

GOOD GOVERNANCE AND PAKISTAN'S ECONOMIC PROSPECTS FOR PROGRESS*

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The paper takes a *tour de horizon* regarding: (a) the philosophical and conceptual issues of governance and democratization globally and in Pakistan, (b) the universal aspects of good governance objectives and processes applied in Pakistan, and (c) the governance priorities that emerged during stakeholder consultations that served as background to the launching of the Pakistan 2010 program. At the very outset, most of the presentation is focused on 'how to reform' issues to instill a good governance process and evolve credible mechanisms to implement reform measures.

I. Introduction

The paper is informed by two working hypotheses. First, that the most fundamental aspect of the relationship of good governance to future economic prospects for Pakistan is the following: *Pakistan's economic prospects are predicated on building the institutional platform for stability and evenhandedness*. That is to say that building government credibility, i.e., the predictability of rules and policies and their consistent application – and performance, rather than focussing on technical issues related to on-going or contemplated economic reform measures is more important at this juncture in Pakistan economic

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and political development. This choice is made because the evidence strongly suggests that government credibility is as important for attracting both domestic and foreign private investment as is the content of specific rules and policies. World Bank surveys reveal that high levels of crime and personal violence and an unpredictable judiciary combine to produce a “lawlessness syndrome” and that many countries lack the basic institutional foundations for markets to grow. Second, as suggested in the foregoing paragraph and informed by the historical path of previous and extensive reform reports, that devising credible consultative mechanism(s) to effectively implement reforms is at least as important as identifying and prioritizing any given reform measure.

The paper is divided into four sections. Part II introduces the philosophy, context and “divine insight” for examining governance issues in Pakistan; and it reviews the international debate on the relationship of democracy to economic performance and rejects the utility of “failed state” terminology.

Part II sets forth the conceptual framework for examining governance issues; it focusses on incentive compatibility to make institutions work better and is supported by analysis related to strengthening the rule of law, and leadership commitment to the process. *Perverse incentives* reward behavior which is not conducive to the common good, which is self-seeking, inefficient, dishonest, or exploitative. The system of perverse incentives contributes substantially to the governance crisis and results in public functionaries failing to act in the public interest. A key feature of good governance is *incentive compatibility*: ensuring that public functionaries are provided with incentives to act in the public interest. The importance and relationship between and among incentive compatibility, the rule of law and leadership is underscored. *A weak formal and informal rule of law* which does not influence behavior predictably, undermines the compatibility of incentive structures. Therefore, developing incentive structures which are compatible with the behavior sought is absolutely necessary but it is insufficient. A strong rule of law – both formal and informal – which is closely connected to normative behavior on the ground is essential to assure that the responses to the incentive structures are predictable and evenly accessible and applied. The historical lesson about the rule of law discussed in this section – the rule of law as a “breeder of values” – demonstrates that *without leadership*, models of well-conceived incentive compatibility and rule of law frameworks crumble. Leaders must act on and follow the incentive structure and must hold themselves under the rule of law.

Part III identifies government objectives and lessons from previous reform experiences. The government’s objectives include: expanding the economy; providing adequate personal security against the principal hazards in life; assuring access to opportunity, public services and public utilities; guaranteeing a quality of life; improving access to information and preserving fundamental values, including the Quaid’s values of justice, equity, tolerance and wisdom. The seven interrelated lessons about

the reform process in Pakistan identified include: (1) resist the search for the magic bullet or quick fix for governance in Pakistan; (2) avoid “hiving off” public services through narrow sectoral approaches and specialized entities outside the civil service and judicial service cadres; (3) avoid reform measures that distort incentives; (4) avoid privatization of public services in order to diffuse or postpone tough institutional reform issues; (5) proactively create a political story – take up the policy reform initiative, publicize it, and manage resistance, (6) create an institutional home for reformers; and (7) that there are no quick fixes is no reason to despair.

Part IV is a charcoal sketch of analysis and policy implications related to six strategic goals: instilling a governance process to ensure the implementation of reforms; carrying out civil service reform; implementing a program of judicial reform; reducing corruption; beginning the decentralization process; and empowering the citizen. This section reviews six strategic goals and policy reforms. It is informed by stakeholder consultations conducted during the early phases of devising the 2010 process and reflects the citizens’ priorities which emerged during that process.

*Each moment of ours is a lifetime,
Our todays mirror our tomorrows...
We are the masters of all we survey,
We are the captains of this troubled ship.*

Faiz ‘Dusri Awaz’ Daste Saba

The ultimate test of our success will be the extent to which we manage to create a better life for all, and more especially the poor. This is a project which requires the simultaneous achievement of legitimate government, sustained economic growth in order to bring about socio-economic improvement, and reconciliation of formerly divided sections of society.

– Nelson Mandela, “Renewal and Renaissance – Towards a New World Order”, Lecture given at the Oxford Centre for Islamic Studies, July 11, 1997.

a) Philosophy and Context: “Divine Insight”

The great muslim poet Iqbal captured the milieu of the subcontinent and Pakistan in particular, in his poem “Pir-o-Murid” (The Master and the Disciple). The Disciple asks the Master: “Why am I not capable of handling worldly affairs?” To which the Master responds: “Those who master the secrets of the sky and posses divine insight have so much trouble walking on the earth”.¹

¹ Translated and quoted from a persian edition of The Wings of Gabriel.

To overlook the mysticism, emotion and historical significance of this exchange is to miss the essence of Pakistan's crisis today, and its hope for tomorrow. The pir-o-murid exchange poignantly suggests a need to place "divine insights" into governance in the historical context and ethos of Pakistan. Clearly, there are both exogenous and endogenous forces for change in Pakistan – universal and global forces, as well as forces historically specific to Pakistan.

Therefore, an analysis of governance in Pakistan requires a balanced approach. On the one hand, South Asia tends to perplex and disappoint those who believe in the virtue, if not eventuality, of wholesale societal convergence toward international standards of behavior. This strand of thinking moves inexorably to certain societal structures, goals, implementation and outputs. In so doing, it misses most of the subtle and influential dynamics across the region. On the other hand, those who would hyper-contextualize the unique nature of development across countries are equally misguided as they make the people, systems and processes they study falsely incomprehensible.

b) Note on Pakistan:

In the Midst of a New Wave of Democratization or of Failure?

