda.

implement the 13th amendment i.e., transfer land and police powers to the provinces.¹⁵⁹⁴ While the TNA, in line with UNP members, favoured abolishing the concurrent list,¹⁵⁹⁵ the SLFP, according to its members present in the Steering Committee, saw the TNA-UNP approach as their plan to perpetuate the UNP rule at the expense of President Sirisena – for example, by creating an “executive prime ministership.”¹⁵⁹⁶ The Sinhala-Buddhist Jathika Hela Urumaya (JHU), too, opposed devolution, calling it an “archaic” idea¹⁵⁹⁷ for redressing ethnic grievances.¹⁵⁹⁸ The UNP, on the other hand, accused the SLFP-faction of deliberately scuttling the whole process, as it had become part of the coalition to enjoy power.¹⁵⁹⁹ As a result, “the coalition internally fell apart.”¹⁶⁰⁰

Thus, in a context framed by an absence of intra-ethnic institutional tensions or popular pressures, “petty politics”¹⁶⁰¹ trumped the 2016 process.¹⁶⁰² As Jayampathy Wickramaratne, who was a key UNP member of the 2016 Steering Committee (and supported social mobilisation in favour of ethnic decentralisation), noted, the military’s involvement in politics “is one factor that could bring the parties together” – not only to resist militarisation but also to press for constitutional reforms concerning devolution.¹⁶⁰³ However, the Sinhala elite’s careful management of civil-military relations since 1962 has kept the institutional equation intact – an equation that, according to a Colombo-based civil society activist, also stripped Sri Lanka of crucial “conditions for main political parties to cooperate to devolve power.”¹⁶⁰⁴

Following Lijphart, if threats to relevant elites create “the need for internal unity and cooperation” vis-à-vis consociation,¹⁶⁰⁵ the continuing *absence* of any intra-ethnic institutional threat to Sinhala elites had the effect of giving those elites space to both

¹⁵⁹⁴ Interview of Shiral Lakthilaka.

¹⁵⁹⁵ Sri Lanka. *The Interim Report of the Steering Committee: The Constituent Assembly of Sri Lanka* (September 2017), 39.

¹⁵⁹⁶ Interview of Dillan Perera.

¹⁵⁹⁷ Interview of Karunaratna Paranwithana.

¹⁵⁹⁸ Sri Lanka. *The Interim Report of the Steering Committee*, 43.

¹⁵⁹⁹ Interview of Jayampathy Wickramaratne.

¹⁶⁰⁰ Ibid.

¹⁶⁰¹ Interview of Dilan Perera.

¹⁶⁰² Interview of Karunaratna Paranwithana.

¹⁶⁰³ Interview of Jayampathy Wickramaratne.

¹⁶⁰⁴ Interview of Indik Perera.

¹⁶⁰⁵ Arend Lijphart, “Consociational Democracy,” 217.

reject pro-decentralisation social movements and undermine constitutional processes that might constrain their institutional rivals.¹⁶⁰⁶

While the Sri Lankan case shows an acute absence of key conditions for ethnic decentralisation, it also shows that these conditions, when existing independently rather than conjuncturally, also fail to produce ethnic decentralisation. Therefore, following Andrew Sayer, the fact that key variables in Sri Lanka *lacked* a conjunctural relationship had the effect of eroding their basic causal powers vis-a-vis ethnic decentralisation.¹⁶⁰⁷ Because periods of cross-ethnic multi-party cohabitation (as in the 1990s and 2016) and pro-reform social movements (The White Lotus and other small-scale movements) operated in a context *not* shaped by intra-ethnic institutional tensions meant that the “conditions under which” my causal mechanism operates and produces “the desired effect” were not present in Sri Lanka.¹⁶⁰⁸ Indeed, even civil-military institutional tensions, like those that emerged in the 1960s (or, perhaps, even today), may not be sufficient to produce a cross-ethnic, multi-party consensus in Sri Lanka *unless* they press for de-militarisation to undercut an ethnically centralised rival institution *alongside* cross-ethnic social movements and political coalitions – all working together to change the overall ethnically centralised system and create more ethnic centres of power.

While the contingent and conjunctural presence of key factors successfully drive the political process of ethnic decentralisation, ethnic decentralisation, even in positive cases, remains an ongoing process. As I show in the next chapter, with reference to Pakistan, Indonesia, and Fiji, a ‘politics of pushback’ i.e., a politics seeking to *reverse* ethnically decentralising constitutional changes (driven by political actors from the dominant ethnic group), often persists.

¹⁶⁰⁶ Interview of Rauff Hakeem.

¹⁶⁰⁷ Andrew Sayer, *Method in Social Science: A realist approach* (London and New York: Routledge, 1984), 107.

¹⁶⁰⁸ *Ibid.*

“For many people in Pakistan – including the Pakistan military – the 18th amendment is a pendulum swing, which has swung too far to the other side.” – Raja Zafrul Haq, Chairman Pakistan Muslim League – Nawaz.¹⁶⁰⁹

9

Reversing Ethnic Decentralisation: The ‘Politics of Pushback’

Building on primary (Pakistan) and secondary (Indonesia and Fiji) sources, this chapter examines the ‘politics of constitutional pushback’ in action, with a special focus on intra-ethnic institutional divisions. In Pakistan, Punjabi-dominated military elites seek to undo the 18th amendment. In Indonesia, both (Javanese-dominated) civilian and military elites, following a centrist agenda and seeking to revive the ‘original’ 1945 Constitution, are involved in the politics of pushback. And, in Fiji, civilian forces – primarily, the SODELPA supported by Fijian chiefs – hope to reverse the 2013 Constitution. Even after formal constitutional changes have occurred, the constitutional politics of ethnic decentralisation remains an ongoing (mostly intra-ethnic) process.

1. Introduction: Understanding the ‘Politics of Pushback’

Building on the findings discussed in previous chapters with respect to how intra-ethnic divisions, in combination with other factors, dismantle ethnically centralised regimes, this chapter draws attention to how supporters from the dominant ethnic group seek to reverse ethnic decentralisation, either directly or indirectly, via formal (parliamentary) and informal (non-parliamentary) means. This ‘politics of pushback’ aims to recapture political power by reversing, diluting, or bypassing ethnically decentralising constitutional changes – not because of any legal pitfalls associated with those changes,¹⁶¹⁰ but to recapture and recentralise ethnic power.

Following Bruce Ackerman, the politics of constitutional change is, quite often, not constitutional *per se* but essentially political.¹⁶¹¹ In fact, new constitutional directions often emerge from the politics preceding them – a fact that this thesis has highlighted

¹⁶⁰⁹ Interview of Raha Zafrul Haq (Pakistan Muslim League – Nawaz Chairman) by the author, Islamabad, November 23, 2019.

¹⁶¹⁰ See Yaniv Roznai, “Unconstitutional Constitutional Amendments: The Migration and Success of a Constitutional Idea,” *The American Journal of Comparative Law* 61, no. 3 (Summer 2013): 657-719.

¹⁶¹¹ See Bruce Ackerman, *We the People. Vol 1. Foundations* (Cambridge: Harvard University Press, 1991).

with regard to both the success and the failure of ethnically decentralising constitutional changes in Pakistan, Indonesia, Fiji, and Sri Lanka.

An emerging ‘politics of pushback’ follows (successful) forms of ethnic decentralisation – which, as noted throughout this thesis, emerge in part from the dominant ethnic group’s division into at least two factions pursuing conflicting constitutional goals. The conflicting group positions can be described in terms of what Daniel Sutter calls the ‘interest group model’ of constitutional politics,¹⁶¹² which refers to how different interest groups seek to uphold or reverse certain constitutional arrangements. In Sutter’s terms, the existing or “general” constitution is the ethnically *decentralising* constitutional arrangement supported by a cross-ethnic popular or political consensus. The “specific” constitution, in turn, is associated with the interests of dominant ethnic (civil or military) elites seeking to recapture and *recentralise* power.¹⁶¹³

In this context, ‘pushback’ reflects an ongoing struggle for power over centralised and decentralised systems of power – a struggle revealed in the opening epigraph of this chapter, showing a clear divide between the Punjabi-dominated Pakistan military and the Punjab-based PML-N. As I show, the ‘politics of pushback’ in Indonesia and Fiji, too, is driven by the fact that constitutional reforms were seen by the previously dominant ethnic factions as having changed too much to their disadvantage.

2. ‘Pushback’: Ethnicity and Intra- as well as cross-ethnic Factors

Like ethnically decentralising constitutional changes, the ‘politics of pushback,’ too, is an ethnically and intra-ethnically informed process, a process tied to how ethnic order is redesigned via constitutional reforms and how it pushes certain ethnic factions – especially, the beneficiaries of the old system from the dominant ethnic group – to reverse the new system in various ways. In the sub-sections below, I examine how intra and inter-ethnic politics and interests remain central to it.

¹⁶¹² Daniel Sutter, “Constitutional Politics within the interest-group model,” *Constitutional Political Economy* 6 (1995): 127-137.

¹⁶¹³ *Ibid.*, 129.

2.1. Pakistan

The Pakistan military, for instance, which remains a Punjabi-dominated institution despite recruitment to lower ranks from non-Punjabi groups in recent years,¹⁶¹⁴ is unsettled by the ways in which the redistribution of political and economic resources from the Centre to the provinces (as per the 18th amendment) has “shrunk” their resources.¹⁶¹⁵ As such, the military actively seeks to reverse the 18th amendment or neutralise its impact through “back-seat driving” i.e., indirect control of politics via a pliant political regime.¹⁶¹⁶

My interviews revealed that the Pakistan military sees the 18th amendment as a major problem, not just because it protects provincial resources (as institutionalised via the 2009 7th NFC award, which, according to the constitution’s 18th amendment, cannot be less than its share in the previous award), but also because the 18th amendment has, in the words of one retired (Punjabi) army officer, allowed ethnic (“primitive”) identities to emerge and, thus, damage the “Pakistani identity.”¹⁶¹⁷

This view is at the heart of what has come to be known as the “Bajwa Doctrine,”¹⁶¹⁸ outlined by the current army chief, Qamar Javed Bajwa in a meeting with senior journalists.¹⁶¹⁹ Bajwa sees the 18th amendment as “worse than the six points of Sheikh Mujib-ur-Rehman” – the Bengali politician who, based on six points demanding absolute provincial autonomy, led East Pakistan’s independence movement in the late 1970s and spearheaded the formation of Bangladesh in December 1971.

