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# Editorial: Policies and practices under COVID-19 pandemic and more

Public Administration and Policy – An Asia-Pacific Journal (PAP) was first launched and jointly published by Hong Kong Public Administration Association (HKPAA) and City University of Hong Kong in 1992. It was suspended in 2005 and re-launched in 2012 with the new co-publisher, the School of Professional Education and Executive Development (SPEED) of The Hong Kong Polytechnic University. Since 2018, it has been published online in open access on the Emerald Insight Platform. This year marks the 30<sup>th</sup> anniversary of its first launch and 10<sup>th</sup> anniversary of its re-launch as well as 5<sup>th</sup> anniversary of its online publication with Emerald.

PAP now publishes three issues with over twenty articles per year. It is indexed and abstracted by Scopus, Emerging Sources Citation Index (ESCI), CrossRef, Directory of Open Access Journals (DOAJ), EBSCO Discovery Service, Google Scholar, Health Research Premium Collection (ProQuest), Healthcare Administration Database (ProQuest), ProQuest Central, ProQuest Central Basic (Korea), ProQuest Central Essentials, ProQuest Central Student, Publicly Available Content Database (ProQuest), Summons (ProQuest) and WorldCat. Academics and practitioners in public administration, management, public policy, and related fields are welcome to contribute papers to this journal.

## Summary of articles

This first issue of 2022 consists of eight articles with one speech, three related to the coronavirus pandemic, three on local governments in Bangladesh, Nepal and Tanzania respectively, and one on compliance of listed companies in Oman. A brief introduction of these articles is given below.

The first article on “Can Hong Kong exceptionalism last? Dilemmas of governance and public administration over five decades 1970s-2020” by Anthony B.L. Cheung is a book launch speech to introduce his book which critically reviews the government and public administration of Hong Kong from 1970s to 2020, including the strengths, capabilities, constraints and dilemmas. Five exceptional aspects are identified: (a) Under British rule, Hong Kong was governed as an atypical colony; (b) It was one of the Four Little Dragons as part of the East Asian Miracle; (c) In the 1990s, it was one of the regional pioneers in public sector reform; (d) The unique constitutional status of post-1997 Hong Kong as a Special Administrative Region (SAR) of China; (e) After reunification with China, the SAR government, though only semi-democratic, is checked by balancing and monitoring mechanisms no less vigorous than some developed democracies. After reviewing the past, the author opined that Hong Kong has entered a “second transition” after 2020, undergoing a bigger test than that in 1997. Hong Kong has to identify its niche areas, not only in economics, but also needs a paradigm shift in how it relates to the Mainland China within “One Country” as well as the world as a global metropolis.



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The second article on “Family caring for the elderly during the pandemic in Hong Kong: perspective from Confucian familism” is by Andrew T.W. Hung. He argues for the values of familial caring and relationships in addition to the provision of social media technology during the COVID-19 pandemic in Hong Kong. The author adopts an inter-disciplinary approach by integrating health care system and psychological analysis, based on cultural and philosophical arguments through the hermeneutic approach of classical texts and critical analysis. The pandemic has exposed the dilemma between the public health measures for COVID-19 and sustaining elderly social-psychological health through familial connection. From a Confucian perspective, the practice of filial piety, which demands taking care of parents, is essential for one’s moral formation and becoming a virtuous person. Such necessity of taking care of elderly parents by adult children is not something that can be explained in terms of consequentialism. Rather, the rising trend of instrumental rationality seems to weaken rather than strengthen the sense of filial obligation. In the face of the pandemic which tends to separate connections between family members, the author argues that Chinese people should emphasize the values of familial caring and relationship because it enhances the elderly’s characteristic of resilience.

The third article on “Corporate Social Responsibility policies and practices on unvaccinated employees during the COVID-19 pandemic: case studies of Israel and United States” by Lilach Litor addresses the tension between Corporate Social Responsibility (CSR) and the employees’ right to work in times of the pandemic. The author explores the operation of corporations in adopting policies of mandatory vaccination and the role of the courts regarding the CSR patterns. By examining the court cases of CSR practices regarding unvaccinated employees during the pandemic in Israel and the United States, the findings show that the Israeli system has adopted the regulating for individual discretionary CSR approach which is labor-oriented. The possibility of compelling employees to vaccinate is denied, and it is the obligation of the corporations to consider proportionate measures to isolate the unvaccinated employees while allowing them to continue working. In contrast, the American system has adopted the regulating for ethical-public CSR approach and claims that corporations should advance the public interest in health. While mandatory vaccination is possible, this infringes upon the right to work of unvaccinated employees.

The fourth article is “A review of the long-term care policies under COVID-19 in Thailand’s aging society: implications for ASEAN countries” by Phudit Tejavataddhana, Nalinee Nakittipha Chuakhamfoo and Man Thi Hue Vo. Based on online databases from international, national, academic agencies and SCOPUS database extracted from January 2019 to July 2021, the findings reveal that the proportion of the aging population is increasing due to declined fertility and rising life expectancy. Current and future demand for effective healthcare in ASEAN will be better achieved with policies like the Universal Health Coverage and Primary Health Care system. The COVID-19 pandemic has posed a major challenge in implementing long-term care and affected the vulnerable aging population in many aspects. Social protection issues have been brought to the forefront of the political debate and called for appropriate policy responses. With the support from international organizations, ASEAN countries have framed several policy strategies in response to the increasing aging population, such as providing more long-term care services in the community.

The fifth article on “Assessing fiscal health of local governments in Bangladesh: evidence from some south-western municipalities” by Tasnim Murad Mamun and Sajib Chowdhury investigates the fiscal health of 18 south-western municipalities in Bangladesh. By applying Wang, Dennis and Tu’s solvency test and Brown’s Ten-Point Test, the result shows that one-tenth of the entire municipalities are endowed with better position, whereas almost 39 percent of municipalities are in the worst situation, and nearly 50 percent of municipalities are in the

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average category. Because of having limited liabilities, the municipalities are endowed with more than enough cash solvency and reasonable level of long-run solvency. The key problems are that budgetary solvency of all municipalities is not satisfactory, and service expenses are more than their revenue generation. The authors suggest improving the financial capabilities of the municipalities through properly using their resources, generating loans, and claiming a need-based budget from the central government.

The sixth article is “A study of the capabilities and limitations of local governments in providing community services in Nepal” by Keshav K. Acharya and John Scott. The authors discuss the possibilities and limitations of local government in implementing constitutionally guaranteed rights to transform local communities. Drawn from 56 in-depth interviews with elected representatives, political parties, and government officials from 14 local governments in seven provinces at both national and local levels, the findings indicate that capacity is a major constraint for local governments, which should be addressed to achieve successful local governance, inclusive citizen engagement, and strong technical, administrative and fiscal capabilities. The authors propose that the lack of local autonomy, political conflict, social class differences, external engagement, and conservative hierarchic government bureaucracy are major hurdles to growing capacity. The article also attempts to understand to what extent the Nepali local governments are capable in delivering the services at the local level as the closest unit of the citizens.

The seventh article “The influence of ethical leadership in the delivery of agricultural advisory services in Tanzania local government authorities” by Wilfred Uronu Lameck adopts a comparative case study to investigate ethical leadership, particularly the leader-follower relationship in the delivery of agricultural advisory services in two local governments: Morogoro Municipality in Eastern Tanzania and Hai District in Northern Tanzania. The findings show that the delivery of the services in Tanzania is guided by formal rules, including the roles and responsibilities of local government officials and field workers, which are driven by national-level guidelines written by the Ministry of Agriculture. In developing the working schedule, agricultural extension workers at the village and ward levels are guided by an annual calendar that defines the seasons of the year and the relevant knowledge required by farmers. Nevertheless, the implementation of these schedules is compromised by a lack of resources and morale of field workers, who in turn cope through charging for the services, which is considered as their prime motives.