1) The International Debate

The global debate about the inevitability of democracy is unsettled. For example, Robert Kaplan, (1997) argues that democracy as it is commonly thought in the West is not for everyone. His argument includes a sobering look at the state of the nation in the United States, and emphasizes that more attention should be paid to the "world government" power of multinational corporations in the age of globalization. Far from a global triumph of democracy, what may turn out to be the norm of the future is what Kaplan refers to as "the pragmatic hybrid regimes that are bringing prosperity to developing countries," [Kaplan (1997)].

Fareed Zakaria, (1997) takes a cheerier view of the inevitability of democracy: "There are no longer respectable alternatives to democracy; it is part of the fashionable attire of modernity. Thus the problems of governance in the twenty-first century will likely be problems within democracy." But even Zakaria does not breathlessly and uncritically embrace an inevitable model of democracy: "Western liberal democracy might prove to be not the final destination on the democratic road, but just one of the many possible exits," [Zakaria (1007)].

In light of the economic turmoil in East and Southeast Asia, the debate about good governance has been rekindled. As Thomas Friedman (1998) observes in an oped piece in the *New York Times*:

Democracy does not guarantee that you will never have an economic crisis.

We know that ... But the more democratic, accountable and open your

governance, especially as an emerging market, the less likely it is that your financial system will be exposed to surprises, the easier it will be for you to improve and adapt when it is, and the more legitimacy your government will have to share the pain when change is required. Of those Asian nations which were fully plugged into the market, ... those with the most noncorrupt, transparent and accountable financial system – Taiwan, Hong Kong, Singapore – have been hurt the least. Those that had democratic, but corrupt systems – Thailand and South Korea – were hurt the second worst, but at least have been able to respond quickly by voting in better governance. The country that is going to melt down is Indonesia. Its corrupt, authoritarian regime cannot adapt. “Look around the neighborhood”, said the Thai finance minister, Tarrin Nimmanahaeminda. “Good governance is the only real protection.” [Friedman (1998)].

2) *The Debate in Pakistan*

Some would argue that the trajectory for improved governance is up; others would argue that the trajectory is down. Still others would argue that, whether up or down, the current period is simply a phase in the inexorable progress of Pakistan to more and better democracy. On a macro-level, the last position is not supported by historical evidence. What is the timeframe for maturation?² Is there evidence of maturation in the way institutions behave? If not, is Pakistan – what is fashionably termed in policy circles – a “failed state”? The current condition of national and provincial democratic institutions in the country is striking in the extent to which it conforms to traditional patterns of the use of political authority, [A. Jalal (1995)]. Is this a bridging period in democratic development? To build a bridge is it not necessary to understand very well where the bridge ends on the other side? The behavior of democratic institutions, both pre and post-martial law, is not necessarily a bridge to more and better democracy; rather, some might contend that it is more analogous to building a harbor or docking station for the prince’s armada. Infant industry arguments were used to protect uncompetitive economic activity for decades. Infant democracy arguments are highly speculative and uncertain in Pakistan’s historical context.

This is all cast in Huntingtonian and Fukuyama-esque terms of democratic waves and the end of history – but really, what difference does it make? For example, even if one declared that Pakistan is a “failed state”, such declaration lacks conceptual clarity and practical utility. What are the standards by which one declares a state failed? And, more important, what are the consequences of such a

² As Niccolò Machiavelli observed in his classic: *The Prince* (1513); “Men forget the death of a father more quickly than the loss of patrimony.”

declaration? What about the vast majority of deserving citizens of Pakistan? What about concerned Pakistanis who care about strengthening a sense of national identity and forging a future that hews to Quaid-e-Azam's founding vision for Pakistan's future, a vision of a prosperous and tolerant people, a responsible government free from corruption, and an enlightened and educated society based on the Islamic values of justice and equity?

The point here is simply that neither a response of cynical despair, nor of uncritical optimism is justified. The critical juncture in defining the role of government is now: coming to terms with the past – using history to inform and inspire the future, rather than paralyze it.

II. Conceptual Fulcrum: Incentive Compatibility to Make Institutions Work

a) Why Governance?

Policies and institutions that work in other countries do not work in Pakistan primarily because of poor governance. Poor governance affects Pakistan more than many countries – which despite their corruption bloated bureaucracies, or centralized administrations – significantly outperform Pakistan. Pakistan, on the other hand has a tenuous capacity to and track-record for implementing policies and programs that will bring about desired change. This is not a problem to be solved with more legislation, nor one which involves the evaluation of alternative political systems. It requires an understanding of why existing institutions do not work and why existing laws and rules often are either not enforced or enforced sporadically. And this, in turn, requires an analysis of the practice of government, rather than a theory of the state.

Examination of the role of government in Pakistan today is enhanced by a “governance” approach which is in contrast to a narrower public administration approach. Experience has shown the conventional approach - while not all wrong - was too narrow and dogmatic in its embrace of the market. Instead, the governance approach focuses pragmatically on making institutions work, recognizes the value of networks of trust, respect, and cooperation among functionaries and in civil society, and works to foster these by well-oriented incentives and open collaboration between government and academic, business, citizens, workers associations, and religious leaders. Importantly, the governance approach resists ideological purity – the state vs. market or labor vs. capital or free trade vs. protection/regulation. Rather, it embraces a pragmatic and functional approach: that states matter, that markets matter, that society matters, and that institutions matter.

The nature of the governance crisis in Pakistan is multi-dimensional. Moreover, the crisis of governance is *generalized* and not causally attributable to the failure of any particular institution or set of institutions. Although the crisis of governance

is generalized, the crisis is neither insoluble nor is it attributable to an amorphous "culture of corruption". The way forward is to understand the effects of bad governance, and then to formulate a vision and plan of action for good governance.

The effect of poor governance is felt in some countries more than others. But Pakistan is extremely vulnerable to the economic and social effects of poor governance. The effects of poor governance include:

- i) policy ineffectiveness;
- ii) conflict, instability and insecurity;
- iii) environmental degradation;
- iv) human and social costs (such as illiteracy, high morbidity and mortality and unmanageable inequality);
- v) poor targeting (i.e., policies cannot be targeted to relevant social and economic groups because institutional performance is so poor);
- vi) corruption;
- vii) social frustration;
- viii) stagnant economic growth, uncompetitive economy and poverty; and
- ix) the erosion of government's legitimacy.