The military also enjoyed some political support from (former) Prime Minister Imran Khan,¹⁶²⁰ who even blamed the 18th amendment for the Centre’s financial

¹⁶¹⁴ Interview of Syed Naveed Qamar (Pakistan People’s Party member of the 18th amendment committee) by the author, Islamabad, February 28, 2020.

¹⁶¹⁵ Interview of Hamid Khan (Leader of the Lawyers’ Movement) by the author, Lahore, November 18, 2019.

¹⁶¹⁶ Interview of Farhatullah Babar (Pakistan People’s Party leader) by the author, Islamabad, February 26, 2020.

¹⁶¹⁷ Interview of Lieutenant General (retired) Ghulam Mustafa by the author, Lahore, December 24, 2019.

¹⁶¹⁸ Interview of Hamid Mir (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 11, 2019.

¹⁶¹⁹ Ibid.

¹⁶²⁰ Imran Khan was removed from power on the 10th of April, 2022, via a vote of no-confidence motion.

problems.¹⁶²¹ But political elites from within and outside Punjab, who supported the 18th amendment in 2010, oppose the military's politics of reversal.¹⁶²² The manifesto of the recently constituted Pakistan Democratic Movement (PDM) against the Imran Khan regime (which includes the Punjab-based PML-N), for instance, has the protection of the ethnically decentralising 18th amendment as one of its key objectives.¹⁶²³

2.2. Indonesia

A similar pattern can be observed in Indonesia as well. Although recent scholarship shows that ethnicity has lost its prominence as a driver of politics amongst national-level parties in Indonesia,¹⁶²⁴ a 'politics of pushback' criticising ethnic decentralisation continues to manifest itself in both ethnic and intra-ethnic cleavages between civilian and military elites.

The Indonesian military – which is still disproportionately dominated by the Javanese elites¹⁶²⁵ (almost 63 per cent of the military's total elite positions were held by ethnic Javanese in 2008¹⁶²⁶ even though Javanese were only about 40 per cent of the total population in 2010) – continues to push itself into politics. For instance, "military operations other than warfare" (MOOTW), seeking to protect the military's vested political interests,¹⁶²⁷ often support efforts to revive its Suharto-era political, administrative, and economic role.¹⁶²⁸ In the words of Lieutenant General (retired) Widjojo, the military is reluctant to give up its role "as the guardian of the nation," including its territorial command structure.¹⁶²⁹ This regional political role, however, is

¹⁶²¹ Based upon the author's interviews.

¹⁶²² Ibid.

¹⁶²³ "PDM warns against rolling back of 18th amendment," *Dawn*, November 23, 2020.

¹⁶²⁴ See Edward Aspinall, "Democratization and Ethnic Politics in Indonesia: Nine Thesis," *Journal of East Asian Studies* 11, no. 2 (May-August 2011): 289-319.

¹⁶²⁵ See Agussalim Burhanuddin, "Historical and Cultural Factors in Indonesian Civil-Military Relations," *KRITIS* 1, no. 2 (December 2015): 195-207.

¹⁶²⁶ See The Editors, "Current Data on the Indonesian Military Elite, September 2005-March 2008," *Indonesia* 85 (April 2008): 79-122.

¹⁶²⁷ See Muhammad Haripin, *Civil-Military Relations in Indonesia: The Politics of Military Operations Other Than War* (Abingdon: Routledge, 2020).

¹⁶²⁸ See Marcus Mietzner and Lisa Misol, "Military Businesses in Post-Suharto Indonesia: Decline, Reform and Persistence" in *The Politics of Military Reform: Experiences from Indonesia and Nigeria*, ed. Jurgen Ruland et. al (Heidelberg: Springer, 2013), 101-122.

¹⁶²⁹ Johannes Herlijanto, "The Current State of Military Reform in Indonesia: Interview with Lieutenant General (Retired) Agus Widjojo," *Perspective* no. 91 (2017): 5.

not merely political; it also has ethnic underpinnings. With the Indonesian military elite being disproportionately Javanese, a regional role for the military also reinforces Javanese power vis-à-vis so-called *ethnic* “threats.”¹⁶³⁰

Yet, even apart from the military, Indonesia has seen a politics of recentralising pushback via parliamentary means as well. Following limited recentralisation in 2004 (Law 32/2004)¹⁶³¹ that aimed to ‘correct’ flaws in regional autonomy laws (see Chapter 6), the enactment of law 23/2014, for instance, emerged out of the Jakarta-based Javanese elites’ fears associated with too much power vested in regional institutions via decentralisation.¹⁶³² Although a provision for direct elections for provincial and district heads was created, the new law also empowered Jakarta, via provincial executives/governors as representatives of the Centre,¹⁶³³ vis-à-vis district governments in the management of natural resources (forestry, mining, energy, ocean resources and fisheries).¹⁶³⁴ This law was passed by a parliament dominated by President Yudhoyono’s Democratic Party (DP), which had, from 2004 to 2009, a strong political base amongst Javanese.¹⁶³⁵

Still, this military and civilian pushback is itself facing a backlash. This backlash is tied to *intra*-ethnic elite divisions¹⁶³⁶ between pro-regional-autonomy reformists, such as the Megawati-led PDI-P (whose 60 per cent membership supports regional autonomy),¹⁶³⁷ and anti-reformists, such as Prabowo Subianto (a Javanese aristocrat,

¹⁶³⁰ Barbara F. Walter, *Reputation and Civil War: Why Separatist Conflicts Are So Violent* (New York: Cambridge University Press, 2009), 139.

¹⁶³¹ Besides introducing direct elections for regional executive authorities, this law also strengthened the powers of the provincial governors as Jakarta’s representatives. See Kai Ostwald, Yuhki Tajima and Krislert Samphantharak, “Indonesia’s Decentralization Experiment: Motivations, Successes, and Unintended Consequences”, *Journal of Southeast Asian Economies* 33, no. 2 (August 2016): 139-156.

¹⁶³² *Ibid.*, 141.

¹⁶³³ Dirk Tomsa, “Toning down the ‘big bang’: the politics of decentralisation during the Yudhoyono years” in *The Yudhoyono Presidency: Indonesia’s Decade of Stability and Stagnation*, ed. E. Aspinall et. al (Singapore: Institute of Southeast Asian Studies, 2015), 165.

¹⁶³⁴ Kai Ostwald et. al, “Indonesia’s Decentralisation Experiments,” 143.

¹⁶³⁵ Saiful Mujani, R. William Liddle and Kuskridho Ambardi, *Voting Behavior in Indonesia since Democratization* (Cambridge: Cambridge University Press, 2018), 98.

¹⁶³⁶ Marcus Mietzner, “Indonesia’s Democratic Stagnation: anti-reformist elites and resilient civil society,” *Democratization* 19, no. 2 (April 2012): 211.

¹⁶³⁷ Diego Fossati, “The Resurgence of Ideology in Indonesia: Political Islam, *Aliran* and Political Behaviour,” *Journal of Current Southeast Asian Affairs* 38, no. 2 (2019): 140.

former military general, and Suharto's son-in-law,¹⁶³⁸ who favours a wholesale return to the politically and ethnically centralising 1945 Constitution).¹⁶³⁹ This division became evident when anti-reformist Javanese centrists, led by Subianto in The Red and White Coalition, succeeded in passing a 'pushback' bill (the Pilkada law) in 2014 abolishing direct elections for regional executive heads (as a means to give the Jakarta-based elites a higher degree of control over regional elites). But the major party/coalition opposing it was the Javanese dominated¹⁶⁴⁰ PDI-P.¹⁶⁴¹ Although the bill was later reversed (after President Yudhoyono issued a counter-regulation and the parliament endorsed it in early 2015 during the early period under President Joko Widodo of the PDI-P), the politics surrounding the bill shows how Jakarta-based elites led by Subianto's Great Indonesia Movement Party (known as 'Gerindra'), leading the Red and White Coalition, with its base amongst the urban Javanese,¹⁶⁴² were pushing back against decentralisation to establish more direct control of regional politics.¹⁶⁴³

Significantly enough, the Pilkada law was voted on the very next day law no. 23/2014 was passed in September 2014. While all political parties, including the PDI-P, voted for law no. 23/2014, there was a very clear political and *intra*-ethnic divide on the Pilkada law, which was a much bigger challenge to regional autonomy than law no. 23/2014, as it would have made regional heads dependent upon the Jakarta-based elites via their presence in and control of regional legislatures, which would, according to this bill, elect regional executives. Owing to the controversy surrounding the bill's direct assault on regional autonomy, political parties allowed their members to vote individually. As figures show, out of its 95 seats, 88 PDI-P members voted *against* the bill. 20 members of the PKB, another Javanese dominated party,¹⁶⁴⁴ also

¹⁶³⁸ See Edward Aspinall, "Oligarchic Populism: Prabowo's Subianto's Challenge to Indonesian Democracy," *Indonesia* 99 (April 2015): 1-28.

¹⁶³⁹ Prabowo's 2014 party manifesto sought a reversal to the 1945 Constitution. Even in 2019, his election campaign emphasised this return to the original 1945 Constitution. See 'Full Text of Presidential Candidate Prabowo Subianto's National Address', *Jakarta Globe*, January 16, 2019. Available at [Full Text of Presidential Candidate Prabowo Subianto's National Address \(jakartaglobe.id\)](https://www.jakartaglobe.id/full-text-of-presidential-candidate-prabowo-subianto-s-national-address/)

¹⁶⁴⁰ Saiful Mujani, R. William Liddle and Kuskridho Ambardi, *Voting Behavior in Indonesia*, 97.

¹⁶⁴¹ Dirk Tomsa, "Toning down the 'big bang'," 168-170.

¹⁶⁴² Saiful Mujani, R. William Liddle and Kuskridho Ambardi, *Voting Behavior in Indonesia*, 107.

¹⁶⁴³ Adelle Neary, "Red and White Coalition Spells Out Trouble for Jokowi," *East Asia Forum*, October 14, 2014. Available at [Red and White coalition spells trouble for Jokowi | East Asia Forum](https://www.eastasiaforum.org/2014/10/14/red-and-white-coalition-spells-trouble-for-jokowi/)

¹⁶⁴⁴ Saiful Mujani, R. William Liddle and Kuskridho Ambardi, *Voting Behavior in Indonesia*, 98.

joined the PDI-P to oppose the bill pushed by the Prabowo Subianto led Red and White Coalition,¹⁶⁴⁵ showing how *intra*-ethnic divisions were pushing for and resisting the politics of (ethnic) recentralisation.