The last article on “A study on listed companies’ compliance with value-added tax: the evolving role of compliance officer in Oman” by Mohammed Muneerali Thottoli examines the companies’ compliance with value-added tax (VAT) and the evolving role of the compliance officer in the listed companies at Muscat Stock Exchange (MSX), Oman. After analysing various compliance measures and real data of specific compliance or disclosure measures set by Capital Market Authority (CMA) on all companies listed under MSX from 2011 to 2019, the author identified that there is a lack of timely compliance by companies under the existing law. These companies may face pressures for compliance with VAT enforcement in Oman. Therefore, to comply with the disclosure requirements of listed companies, there is a growing need to appoint a full-time compliance officer and do a compliance audit. The results indicate the value of full-time compliance officers and compliance audits. The findings are able to aid in the appraisal of VAT accounting, compliance audit research, and in the selection of proper assessment methods and criteria.

I wish to thank all the authors for contributing their papers to this issue and the reviewers for their critical but constructive comments in helping the authors to improve their papers. Finally, I thank Emerald and our editorial team as well as the members of both the Asia Pacific Editorial Board and International Editorial Advisory Board for their contributions in making the successful publication of this issue possible. We hope these articles will enhance

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the understanding of various issues on public administration and policy across different regions in the world.

Editorial

Peter K.W. Fong  
*Editor-in-Chief, PAP Journal*  
*President, Hong Kong Public Administration Association*

### **About the Editor-in-Chief**

Professor Peter K.W. Fong, PhD (New York University), is President of Hong Kong Public Administration Association and Editor-in-Chief of PAP Journal. He teaches strategic management and supervises DBA students' dissertations of University of Wales TSD and lectures Public Policy Values and Ethics at the Chinese University of Hong Kong. He held Advisory/Visiting Professorships in Tongji, Tsinghua, Renmin, Tianjin Universities and HK Poly U. He has been members of HK Institute of Planners & Planning Institute Australia. He was a Teaching Fellow of Judge Business School, University of Cambridge; Director of EMBA programme, HKU Business School; Associate Professor, Department of Urban Planning, HKU; Executive Vice President of City University of Macao; Honorary Professor, China Training Centre for Senior Civil Servants in Beijing; Studies Director, Civil Service Training & Development Institute, HKSAR Government; Visiting Scholar, MIT; Director, Delta Asia Bank; Consultant, the World Bank. Peter K.W. Fong can be contacted at: [fongpeter@netvigator.com](mailto:fongpeter@netvigator.com)

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# Can Hong Kong exceptionalism last? Dilemmas of governance and public administration over five decades 1970s-2020

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## Abstract

**Purpose** – The purpose of this book launch speech is to introduce the book I author, *Can Hong Kong exceptionalism last? Dilemmas of governance and public administration over five decades 1970s-2020* (2021). The book critically reviews the governance and public administration from 1970s to 2020, identifying strengths and capabilities as well as constraints and dilemmas.

**Design/methodology/approach** – The book is based on my decades of academic observations and personal political experience by interpreting and re-interpreting the Hong Kong journey, with reflections on past assumptions and raising new questions.

**Findings** – This book identifies five exceptional aspects: (a) Under British rule Hong Kong was governed as an atypical colony; (b) It was one of the Four Little Dragons as part of the East Asian Miracle; (c) In the 1990s, it was one of the regional pioneers in public sector reform; (d) The unique constitutional status of post-1997 Hong Kong as a Special Administrative Region (SAR) of China; (e) After reunification, the SAR government, though only semi-democratic, is checked by balancing and monitoring mechanisms no less vigorous than some developed democracies. It also examines various governance problems faced in the post-1997 period.

**Originality/value** – Hong Kong is again in times of uncertainty and volatility. The city has entered a ‘second transition’ after 2020, and it is undergoing a bigger test than in 1997. After reviewing the past, I opine in the book that Hong Kong has to identify its niche areas, not only in economics. It needs a paradigm shift in how it relates to the Mainland within ‘One Country’ and how it relates to the world as a global metropolis.

**Keywords** Hong Kong, Governance, Public administration, Exceptionalism

**Paper type** Viewpoint

## Introduction on writing the book

For many years I have wanted to write a book on Hong Kong’s administrative history to understand how this city has been run. The book, *Can Hong Kong Exceptionalism Last?*, is a realization of that longing (Cheung, 2021a).

My book carries several decades of academic observations and personal political experience. Writing the book was a fascinating process of interpreting and re-interpreting the Hong Kong journey. I have reflected on past assumptions and asked new questions.

Put briefly, this book critically reviews the past trajectory of governance and public administration up to 2020, identifying strengths and capabilities as well as constraints and dilemmas. It tries to explain Hong Kong’s resilience and performance as a system over the



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decades, despite political and institutional limitations, in achieving ‘the possible out of the seemingly impossible’. The book is divided into three parts: ‘The Legacy’, ‘Transition and Change’ and ‘Tensions and Challenges’. Altogether there are 14 chapters plus Introduction, Epilogue and Postscript.

My original manuscript was completed in mid-2019, just as the extradition bill crisis erupted. The massive social unrest in Hong Kong in 2019 was triggered by the Hong Kong government’s attempt in amending the extradition law to include the transfer of fugitives and offenders to Mainland China for crimes committed there. Controversies soared regarding civil liberties. Starting as peaceful protests and sit-in at the government headquarters in June 2019, these later escalated into riotous violence and serious polarization.

The book was revised a few times after internal and external reviews and in tandem with evolving developments. By the time the manuscript was finalized in July 2020, a national security law was passed, followed by extensive changes to the electoral system this year. In face of a suspected separatist movement aimed at regime change, China’s National People’s Congress imposed a national security law on Hong Kong at the end of June 2020 and revamped the city’s electoral system in March 2021 to ensure only ‘patriots’ would administer the city.

Hong Kong’s political landscape is being revamped which also affects the modus operandi of public administration. The full implications of the changes, some of which still unfolding, could not have been covered in the main text. A Postscript is added to quickly assess the latest situation and provide my initial thought on the prospect of ‘One Country, Two Systems’ and Hong Kong’s exceptionalism in the years ahead.

### How exceptional?

I use Hong Kong Exceptionalism as the book title and overarching theme because it helps to tell the Hong Kong story.

How has Hong Kong been special or exceptional?

1. ***Under British rule Hong Kong was governed as an atypical colony.*** At that time China, without surrendering sovereignty claim over Hong Kong, treated it as ‘internal matter being dealt with externally’ (內事外辦). The 1970s were the golden years of policy reforms and administrative modernization, including the establishment of the ICAC (Independent Commission Against Corruption) that made Hong Kong an international anti-corruption icon. I have another book in Chinese on the ICAC published last year (Cheung, 2020; see also Cheung, 2008). By the time Sino-British talks took place in the early 1980s, Hong Kong was already quite an efficient and effective administrative state despite its 19<sup>th</sup> century political architecture. Those talks were mostly about the preservation and continuity of that Exceptionalism which was thought to have made the city prosperous.
2. ***Hong Kong managed to become one of the Four Little Dragons applauded by the World Bank as part of the East Asian Miracle*** (World Bank, 1993) but its proclaimed small government and positive non-interventionism contrasted strongly with the other three economies (Singapore, South Korea and Taiwan) which all pursued a state developmental path. Hong Kong had a low tax regime and yet was able to afford a relatively extensive welfare system including public housing and universal education and healthcare. The government was actually more interventive in the factors of production and regulatory controls than many assumed (Schiffer, 1983). Another ‘miracle’ or exception?
3. ***In the 1990s Hong Kong was one of the regional pioneers in public sector reform,*** but with an agenda rather distinct from the New Public Management (NPM)

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paradigm originating in Western Europe and North America where the aim was to downsize and transform a bloated and inefficient bureaucracy. Hong Kong's reform was to re-empower the administrative bureaucracy, along the path of what I describe as 'political questions, administrative solutions' (Cheung, 1996, 1999). What happened after the Asian Financial Crisis was, of course, another story (Cheung, 2012).