Some elements of a vision of good governance in Pakistan grow out of a definition of governance that is concerned with the use of political authority (leadership) and the exercise of control over society (justice), as well as the management of its resources (stewardship) for social and economic development.

Fate will not impel a nation to legitimacy and effectiveness. An implementable plan of action requires a vision, unwavering and bold political commitment from the very top, hard work in reaching out to and mobilizing institutions and individuals and implementation. Any plan of action should engage fully seven core responsibilities of the state, the first three are generic processes which must be credible to achieve the latter four:

- i) steering: consistent and credible policymaking;
- ii) rowing: consistent and creditable implementation of policies;
- iii) partnering: state collaboration with private and nonprofit sectors to achieve objectives as part of the process of governance;
- iv) protecting: persons, property and the environment through "justice" – i.e., evenhanded and speedy enforcement of the rule of law;
- v) servicing: education, health, utilities, infrastructure;
- vi) caring: safety nets for disadvantaged; also suggesting a behavior of public servants; and
- vii) informing: freedom of information and freedom of broadcast and print media in dissemination of information.

b) Incentive Compatibility, the Rule of Law and Leadership

The three principle and closely interrelated obstacles to good governance historically in Pakistan are a perverse incentive structure in public service, a related weak rule of law, and a reluctance of leadership to act boldly in the public interest.³

Perverse incentives reward behavior which is not conducive to the common good, which is self-seeking, inefficient, dishonest or exploitative. The system of perverse incentives contributes substantially to the governance crisis and results in public functionaries fail to act in the public interest. A key feature of good governance is *incentive compatibility*: ensuring that public functionaries are provided with incentives to act in the public interest. Therefore, instead of expecting people to behave nobly on a daily basis in the face of daunting costs (and blaming them when they do not), Pakistan's system of governance should ensure that citizens are induced through appropriate incentives to behave in a manner that supports the public interest in good governance – a manner in which they themselves probably wish to act most of all.

A weak formal and informal rule of law which does not influence behavior predictably, undermines the compatibility of incentive structures. Therefore, developing incentive structures which are compatible with the behavior sought is absolutely necessary, but it is insufficient. A strong rule of law – both formal and informal – which is closely connected to normative behavior on-the-ground is essential to assure that the responses to the incentive structures are predictable and evenly accessible and applied. The way the rules are implemented in Pakistan, most evolve *from* disguising the true realities of power and sporadic enforcement *to* curbing abuses of power and levelling the playing field for the vast majority of Pakistanis.

³ Other obstacles to good governance include, *inter alia*:

- i) *A growing and increasingly unmanageable inequality*: The incidence of absolute poverty have risen in the 1990s from 20 per cent to 30 per cent of the population. This, despite the fact that between 1970 and 1993 Pakistan's income per capita increased by 231 per cent, by far the highest rate in South Asia. The economic imbalance is also reflected in (and perpetuated by) the social structure. Unlike other South Asian neighbors, Pakistan's land ownership is still skewed despite three attempts at land reform.
- ii) *Discouragement of both freedom of information and a vigorous nonprofit sector*: To a much greater degree than its other South Asian neighbors, Pakistan's history is marked by a discouragement of both freedom of information and of a vigorous nonprofit sector. Thus, the governance approach must actively foster the kind of grass-roots activities that it wishes to support (not supplant).
- iii) *Lack of social cohesion*: in Pakistan has caused a severe gap between the modernizing , industrializing, westernizing elements of Pakistan's civil society, and the more traditional, religious, "personal," rural elements. Such a diverse group of "visions" presents a significant challenge for good governance.

The Rule of Law as a "Breeder of Values"

The rule of law contemplates equal protection (of human, property and other economic rights) and punishment under law. In theory, the rule of law reigns over government (protecting the individual from arbitrary action) and in society generally (governing relations among private interests). The rule of law ideology is not persuasive if it is not, at least occasionally, employed against the rich and powerful. In Pakistan, the "rule of law" is underdeveloped because rule-of-law ideology requires the commitment of elites to accept a degree of self-limitation in order to govern effectively. The use of the rule of law as a means of social control requires that it be believed and acted upon by both higher and lower classes. If this happens, the system of laws can become something more than a creature of the ruling class. With a certain degree of elite commitment, history has shown that the rule of law can actually become a breeder of values.

For example, in the eighteenth century, English criminal law became one of the chief ideological instruments of the ruling class. As the ruling class accepted a degree of self-limitation in governing, English justice became an important focus of beliefs about the nation and social order. "[I]t was inherent in the very nature of the medium which [the 18th-century gentry] had selected for their own self-defence that [the law] could not be reserved for the exclusive use only of their own class ... [Rules] may disguise the true realities of power, but, at the same time, they may curb that power and check its intrusions," [Thompson (1975)].

Class structures and various other stratifications influence the application of the rule of law in Pakistan. And the application of the rule of law in Pakistan is vexed by "patrimonialism" in political administration. That is to say that an objectively defined sense of official duty is subordinate to personal relations: "[p]ractically everything depends explicitly ... upon purely personal connections, favors, promises, and privileges." (Weber) This is at odds with the "rule" in "rule of law" which implies that in unforeseen cases, the law is used as a guide or norm for decisions; it also undermines the predictability and stability so crucial to the rule of law.

As a general proposition, the more fundamental aspects of the rule of law, especially in the context of developing countries, lie not in the positive laws passed, modified or reformed. The core strength of the concept of the rule of law is drawn from the extent to which it is composed of values. Whether laws are enforceable or effectively enforced is directly related to whether the law is observed and governs or influences behavior and whether positive law reflects a climate of legality and legal order in which the country wishes to live. Given various forces of resistance – those groups and individuals who benefit from an environment where the rule of law is weak – the nettlesome issues are whether laws are vigorously and evenly enforced and, more importantly, whether they make (or stand a reasonable chance of making) a normative contribution to prevailing national behavior. Norms, of course, do not guarantee performance, but they do add an important element of interest in seeing that obligations are performed.

The historical lesson in the preceding box on the rule of law as a “breeder of values” demonstrates that *without bold leadership*, models of well-conceived incentive compatibility and rule of law frameworks crumble. Leaders must act on and follow the incentive structure, and must hold themselves under the rule of law.

III. Governance Objectives and Lessons from Prior Reform Efforts

a) National Objectives and Citizens' Priorities

What are the larger objectives of Pakistan society and what role can government play in achieving those objectives? Perhaps some of these objectives have a universal quality. To what extent do the following five objectives resonate in Pakistan?