This *intra*-ethnic divide extends to the re-Javanisation of the Indonesian political and economic structures via the Javanese dominated military elite's increasing involvement in politics as well. As Marcus Mietzner has shown, civilian actors, both political and social and including those based in Java, continue to mobilise against the military's increasing involvement in politics,¹⁶⁴⁶ because of the increasing involvement of the military in politics either directly or via the presence of ex-military officials taking part in politics.¹⁶⁴⁷

This is not an ordinary political, or institutional, matter;¹⁶⁴⁸ in fact, as highlighted above, it involves a return to Javanese control of Indonesia via the Javanese dominated military elite. Therefore, consistent with the major political parties' opposition to clawing back regional autonomy via Pilkada law, there is also very clear resentment both within and outside the parliament with regard to the Javanese dominated military elite's active lobbying for giving the military personnel the right to cast votes¹⁶⁴⁹ and allowing them to even contest elections at regional levels.¹⁶⁵⁰ The right to contest elections at the regional would allow the Javanese dominated military elite to establish more direct control of politics at the regional level via their elected personnel than has been the case since 2004 when the TNI law specifically eroded the military's political function as a means to de-Javanise the Indonesian political landscape (see Chapter 6).

¹⁶⁴⁵ "SBY said he was disappointed that the election through the DPRD," *BBC News*, September 26, 2014. Available at [SBY said he was disappointed that the election through the DPRD - BBC News Indonesia](#)

¹⁶⁴⁶ See Marcus Mietzner, "Fighting the hellhounds: Pro-democracy Activists and Party Politics in Post-Suharto Indonesia," *Journal of Contemporary Asia* 43, no. 1 (February 2013): 28-50.

¹⁶⁴⁷ Marcus Mietzner, "Veto Player No More? The Declining Political Influence of the Military in Postauthoritarian Indonesia" in *Democracy and Islam in Indonesia*, ed. Alfred Stephan and Alfred Kunkler (New York: Columbia University Press, 2013), 103.

¹⁶⁴⁸ *Ibid.*

¹⁶⁴⁹ Election law no. 12/2003 prohibited Indonesian military and police personnel from casting votes. The 2004 TNI law prohibited them from engaging in any political activity, including contesting elections.

¹⁶⁵⁰ Leonard C. Sebastian, Emirza Adi Syailendra and Keoni I. Marzuki, "Civil-Military Relations in Indonesia after the Reform Period," *Asia Policy* 13, no. 3 (July 2018): 75-76.

2.3. Fiji

In Fiji, the SODELPA operates on an electoral manifesto that seeks to reverse most of the ethnically decentralising changes that the Frank Bainimarama regime introduced in 2013, namely, a secular state, abolition of the GCC, long-term land-lease arrangements, and a non-racial voting system.¹⁶⁵¹ Led by Fijian chiefs, who were previously dominant within the old system, the SODELPA's politics reveals, as I show below, a concerted push towards re-establishing Fijian control of Fiji and preserving a 'Fijian way of life.' However, the intra-ethnic divisions underpinning a 'politics of pushback' become evident when it emerges that the Fijian military-backed and Bainimarama-led FijiFirst party still champions the 2013 Constitution and receives meaningful political support from within the Fijian community, as revealed during the 2014 and 2018 elections.

In fact, Fijian resistance against the SODELPA's 'politics of pushback' has cross-ethnic support. For instance, the Indo-Fijian base of Bainimarama's FijiFirst remains a key source of support for the 2013 Constitution: in 2014, over 80 per cent of Indo-Fijians supported FijiFirst owing to its ethnically decentralising constitutional changes.¹⁶⁵² Even in 2018, Indo-Fijian support for the FijiFirst was overwhelming, helping it win the general elections once again.¹⁶⁵³

This pattern of cross-ethnic support for ethnic decentralisation is also visible in Pakistan and Indonesia. For instance, as my field research in Pakistan shows, apart from the Punjab-based PML-N's opposition to military moves against the 18th amendment, non-Punjabi parties in Sindh, KPK, and Balochistan also oppose any reversal of the 18th amendment.¹⁶⁵⁴ And, in Indonesia, apart from the Javanese-dominated PDI-P led coalition, opposition to the Pilkada law included non-Javanese regional elites – for instance, Syahrul Yasin Limpo the head of the Provincial Government Association and South Sulawesi Governor – who, seeking to preserve the

¹⁶⁵¹ Sefanaia Sakai, "Native land policy in the 2014 elections" in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 141.

¹⁶⁵² Brij V. Lal, *Leveling Wind: Remembering Fiji* (Canberra: The ANU Press, 2019), 453.

¹⁶⁵³ Haruo Nakagawa, "2018 Fiji Election Results: Patterns of Voting by Provinces, Rural-Urban Localities, and by Candidates," *The Journal of Pacific Studies* 40, no. 2 (2020): 64.

¹⁶⁵⁴ Based upon the author's interviews.

system that brought them to power,¹⁶⁵⁵ argued that any removal of direct elections would “take away rights from the people”¹⁶⁵⁶ and shift power to elites in regional legislatures who could be more easily manipulated by the Jakarta-based elites.¹⁶⁵⁷

A ‘politics of pushback’ remains active in Fiji, Pakistan, and Indonesia despite the support that ethnic decentralisation has within both ‘majority’ and ‘minority’ ethnic groups. In what follows, I show how different actors and institutions pursue this revanchist defence of an older ethnically centralised system.

3. Pakistan: The Military and the 18th Amendment

The (Punjabi-dominated) Pakistan military’s ‘politics of pushback’ aims to reverse an ethnically decentralising pendulum that, in its view, has swung too far. According to one member of the 18th amendment committee from KPK province, this means that the 18th amendment, to the disadvantage of the military, “weakened the Centre” and empowered (ethnic) provinces politically and financially.¹⁶⁵⁸ The military-led *anti-18th amendment* politics is, thus, a manifestation of what Veena Kukreja, writing about military coups in Pakistan, called “reactive militarism” driven by domestic political contexts.¹⁶⁵⁹

In this context, the military-led ‘politics of pushback’ in Pakistan is merely a reaction to the 18th amendment – a revisionist politics pushing the constitution back to a centralised configuration dominated by the (Punjabi-dominated) military establishment and civil bureaucracy, which is the core of “the super-state in Pakistan.”¹⁶⁶⁰ This politics, according to a Punjab-based PML-N leader, stems from

¹⁶⁵⁵ Michael Buehler, “Angels and Demons,” *Inside Indonesia* 108 (April-June 2012). Available at <https://www.insideindonesia.org/angels-and-demons>

¹⁶⁵⁶ *Ibid.*

¹⁶⁵⁷ Dirk Tomsa, “Toning down the ‘big bang,’” 168.

¹⁶⁵⁸ Interview of Aftab Ahmad Sherpao (Qaumi Watan Party member of the 18th amendment committee) by the author, online, 18 June, 2020.

¹⁶⁵⁹ Veena Kukreja, *Civil-Military Relations in South Asia: Pakistan, Bangladesh and India* (London and Thousand Oaks: Sage, 1991), 59.

¹⁶⁶⁰ Interview of Afrasiab Khattak (Awami National Party member of the 18th amendment committee) by the author, online, June 17, 2020.

the inherently centrist disposition of the military establishment, which cripples its ability to appreciate the importance of managing ethnic diversity more inclusively.¹⁶⁶¹

Mohammad Waseem recently described this politics of pushback as the military's "cult of unity," which seeks to override power-sharing within a federalist arrangement.¹⁶⁶² And, as a retired Punjabi lieutenant general said, the military opposes any form of decentralisation that comes "at the expense of the federation," with "too much power to the provinces" producing "anarchy."¹⁶⁶³ This understanding of provincial powers is tied to a military that sees and projects powerful *ethnic* provinces as a step towards territorial disintegration.¹⁶⁶⁴ As a retired Punjabi lieutenant general said, because *ethnic* provinces are "too powerful," the "federation has lost control." As such, the 18th amendment is "worse than the six points of Sheikh Mujib"¹⁶⁶⁵ i.e., a stepping stone towards disintegration into multiple independent states.

The military establishment projects its politics of dismembering the equilibrium created by the 18th amendment as a push for a "new consensus,"¹⁶⁶⁶ pointing to the 'anarchy' created by powers transferred to the provinces as a constitutional "hurdle"¹⁶⁶⁷ that stands in the way of establishing a politically and ethnically "uniform" system in Pakistan –¹⁶⁶⁸ a system that can be established by promoting a "good Pakistani identity" (e.g. via a "uniform" as opposed to a provincially based education system).¹⁶⁶⁹ The military's focus is spread across three dimensions of recentralisation: political, ethnic/ideological, and most importantly, financial.¹⁶⁷⁰

First, the military seeks to materialise its multi-dimensional interests by taking political power away from civilian politicians and provinces and concentrating it back

¹⁶⁶¹ Interview of Ahsan Iqbal (Pakistan Muslim League - Nawaz member of the 18th amendment committee) by the author, Islamabad, March 3, 2020.

¹⁶⁶² Mohammad Waseem, *Political Conflict in Pakistan* (London: Hurst and Company, 2021), 310.

¹⁶⁶³ Interview of Lieutenant General (retired) Amjad Shoaib by the author, Rawalpindi, December 24, 2019.

¹⁶⁶⁴ Based upon the author's interviews.

¹⁶⁶⁵ Interview of Lieutenant General (retired) Ghulam Mustafa.

¹⁶⁶⁶ Interview of Lieutenant General (retired) Amjad Shoaib.

¹⁶⁶⁷ Interview of Lieutenant General (retired) Ghulam Mustafa.

¹⁶⁶⁸ *Ibid.*

¹⁶⁶⁹ *Ibid.*

¹⁶⁷⁰ Based upon the author's interviews.

in the Centre,¹⁶⁷¹ which it can influence more easily than five different power centres,¹⁶⁷² where different ethnonational parties – which the military sees as proponents of “fissiparous” trends or insignificant “pressure groups” –¹⁶⁷³ play a leading role. This anti-decentralisation narrative comes as a direct challenge to the role that provincial parties played in demanding both a redistribution of political power and financial resources¹⁶⁷⁴ and in challenging the military’s centralised vision of Pakistan as well as its preferred unitary structure of the state – a system, as one retired Punjabi major general, Ejaz Awan, emphasised, created by “One Unit” in which “ethnic groups did not matter.”¹⁶⁷⁵

As mentioned previously, one of the core elements of the 18th amendment, which was pursued by national-level parties such as the PML-N and the PPP, lay in creating more provincial power centres as an antidote to military power. For the military, powerful provinces make up the political – and ethnic – side of the problem.¹⁶⁷⁶ As Ejaz Awan said, the 18th amendment has “subordinated provincial powers and resources to provincial parties.”¹⁶⁷⁷ This empowerment of ethnic groups is, as Awan contended further, incompatible with the very idea of Pakistan, which “was not achieved on the basis of ethnicity” but “Islam.”¹⁶⁷⁸ Indeed, for the military, constitutional subordination of political power and financial resources to ethnic provinces has unravelled the historically constituted, military-dominated and politically and ethnically centralised security-state system centred around a religious (not ethnic) system of identity.¹⁶⁷⁹ This explains why the military aims¹⁶⁸⁰ to reverse the 18th amendment.¹⁶⁸¹ As an institution still dominated by the Punjabi elite, this politics is tied to the military’s preference for a politically and ethnically centralised

¹⁶⁷¹ Interview of Farhatullah Babar.