4. ***The Basic Law embodies the 'exceptional' constitutional status of post-1997 Hong Kong as a special administrative region (SAR) of China***, enjoying a high degree of autonomy and self-administration, and continuing with an inherited British civil service system and English common law. Neither London nor New York enjoys such exceptional treatment within their own national structure. The essence of 'One Country, Two Systems' is to enable Hong Kong to keep its capitalist system as distinct from the socialist mainland of China and to allow local people to continue with their pre-existing way of life. It underpins the mutual accommodation of two existentialisms and value systems.
5. ***After reunification, the SAR government, though only semi-democratic, is checked by balancing and monitoring mechanisms no less vigorous than some developed democracies***, and certainly more than the near-autocratic bureaucratic regime of the colonial past. The Hong Kong system of governance is rated higher in 'voice and accountability' than Singapore (a parliamentary democracy) according to the World Bank's global governance indicators.

Over the years Hong Kong has scored very highly on these governance indicators – especially in government effectiveness, regulatory quality, rule of law, and control of corruption. Its 'political stability' was rated well ahead of the US, Britain and South Korea until 2019 when widespread political unrest halved its score (from 75 out of 100 to 36.7). Its score in 'voice and accountability' also dropped (from 61 to 54.2) but was higher than Singapore (at 39.4) (World Bank, 2020). Hong Kong has its share of acute social problems, youth discontent and 'deep-seated contradictions'. Yet it has continued to flourish as a relatively resilient city. Its overall performance scorecard, according to various economic and social benchmarks, would be the envy of many developed countries and cities.

Hong Kong is one of the world's most prominent free-market economies, the 3rd top global financial centre (after New York and London) and, before COVID-19, the busiest cargo airport and 3rd busiest international passenger airport (after Dubai and London Heathrow). Among major cities Hong Kong has one of the largest clusters of world-class universities. It ranked 3rd in the World Economic Forum's 2019 Global Competitiveness Index (after Singapore and the US). Its infrastructure had been ranked number 1 by the Forum's Global Competitiveness Report for several consecutive years until 2018 when overtaken by Singapore.

Hong Kong's fiscal health has been in good shape with hefty financial and foreign exchange reserves. Fiscal reserves stand at HK\$902.7 billion in 2021. Life expectancy is the highest in the world. The quality of the healthcare and education systems is highly regarded internationally. The McKinsey's 2021 report on the urban transport systems of 25 global cities puts Hong Kong top in public transport efficiency. Overall unemployment rate has all along been at a low level (around 3 percent) except most recently because of COVID-19. Youth employment is much better than in many developed economies. Also, Hong Kong is among the world's safest cities.

### **Post-1997 problems looming large**

Hong Kong's exceptionalism was born out of historical circumstances. It could not be taken for granted. Since 1997 the city has undergone twists and turns. Public sentiments have not

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been short of anxieties and worries about preserving the Hong Kong as people knew it in the past. *'To change or not to change'* – that has been a perennial dilemma.

Because the old framework of governance was regarded as unproblematic during the pre-1997 transition, Hong Kong seemed somewhat frozen in its 1980s state. Political, administrative, economic and social anomalies were simply glossed over. Such an incomplete journey of reunification sowed the seeds of subsequent instability and alienation. It also paved the way for growing tension within the local society and between the city and the rest of the nation.

*Politically* two unsettled questions have been haunting Hong Kong: namely democratization towards 'double universal suffrage' (for electing the Chief Executive and the whole of the legislature) (the ultimate target prescribed by the Basic Law) and legislation on national security mandated by Article 23 of the Basic Law. *Economically*, Hong Kong has ceased to be a role model for the Mainland as the latter advances into a high-growth and high-tech era producing alternative developmental paths. An unduly narrow mindset has hindered the city's economic innovation and diversification. In *public administration*, there were aborted experiments in civil service reform in 1999-2000. Although a ministerial system of political appointment was introduced in 2002, it was only 'half-baked', thus producing mixed results to say the least. Administrative reform had virtually stopped in the past decade as most attention went to confrontational politics.

Because of the defects of the political system, we have a government with neither popular mandate nor votes within the legislature. Executive-legislative disconnect (and even gridlock) was not uncommon in recent years. Politics have become a 'blaming and shaming' game. The previously renowned 'Hong Kong speed' has suffered due to policy impasse and administrative inertia.

The rise of identity politics after reunification was not fully anticipated (Fung, 2001; Abbas, 1997). Nobody could have imagined that the post-1997 or millennial generation would become even more unsure of the future under 'One Country, Two Systems' than their parents' generation who grew up in the colonial period. The younger generation have become more assertive in their local identity.

During the two decades since reunification, according to the polls of the University of Hong Kong Public Opinion Programme (HKUPOP), those respondents expressing their identity as 'Hongkonger' and 'Hongkonger in China' (regarded as a more pro-local identity) together constituted around 67 percent by 2018, up from 60 percent in 1997. The extradition controversy in 2019 saw the pro-local identity shooting to 77.8 percent by year-end, comprising 55.4 percent 'Hongkonger' and 22.4 percent 'Hongkonger in China' (HKUPOP, 2019; HKPORI, 2019). (Note)

Some local people consider their perceived freedom and autonomy dwindling, resorting to the politics of 'fear' during the controversies about national security, national education and extradition. It is ironical that as Mainland China gains more confidence in its socialist system and the 'China Model', Hong Kong on the other hand feels less secure about its prospect.

Less noted in the local 'identity' discourse is the economic factor. Hong Kong's wealth creation had historically been closely tied to the Mainland – from the China trade in pre-War years to early industrialization, thanks to incessant class struggles following the Communist regime change and the Cultural Revolution, and then to a role in financial intermediation and trade/services facilitation in the Mainland's initial process of economic reform and outreach to the world. Once Mainland China has completed this process and is now able to chart a more indigenous course of growth sustained by domestic consumption, expansion of large state-owned and private enterprises (some of which having already turned multinational and reaching out to new overseas markets and production sites), the reliance on Hong Kong has become reduced, raising the possibility of economic 'marginalization'.

After the failure in Article 23 legislation in 2003, the central government has resorted to an 'economic absorption of politics' and pushed for more integration. However, integration is not

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without pain because of institutional differences, capacity asymmetry, and the conflict of identity and values.

### **Good enough governance possible?**

That said, if we look at the wider world scene, the decline in trust in government institutions and executive-legislative gridlock are not problems unique to Hong Kong. They are prevalent in Western democracies as well, most notably in the US. The widespread decline in trust in public institutions across countries was noted in Edelman (2020). The middle ground is fast giving way to both right-wing and left-wing populism. Young people everywhere have become a disillusioned generation. There are clear signs of a global crisis of governance and democracy (Ercan and Gagnon, 2014; Levitsky and Ziblatt, 2018; Fukuyama, 2018).

Here in Hong Kong, putting aside the merits and pitfalls of democracy, we have to accept that Beijing's interpretation of self-administration and its attitude towards electoral democracy are quite at variance with some local aspirations. Under a restrained electoral system, the question I have been asking until most recently is *whether we could achieve 'good enough' governance without full democracy*. The price to pay for a non-democratic yet professional administration is, of course, the limitation of bureaucratic government even assuming that competence, integrity and fairness continue to be put above all else within public administration.