1) Expand the Economy

Economic growth, rising productivity, full employment, and stable prices. (When the economy is not expanding, opportunities for advancement are fewer, and the struggle among interest groups for resources intensifies).

2) Provide Adequate Personal Security Against the Principal Hazards in Life

This includes security against being victimized by crime, falling ill without being able to afford or access adequate health care, of being injured on the job or fired arbitrarily.

Most Pakistanis would agree with Thomas Hobbes: protection of persons and property through “justice” – i.e., the evenhanded and speedy enforcement of the rule of law is important. Indeed, most Pakistanis’ put demands for “justice” at the top of their list.⁴ This goes hand-in-hand with protection *and it is axiomatic that the rule of law must be applied evenly*.

I will return to this topic later, but at this juncture I would like to ask a question that is the best rough indicator historically across countries of the strength of the rule of law: How many VIP Pakistanis, who are not members of the opposition, are in prison today? I certainly do not mean to single out the current regime; I could have asked the question during the tenure of both elected and non-elected regimes of the past thirty years.

Another issue of personal security is the extent to which the State should provide safety nets. This is a nettlesome issue in every country. The challenge of course, is to target safety nets to those who are truly disadvantaged rather than providing perverse incentives to those capable of generating or seizing economic

⁴ See the basis for this observation in the discussion about judicial reform in the strategic goal section IV(c) *infra*.

opportunities in the market. One conservative critique of safety nets is that government is not needed to provide such safety nets irrespective of broad public demand. Perhaps this perspective would have been supported by the likes of Friedrich von Hayak or Milton Friedman. But most economists would agree that such a policy is untenable in view of global economic reform experience. Such a policy prescription is analogous to Samuel Johnson's well-known description of second marriages: "a triumph of hope over experience".⁵

3) *Assure Access to Opportunity, Public Services and Public Utilities*

To provide the services and environment in which a chance is available for all people to achieve as much as they can in light of their talents, aspirations, and efforts. Children are offered a fair start through education, irrespective of "community" or gender. Improving public services has both long and short term elements. Some institutional reform elements in the delivery of education services will take some time to correct and improve. On the other hand, services such as the delivery of national identity cards or the allocation of telephone lines where surpluses exist could be improved almost immediately.

4) *Guarantee a Quality of Life*

This includes elements beyond economic prosperity – earning a good salary – and address concerns about peaceful, pleasant neighborhoods, environmental standards (clean drinking water, sufficient water, quality air and soil), and a vibrant cultural outlet.

5) *Improve Access to Information and Enable Private Sector Efforts to Disseminate Information*

Information flows must improve on four levels: information within the public sector – among ministries, departments, agencies, information between government and business, information between the government and the governed and information within society at large. Citizens, bureaucrats and businesses alike need broader access to information. (See FOI and deregulation of broadcast media discussion below).

6) *Preserve Fundamental Values*

Included in this would be individual freedom and corresponding responsibility, as well as the Quaid's values of justice, equity, tolerance and wisdom.

Interestingly, these broad objectives are largely supported by many other countries, [Derek Bok (1996)]. In prioritizing the role of the Government of Pakistan, it is useful to "put the citizen first". While there may be some subtle differences in

⁵ Attribution for this analogy goes to Prof. Derek Bok.

detail, and there are certainly differences in the degree and methods by which these objective are achieved. I think that Pakistanis would broadly agree with these priorities. Over the span of Pakistan's history, I strongly suspect that citizens' basket of developmental objectives has not changed substantially: some income generating opportunities; access to decent health care; access to clean drinking water; access to quality education for their children, including girls; access to family planning (this demand has increased substantially in recent years); and construction of link roads to access markets and public services.⁶ Moreover, some of the broader difficulties faced by governments in achieving their objectives too are not unique, [Charles Bowsher (1993)].⁷

b) The Reform Process in Pakistan: Seven Interrelated Lessons

But how does Pakistan move from where it is now as a country in the midst of a governance crisis? Without trying to answer that question comprehensively in this paper, I have had the opportunity to review the history of reform efforts in Pakistan, and there are basic lessons of history that emerge from that review about "what to do" as well as "what not to do".

First, resist the search for the magic bullet or quick fix for governance in Pakistan. There is no "magic-bullet" by which to quick-fix governance problems in the country by merely picking a sector and making it work. Though often tried, not a single quick-fix, in my review of reform efforts in Pakistan, has succeeded.

Second, avoid "hiving off" public services through narrow sectoral approaches and specialized entities outside the civil service and judicial service cadres. The creation of specialized courts outside the judicial cadre, and the creation of specialized agencies outside the civil service cadre have not worked in Pakistan. This does not mean that there specialized skills within the cadres should not be developed, nor does it mean that certain services should not be "contracted-out" to achieve efficiencies, for example in the development and maintenance of public sector management information systems. There have been many disparate efforts in the past to fix one ministry or another, one department or another, one line agency or another. But trying to fix one sector without attending to the other sectors or the

⁶ Discussions with politicians whose families have been in politics for decades in Pakistan bear out the fact that these demands of citizens have endured over time.

⁷ About waste and inefficiency in the United States' Government, the U.S. Comptroller General Bowsher, Charles, had the following critiques: Important program objectives are not being met, funds are wasted, major programs are over budget and behind schedule, and money dues are not collected. These problems have existed for many years and efforts to correct them have resulted in incremental improvements – but in too many cases, management problems persist long after they have been brought to light and long after agencies have agreed to correct them. See, Government Management: Report on 17 High-risk areas, in testimony before the committee on Government Affairs, US Senate, 19 (January 8, 1993).

system that controls all of them, is a stop-gap measure. As Frederick the Great once remarked: “one must understand the whole before one peers into its parts”. Hence, the challenge is to embark on a comprehensive reform path that is carefully sequenced to achieve early modest successes and build credibility for the plan.

Third, avoid reform measures that distort incentives; or second-best, avoid the introduction of additional distorting-incentives. For example,

- i) if salaries are raised without performance goals and competence standards, instead of reducing corruption, the opposite may well occur;
- ii) if non-monetized benefits to judges are increased to match the non-monetized benefits in the senior civil servants, the distortion and non-transparency of public service compensation is compounded;
- iii) if training is increased, for example, to propagate competence in the civil service and judiciary, the training must be linked to goals, objectives and performance criteria; and
- iv) if top-notch private sector talent is desirable to lead reform efforts in certain public entities, recognition of such public service, rather than disproportionate salaries, should be the basis for attracting such talent.