¹⁶⁷² Based upon the author’s interviews.

¹⁶⁷³ Interview of Lieutenant General (retired) Amjad Shoaib.

¹⁶⁷⁴ Interview of Hamid Mir.

¹⁶⁷⁵ Interview of Major General (retired) Ejaz Awan by the author, online, March 6, 2020.

¹⁶⁷⁶ Interview of Lieutenant General (retired) Amjad Shoaib.

¹⁶⁷⁷ Interview of Major General (retired) Ejaz Awan.

¹⁶⁷⁸ Ibid.

¹⁶⁷⁹ See Hamza Alavi, “Pakistan and Islam: Ethnicity and Ideology” in *State and Ideology in the Middle East and Pakistan*, ed. F. Halliday and Hamza Alavi (London: Palgrave, 1988): 64-111.

¹⁶⁸⁰ This drive towards centralisation is also being reinforced by the pressure China is generating on Pakistan to undo the 18th amendment because of its preference for dealing with Pakistan as one unit. See Filippo Boni and Katharine Adeney, “The Impact of the China-Pakistan Economic Corridor on Pakistan’s Federal System,” *Asian Survey* 60, no. 3 (2020): 441-465.

¹⁶⁸¹ Based upon the author’s interviews.

system that neutralises ethnic groups but retains Punjab’s dominance as the “biggest province” that also “has a higher ratio among those who sacrifice their lives in the battlefield” for Pakistan.¹⁶⁸²

The military’s preference is, thus, to reduce the power of provinces by (a) making the Centre more powerful and (b) bypassing *provincial* (ethnic) power by further decentralising power to *local* governments.¹⁶⁸³ As several of my civilian interviewees pointed out, this politics – recentralising power alongside a politically and financially powerless system of local government – reinforces the military’s drive to re-establish its control over the state’s financial resources and make provinces irrelevant as a re-enactment of the One Unit scheme (1955-1970).¹⁶⁸⁴ In particular, the 18th amendment drastically restricted the military elite’s ability to threaten civilian governments with article 58 (2) (B) – in effect, allowing it to grab unlimited financial resources.¹⁶⁸⁵ The removal of this article, coupled with the transfer of financial resources to the provinces – as per article 160 (3) (A) – deprived the military of its ability to “extract” financial resources¹⁶⁸⁶ by coercing civilian governments into imposing drastic cuts on their own finances to fund the military itself.¹⁶⁸⁷

Losing this ability to coerce civilian governments into meeting the military’s “out-of-budget fiscal demands”¹⁶⁸⁸ translates into what Lieutenant General (retired) Talat Masood described, not only as a lack of financial resources for the military, but also a lack of political power to “dictate,” without any challenge or limitation from provincial or regional groups, “domestic, foreign and defence policies.”¹⁶⁸⁹ It is for

¹⁶⁸² Interview of Major General (retired) Ejaz Awan.

¹⁶⁸³ Ibid.

¹⁶⁸⁴ One Unit scheme was a military-sponsored scheme that abolished provincial boundaries in west Pakistan (present-day Pakistan) with Lahore as its capital. For an analysis of One Unit politics see Rizwan Malik, *The Politics of One Unit: 1955-58* (Lahore: Pakistan Study Centre, University of the Punjab, 1988).

¹⁶⁸⁵ Interview of Major General (retired) Ejaz Awan.

¹⁶⁸⁶ Interview of Syed Naveed Qamar.

¹⁶⁸⁷ Interview of Raza Rabbani (Pakistan People’s Party Senator/chairman of the 18th amendment committee) by the author, online, July 27, 2020.

¹⁶⁸⁸ Interview of Talat Hussain (Journalist, Lawyers’ Movement activist) by the author, Islamabad, December 10, 2019.

¹⁶⁸⁹ Interview of Lieutenant General (retired) Talat Masood by the author, Islamabad, December 19, 2019.

this reason, according to Masood, that the military establishment does not like political and financial autonomy for the provinces.¹⁶⁹⁰

Pakistan's 'politics of pushback' is, thus, closely tied to the political economy of Pakistan's military, which seeks, as a "corporate organisation," to limit all influences external to it, including provincially based ethnic challenges.¹⁶⁹¹ And, since ethnic identities are expected to have no relevance within the armed forces, there is no space for these identities, or ethnic provinces, in a military-centric Pakistan.¹⁶⁹² Because "ethnic identities" do not matter "at the national level," according to Lieutenant General (retired) Ghulam Mustafa,¹⁶⁹³ the sole basis of resource distribution, according to Ejaz Awan, another retired army officer, should be provincial "population," rather than other regional/provincial indicators, even if this means more resources going to Punjab.¹⁶⁹⁴

For the military, a centralised identity system also helps to off-set, in the words of a retired Punjabi lieutenant general, such "devilish"¹⁶⁹⁵ pressures as those associated with Recommendation No. 1 of the 18th amendment committee, which advised the federal government to reduce Punjabi domination within the armed forces by increasing representation from other non-Punjabi areas.¹⁶⁹⁶ For the military establishment, the whole idea of ethnic decentralisation not only meant civilian intervention into military affairs but also civilians' plans to divide the military by creating a "Sindhi Army" or a "Baloch Army."¹⁶⁹⁷ Resistance to ethnic decentralisation is one reason why recruitment from non-Punjabi groups has been limited to lower ranks,¹⁶⁹⁸ and why the military, ever since 2010, has been seeking ways to reestablish a majoritarian system dominated by them.

¹⁶⁹⁰ Ibid.

¹⁶⁹¹ Aqil Shah, *The Army and Democracy: Military Politics in Pakistan* (Cambridge, Massachusetts: Harvard University Press, 2014), 224.

¹⁶⁹² Ibid.

¹⁶⁹³ Interview of Lieutenant General (retired) Ghulam Mustafa.

¹⁶⁹⁴ Interview of Major General (retired) Ejaz Awan.

¹⁶⁹⁵ Interview of Lieutenant General (retired) Amjad Shoaib.

¹⁶⁹⁶ Pakistan. *The National Assembly of Pakistan Debates. The Report of the Parliamentary Committee for Constitutional Reforms, 2010*, 19.

¹⁶⁹⁷ Interview of Lieutenant General (retired) Ghulam Mustafa.

¹⁶⁹⁸ Interview of Syed Naveed Qamar.

In 2013, the notion of a National Security Council – which the military leadership first conceived in the early 1990s to give the military a more direct role in national-level politics – ¹⁶⁹⁹ was revived in order to put the military back in the driving seat¹⁷⁰⁰ after the setbacks it suffered via the 18th amendment – particularly, the loss of article 58 (2) (B) as a mechanism of control.¹⁷⁰¹ This revival of a direct political role has implications for ethnic decentralisation because it puts a Punjabi-dominated institution at the centre of policy-making regardless of which party is in power.

Still, pro-ethnic decentralisation forces have mobilised against the military’s pushback. The PDM – which originally included all of the major parties involved in the 18th amendment committee – cites the protection of the 18th amendment as one of its core objectives.¹⁷⁰² Although the Sindh-based PPP and the KPK-based ANP later left the PDM over tactical differences, both remain committed¹⁷⁰³ to defending the 18th amendment,¹⁷⁰⁴ thus keeping a cross-ethnic, multi-party counter-political consensus vis-à-vis ethnic decentralisation intact.

It is because of this cross-ethnic mobilisation that the military’s efforts to “demonise the 18th amendment .. could not succeed because of a reaction from all stakeholders, both national and provincial.”¹⁷⁰⁵ Pushing Nawaz Sharif out of power on corruption charges only further reinforced this pro-decentralisation consensus.¹⁷⁰⁶ Specifically, it made the PML-N, both its top leaders and workers, a lot more vocal against the military establishment¹⁷⁰⁷ than had ever been the case.¹⁷⁰⁸ With Punjab’s largest party,¹⁷⁰⁹ supported by non-Punjabi parties, pitted against the military establishment, a

¹⁶⁹⁹ Mohammad Waseem, *Political Conflict*, 259.

¹⁷⁰⁰ Interview of Farhatullah Babar.

¹⁷⁰¹ Based upon the author’s interviews.

¹⁷⁰² Salman Rafi Sheikh, “The unmaking of a constitutional coup in Pakistan,” *Asia Times*, November 27, 2020. Available at [The unmaking of a constitutional coup in Pakistan - Asia Times](#).

¹⁷⁰³ Based upon the author’s interviews.

¹⁷⁰⁴ “Zardari appeals all democrats to protect the 18th amendment,” *The Express Tribune*, November 30, 2021. Available at [Zardari appeals all democrats to protect 18th Amendment \(tribune.com.pk\)](#)

¹⁷⁰⁵ Interview of Matiullah Jan (Journalist, Lawyers’ Movement activist) by the author, Islamabad, November 21, 2019.

¹⁷⁰⁶ Interview of Farhatullah Babar.

¹⁷⁰⁷ Interview of Siddiqui Farooq (Pakistan Muslim League – Nawaz leader) by the author, Rawalpindi, November 20, 2019.

¹⁷⁰⁸ Interview of Talat Hussain.

¹⁷⁰⁹ In the 2018 elections, the PML-N won most seats in Punjab.

cross-ethnic “grand national consensus” around ethnic decentralisation remains intact.¹⁷¹⁰

4. Indonesia: The Civil-Military Roots of the ‘Politics of Pushback’

Unlike Pakistan, the key source of ‘pushback’ in Indonesia is not the military alone. It includes (a) a revisionist (Javanese) civilian elite and (b) a Javanese-dominated military elite, which found in Joko Widodo, a ‘lay-man’ Javanese, a president willing to accommodate the military out of his own political insecurity (stemming mainly from his troubled ties with his own party, the PDI-P).¹⁷¹¹ Together, these Javanese factions reflect an ongoing politics that seeks to revive a centralised structure that defined Suharto’s ‘New Order’ regime.¹⁷¹² This was particularly evident after the initial passage of the Pilkada law in September 2014, which, if implemented, would have allowed Javanese *centrists* to control and manipulate regional politics and resources from Jakarta on a scale not known since *reformasi*, thus undoing the autonomy given to non-Javanese regions.