### **Major threat**

The greatest threat for Hong Kong comes from political polarization and the worsening relationship with the Mainland. The first turning point was the 2014 Occupy Central movement. Beijing responded with a White Paper on 'One Country, Two Systems' to (re) assert its 'comprehensive jurisdiction over the SAR (Information Office, State Council of the People's Republic of China, 2014). Then came 2019 which saw a city in turmoil (Lam and Ibrahim, (2020). Nobody could have anticipated the turbulence caused by a poorly managed bill to amend the Extradition Ordinance and related legislation in 2019 could become a crucial turning point for Hong Kong.

On 1 July 2019, the anniversary of Hong Kong's reunification with China, radical separatists stormed into the legislative chamber, desecrating the SAR emblem and waving the old British colonial flag. Some organizations and shops with mainland ownership or connections were vandalized. Mainland sentiments became agitated. The national day on 1 October 2019 to mark the 70th anniversary of the founding of the PRC was greeted by violent street protests and confrontations. The SAR government had to impose emergency regulations on 4 October 2019 to ban the wearing of face masks in public gatherings. More stormy confrontations ensued in November 2019 around the campuses of two universities. The anti-government force unleashed managed to bring every contradiction in society to a major implosion – a perfect storm! The rest is now history.

Amid vicious global geopolitics and the US-led offensive on China, Hong Kong's unrest was interpreted by Beijing as part of a 'colour revolution' conspiracy. Feelings on the Mainland towards Hong Kong have become hostile. Before reunification Hong Kong was valued as crown jewel. Now it is regarded as political liability. Its loyalty to the nation is cast in doubt. Mutual acceptance or tolerance has turned into mutual distrust.

Under the revamped electoral system imposed by the National People's Congress, the proportion of directly elected seats on universal suffrage is more than halved from 40 out of 70 seats, to 20 out of an expanded Legislative Council of 90 seats. The bulk of the legislative seats (40) now goes to the Election Committee which elects the Chief Executive, hoping it would cement executive-legislative cooperation. The Election Committee, based mostly on sectoral corporate voting, is enlarged (to 1,500 members) to incorporate a fifth sector of 300 local delegates to and representatives of national political institutions and organizations to better safeguard 'national interest'. All legislative candidates must now obtain nominations

from all five sectors of the Election Committee in addition to the electorate of their respective constituencies, and afterwards be vetted by a new eligibility review committee.

Beijing considers such changes crucial to ensuring a 'patriotic' SAR regime and a stronger executive-led system. In the eyes of pro-democracy groups and the international media, democracy in Hong Kong is being set back.

Facing multiple threats – internal social and political fragmentation, Beijing's distrust, US and Western boycotts and marginalization, as well as uncertainties in national and regional integration – Hong Kong is going through an existential crisis (Cheung, 2021b). The Hong Kong system is at a crossroads. *Can Hong Kong's longstanding Exceptionalism last?* – this is the question I pose in my book.

### Rethinking the future

We are again in times of uncertainty and volatility. The city has entered a 'second transition' after 2020. It is undergoing a bigger test than in 1997. Doomsday theories abound, some predicting the demise of Hong Kong (*Financial Times*, 2020). 'Either...or' and 'neither...nor' are two sides of the same coin. Where sceptics and doubters see the situation as futile, others are still willing to contemplate possibilities. Looking back at recent history, Hong Kong had never got a clear answer about its future but managed to press ahead with a '*Can do*' spirit.

Hong Kong Exceptionalism is a *living* state of affairs. Its substance will not stay stagnant but continues to be defined by circumstances. Whether or not it will be as vigorous as before and sustainable is the major litmus test of China's 'One Country, Two Systems' mega-project. With enough goodwill and big-picture courage, Hong Kong's exceptionalism should persist because it defines the city's political, cultural and economic distinctness (and therefore its *sense of purpose*) within the context of a renaissance of the Chinese nation.

The sure route to Hong Kong's demise is the evaporation of its critical value to a rising China. Therefore, Hong Kong has to identify its niche areas, but not only in economics. It needs a paradigm shift in how it relates to the Mainland within 'One Country' and how it relates to the world as a global metropolis. It requires *both* realism and dynamism in appreciating limitations and opportunities under a non-zero-sum mindset.

As my book concludes, exceptionalism not only hinges on institutional arrangements and historical inheritance but also on the statecraft of the administration of the day. People in Hong Kong must not let themselves fall into a self-fulfilling prophecy of failure.

### Note

1. Upon HKUPOP's closure in July 2019, a private Hong Kong Public Opinion Research Institute (HKPORI) has continued the polls using the same methodology.

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# Family caring for the elderly during the pandemic in Hong Kong: perspective from Confucian familism

Family caring  
for the elderly

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## Abstract

**Purpose** – The aim of this paper is to argue for the values of familial caring and relationships in addition to the provision of social media technology during the COVID-19 pandemic in Hong Kong.

**Design/methodology/approach** – The discussion of this paper has adopted an inter-disciplinary approach by integrating health care system and psychological analysis, based on cultural philosophical argument through the hermeneutic approach of classical texts and critical analysis.

**Findings** – The COVID-19 pandemic has exposed the dilemma between the public health measures for COVID-19 and sustaining elderly social psychological health through familial connection. From a Confucian perspective, the practice of filial piety (*xiao*, 孝), which demands taking care of parents, is essential for one's moral formation, and for one's becoming a virtuous (*ren*, 仁) person. The necessity of taking care of elderly parents by adult children is not something that can be explained in terms of consequentialism. Indeed, the rising trend of instrumental rationality seems to weaken rather than strengthen the sense of filial obligation. In the face of the COVID-19 pandemic which tends to separate connections between family members, the author argues that we should emphasize the values of familial caring and relationship because it enhances the elderly's characteristic of resilience.

**Originality/value** – This paper shows that while social media technology has mitigated the negative effect of social distancing, such online relationships should never replace the bodily connections between the elderly and their family members from a Confucian perspective.

**Keywords** COVID-19, Elderly caring, Confucian familism, Digital literacy, Resilience, Embodiment

**Paper type** Viewpoint

## Introduction

Family support is important to elderly persons. However, the COVID-19 pandemic has exposed the dilemma between the public health measures for COVID-19 (including social distancing, quarantine and isolation) and sustaining elderly social-psychological health through familial connection.

Because of the lessons learned from fighting the severe acute respiratory syndrome (SARS) epidemic in 2003, the Hong Kong SAR Government has published the first “Guidelines on Prevention of Communicable Diseases in Residential Care Homes for the Elderly” in 2004; and these infection control measures have effectively helped residential care homes in Hong Kong in dealing with COVID-19. As a result, the COVID-19 infection rate and mortality rate are very low compared to other countries (Chow, 2021; Lum *et al.*, 2020; Law, 2020).

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However, the measures of social distancing and isolation have aggravated the existing social isolation of the elderly, seriously affecting the connection between the elderly and their family members. According to a non-profit organization known for its 24-hour Care-on-Call Service in Hong Kong, mental health problems among the elderly have increased dramatically due to isolation and anxiety during the coronavirus pandemic. The Senior Citizens Home Safety Association reported that the number of cases in which the elderly required emotional support has increased by 52 percent year on year, and the number of cases considered to be at “suicide risk” has increased by 36 percent (Wong, 2020).

This paper attempts to explore the problem of social isolation of the elderly in Hong Kong during the COVID-19 pandemic with reference to situations of other countries. It advocates the necessity of taking care of elderly parents by adult children from the perspective of Confucian virtue ethics. The author also refutes the consequentialist approach of filial obligation and argues that taking care of elderly parents is essential for one’s moral formation, for one’s becoming *ren* (仁). Such filial responsibility should not be considered a matter of maximizing the utilities of the whole community. With the demise of filial piety due to modernity, values of filial piety, familial caring and relationship should be re-emphasized because it enhances the elderly’s characteristic of resilience. This paper also explores the situation of online relationships through the use of social media technology during the COVID-19 pandemic. It is agreed that online communications have mitigated the negative effect of social distancing. However, such online relationships should never replace the bodily connections between the elderly and their family members from a Confucian perspective.