Fourth, avoid privatization of public services in order to diffuse or postpone pressure to face tough institutional reform issues. Many have expressed concern about the privatization of education and the sequencing of necessary public sector institutional reform with incentives to privatize public services. This is another variation on the “hiving off” lesson above whereby different techniques are used to avoid pursuing core institutional reform measures.

Fifth, proactively create a political story – take up the policy reform initiative, publicize it so that the public understands it, and manage resistance. Positively asserting, building commitment for, and implementing a comprehensive reform agenda is a way to avoid more narrowly caste conditionalities that fall into the category of the second point above. Moreover, not all reforms require financial capital (e.g., the passage of a freedom of information act). Indeed, certain reforms could actually raise revenue with nominal, if any, political costs (e.g., the passage of a private broadcast media act).

Sixth, create an institutional home for reformers. There are anywhere from between 15 to 20 national reform efforts plus numerous provincial efforts. Perhaps all of these efforts are coordinated, but to an outsider, some of these efforts seem overlapping at best, and conflicting at worst. Irrespective of the efficacy of these initiatives, a widely held perception is that there is no institutional home or ultimate accountability to the citizens for reform performance.

Seventh, that there is no magic bullet or quick fix is not a reason for despair.

IV. Six Strategic Goals and Policy Reforms in Pakistan

Pakistan's economic prospects are predicated on building the institutional platform for prosperity. The balance of this paper focusses on strategic goals to build government credibility – i.e., the predictability of rules and policies and their consistent application – and performance, rather than focussing on technical issues related to on-going or contemplated economic reform measures. This choice is made because the evidence strongly suggests that government credibility is as important for attracting both domestic and foreign private investment as is the content of specific rules and policies. World Bank surveys reveal that high levels of crime and personal violence and an unpredictable judiciary combine to produce a “lawlessness syndrome”, and that many countries lack the basic institutional foundations for markets to grow, [World Development Report (1997)].

This section reviews six strategic goals and policy reforms. It is informed by stakeholder consultations in the 2010 process and reflects the citizens' priorities which emerged during that process. The consultative process revealed that the top reform priorities from a cross-section of Pakistan society are the following:

- i) law and order/justice/rule of law;
- ii) public sector reform, especially as it relates to education, health and public utilities;
- iii) reducing corruption in all walks of public service;
- iv) empowering the citizen through participation in private and nonprofit activities, freedom of information and private broadcast media; and
- v) decentralization, reinvigorating and empowering local government.

Broadly, the reform of three institutions of public service – the civil service, the judiciary, and the police – is critical to build a credible institutional platform from which the economy can expand and unleash broader and deeper economic opportunities. The interrelationship of the subordinate judiciary, the police, civil service reform and decentralization is striking. Time and space does not allow for a detailed account of all of the rationale behind the strategic goals, nor a fulsome discussion of policy implications of those strategic goals. Below is a charcoal sketch of analysis and policy implications related to six strategic goals: instilling a governance process to ensure the implementation of reforms; carrying out civil service reform; implementing a program of judicial reform; reducing corruption; beginning the decentralization process; and empowering the citizen.

The first strategic goal begins to answer the all-important “how” to set in motion a credible reform process; the subsequent five strategic goals outline priorities as to “what” to reform. Both the “how” and “what” to reform.

a) Instill a Credible Governance Process to Ensure Implementation of Reforms

Many will disagree that "how" to reform is as important as "what" to reform. Yet, that is precisely what the Pakistan experience suggests. This paper puts implementation concerns at the center, rather than as an after-thought.

Planning exercises in Pakistan are extensive and policy options are not unknown. Many thoughtful recommendations have been made over the past fifty years, [Civil Service Academy (1961)].⁸ But implementation of recommendations made by both official and other sources has been checkered. This suggests that developing a common understanding of, and commitment to, implementation processes and mechanisms should be central. Setting the right priorities and generating momentum for implementation of good governance measures through early and achievable successes is critical. Stripped to its essentials, governance is about setting priorities and generating and using power to achieve those priorities. It is through such a process that governance issues can be contextualized to Pakistan and addressed in a home-grown fashion.

The most urgent issue is setting up a credible structure to set in motion certain processes from which sustainable and strategic governance reform can emerge. Ambitious economic development and reform plans are often defeated because ownership over such plans does not rest with those in key positions to implement the plans. Institutionalizing credible processes and mechanisms which employ, fairly and systematically, a methodology to achieve good governance reform is key to eventually achieving results. Several lessons about the reform process in Pakistan identified in Part III(B) should also inform the "how" to reform. The process outlined in this section is not process for its own sake; it is tied to achieving broad goals and objectives through the selection and prioritization of specific policy options. It is one of the key missing elements of the voluminous previous reform efforts.

1) The Four Universal Elements of Setting in Motion a Credible Reform Process

The reform/change process has four critical elements: vision, commitment, mobilization and strategic action. A vision must be created and effectively communicated. Finally, reforms must be prioritized and sequenced, and action taken which achieves visible results.

First, create and communicate a vision that bonds the leadership to the citizenry around shared values. To the vision, the Prime Minister must attach his unwavering personal and political commitment.

⁸ Civil Service Academy, 1961, *Perspectives in public administration*, Lahore.

Second, manifest unwavering political leadership and commitment to the reform process by: (a) demonstrating voluntary restraint and moderation to bolster legitimacy of the reform effort, (b) instilling a sense of “systematic urgency” to address priority concerns, and (c) reshaping the policy space by creating an environment with room to change through active and skillful leadership.

Third, mobilize a guiding coalition of champions of reform to identify, prioritize and sequence a governance reform process. A powerful guiding coalition – “champions of reform” – must be mobilized to lead the change effort.

Fourth, prioritize recommendations through the stakeholder process to assure that the recommendation made are both strategic and implementable. From the consultative process, target areas for reform begin to emerge: where reform needs have been identified, where strong commitment to reform process has been expressed by stakeholders, where credible collaborative and consultive mechanisms can be devised to implement reforms, and where there is assured political support for the mechanism and the process.