In this context, a look at Prabowo Subianto’s campaign for presidential elections, which unfolded only months before the vote on the Pilkada law, reveals a return to a ‘New Order’-style centralisation of political and economic resources.¹⁷¹³ Subianto projected this push for recentralisation in terms of a return to Indonesia’s ‘original’ 1945 Constitution.¹⁷¹⁴ In particular, his politics made a frequent reference to Article 33 of the original 1945 Constitution,¹⁷¹⁵ which envisioned an Indonesian economy structured around the “principles of the family system” with most natural resources “under the powers of the state.”¹⁷¹⁶

¹⁷¹⁰ Interview of Afrasiab Khattak.

¹⁷¹¹ Leonard C. Sebastian, Emirza Adi Syailendra and Keoni I. Marzuki, “Civil-Military Relations,” 58-59.

¹⁷¹² Vedi R. Hadiz, “Indonesia’s Year of Democratic Setbacks: Towards a New Phase of Deepening Illiberalism?,” *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017): 263.

¹⁷¹³ Edward Aspinall, “Oligarchic Populism,” 15.

¹⁷¹⁴ Edward Aspinall, “Indonesia in the Knife’s Edge,” *Inside Story*, June 17, 2014. Available at [Indonesia on the knife’s edge - Inside Story](#)

¹⁷¹⁵ *Ibid.*

¹⁷¹⁶ See the 1945 Constitution Text.

As Mietzner has argued, this approach was related to a view in which *reformasi* was seen as having changed the system too much.¹⁷¹⁷ This view has created the need for the centrists to re-regulate the political system and “prevent the erosion of the state.”¹⁷¹⁸ With deep roots in the ‘New Order’ system¹⁷¹⁹ and the involvement in anti-*reformasi* politics closely tied to the Javanese-dominated Suharto regime,¹⁷²⁰ Subianto’s views were similar to the Pakistani military’s criticism of the 18th amendment, which saw power-sharing along ethnic lines as a step towards state collapse and a change too far removed from the ‘Islamic roots’ of a unified Pakistan. For Subianto, *reformasi* simply took steps that removed Indonesia from its “ideology” and the true “values of our ancestors.”¹⁷²¹

But Subianto’s Great Indonesian Movement Party is not the only challenge that Indonesia’s ethnic decentralisation is facing. Although Subianto, being an ex-military general, shares the military’s centralising perspective,¹⁷²² the Indonesian military also launched its own assault on *reformasi* via, as Mohammad Haripin has studied in detail,¹⁷²³ MOOTW, including an increased role in anti-terrorism, de-radicalisation, and disaster relief management – roles otherwise mandated to civilian institutions, such as the police, but hijacked by the military instead.¹⁷²⁴

Building on the failure of Indonesia’s parliament to dissolve the territorial command system in 2004 (n.b. the 2004 law only tried to de-politicise this system by abolishing the dual role of the military), the Indonesian military has also inserted itself deep into non-defence affairs, including transnational crime and environmental issues, which it presents as “national security issues” to justify its role.¹⁷²⁵ In fact, even besides this, the military has justified the continued existence of its territorial command structure

¹⁷¹⁷ Marcus Mietzner, “Indonesia’s democratic stagnation,” 214.

¹⁷¹⁸ Ibid.

¹⁷¹⁹ See Damien Kingsbury, *Power Politics and The Indonesian Military* (London and New York: Routledge, 2003).

¹⁷²⁰ Donald Horowitz, *Constitutional Change and Democracy in Indonesia* (New York: Cambridge University Press, 2013), 211.

¹⁷²¹ Edward Aspinall, “Oligarchic Populism,” 21.

¹⁷²² Marcus Mietzner, “Indonesia’s democratic stagnation,” 211.

¹⁷²³ See Muhammad Haripin, *Civil-Military Relations in Indonesia*.

¹⁷²⁴ Ibid., 28.

¹⁷²⁵ Ibid., 32.

through its deep involvement in activities related to humanitarian assistance and first-responder disaster relief (HADR).¹⁷²⁶

While the 2004 ‘TNA law’ (see Chapter 6) de-politicised the territorial command structure, the military was never willing to give up the territorial command itself, as Hamish MacDonald has shown, for this system helped to reinforce the military’s political power and autonomy in much the same way as during the ‘New Order’ era.¹⁷²⁷ In fact, the Indonesian military *intensified* this command system through a new programme known as The Military Works in the Village - ¹⁷²⁸ “a non-defence function ... dealing with military assistance towards local development.”¹⁷²⁹ This programme entrenches the military even more deeply in Indonesia’s body-politic. The fact this military is still dominated by Javanese elites means its growing political and economic role in non-Javanese regions has implications for concentrating power, once again, in the largest ethnic group.¹⁷³⁰

The reinvigoration of the territorial system is also reinforced by military support for a change in the election law allowing military personnel to cast votes and even contest regional elections, provided they retire if elected.¹⁷³¹ The presence of ‘military politicians’ at a regional level, however, will only complement the territorial command structure, which the military contends is a useful means to disseminate government policies at a grassroots level.¹⁷³² In fact, to further this push for politicising the military along ‘New Order’ lines, Hadi Tjahjanto, the military commander (2017-2019), extended his support for a change in the 2004 TNI law to allow for the appointment of military personnel into civilian bureaucratic institutions at both national and regional levels.¹⁷³³ Another military commander, General Gatot

¹⁷²⁶ Ibid., 66.

¹⁷²⁷ Hames MacDonald, *Demokrasi: Indonesia in the 21st Century* (Victoria: Palgrave MacMillan, 2015), 101.

¹⁷²⁸ In Indonesian it is called TNI Manunggal Masuk Desa.

¹⁷²⁹ Muhammad Haripin, *Civil-Military Relations in Indonesia*, 51.

¹⁷³⁰ Agussalim Burhanuddin, “Historical and Cultural Factors,” 197.

¹⁷³¹ Leonard C. Sebastian, Emirza Adi Syailendra and Keoni I. Marzuki, “Civil-Military Relations in Indonesia,” 75-76.

¹⁷³² Jun Honna, “Civil-Military Relations in an Emerging State: A Perspective from Indonesia’s Democratic Consolidation” in *Emerging States at Crossroads*, ed. Keiichi Tsunekawa and Yasuyuki Todo (Singapore: Springer, 2018), 262.

¹⁷³³ John Macbeth, “Indonesia’s military creeping back into politics,” *Asia Times*, March 4, 2019. Available at [Indonesia's military creeping back into politics - Asia Times](#)

Nurmantyo (2015-2017), referred to the inflow of foreign ideas as a “national security threat” that required the military’s top-down involvement in the country’s administration.¹⁷³⁴ Here again, efforts to undo ethnic decentralisation via a predominant role for the Javanese dominated military are evident.

The Indonesian military’s ambitions to retain – and politicise – the territorial command system have been further facilitated by the incumbent president, Joko Widodo. Moved by his troubled ties with the PDI-P and being a president “without a political party of his own”¹⁷³⁵ (i.e., not being head of the PDI-P himself and unable to control his party plus Megawati’s ability to overshadow him in national politics), Widodo sees the military’s vast territorial command structure as a vital source of political support to strengthen his own political base independently of the PDI-P.¹⁷³⁶ In fact, in the lead up to the 2019 elections, Widodo instructed village-level military commanders to actively promote his political/electoral agenda.¹⁷³⁷ Although Widodo did not himself espouse a politics of pushback against the ‘New Order’ system, his politics, nonetheless, has had the effect of making the Javanese dominated military elite a more direct political player, as it became instrumental, via its mobilisation in favour of Widodo in the elections, in ensuring his victory over Subianto in 2019. The growing political use of the military by a president¹⁷³⁸ engaged in a tussle with the PDI-P has led him to increase the military’s more direct presence in civilian institutions under his administration.¹⁷³⁹

In this context, while Widodo’s term will end in 2024, the Indonesian military’s involvement in politics will leave a more permanent impact on the state of Indonesia’s ethnically decentralised system, as the growing involvement of the Javanese-

¹⁷³⁴ Jun Honna, “Civil-Military Relations in Emerging States,” 262.

¹⁷³⁵ Even A. Laksmana, “Civil-military relations under Jokowi,” *Asia Policy* 14, no. 4 (October 2019): 69

¹⁷³⁶ *Ibid.*, 68.

¹⁷³⁷ Eve Warburton and Edward Aspinall, “Explaining Indonesia’s Democratic Regression,” *Contemporary Southeast Asia* 41, no. 2 (August 2019): 270.

¹⁷³⁸ Leonard C. Sebastian, Emirza Adi Syailendra and Keoni I. Marzuki, “Civil-Military Relations,” 71.

¹⁷³⁹ Ahmad Ibrahim Almuttaqi, *Jokowi’s Indonesia And the World* (Singapore: World Scientific Co. Pte. Ltd, 2020), 106.

dominated military in politics¹⁷⁴⁰ and civilian administration is both blurring the civil-military divide and re-Javanising the echelons of power at all levels of the polity.

5. Fiji: The SODELPA and the ‘Politics of Pushback’

Unlike Pakistan and Indonesia, where the military is at the forefront of the ‘politics of pushback,’ the Fijian military supports ethnically decentralising constitutional reforms institutionalised via the 2013 Constitution.¹⁷⁴¹ The main challenge to Bainimarama’s FijiFirst and its constitutional reforms, however, comes from the SODELPA that includes political leaders previously associated with the SDL – which was backed by the GCC and the Methodist Church until its dissolution in 2013 (when the Bainimarama regime passed new regulations that required parties to register their names in English).

As a party led by Fijian chiefs like Teimumu Kepa, the paramount chief of the Burebasaga confederacy, and Sitiveni Rabuka, who launched two coups in 1987 against the Indo-Fijian government of the FLP and later became Fiji’s prime minister (1992-1999) even as he served, simultaneously, as GCC chairman (1995-1997), the SODELPA is ideologically predisposed to an ethnically centralising constitutional system.¹⁷⁴² The party’s 2014 election campaign, in fact, aimed to completely abolish the 2013 Constitution to restore Fijian supremacy. It aimed to do so (a) by making Fiji a Christian state, (b) by abolishing regulations that diminished the control of Fijian land from the Fijian chiefs, (c) by re-establishing the GCC, and (d) by abolishing the 2013 Constitution altogether.¹⁷⁴³ The SODELPA accordingly campaigned to abolish the 2010 Land Use Decree, which made it possible for Indo-Fijians, or ‘foreigners,’ to

¹⁷⁴⁰ See Natalie Sambhi, “General gaining ground: Civil-military relations and democracy in Indonesia,” *Brookings*, January 22, 2021. Available at [Generals gaining ground: Civil-military relations and democracy in Indonesia \(brookings.edu\)](https://www.brookings.edu/research/2021/01/22/generals-gaining-ground-civil-military-relations-and-democracy-in-indonesia/).