### **Social isolation of the elderly in Hong Kong**

In 2016, Hong Kong’s elderly (aged 65 and above) made up 16 percent of the total population of 7.4 million. While 91.9 percent were living in domestic households, the remaining 8.1 percent were living in non-domestic households, such as residential care homes, hospitals and penal institutions, etc. As population aging continues, there has been a dramatic increase (67.4 percent higher than 2006) in the number of elderly-only domestic households (such as elderly living alone and households consisting of elderly couples only) (Census and Statistics Department, 2016). Because of having a higher risk of severe illness from the coronavirus, the elderly are advised to stay at home as much as possible; and thus, the elderly and the elderly couples living alone are most vulnerable to social isolation and loneliness.

In 2020, the HKU research team and NGO partners (JC JoyAge, n.d.) conducted a telesurvey of 8,382 senior citizens aged 60 or above. The survey found that 92.5 percent of the elderly would avoid gatherings with family and friends during the pandemic, and around one-tenth of the elderly reported symptoms of depression or anxiety. Although the rate of such symptoms remained stable as compared to previous years, the elderly’s psychological problems are generally caused by stress, health problems, and a lack of social familial engagement. The sense of isolation caused by social-distancing measures has harshly impacted those living alone; they can no longer go out freely to see their family members and friends. On the other hand, the pandemic for some elderly means that the family members stay at home longer, thus causing more conflicts.

Furthermore, in March 2021, the City University of Hong Kong (2021) conducted telephone interviews with 341 elderly people in Ho Man Tin District and found that according to the Lubben Social Network Scale (LSNS-6), the average score of local elderly people was only 9.6 out of 30 points, which was lower than the 13.6 points in 2018, that is, before the epidemic. It was also lower than 12 points of vigilance line and much lower than that of the same age group in overseas countries. This means that their risk of social isolation is extremely high which “makes them more likely to become sick, as their physical and mental health are

affected”, and may finally lead to “a higher healthcare services usage rate and risk of hospitalization.”

For those living in residential care homes, while lockdown is very effective to prevent virus transmission, it causes psychological hardship for the elderly and family members. The elderly living in residential care homes experience loneliness and the feeling of being abandoned by their relatives, and at the same time, family members also have a sense of guilt (Chow, 2021). Social isolation, loneliness and depression may lead to long-term health crises at any age, and the negative effect has been shown to be magnified in the elderly (Shankar *et al.*, 2015). These may even cause a relapse in symptoms of post-traumatic stress disorder (Wong, 2020).

Indeed, the impact of the pandemic on the elderly is not limited to Hong Kong, but also extends to the global world. Up to date, the pandemic has affected over 222 million patients in 188 countries around the world, with almost 4.6 million deaths (The Johns Hopkins Coronavirus Resource Center, 2021). This highly contagious and deadly disease has forced governments to take extraordinary measures in different countries, including declaring a state of emergency, encouraging social distancing, isolating patients and their close contacts, as well as implementing restricted access policies in social and healthcare facilities. As Delgado (2022, p. 41) states, while these policies are effective in containing the outbreak, they have also “caused patients and their relatives to suffer through the disease in isolation and family separation, even in challenging and unique moments such as end-of-life events.”

### Confucian familism and elderly caring

Confucianism emphasizes the value of family relationships, and considers them as based on human natural affection. Loving one’s family and respecting the elderly are considered constitutive to one’s moral character. As Mencius (7A15) said, “What people are able to do without having learned it is an expression of original, good ability. What they know without having to think about it is an expression of original, good knowledge. There are no young children who do not know enough to love their parents, and there are none who, as they grow older, do not know enough to respect their older brothers. To be affectionate toward those close to one — this is humaneness (*ren*, 仁). To have respect for elders — this is rightness (*yi*, 義). All that remains is to extend these to the entire world” (Bloom, 2009, p. 147).

And filial piety (*xiao*, 孝) is considered the core of Confucianism and the foundation of social ethics. In *Analects* (1.2), Master You said, “It is a rare thing for someone who has a sense of filial and fraternal responsibility (*xiaodi*, 孝悌) to have a taste for defying authority. And it is unheard of for those who have no taste for defying authority to be keen on initiating rebellion. Exemplary persons (*junzi*, 君子) concentrate their efforts on the root, for the root having taken hold, the way (*Dao*, 道) will grow therefrom. As for filial and fraternal responsibility, it is, I suspect, the root of authoritative conduct (*ren*)” (Ames and Rosemont, 1998, p. 89). And in *The Classic of Filial Piety*, Chapter 1, Confucius said, “filial piety is the root of (all) virtue, and (the stem) out of which grows (all moral) teaching.”

According to Chinese characters, the Chinese word 孝 (*xiao*, filial piety) is the combination of two words: 老 (*lau*, old) and 子 (*zi*, son). The word 老 (*lau*, old) is on top of 子 (*zi*, son); it means that the son should take on the responsibility of caring for his elderly parents. Traditionally, the majority of the elderly were cared for by their family members, especially when they developed severe diseases or lost the ability to work. It was quite natural for family members to take up such responsibility because every generation of them lived under the same roof. Offspring, particularly adult sons, were responsible for taking care of their elderly parents until the end of their lives. Furthermore, the combination of the words 老 (*lau*, old) and 子 (*zi*, son) also implies that there exists a kind of unity and continuity between generations.

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According to Fei Xiaotong (1998, pp. 201-202), a prominent Chinese sociologist, children are always considered by their parents to be part of themselves, i.e., the second life of themselves. Generally, the elderly are very much concerned about their family relationships; they cherish moments of getting along with their children and grandchildren. In traditional Chinese family culture, the lives between parents and children are closely connected; their dignities are very much inseparable; and both share glory and disgrace together. In short, for traditional Chinese, both parents and children are highly interdependent; they share a common identity. Thus, there are many teachings about caring for children and parents in Confucian texts. Such care is not only for the survival of family members, but also for the goal of being *ren*, that is, providing comprehensive care for the physical, mental and spiritual well-being of family members. Unlike Western culture, because of the value of filial piety, traditional Chinese will pursue a bi-directional caring model. Parents take care of the young, and when they have grown up and get married, they must take care of the young and their elderly parents. And when they are old, they rely on their adult children to take care of them. Based on the emphasis on traditional family values, Chinese people have a higher sense of family ties and norms of reciprocity in intergenerational relationships (Xu *et al.*, 2007).

### **Criticism of the rule-consequentialist approach of filial obligations**

According to William Sin (2016), we may understand the demand of filial obligations from the perspective of rule consequentialism. Sin distinguishes two kinds of filial obligations: a moderate view and an extreme view, or also called a strong view. While the moderate view morally permits adult children to stop supporting their parents after offering a substantial amount of sacrifice, the extreme view demands adult children to take care of their elderly parents and bear the sacrifice indefinitely. Sin argues that from the perspective of rule consequentialism, in the current situation of an aging population, it is more justifiable to demand adult children to take up an extreme view of filial obligations for two reasons. First, it is easier to inculcate or to internalize the moral demands to assist one's own parents' lives than to save strangers' lives. As children are born with strong instincts to protect their parents, the "costs of internalizing strong filial obligations among children will be lower than what we might initially expect" (Sin, 2016, pp. 6-9). Second, as there is a much higher percentage of elderly population than that of the young in an aging population, society has a great demand for adult children to take care of their parents for a long time. This has increased the demand for strong filial piety. In this case, the benefits of promoting strong filial piety, instead of the moderate view, may exceed the costs. Parents would likely be taken care of by their children and thus may feel a stronger sense of security because they know that they will be protected from some of the worst possibilities in life. The mutual trust between two generations will also be strengthened.