2) The Reform Process as It is Contextualized in Pakistan

The process, agenda, character/principles, and membership of a credible commitment mechanism(s) to push forward a reform agenda are suggested below. There is no magical formula or magical bullet mechanism for reform. Characteristics of such a mechanism(s) should be informed by following four sets of consideration:

First, the generic elements of a governance process – vision, commitment, mobilization and implementation – must be in place.

Second, the lessons of previous reform efforts set forth in Section III(B) above should take into account as reform mechanisms are designed.

- i) The hard institutional reform issues must be addressed head-on rather than seeking devices by which to avoid them: (a) avoid quick fixes or magic bullets, (b) avoid “hiving off” specialized courts outside the judicial cadre and the creation of specialized agencies outside the civil service cadre, and (c) avoid privatization of public services to diffuse or postpone necessary institutional reform.
- ii) Proactively create a political story, take the policy initiative, publicize it so that the public understands it, and actively manage rather than succumb to resistance, or assume a defensive position in responding to narrow conditionalities.
- iii) Create an institutional home(s) for reformers where responsibilities are clearly and consistently delineated and delegated, and where the institutional home(s) are held accountable for catalyzing the process of setting priorities.

Third, no stakeholder process for Pakistan, irrespective of its apparent credibility and involvement of stakeholders, will actually improve governance by implementing reform measures which are not put to the test of incentive compatibility, that are attempted in an environment where the rule of law is weak, and where the leadership does not personally commit to holding itself under the reform measures/outputs/rules that are recommended by the reform mechanisms. With respect to rule of law and leadership, experience has shown that successful reform processes frequently hinge on the unpredictable qualities of leadership. For example, to assure the public that political transfers are over, that fiscal policy will not be ad hoc, that there won't be surprises in the disposal of public lands is a positive step. This is an effective way to communicate a part of the vision – of prudence and restraint. Leadership by voluntary restraint and moderation will bolster legitimacy for the reform effort, though a number of short-term political costs will arise.

Fourth, that while the precise membership in credible consultative mechanism is open to further discussion – be it/they taskforces, steering committees, working groups – it is necessary to assure that expertise in economics, law, management/administration/bureaucracy and politics is represented at the table, as well as representation by leaders from the private and nonprofit sectors.

- i) Expertise in these areas is vital to inform the costs and benefits, opportunities and constraints of virtually any reform issue. And, to breathe life into the partnering responsibility of government, drawing in actors from the private and nonprofit sectors, including the media, also is vital. Moreover, individuals chosen should have eminence and legitimacy and constituencies in society, and that the groups are balanced in terms of gender, region, party affiliation, and background. A two-tiered mechanism of consisting of a steering committee and a larger group of cross-sector stakeholders has been suggested. Given the pyramidal structure of Pakistan society, it is conceivable that a steering committee of as few as 20-25 eminent Pakistanis and 200-250 carefully selected cross-sectoral stakeholders – “champions of reform” – could be sufficient to move forward a reform agenda.
- ii) Proper handling of this group is vital to the credibility and success of the process. People will participate if their contribution is recognized formally, and if they are sure that their time will be well spent and “make a difference”.

b) Carry Out Civil Service Reform

The central plank of the restoration of governance should be the reform of the civil service; it is a pre-condition for improved public sector practice performance. Civil service reform is notoriously difficult to undertake. But, in various consultations, diverse groups ranked civil service reform roughly among the “top three” (just after

"law and order" and "justice"). The ideas outlined below are indicative to define the dimensions of the problems, and a framework and mechanisms to begin to address those problems; it requires substantially more detailed work that must be undertaken through an indigenous process of negotiation.

Nine broad policy reform directions that may be considered are as follows:

First, create a Good Governance Commission to implement the broad reform measures outlined below. What the commission is called is not as important as having a systematic, accountable and powerful institutional home to formulate reform measures and launch their implementation. The Commission would be charged with all matters related to public service, including: the recruitment of senior officials; salary and non-salary compensation; revision of the rules and procedures; standards and norms of performance; job descriptions; and terms and conditions of employment. The Commission would have to initiate studies to develop performance criteria, review job descriptions and qualifications, and fix proficiency and other criteria for promotions and wage incentives. A notional composition of the commission is suggested as well as broad rules of appointment and tenure of the commission. It is recommended that the Commission, perhaps in conjunction with the Auditor General, should present a report to the Parliament annually on the state of the civil service. Finally, it is recommended that following public hearings where necessary or appropriate, decisions of the Commission should be binding on government departments and agencies.

Second, review and revise the *salary* structure in the public sector. The following standard should be considered in reviewing the salary structure for public service: public servants should receive a salary sufficient to lead honest and respectable lives, though not necessarily equal to market-based salaries. Incentivizing salaries is an important missing element of encouraging high performance in the public sector, (but, as mentioned earlier, raising salaries will have a nominal impact if it is done without attaching meaningful performance criteria, job descriptions and qualifications, and proficiency and other criteria). The salary structure should be revised keeping in mind principles of equity, market conditions, cost of living and standard of living. All non-salary benefits should be monetized and made transparent. For posts in rural areas, a hardship allowance, based on market surveys by reputable organization, should be considered. Implement a strong and effective minimum wage. Empowering the Commission with permanent oversight and revision of the salary structure responsibilities may be considered.

Third, over-centralization as the fundamental structural problem in Pakistan's civil service, must be addressed. The Commission should be charged with the mission of devising implementable plans to address the problem of over-centralization in the bureaucracy through "deconcentrating" decision-making to lower levels of the bureaucracy.

Fourth, downsizing the public sector is both a structural and fiscal issue which needs to proceed from a reorganization plan. The short-term political and fiscal imperative to downsize should be balanced with the structural and long-term imperative to do it right. The Commission should be charged with initiating a reorganization program which includes downsizing, but also reallocation of responsibilities between ministries and line agencies as well as the private sector where appropriate, and the effectiveness of divisions should be scrutinized. Discontinue the practice of using the government as “the employer of last resort” regardless of the government’s need for employees or its ability to pay the staff. Urgency is there to act on existing reform reports, review staffing patterns, and constitute a fully financed Fund for Early Termination/Retirement, Retraining and Redeployment. The incentive structure in the Fund must be carefully crafted so that the best are induced to stay and the least productive are retrained or encouraged to go.