¹⁷⁴¹ See Vijay Nadu, “The Militarisation of Politics in a Small-Island Developing State,” *Oxford Research Encyclopedia of Politics* (March 2021).

¹⁷⁴² See Pio Tabaiwalu, “The genesis of the Social Democratic Liberal Party: A Struggle against the odds” in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 191-209.

¹⁷⁴³ Scott MacWilliam, “Not with a bang but with a whimper: SODEPLA and the 2014 elections” in *The People Have Spoken: The 2014 Elections in Fiji*, ed. Steven Ratuva and Stephanie Lawson (Canberra: The ANU Press, 2016), 221. See Matthew Joseph Kennedy Dodd, “Reform Leasing Regimes for Customary Land in Fiji” (Bachelor of Law Diss., University of Otago, 2012).

acquire land on a 99-year lease (as opposed to earlier 30-year, non-renewable lease agreements).¹⁷⁴⁴

The politics of abolishing the 2013 Constitution and re-implementing the 1997 Constitution was tied to an overall ‘politics of pushback’ because the 1997 Constitution retained the GCC as a state institution and vested powers directly in the GCC to stop any legislation or constitutional amendments that could lead to an alienation of Fijian land.¹⁷⁴⁵ For SODELPA, a 99-year land lease amounted to the alienation of “land for up to four generations.”¹⁷⁴⁶

In 2014, SODELPA mobilised voters on the basis of an agenda that not only targeted FijiFirst but also allowed it to maintain its own distinct Fijian political identity. This electoral battle was, following Steven Ratuva, between two neatly opposing camps: the protectionists (Fijian chiefs) and the reformists (FijiFirst and the military).¹⁷⁴⁷ As SODELPA’s chief Teimumu explained her party’s promise at the time of revealing its manifesto in 2014, reversing the reforms made by the Bainimarama regime was a “mighty mission and a sacred cause,” which involved shielding “our history to protect our ways of life, our cultures and traditions.”¹⁷⁴⁸ That the protection of ‘Fijian ways of life’ has strictly Fijian appeal is evident from the fact that Teimumu was a member of the Fijian Native Tribal Congress, which claimed that Bainimarama had violated “UN-mandated indigenous rights by abolishing the GCC and the exclusive Fijian name, and by denying *iTaukei* [Fijians] self-determination” within Fiji.¹⁷⁴⁹

Although the SODELPA lost the 2014 elections, its signature ‘politics of pushback’ was followed just as earnestly by its new chief Rabuka, who took over in 2016 and led the party in the 2018 elections. By 2016, Rabuka was no longer that ‘reconciliatory’ leader who, as discussed in chapter 7, allied with Indo-Fijian parties in the mid-1990s to produce the 1997 Constitution and indirectly paved the way for

¹⁷⁴⁴ Sefanaia Sakai, “Native land policy in the 2014 elections,” 148.

¹⁷⁴⁵ Ibid.

¹⁷⁴⁶ Ibid.

¹⁷⁴⁷ See Steven Ratuva, “Protectionism versus Reformism: The Battle for *Taukei* Ascendancy in Fiji’s 2014 General Election,” *The Round Table: The Commonwealth Journal of International Affairs* 104, no. 2 (2015): 137-149.

¹⁷⁴⁸ Ibid., 144.

¹⁷⁴⁹ Robbie Robertson, *The General’s Goose: Fiji’s Tale of Contemporary Misadventure* (Canberra: The ANU Press, 2017), 297.

the Indo-Fijian dominated government of Mahendra Chaudhary. Instead, Rabuka's plan in 2016 was no different from 1987, when his first coup dismissed the Indo-Fijian dominated Labour Party government to bring Fiji back under the control of Fiji's chiefs. His 2016 plan – which reinforced the 2014 plan – sought to unify Fijians, restore the GCC, and abolish a common Fijian identity for indigenous Fijians and Indo-Fijians, thus restoring race-based, exclusionary politics as a means to defeat Bainimarama and restore Fijian supremacy.¹⁷⁵⁰

The 'politics of pushback' in Fiji is no different from the 'politics of pushback' in Pakistan and Indonesia inasmuch as it involves a tussle over two alternative systems of power between opposing groups with roots *within* the dominant ethnic group. Just as Teimumu and Rabuka attacked Bainimarama as an 'anti-Fijian,' Bainimarama responded by equating them as a proponent of the old system that "privileged few (while) keeping only the best for themselves and not sharing with other ordinary common Fijians."¹⁷⁵¹

That this battle had intra-ethnic rather than merely institutional foundations is evident from the fact that, even though Bainimarama's regime was established via a military coup and continues to enjoy the military's support,¹⁷⁵² Rabuka did not target him simply for overthrowing an elected civilian government. His criticism was more intensely focused on Bainimarama's 'anti-Fijian' reforms.¹⁷⁵³ Accordingly, as a keen supporter of Fijian supremacy, Rabuka, like his predecessor, sought to mobilise Fijian chiefs to spur Fijian votes against FijiFirst in the 2018 elections.¹⁷⁵⁴

6. Conclusion

The politics of ethnic decentralisation, with roots in institutionalised forms of intra-ethnic division, remain a contested process. Both civil and military institutions with

¹⁷⁵⁰ Jon Fraenkel, "Ethnic Politics and Strongman Loyalties in Fiji's 2018 Election," *The Journal of Pacific History* 54, no. 4 (2019): 491-492.

¹⁷⁵¹ Robbie Robertson, *The General's Goose*, 298.

¹⁷⁵² See Paul Carnegie and Sandra Tarte, "The Politics of Transition in Fiji: Is it Charting a Democratic Course?," *Australian Journal of Politics and History* 64, no. 2 (2018): 277-292.

¹⁷⁵³ Robbie Robertson, *The General's Goose*, 298.

¹⁷⁵⁴ Jon Fraenkel, "Ethnic Politics and Strongman Loyalties," 493.

roots in the dominant ethnic group pursue a ‘politics of pushback’ focused on ethnic domination.

As my interviews with most Punjabi – and non-Punjabi – politicians in Pakistan showed, there is a consensus that the military’s political domination tends to reinforce a Punjabi-dominated super-state that takes power away from ethnic provinces.¹⁷⁵⁵ The military’s insistence on population-based NFC formula – which serves the most-populated Punjab at the expense of smaller provinces – only provides further evidence of ethnic political drivers.¹⁷⁵⁶

In Indonesia, a ‘politics of pushback’ led by Suharto-era elites, clearly represented by Prabowo Subianto, shows how a “centrist” elite aims to take Indonesia back to the ethnically centralised 1945 Constitution.¹⁷⁵⁷ The parallel expansion of a political role for the Javanese-dominated Indonesian military also means that non-Javanese ethnic groups’ ability to wield power, or control resources devolved to them, will continue to diminish over time. The revival of a dual role for Indonesia’s military will also revive its ability to set the agenda across a range of issues, including resisting demands for power-sharing along ethnic lines.¹⁷⁵⁸ Indeed, the fact that an incumbent president mobilised the military for political support in 2019 means that the Javanese-dominated military’s influence remains and might increase in the future.

And finally, in Fiji, the SODEPLA’s challenge to the 2013 Constitution has kept race-based politics and institutions, such as the GCC, alive, with clear warning signs for Fijian domination and Indo-Fijian exclusion. Again, following Ackerman, this shows how the future of constitutional reforms promoting ethnic decentralisation will continue to be shaped by an unfolding *politics* of ethnic re-centralisation.

¹⁷⁵⁵ Based upon the author’s interviews.

¹⁷⁵⁶ Ibid.

¹⁷⁵⁷ See Simon Butt, “Returning to the 1945 Constitution: what does it mean?,” *New Mandala*, June 18, 2014. Available at [Returning to the 1945 Constitution: what does it mean? - New Mandala](#)

¹⁷⁵⁸ See Ikra Nusa Bhakti, Sri Yanuarti and Mochamad Nurhasim, “Military Politics, Ethnicity and Conflict in Indonesia,” *CRISE Working Paper*, no. 62 (January 2009).

10 Conclusion

Margaret Archer argued that explaining social and political change involves an explanation premised on a “particular conjunction of multiple interacting”¹⁷⁵⁹ factors that explain a given outcome. In this research I have shown, through ‘positive’ and ‘negative’ cases, that ethnically decentralising constitutional changes emerge from a causal and contingent interaction between institution-based divisions within a dominant ethnic group – with these divisions manifesting as, or combining with, civil-military institutional tensions involving political and military elites (both from within the dominant ethnic group); new social movements emerging primarily from within the dominant ethnic group and reinforcing, in combination with political or military elites from both dominant and non-dominant ethnic groups, demands for ethnic decentralisation; and, finally, a cross-ethnic multi-party consensus around ethnic decentralisation involving political or military elites (again, from both dominant and non-dominant ethnic groups).

I have argued that ethnically decentralising constitutional changes happen when these three factors co-exist, forming a causally coordinated politics supporting power-sharing along ethnic lines. The centrality of these factors forming a causal mechanism of ethnic decentralisation becomes evident when its *absence* in Sri Lanka explains the *failure* of that country’s various constitutional reform processes. The overall argument is, thus, contingent insofar as it shows a positive relationship between the presence of the causal mechanism and the presence of the outcome of interest and, then, a positive relationship between the absence of the causal mechanism and the absence of that outcome.