Basically, leaving aside the controversies of how we should count the benefits or utilities of different approaches, we may agree with Sin's consequentialist analysis from the perspective of policymaking. However, from the perspective of moral motivation, the underlying motivation to take care of one's parents due to consequentialism is for the sake of social utility rather than for the well-being of one's parents *per se*. Such motivation to care for one's parents seems to be problematic and hypocritical. Consequentialists may reply that the benefits for parents and for society under a strong view of filial obligations can go together, so we do not need to separate these two in our analysis. And indeed, one of the important features of consequentialism is that it only considers the effect and utility, not moral motivation, in moral judgement. Consequentialist arguments can be compatible with Confucianism in promoting strong filial piety.

Apparently, the consequentialist argument may be compatible with the concern of Confucian filial piety when both social and parents' benefits are aligned. However, when

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social utility and parents' benefits are in conflict, consequentialism may demand adult children to forgo the duty of taking care of their parents or to take up a less demanding view of filial obligations. Indeed, Sin (2016, pp. 7-9) admits that according to rule consequentialism, we may promote weak filial obligations in society in which the percentage of young people is much higher than that of the old and thus the demand for being cared for is lower and thus adult children can have greater freedom. Sin anticipates such criticism and gives two responses. First, he defends that demographic development is not the only factor, as other factors, such as the established way of treatment of the elderly and the mode of interaction between generations, etc., will also affect the demand burden of filial obligations. Second, the aim of rule-consequentialist analysis is not to identify the deliberative factors of taking care of parents, but rather its goal is to identify the set of appropriate codes for society to adopt in the long run. The question of how to cultivate people's moral motivation to comply with the code is left to moral education. And thus, Sin argues that his rule-consequentialist filial obligations are compatible with other non-consequentialist theories regarding filial obligations. According to Sin (2016, p. 8), these non-consequentialist theories include debt theory, gratitude theory, friendship theory and special goods theory. Sin did not mention Confucianism. However, as Confucian filial piety, to a certain extent, includes elements of the above non-consequentialist theories, it is obvious that Sin will consider his rule-consequentialist argument to be compatible with Confucianism.

Sin's second response seems to assume that the justification of policymaking and reasons given in moral education can be separated. However, in an open society, people usually deliberate policy publicly. The idea endorsed in the justification of policy, when it becomes the dominant political ideology, will inevitably gradually permeate through the people, and thus will shape people's attitude and moral motivation regarding filial obligations, including the way of interaction between adult children and elderly parents, which is the "other factor" mentioned in the first response above. It is unconvincing for the government to demand citizens to take care of their elderly parents simply for the sake of parents' well-being without considering the social utility while the justification of policy is simply based on the maximization of social utility. It is hypocritical to have two different sets of justifying reasons between the social moral code and that given in moral education, and in particular social utility and parents' benefits may be in conflict in certain circumstances as discussed.

Moreover, Sin's defenses of the strong view of filial obligations cannot really respond to worries caused by rule consequentialism. In principle, it is still possible that in certain circumstances, a weaker version of the filial obligation is justified rather than a strong version. It is also possible to imagine that, in certain circumstances, giving up the duty of caring for one's parents in order to pay more attention to taking care of younger children would better benefit the long-term development of the whole society. Indeed, if we simply consider the criteria of the maximization of social wealth and productivity, it seems to be justifiable that the benefits of using resources to nurture young children outweigh that of caring for elderly parents because there are still many different possibilities for young children to contribute to society in the future, while the elderly will inevitably become weaker, and their productivity will gradually decline. This also exposes the dilemma of the theory of consequentialism. While consequentialism requires us to count the interests of every individual equally, in reality, the potential contribution of young children will generally be much higher than that of the elderly. This means that when resources are limited, in most circumstances, it is justifiable to offer young children more resources and caring at the expense of elderly parents' well-being. In the face of the problem of an aging population, to offer and promote to the elderly varieties of easy access to euthanasia, to let the elderly die earlier, "voluntarily" and "peacefully," seems to be a more effective way to deal with the problem and more beneficial to the development of the whole of society rather than providing long-term care by their children from the consequentialist perspective.

Indeed, there is a relevant debate between Dave Archard and Arthur Caplan (2020) about “Is it wrong to prioritise younger patients with Covid-19?”. While Archard argues that it is discriminatory to use age to decide who should receive potentially life-saving treatment, Caplan argues that when rationing is inevitable, age is a morally relevant factor in deciding who gets care because there is a diminishing chance of survival with increased age. It seems that based on consequentialist rationality, to prioritize younger patients instead of the elderly in the healthcare system is inevitable. And that is why Kevin Connolly, when seeing the elderly die without sufficient medication during the COVID-19 pandemic in a U.S. nursing home and his father-in-law who lived in the facility also die, would say, “We have limited resources to battle this disease, and I think somebody somewhere decided that this population of people wasn’t worth wasting resources on” (Abrams, 2021).

Obviously, Confucianism would not agree with consequentialist analysis of filial obligations. Confucianism is a kind of virtue ethics. For Confucians, to respect and take care of elderly parents is what one should do. It is expressing one’s moral character as being *ren*. While Confucians may not reject the consideration of utility in determining how one can better take care of one’s parents and other family members, they would reject the consideration of the necessity of filial obligations (yes or no, or to what degree) simply based on its social utility.

### **Blind obedience and the demise of filial piety**

However, the upholding of filial piety by Confucianism in the past was harshly criticized by scholars during the May Fourth Movement (1919) as promoting foolish filial piety (*YuXiao*, 愚孝) and blind obedience to parents. Lu Xun has drawn several examples from the *Twenty Four Acts of Filial Piety* to show that certain filial acts that had been praised were actually absurd and superstitious (Huang, 2019). In the face of criticism of foolish filial piety, the author has two responses. First, such an extreme view of foolish filial piety does not conform with the teaching of Classical Confucianism. Indeed, Confucius, in the *Xiaojing*, Chapter 15, asks his students to remonstrate with their parents’ wrongdoings, as he says, “if a father has a son who will remonstrate with him, he will not behave reprehensively (*buyi*). Thus, if confronted by reprehensible behavior on his father’s part, a son has no choice but to remonstrate with his father. . . remonstrance is the only response to immorality. How could simply obeying the commands of one’s father be deemed filial?” (Rosemont and Ames, 2009, pp. 113-114).

Second, the rise of blind obedience to parents in the past was partially caused by sons’ and daughters’ ignorance and their high reliance on their parents, regarding their economic, social life or education. Nowadays, in modern society, children usually acquire their education from schools and work outside the family when they have grown up, so the elderly have lost much of their traditional authority, leading to what Yunxiang Yan (2003, pp. 173-189), an anthropologist, calls, “the demystification of parenthood and filial piety.” Thus, there is no reason to believe that those who are brought up in modern society would likely fall into the kind of blind obedient, foolish filial piety again. On the contrary, Yan observes that with the development of the market economy, society is becoming more and more individualized. Traditional filial piety has gradually declined even in Chinese villages. Many elderly people complain that their sons no longer respect them; some would even ignore them. Their grandsons also dislike them for having an old person smell and refuse to eat together with them. Although adult children still think that they should support their parents, they no longer think that their parents’ nurturing of them was out of a great kindness and thus children must repay them throughout their lives. Rather they believe that a child is born without a choice, and once children are born, it is parents’ responsibility to nurture their

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children. They also need to raise their own children. Some even complain that their parents do not help them to get married gracefully and glamorously, or that their parents are partial to other children and are not fair towards them, so they reduce their support for their parents. Therefore, it seems that instead of worrying about the potential problem of blind obedience caused by filial piety, we should rather worry about the decline of the value of filial piety, thereby reducing the care of elderly parents by adult children in modern society. And it seems that the increasing trend of instrumental rationality – the mindset of calculating utilities, driven by modernity and market economy – has actually weakened, rather than enhanced, people’s sense of their filial obligation. Thus, what is needed in modern society is to enhance people’s attention to the value of filial piety, and thus the elderly can receive appropriate care from their family members.