Fifth, reduce corruption in the civil service. Simplify and make transparent rules and procedures and then enforce them. Members of the commission that examines the revision of pay structures, qualifications job criteria, and performance targets, should be assured independence through protected tenures; its decision-making should be transparent; and it should encourage public hearings which solicit the ideas of the government, trade organization, nongovernmental entities, and others. Again, note that raising salaries without addressing other elements of the incentive structure may, if anything, increase the costs of corruption. Recruitment, through merit-based competition should be the standard practice throughout the civil service.

Sixth, urgently link promotions to performance criteria and job descriptions. Immediately begin to develop job descriptions, qualifications, and performance criteria and engage in public hearings. Radically revise the annual confidential report system of evaluation to link the employees’ review to job descriptions and agreed performance targets.

Seventh, rather than relying on fate or years of service, devise and implement a merit-based promotion program. Make promotions contingent upon passing examinations based on in-service training.

Eighth, discontinue the practice of ad hoc transfers and limit the number of political appointments. Provide a minimum tenure of three years for all sensitive positions except where specified differently by law. Require an annual report from all government officials and officers responsible for intra-departmental transfers on violations of tenure conditions. Require an annual report on tenure in sensitive positions and on explanation of excessive turnover. Recruitment for powerful or lucrative positions such as the federal and provincial superior services, the police, revenue, customs, tax and works departments – should be closely scrutinize to assure merit-based entry.

Ninth, revise the government’s information systems. Information systems within

government need to be developed to provide detailed analysis: to assess what information is necessary and what is not, to assess what information should be shared on an intra-agency and inter-agency basis, to link information flows with more delegated authority and performance based evaluations, and to assess information sharing needs between the federal and provincial governments. And, related to the need for freedom of information, the classification of government documents needs to be radically revised and made transparent. "Contracting-out" the oversight of management information systems in government may be advisable, given difficulties in attracting and keeping qualified technical personnel in this critical area, who can ascertain what information is needed, when it needs to be delivered to be useful, and how it can be delivered.

c) Implement a Program of Judicial Reform

In the 2010 consultations, consideration was given to dispute resolution mechanisms such as commercial mediation and special courts for foreign investors. The idea was to create ways to avoid the judicial system all together, by creating "islands of excellence" where disputes could be resolved speedily, effectively and finally without needing to fix the larger and deeper problems of the system as a whole. As discussions with the Pakistani legal experts and the foreign and domestic business community unfolded, however, it become clear that the creation of special dispute resolution institutions to achieve competitiveness may have the opposite effect in the long-term. Also striking in the stakeholder consultations was the priority participants attached to the working of the judicial system; "justice" ranked No.2 after "law and order" in governance priorities. There are steps that can and should be taken immediately, but there are no short-cuts to achieving the predictability and fairness that the Pakistan legal system must provide. Achieving that objective will require long-term political commitment to making the system work. There is substantial evidence that doing so would be politically popular among the majority of Pakistanis.

Two broad strategic lessons concerning the judiciary emerged from the 2010 stakeholder consultations:

1) Strategic Lesson No.1

Do not remove courts and court personnel from the regular judiciary by creating "special courts". Making existing institutions more effective should be the most important first step. Foreign investors expressed concern not just about enforcement of contracts, or about civil matters. The criminal justice system needs to be radically improved as well - surprisingly, foreign investors are concerned about the overall functioning of the justice system, both civil and criminal. This is not to say that

cadres within the judiciary should not develop specialized expertise. Efficiencies can be achieved if cadres within the judiciary develop expertise in complex commercial matters, and complex social matters (e.g., the Family Courts). But developing these areas of specialization within the constitutional framework and with oversight within the judiciary as well as normal external bodies to which the judiciary is held accountable, is quite different from creating supra constitutional courts which are not within or accountable to the judiciary branch.

2) Strategic Lesson No.2

From both a citizen and business perspective it is important to strengthen the subordinate judiciary and not just focus on the superior judiciary. From a citizen's perspective, most Pakistanis are not directly affected by Supreme Court or High Court rulings. Yet, many citizens come into contact with the subordinate judiciary, just as many Pakistanis come into contact with the police. This interaction is one of the most frequent between the government and the governed. And it is one of the most negative. The dysfunctional nature of this interaction exacerbates the No.1 concern expressed during stakeholder consultations 'law and order'. Making institutions close to the people work, and changing the orientation to one of professionalism and evenhandedness would have significant tertiary benefits. In that respect, fixing the subordinate judiciary and the ancillary institutions with which it cooperates is crucial, politically popular and strategic. From a commercial law perspective, especially given the jurisdictional limits of the subordinate courts, focussing on the High Courts may be most strategic. But, again, if the institutions charged with keeping the peace do not improve their performance significantly, fixing the High Courts without addressing the fundamental law and order problems may not significantly enhance the attractiveness of doing business in Pakistan, and particularly of value added businesses which would be most beneficial to Pakistan. Both foreign and domestic investment in Pakistan will continue to be of a more short-term "quick-take" nature - lacking the backward and forward linkages in the economy necessary to reap high value-added returns - unless the Federal and Provincial Governments commit financial and human resources to rebuilding judicial systems and enhancing the professional capability of judicial personnel, and then commit political capital to adhering to the rule of law.

A number of recommendations are made with respect to: addressing technical flaws in laws, rules and practices of procedure (and appeal) which clog the dockets; adhering to a protocol of judicial selection; investing in judicial training; improving the system of judicial accountability to check incompetence and malfeasance; increasing funding to the judiciary; incorporating information technology into the workings of the judiciary; separating the judicial and executive powers regarding magistrates; and developing and improving alternative dispute resolution mechanisms.

d) Reduce Corruption

All strategic goals outlined in this paper on good governance are either directly or indirectly to counter corruption measures. One recurring analytical problem is that corruption is frequently treated as a disease. But corruption is not a disease. Rather, corruption is a symptom of other underlying problems that relate to the integrity of institutions.

Corruption and failure in government performance, as well as greater public information and knowledge about both, have contributed to growing pressure on governments to perform. If government performance was better or growth sufficiently distributive, rampant corruption would not in itself, undermine state legitimacy in Pakistan.

Unlike corruption in other contexts, corruption in the Pakistani context has had a singularly negative economic and social impact, eroding not only growth but also social capital. Thus, appeals to the general public to defer their gratification no longer work because the public suspects collective resources are being siphoned off rather than invested for their future prosperity. Rampant corruption and failure in government performance on the one hand, and improved information density and rising public expectations on the other, equal a recipe for change. Indications are that citizens are prepared for bold moves.