Critics of the comparative method involving multi-variate macro-causal cross-case explanations like the one presented in this study have long argued that such explanations seek to establish ‘timeless laws’ and are therefore too deterministic to

¹⁷⁵⁹ Margaret S. Archer, “Introduction: Other Conceptions of Generative Mechanisms and Ours” in *Generative Mechanisms Transforming the Social Order*, ed. Margaret S. Archer (London and New York: Springer, 2015), 11.

allow for analyses tracking how different variables yield a given outcome.¹⁷⁶⁰ They have argued that such explanations often involve an arbitrary extension of narratives from one case to others¹⁷⁶¹ without sufficient regard for whether a given variable, or combination of variables, actually yielded the outcome of interest.¹⁷⁶²

This criticism is based on a narrow understanding of the complex ways in which, and the multiple levels at which, multi-variate macro-causal cross-case explanations are empirically developed and tested. As James Mahoney has argued, most of the criticism levelled against macro-causal comparative methodology is limited to instances in which a researcher selects a small number of cases to identify nearly identical causes and patterns across these cases.¹⁷⁶³ Mahoney calls this the ‘nominal’ level of analysis. Most of the criticism, he argues, is directed at this level of analysis while largely ignoring the ‘ordinal’ comparison level and the ‘narrative’ analysis level embedded within the overall macro-causal explanation. All in all, including these levels (discussed below) allows a researcher to show how common intervening variables (the nominal level) “take on varying levels across cases [the ordinal level] and combine in different ways in different cases [narrative analysis] to produce the same outcome.”¹⁷⁶⁴ Therefore, when applied together, these various levels help demonstrate that macro-causal studies need not be overly deterministic, nor do they suffer from a disregard for the complex ways in which a *common* causal pattern configures *differently* across narrative case histories.

1. The Nominal, Ordinal, and Narrative Levels of Comparison

In this section, I discuss how I applied, or integrated, all of these levels of comparison and analysis across all the cases in this study to develop a cross-case macro-causal explanation that not only travels across the given cases but also takes specific case histories into account. As I show, it is through the application of these distinct levels

¹⁷⁶⁰ See William H. Sewell Jr., *Logics of History: Social Theory and Social Transformation* (Chicago and London: The University of Chicago Press, 2005), 81-123.

¹⁷⁶¹ *Ibid.*, 99.

¹⁷⁶² *Ibid.*, 91.

¹⁷⁶³ See James Mahoney, “Nominal, Ordinal, and Narrative Appraisal in Macrocausal Analysis,” *American Journal of Sociology* 104, no. 4 (January 1999): 1154-1196.

¹⁷⁶⁴ *Ibid.*, 1157.

of comparison and analysis that each case's common and unique features, relevant to the overall politics of ethnic decentralisation, are examined and highlighted.

1.1. The Nominal Level

At the nominal level – which involves identifying common causes and common outcomes across cases – this research has shown how a combination of three distinct yet causally interconnected factors – civil-military institutional tensions, new social movements, and a cross-ethnic political consensus – play a role in the politics of ethnic decentralisation in ethnic majoritarian states both across different geographical regions and following different constitutional configurations (e.g., unitary and/or federal). In other words, even though the argument is premised on a common mix of causal elements, or a common causal pathway that exists in all cases, the ‘controls’ do not extend to the constitutional and political environments in which these variables produce the outcome of interest. So, while the argument emphasises common causes, a common causal mechanism, and a common outcome, it empirically demonstrates its viability across religiously, geographically, and constitutionally *different* systems. This diversity overcomes criticism levelled against deterministic (‘biased’) case selection by making the sample more broadly “representative”¹⁷⁶⁵ of ethnic majoritarian states.

Secondly, the inclusion of Sri Lanka as a ‘negative’ case demonstrates the centrality of common causes and a causal mechanism insofar as it helps to show that the nominal analysis of common causes across three ‘positive’ cases remains relevant in the ‘negative’ case that fails to generate ethnic decentralisation *in the absence of the causal mechanism* identified at the nominal level. Thus, the Sri Lankan example sheds light not only on the failure of constitutional processes but also on the success of these processes in other cases. The nominal level, therefore, plays an important role in supporting the validity of the causal mechanism across all of the cases featured in this study.

¹⁷⁶⁵ Jason Seawright and John Gerring, “Case Selection Techniques in Case Study Research,” *Political Research Quarterly* 61, no. 2 (June 2008): 301.

1.2. The Ordinal Level

Even as the overall argument emphasises a common causal pathway across diverse case configurations, however, an internal disaggregation of this pathway shows how its configuration *varies* from case to case. Here, this internal disaggregation is related to what Mahoney calls the ordinal level of comparison, or J.S. Mill's method of concomitant variation, which involves an analysis of how different intervening ("explanatory") variables configure and vary across cases.¹⁷⁶⁶ As this research has shown, there is no one specific ('universal') way. On the contrary, there can be different ways unique to different cases.

Considering this, a focus on the ordinal level of analysis allows for a consideration focused on *which* variable played *what* specific role in each case: for example, the first case adds special emphasis to variable A; the second stresses variable B; and so on. By developing an argument that takes into account this type of 'more' and 'less' variation across particular variables in each case, one can argue for taking into account the uniqueness of each case in terms of the way the causal mechanism develops. The fact that the identified causes remain the same across cases, even as their configuration differs, means that the overall argument remains 'general' even as it is also case sensitive.

Whereas a deterministic argument rooted in logical positivism confines itself to cause-and-effect relationships¹⁷⁶⁷ without much regard for this type of internal analysis, this research has paid attention to the internal configuration of the causal mechanism within each case. For instance, while civil-military institutional tensions are a key manifestation of institutionalised forms of intra-ethnic fragmentation across all cases, this variable does not configure in the same way across Pakistan, Indonesia, and Fiji.

In Pakistan and Indonesia, the military was politically dominant, and civilian actors (both political and social), came together to dismantle this military-dominated, politically and ethnically centralised system. But the Fijian case shows that civil-

¹⁷⁶⁶ James Mahoney, "Nominal, Ordinal, and Narrative Appraisal," 1160-1161.

¹⁷⁶⁷ Martin Hollis, *The philosophy of social science: An Introduction* (Cambridge: Cambridge University Press, 1994), 12.

military institutional tensions can also configure in ways in which the military itself becomes a key driver of ethnic decentralisation (for instance, when it seeks to dismantle a civilian-dominated, politically and ethnically centralised system). In other words, while civil-military institutional tensions develop in two distinct ways, both configurations still point to institutionalised divisions *within* the dominant ethnic group. In both cases, the civilians in Pakistan and Indonesia and the military in Fiji, pursued the politics of ethnic decentralisation not only as a means to resolve inter-ethnic conflict, but also (and perhaps primarily) to defeat their rival co-ethnic group. In Pakistan, Nawaz Sharif's politics was driven by his civilian urge to control the Punjabi-dominated military super-state. His tussle with the military led him, as Chapter 3 shows, to develop a cross-ethnic consensus with the Sindh-based PPP in 2006, which then became the basis for the 18th amendment in 2010. It was, again, his tussle with the military that led him to support the Lawyers' (social) Movement. Civil-military institutional tensions, thus, not only exist as an independent causal factor; they causally relate to other factors, forming a "constant conjunction" of multiple causal variables.¹⁷⁶⁸

In Indonesia, Suharto's 'New Order' was a Javanese-dominated military-led configuration in which political parties, including those from within the dominant Javanese ethnic group, had no effective role to play. Those parties' involvement in the anti-Suharto movement was, therefore, driven by a desire to push the Javanese-dominated military out of politics and create a space for the politically disenfranchised civilian groups – an objective these parties achieved with a direct alliance with the anti-Suharto Student Movements (see Chapter 6).

In Fiji, however, it was the military that reacted against the ethnically exclusive Qarase regime's effort to squeeze the Fijian military out of politics. This led the Fijian military commander, Frank Bainimarama, to overthrow an elected civilian government in 2006 and form an alliance with Fijian politicians and social/religious leaders *as well as* Indo-Fijian political leaders and social activists. Subsequent constitutional reforms via the 2013 Constitution uprooted Fijian ethnic supremacy (Chapter 7).

¹⁷⁶⁸ Philip S. Gorski, "Causal Mechanisms: Lessons from the Life Sciences" in *Generative Mechanisms Transforming the Social Order*, ed. Margaret S. Archer (London and New York: Springer, 2015), 31.

Furthermore, while this research emphasises new social movements as a key variable in each case, their exact form and configuration vis-à-vis existing regimes vary in each case. Whereas the Lawyers' Movement in Pakistan and the Student Movements in Indonesia mobilised *against* an ethnically centralised military-dominated regime, Church Movements in Fiji worked *with* a pro-decentralisation military regime. Thus, while Pakistan and Indonesia had *anti-military* movements for ethnic decentralisation, Fiji had a *pro-military* movement that opposed the constitutionally rooted ethnic domination of the GCC and the Methodist Church. However, even though these social movements differed in their apparent character, each played an identical role in terms of reifying divisions *within* the dominant ethnic group and, then, reinforcing demands to *dismantle* an ethnically exclusive system.

Finally, the exact configuration of the cross-ethnic pro-decentralisation multi-party consensus differed in all cases. Whereas a consensus in Pakistan and Indonesia developed within their respective parliaments via committees responsible for constitutional reforms, in Fiji it was the multi-ethnic post-coup interim military administration of Frank Bainimarama that epitomised a cross-ethnic consensus around ethnic decentralisation to oversee – and even directly manage – the making of the 2013 Constitution. Even in Pakistan and Indonesia, the role of the parliament differed. Whereas the Indonesian parliament played a more active role in debating and passing amendments, the parliament in Pakistan confined its role to ratifying all the changes made by an all-party parliamentary committee. Thus, as opposed to five years in Indonesia (1999-2004), Pakistan managed to devise a constitutional formula of ethnic decentralisation within one year (2009-2010).

And, with respect to rank-ordering cases with regards to the role that each variable played in each case, the evidence shows that all cases had intense institutional divisions across civil-military institutional lines. But, turning to social movements, Pakistan and Indonesia had movements that played a more direct – and more politically charged and even violent – role in defeating the ethnically centralised regime than did the Church Movements in Fiji. Whereas anti-Methodist Church Movements existed before the 2006 coup, their role vis-à-vis ethnic decentralisation became relevant only after the 2006 coup. In other words, unlike social movements in Pakistan and Indonesia, Church Movements in Fiji did not play a key role, let alone

the key role, in defeating the Qarase regime itself, although they did play a role, in alliance with the military regime, in building a pro-ethnic decentralisation narrative by developing Fiji's 'Charter for Change' in 2008 (as well as supporting the regime's agenda via mass mobilisation and pro-regime sermons, calling Bainimarama's a divine mission).