### **Resilience and the COVID-19 pandemic**

Apart from the above argument of moral motivation, this paper also argues that such values of parent-children mutual support, familial caring and relationship should be emphasized in the face of the COVID-19 pandemic which tends to separate connections between family members, because familial caring and relationships are highly related to one’s character of resilience. Resilience is defined as the capacity to recover from difficulties. It refers to one’s ability to withstand adversity and bounce back and grow in the face of adversity. However, COVID-19 presents unique challenges because people are physically distancing themselves from each other, and social connections, as a key factor in enhancing resilience, have become difficult (Richards and Dixon, 2020).

A survey conducted by Zhuang *et al.* (2021) in Hong Kong shows that although about one-third (30.6 percent) and one-tenth (11.5 percent) of the respondents reported that a moderate or severe level of psychological distress due to financial problems, family members’ mental-emotional problems and addiction problems under the influence of COVID-19, as well as family support and community resources can be an important protective factor that fights against risks and adversities with positive outcomes. Moreover, family support and family leisure activities can positively contribute to family members’ mental health. Family leisure activities in which pats and children can spend time together in recreational activities can create a sense of rhythm within the family and cultivate the inner confidence to cope with unpredictable changes (McCubbin and McCubbin, 1988). This finding is consistent with previous studies, showing that family cohesion, integration, intimacy, and relationships are important protective resources for individual mental health in the face of stressful situations, such as earthquakes (Cao *et al.*, 2013) and health-related epidemics, such as SARS (Main *et al.*, 2011).

As Zhuang *et al.* (2021, p. 2319) state, “Family support was found to be the strongest mediator of the negative influences of COVID-19-related stressors on psychological distress. The results imply that even though the families are negatively influenced by life stressors, support, such as alliance, feelings of belongingness, guidance and reassurance of personal worthiness provided by family members, is an important family factor that can facilitate family members’ positive adaptation in the face of stressful situations. It is suggested that family members with the common belief of ‘being in it together’, can collectively share difficult feelings, maintain connectedness despite heightened family stress. Regarding family leisure activities, our findings suggest that it exerted an indirect protective effect through improving family support, which then led to better family functioning. Essentially, everyday low-cost leisure activities can provide a safe and positive context in which family relationships can be enhanced and feelings of family connectedness and integration to be increased. In turn, this may contribute to better psychological health.”

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**Technology during the COVID-19 pandemic**

In response to the problem of social distancing during the COVID-19 pandemic, information and communication technology has been heavily used to mitigate these negative effects, providing individuals with many digital alternatives to daily activities that can no longer be completed normally. Indeed, the use of technology in hospitals or residential care homes can help to achieve what Delgado (2022, p. 47) calls “synchronous communication” between the patient and his/her family or the family and the healthcare team. It helps the healthcare team to provide adequate timely information and open communication with family members of critically ill patients. In particular, when important decision-making is involved, social media technology helps family members know the patient better and communicate with the patient and the healthcare team in order to set a better therapeutic goal. The video conference provided by the healthcare team can also shorten the distance between patients and family members, and facilitate emotional connection through facial expressions and nonverbal communication. Nowadays, the use of technology, such as smartphones, tablets, personal computers with SKYPE, ZOOM, TEAMS or chat tools, to stay connected with family members and friends has become an important way to fight against these negative effects caused by prolonged isolation and loneliness. Online lectures and academic conferences have also become the new normal in many institutes.

In Hong Kong, information and communication technology is also increasingly used during the COVID-19 pandemic. For instance, some professional services, such as occupational therapy services for people with dementia, and visits by family members in the residential care homes are facilitated by information technology. Regarding the community care services, while most services provided by day care centers for the elderly have been suspended, staff still contact center members to provide social and emotional support over the phone on a regular weekly basis. Some NGOs also offer remote activities and counseling to the elderly with dementia through video links. Local telecommunications companies have sponsored and partnered with a number of NGOs to provide video calls in lieu of physical visits to nursing homes, encouraging families and friends to provide elderly residents with spiritual comfort (Wong *et al.*, 2020).

However, while technology may have greatly mitigated the negative effects in the general population, the situation in the elderly population is more complicated. Compared with young people, the ability of old people to acquire and use technology is much lower. For those elderly people who live alone without technical assistance, they cannot benefit from the advancement of technology. Van Jaarsveld (2020, p. 7) calls such long-standing uneven technology acquisition and skill distribution “the digital divide”; and such gap will continuously increase as the rate of technological innovation speeds up. While the problem of the digital divide is not new, its seriousness has been magnified and has become obvious because of the pandemic which has already caused so many elderly to suffer the negative effects but are unable to acquire help from technological achievements. Thus, Van Jaarsveld (2020) argues that it is necessary to pay more attention to and inject more resources into improving the elderly’s digital literacy.

In Hong Kong, because of the increasing use of information technology due to the COVID-19 pandemics, the digital divide may have been narrowed down. However, the divide is still serious. According to the recent survey conducted by the City University of Hong Kong (2021), only 70 percent of elderly aged 80 or below and 28 percent of the elderly over aged 80 use smartphones. The use of smartphones is still not so popular among the elderly in Hong Kong which makes them less connected with relatives and friends and might be one of the reasons for exacerbating isolation. Regarding the use of information technology for medical consultations, only 20 percent of the elderly are confident in using video calls for medical consultations; 80 percent still prefer face-to-face consultation.

According to Van Jaarsveld (2020, p. 3), “research suggests that the main determinants of this divide are low motivational access, and a general skills deficit. A recent study showed that elderly individuals who reported disliking technology mainly attributed this to the belief that it was inconvenient, or that the costs outweighed the benefits. The task of closing the digital divide therefore becomes an issue of not only improving elderly access to technology, and offering skills training so they can develop digital skills, but also implementing programs to increase the elderly population’s motivation to use technology, and better understand the benefits it can offer.”

Thus, Van Jaarsveld (2020, p. 4) suggests both short-term and long-term goals for enhancing digital literacy among the elderly. In the short term, governments and care homes should provide digital resources to the elderly and take measures to ensure that they are aware of the resources available online during this pandemic. In the long term, governments should aim at reducing the digital divide between older and younger populations, they should take the opportunity to implement digital literacy programs for the elderly, increase their motivation to use technology, and enhance their digital skills.

### Confucianism and online relationships

Some critics think that Confucianism is old school and outdated, which will reject technology and online relationships. Some scholars even criticize Confucianism for emphasizing *Tian/Dao*, family relationships and cultural values that are unfavorable to technological advancement (Deng and Ma, 2013). It is true that Confucianism emphasizes spiritual and moral character more than the innovation of technology and instruments. As Confucius said, in *Analects*, 2.12, “Exemplary persons (*junzi*) are not mere vessels.” (Ames and Rosemont, 1998). And in the *Book of Changes*, it is written that *Dao* is metaphysical, while vessels or instruments are only physical (Legge, 1899). It is also true that Confucianism is cautious of overemphasis on technological advancement which may inhibit one’s spiritual-moral cultivation and relationship development (Tang, 2008). However, Confucianism does not reject technology *per se*. Sun Junhong’s (2007) exploration of Pre-Qin Confucianism shows that the emphasis on respecting *Dao*, learning and appropriate application by Confucianism made a profound contribution to the development of ancient Chinese science and technology. In particular, if the use of technology can enhance one’s caring for family members, there is no reason that Confucianism would reject it.