Delivering “accountability”, as it is defined in Pakistan, has a primary meaning of “countering corruption” and a secondary meaning of delivering services. In Pakistan, corruption – the misuse of public office for private gain – results in multiple deleterious effects. For example, corruption dissuades foreign investment; increases the transaction costs in both the private and the public sectors; cripples the judicial process; depletes fiscal resources; creates delays and deep inefficiencies in government; affects the law and order situation; and depletes social capital. In short, it is expensive and demoralizing. With both international and domestic media coverage, the problem of corruption is firmly in the public eye.

A convincing force for large scale reform results from the confluence of three factors: widespread public demand for more responsive governance, daring and visionary leadership, and a changed role of the state. Generally, four foundations are necessary to counter corruption: (1) reforming the political process (recommendations related to parliamentary and electoral reform); (2) restructuring and reorienting government machinery (civil service reform and the citizen’s charter); (3) empowering citizens (decentralization and empowering the citizens); and (4) creating and sustaining public pressure for change (empowering the citizen, including the discussion of freedom of information).

There are twelve “accountability laws” which are the precursors to the Ehtesab Act of 1997 and four bodies principally charged with enforcing accountability. There is no lack of legal infrastructure for accountability. The problem that was identified

and analyzed in a *Report of the Special Committee for the Eradication of Corruption from the Services in Pakistan* (1981) is as follows:

“Very good laws and rules exist on the statute book and in the rules of conduct of Government servants but these have either not been enforced properly or used in a half-hearted and perfunctory manner with the result that in a majority of cases offenders have got away.”

Clearly, discretion does not ensure corruption, nor do rules guarantee its absence.

Ingredients of successful counter-corruption campaigns include: unwavering political commitment; dispelling the notion that comprehensive prosecution for past widespread corrupt acts is possible (see the South African model); reducing the control rights of bureaucrats and increasing the level of competition; improving the enforcement machinery in counter-corruption detection, apprehension, conviction and penalties, and raising the wages of bureaucrats and implementing a performance-based system of incentives.

A number of policy reforms are recommended related to the Ehtesab Act of 1997, the powers and procedures of the Ehtesab Cell, the Parliament and political parties, the Auditor-General's office, and reforming the Ombudman's office. These detailed discussions will be in a book in the not-too-distant future. Many of these recommendations are not economically burdensome to implement. But many have political costs, the weighting of which is difficult and beyond the scope of this paper.

e) Empower the Citizen

A recurring theme in this paper is: “putting the citizen first”. Many of the policy measures suggested in this paper, related to the subordinate judiciary, decentralization and reducing corruption, are all designed to bring the government closer to the governed. With respect specifically to empowering citizens, four policy directions are as follows:

First, improve the interaction among citizens, firms, and the public sector. Civil society is defined as the relationship among the public, business and nonprofit sectors in which a high level of cooperation and mutual support prevails. The paper analyzes the causes of resistance to nonprofits including vested interests, a narrow view of the appropriate role of nonprofits, a failure to apply the same performance standard and cost-effectiveness standard to governmental as well as nongovernmental organizations, and the view that nonprofits and the state are locked in intractable conflicts. Yet, empirical research demonstrates that collaborative public-nonprofit relationships need to emerge to expand both social opportunities and economic growth.

Second, pass a freedom of information act and a private broadcast media act. Another element of empowerment is information. There is a need to pass laws and put in place regulatory mechanisms to encourage disclosure of unclassified government documents as well as to encourage private sector development of the broadcast media. Passage of a freedom of information act is recommended. The Freedom of Information Ordinance of 1997, which has lapsed, though not perfect, was a good entry point to begin to ensure a practice of openness to public records. Moreover, there is a need to pass a broadcast media act to allow for and regulate private broadcast media. The Electronic Media Regulatory Authority Ordinance promulgated by the Caretaker government in February 1997 lapsed on June 14, 1997. The need for and benefits of more open access to broadcast media are manifest. The information age is here, and Pakistan will never be able to achieve its 2010 vision of knowledge-based economic growth unless it emerges from a previous era of state-controlled broadcast media. Among other benefits, private broadcast media would allow Pakistanis to compete in the regional broadcast media market. This capacity could significantly enhance regional understanding about Pakistan and encourage a broader appreciation of its people and culture. In order to allow appropriately regulated private broadcast media to emerge, the study recommends a transparent licensing procedure and the creation of a Broadcast Media Regulatory Authority to review applications for licenses.

Third, create citizens' charters to put the "customer first" in the delivery of public service. A number of credible and extensive public administration studies have been undertaken in Pakistan. These studies have focussed on supply-side organizational and administrative structures that "should work" and yield efficiency. But the recommendations made in these studies have faced two major constraints. One is that they did not take into account the rich variety of informal inhibitions on institutional performance in Pakistan. The second is that institutional performance benefits from competition and "customer" or citizen demand for effective services. Previous efforts focussed almost entirely on the "supply-side" of public service performance, not on the "demand-side". Since "reformers" who make a difference come and go in public service, the following benefits can be systematically obtained from building habits of mobilized customer demand and responsiveness in the public sector to such demand: it brings government closer to the citizens; it provides leverage for government to negotiate performance-based standards with public sector labor unions; and it improves prospects for a sustained customer orientation in public service, irrespective of whether a reformer happens to be the head of any particular public service agency. Four recommendations are made for Pakistan to begin a process of developing citizens' charters in Pakistan. First, declare a commitment to citizens' charters and announce a Task Force on Citizens' Charters. Specific recommendations about the process of drafting the report should be included. Second, identify key ministries to begin participation, and identify key public services that

the public is particularly frustrated about to begin the reinvention process. Third, require a number of agencies to develop citizens' charters. Fourth, devise an awards system that acknowledges meritorious public service. Thought should be given to activating an enabling environment where a citizen's charter approach can be made to work.

Fourth, create an enabling environment for nonprofit activity. The existing framework to ensure accountability and transparency of operations among nongovernmental organizations be reviewed. It is recommended, nevertheless that a consultative process be implemented and systematically pursued to improve and expand collaborative governmental-nongovernmental collaborative activity and trust on the ground. The consultative mechanism should include politicians, senior bureaucrats from the relevant Federal and Provincial Ministries and Departments, and NGO leaders acting in their representational capacities. The consultative process should be public so as to solicit a wide range of comments and advice.

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