And, as far as cross-ethnic political consensus is concerned, it was vital for implementing constitutionalised forms of ethnic decentralisation in all three cases. But, again, it was more pronounced in Pakistan and Indonesia than in Fiji. Whereas there was absolute civilian unanimity in Pakistan and Indonesia,¹⁷⁶⁹ the fact that the Fijian regime did not invite political parties to deliberate on or debate constitutional reforms shows that it lacked the kind of parliamentary unanimity that existed in Pakistan and Indonesia. There was, however, a high level of cross-ethnic consensus established differently: the cross-ethnic Bainimarama-led configuration known as FijiFirst – which was a transformation of the post-coup multi-ethnic regime into a party – went on to win the 2014 elections by scoring almost 60 per cent of the popular vote on the basis of the reforms it enacted in 2013. In other words, whereas political parties in Pakistan and Indonesia were voted into the parliament to make a constitutional change (in 2008 and 1999, respectively), FijiFirst won elections on the basis of the changes it had made already, showing how a popularly backed cross-ethnic consensus remained relevant in all cases.

1.3. The Narrative Level

The fact that this research pays considerable attention to the internal configuration of each variable, and how it is constituted vis-à-vis the politics of ethnic decentralisation, also means that this research pays a lot of attention to details that are *unique* to each case. Mahoney describes this aspect in terms of “narrative analysis,”¹⁷⁷⁰ i.e., an analysis embedded within specific case histories.

¹⁷⁶⁹ There was consensus and unanimity among parties in Indonesia. The only point where political actors differed and lacked unanimity was on the question of the military's representation in the parliament. The opposing group was the military itself, which resisted its complete extraction from the parliament.

¹⁷⁷⁰ James Mahoney, “Nominal, Ordinal, and Narrative Appraisal,” 1164.

As a technique of comparison, the narrative level involves a detailed treatment of each variable in every case. If this research had involved a comparison of identical causes and an identification of an identical pathway across a few states, “there would have been no need to write a long book” as a “brief article with a few sample tables would have sufficed.”¹⁷⁷¹ But this research brings out a very detailed analysis of each case focused on the emergence of each variable from within the history of each case to show how the unique attributes of each case are not disregarded – and cases are not de-historicised, as is often believed – ¹⁷⁷² but rather are duly taken into account. In other words, an historically grounded explanation focused on the emergence of each variable – and its role in yielding the outcome of interest – makes this a *macro*-causal study grounded in the *micro*-politics of each variable and case, showing how explanations are not extrapolated but emerge, with visible unique and cross-case features, from within each case through a conversation with, or a deep analysis of, the very actors – and institutions – involved in the political process of constitutional ethnic decentralisation.

This concern for historical narrative extends to both positive and negative cases. For instance, even though the primary importance of the Sri Lankan case lies in demonstrating how the *absence* of key causal variables led to the *failure* of constitutional processes of ethnic decentralisation, it is only through a fieldwork-based treatment of the evidence that I show how the relationship between the absence of these causal variables and the absence of the outcome is not merely correlational, but causal. In fact, it was this need for a grounded – and comparative – analysis of the failure of Sri Lanka’s various constitutional processes that led me to do fieldwork in Sri Lanka, where my long sittings with key political actors involved in various parliamentary processes yielded evidence showing a visible contrast between Sri Lanka and other cases (in terms of the absence and presence of causal variables) and, therein, an explanation that empirically accounts for the absence – and non-configuration – of each causal variable and the effect of these on constitutional non-reform.

¹⁷⁷¹ Ibid.

¹⁷⁷² Andrew Sayer, *Method in Social Science: A Realist Approach* (London and New York: Routledge, 1984), 100.

It is not just the absence of civil-military institutional tensions in Sri Lanka that is accounted for here; I also explain (a) *why* this factor is missing in Sri Lanka (owing to an early elite consensus from the 1960s) and (b) *how*, if it had existed (or might come into existence in the future),¹⁷⁷³ it *could* force political parties into developing a consensus among themselves on key constitutional questions, including devolution (Chapter 8). Furthermore, Sri Lankan political elites like Ranil Wickremasinghe, facing no long-term institutional threats from any rival state institution, downplayed the need for social movements as a necessary component within a politics of ethnic decentralisation. So, even when Chandrika Kumaratunga's government started The White Lotus Movement in the late 1990s to popularise the idea of ethnic decentralisation and resolve the Tamil national question, that movement failed to make any meaningful impact as it lacked a cross-party partnership (in particular, with the UNP) along the lines found in Pakistan, Indonesia, and Fiji.

Therefore, in the absence of intra-ethnic institutional pressures from above, or popular pressures for reforms from below, structural conditions in Sri Lanka were never ripe, as opposed to Pakistan, Indonesia and Fiji, for the relevant political elites to develop – and sustain – a cross-ethnic, multi-party consensus around ethnic decentralisation. Instead, the relevant elites prioritised their narrowly defined partisan interests and focused more on short-term electoral interests than long-term constitutional arrangements for ethnic conflict resolution. This configuration, I found, was the key reason for the repeated failure of reform processes and the persistence of ethnic majoritarianism in Sri Lanka.

2. The Persistence of a Majoritarian Constitutional Model

The persistence of an ethnic majoritarian constitutional system in Sri Lanka is not a function of the dominant ethnic group's tendency to, as Donald Horowitz believes, resist "self-abnegating" pressure to give up power.¹⁷⁷⁴ If a majoritarian intransigence

¹⁷⁷³ Interview of Jayampathy Wickramaratne (United National Party member of the 2016 Steering Committee) by the author, online, January 19, 2020.

¹⁷⁷⁴ Donald A. Horowitz, "Constitutional Design: Proposals Versus Processes" in *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, ed., Andrew Reynolds (Oxford: Oxford University Press, 2001), 20.

was the key issue, constitutional changes in Pakistan, Indonesia, and Fiji – all countries being historically majoritarian – would not have taken place. Further, if majoritarian intransigence was the key factor, even the major political parties in Sri Lanka – in particular, those from within the dominant ethnic group – would not have started various constitutional reform processes at all. But even when these processes were started they failed, not because the dominant ethnic group did not want to share power – The White Lotus Movement established that there was some support for ethnic decentralisation within the dominant Sinhalese – but because major political parties failed to develop a consensus owing to an absence of direct popular pressure for ethnically decentralising reforms and a lack of any intra-ethnic institutional threat to their long-term political interests. As Dillan Perera, who was once involved in The White Lotus Movement, remarked, it is “petty politics,” rather than the absence of support from within Sinhalese, that caused various constitutional processes to fail.¹⁷⁷⁵

As many interviewees in Sri Lanka said, the opposition of Sinhala Buddhist nationalists to power-sharing notwithstanding, political support in favour of ethnic decentralisation from within the majority Sinhalese *can* be cultivated – and projected onto the political landscape – *if* the relevant political elites were to support it publicly.¹⁷⁷⁶ So, what could make these parties come together in favour of power-sharing?

International pressure and pressure involving the potential loss of territory did not bring Sri Lanka’s political parties together in favour of power-sharing. In 1987, when the Indian-mediated 13th amendment was passed by a UNP-dominated parliament, the SLFP opposed it, calling it a step towards disintegration (Chapter 8). The fear of territorial disintegration, too, did not work, even though many in Sri Lanka believed that the LTTE might actually win the war.¹⁷⁷⁷ Even when war was intense, in the late 1990s, the UNP still defeated the SLFP’s ethnically decentralising Constitution Bill (2000). Indeed, as evidence from Pakistan also shows, even after that country’s territorial disintegration in 1971, Punjabi-dominated elites did not establish an

¹⁷⁷⁵ Interview of Dilan Perera (Sri Lanka Freedom Party member of the 2016 Steering Committee) by the author, Colombo, January 22, 2020.

¹⁷⁷⁶ Based upon the author’s interviews.

¹⁷⁷⁷ Interview of Udaya Gammanpila (Pivithuru Hella Urumaya member of the 2006 All Parties Representative Committee) by the author, Colombo, January 31, 2020.

ethnically decentralised system. In fact, it was only when institutionalised forms of intra-ethnic division developed, within the Punjabi elite, that certain elite civilian factions in Punjab, unsettled by the military's periodic interventions, started pursuing an alternative politics of ethnic decentralisation, both as a strategy to resolve ethnic conflict and as a way to create more ethnic power centres against the military.

If the Sri Lankan military's involvement in politics increases, Sri Lankan constitutional experts such as Jayampathy Wickramaratne – who was involved in almost all of the country's constitutional reform processes from the 1990s onwards – think that the consequent loss of political space *could* foster structural conditions for these parties to abandon their petty politics in favour of a cross-ethnic consensus.¹⁷⁷⁸ Thus, the persistence of majoritarian models cannot be explained with reference to an abstract notion of majoritarian intransigence, for such tendencies can and do change when the dominant ethnic group itself becomes, as this research has shown, an arena of competition between its civil and military factions.

3. Scope and Generalisation

As indicated in chapter 2, this study does not claim to have discovered a 'universally applicable law,' for such a claim would make this study too deterministic. Having said this, the study's major contribution is its focus on *intra-ethnic sources of ethnically decentralising constitutional changes in ethnic majoritarian states* – a contribution that helps to resolve a puzzle that has, for some time, baffled scholars focused on the politics of ethnic decentralisation/power-sharing in multi-ethnic, severely divided societies, many of whom have been steadfast in their belief that such changes in ethnic majoritarian states are frustrated by majoritarian intransigence.

My research shows that majoritarian institutional configurations are never permanent. Even when these arrangements have path-dependent roots – as in the case of the colonial roots of Punjabi, Javanese and Fijian domination – ethnic decentralisation as an alternative institutional configuration can and does take place through a political process, or a causal mechanism of change, emerging from institutional forms of divisions within the dominant ethnic group itself.

¹⁷⁷⁸ Interview of Jayampathy Wickramaratne.

While the centrality of this causal mechanism across different types of religiously, geographically and constitutionally diverse cases shows its ability to travel across time and space – which scholars of qualitative comparative methods identify as a key goal of such research designs – ¹⁷⁷⁹ I do not claim universal applicability for my argument. On the contrary, I remain open to what scholars of comparative methods call the principle of ‘equifinality’ i.e., ¹⁷⁸⁰ the possibility of multiple causal paths to the same outcome of interest.

Having said this, my research shows that the causal path I have identified and empirically examined via detailed process tracing in both ‘positive’ and ‘negative’ cases is an internally and externally valid path of ethnically decentralising constitutional reforms in ethnic majoritarian states. By identifying *a* causal path of ethnic decentralisation in ethnic majoritarian states, this study has, hopefully, opened up space for further research into – and debate on – the politics and possibilities of ethnically decentralising constitutional reforms in ethnic majoritarian states.

¹⁷⁷⁹ Gary Goertz and James Mahoney, *A Tale of Two Cultures: Qualitative and Quantitative Research in the Social Sciences* (Princeton and Oxford: Princeton University Press, 2012), 192.

¹⁷⁸⁰ *Ibid.*, 20.