Basically, the author agrees that technology can mitigate the psychological problems caused by the COVID-19 pandemic, along with the measures to enhance the elderly digital literacy. However, such “online relationship” is not enough. From a Confucian perspective, such an online relationship is still too disengaged and disembodied. Confucian understanding of human nature is always an embodied self. For Confucianism, one’s moral cultivation (*Xiushen*, 修身) and experience (*Tiyan*, 體驗) always involve one’s body (*Shenti*, 身體). One can never truly acquire knowledge, know others, and establish a meaningful relationship in a detached, disembodied mode (Hung, 2013). Thus, to achieve effective communication and emotional connection, technology alone is not enough; certain creative measurements and procedures must be initiated and set up so that the elderly can keep experiencing the bodily connection with their family members.

Hong Kong long-term care services provided by the Social Welfare Department includes two streams: (1) Community Care Services (including Integrated Home Care Services, Enhanced Home and Community Care Services, and Day Care Centre / Unit for the Elderly); and (2) Residential Care Services (including Home for the Aged, Care and Attention Home, and Nursing Home). Community Care Fund also provides a monthly allowance of HK\$2,400 to subsidize caregivers of low-income families. Community Care Services are basically based on the principle of “ageing in place” which is in line with Confucian familism while

Residential Care Services are considered a backup only. However, as Chung (2015, p. 5) argues, the reality is that there exists a great and increasing demand for Residential Care Services. This phenomenon shows that the provision of current home care services is insufficient. Thus, even though the policy direction is to encourage “Aging in Place” and home-based elderly care, the gap between policy formulation and implementation makes home care difficult to achieve. Hence, there is still much room for improvement in promoting “Aging in Place”. Furthermore, even if the elderly are living in their domestic households, they can easily be isolated from their family members during COVID-19 pandemic if they live far away from their children. And Community Care Services can never replace the support and care from their family members. Thus, the government should advocate the values of filial piety and the responsibility of adult children to take care of their parents and encourage them to live with or near their parents; and it may be promoted with the support of certain policies.

### Conclusion

Family support is important to elderly persons. The restrictions imposed by the COVID-19 pandemic should not reduce our familial caring and relationships. From the perspective of Confucian familism, caring between family members becomes even more important especially for the elderly in the situation of a pandemic. Such caring of elderly parents is not simply out of consideration of social utility, but it is a kind of Confucian moral demand and an expression of a person as being *xiao* and *ren*. With the decline of the traditional family values in modern society, there is a necessity for promoting the value of filial piety so that the elderly can receive appropriate care from their family members during the pandemic. And the healthcare system and its professionals must adapt to new situations and achieve innovation, not only by using technology, but also by finding ways or measures to maintain human bodily familial connections as a key factor in providing the best and holistic care for patients and their families.

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# Corporate Social Responsibility policies and practices on unvaccinated employees during the COVID-19 pandemic: case studies of Israel and United States

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## Abstract

**Purpose** – The article addresses the tension between Corporate Social Responsibility (CSR) and the right to work in times of the COVID-19 pandemic. Accordingly, it explores the operation of corporations in adopting policies of mandatory vaccination and the role of the courts regarding these CSR patterns.

**Design/methodology/approach** – The article examines court case studies of CSR practices regarding unvaccinated employees during the COVID-19 pandemic in Israel and the United States.

**Findings** – The findings show that the Israeli system adopted the regulating for individual discretionary CSR approach, whereas the American system adopted the regulating for ethical-public CSR approach. Adopting the latter infringes upon the right to work of unvaccinated employees. While in Israel, the possibility of compelling employees to vaccinate is denied, in the American model, mandatory vaccination is possible. As opposed to the American model, in the Israeli model, there is an obligation to consider proportionate measures to isolate the employees while allowing them to continue working.

**Originality/value** – The article introduces two possible notions of regulating CSR in times of the pandemic – regulating for individual discretionary CSR which is labor-oriented and regulating for ethical-public CSR which is focused on public aspects. While the former posits that corporations should advance individual interests of employees and their right to work, the latter claims that corporations should advance the public interest in health. Following the problems resulting from the Israeli and American cases, the article draws on the lines for a suggested approach that courts should embrace.

**Keywords** Individual discretionary CSR, Ethical–public CSR, Carroll's CSR pyramid, Mandatory vaccination policy, COVID-19

**Paper type** Research paper

## Introduction

Unemployment is endemic in the economy of Western countries and so is a demand for recognition of a right to work as a remedy for that situation. In many Western countries, a right to work and freedom of occupation have not been recognized in constitutional documents or as fundamental rights (Elster, 2021). Yet a need to recognize a right to work has been put forward in the last decades as a way of addressing situations of inability to work.

Novel circumstances of inability to work have been raised due to the spread of the COVID-19 pandemic. In January 2020, scientists identified a new COVID-19 virus responsible for unknown pneumonia (Ramesh *et al.*, 2020). Soon after the virus had spread to most parts of



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the world, governments established emergency policies, including forced social isolation and lockdowns in attempt to cope with the virus. The COVID-19 regulations usually included the closing of many businesses, restaurants, theaters, and public services, causing layoffs, forced unpaid holidays, and massive unemployment. For instance, in Israel in April and May 2020, around a half million workers were unemployed (including those in forced unpaid vacation) (Aviram-Nitzan, 2020). Following the spread of the virus, governments advanced the use of the vaccine, while some employees refused to be vaccinated based on ideology or a fear of future side effects of the vaccine. The COVID-19 measures, which caused vast unemployment in many countries and situations of unvaccinated employees who were not permitted to work, raised the issue of the right to work.

The coronavirus crisis has indeed had an impact on the labor market around the world. Pandemics have the potential to cause harm to employees and the COVID-19 pandemic affected employees' rights. It weakened the labor force and strengthened corporations while widening the gap in the bargaining power between workers and employers (Tham, 2020). Previous literature on COVID-19 mostly analyzed the influence of the closure and other restrictions and induced daily activities on various aspects of individual life. Some scholars found a negative influence on physical health and social life during the pandemic (Mujahid *et al.*, 2021). Other research on the impact of COVID-19 on employees has shown that the reduction of economic activities during the pandemic resulted in a rise in poverty and unemployment and hence affected workers (Ajmal *et al.*, 2021a; 2021b). Scholars have also found the development of inequality in unemployment (Möhring *et al.*, 2020). Other literature on COVID-19 and employees has addressed the impact of closures on International Labor Organization standards (Ewing and Hendy, 2020). This article wishes to contribute to the literature by exploring the application of different policies regarding the right to work of unvaccinated employees.

The global crisis of the COVID-19 pandemic has raised new issues regarding the operation of corporations in relation to their employees. Following the pandemic, corporations adopted different practices of Corporate Social Responsibility (CSR). CSR is the activity of corporations aimed at fulfilling social responsibility targets as opposed to the economic goals of the corporation (Wood, 1991). CSR practices in times of a pandemic could indeed take different paths, giving rise to either labor-focused patterns of CSR or public interest-focused CSR. Hence, CSR patterns could involve attempts to preserve employees' rights or, on the other hand, mainly advance public prevention of the pandemic but while doing so, disregarding employees' interests. During the pandemic, many corporations decided to adopt self-regulation policies of mandatory vaccination. These CSR practices created a tension between the fundamental rights of employees who refuse to be vaccinated and the public interest in the prevention of infection and the spread of the virus. Such CSR practices might lead to infringing on the right to work of unvaccinated employees. These employees are usually not allowed to enter the working place or are forced to take a holiday without pay and can even be dismissed upon non-vaccination.

Previous literature on CSR has mainly discussed stakeholders' theory (Freeman, 1984) and motivations of corporations to adopt CSR (McBarnet, 2007). Nevertheless, previous literature has not thoroughly discussed the impact of a crisis on CSR and the role of the courts in this regard. It has also not discussed the conflict between labor rights and attempts of attending health and safety-at-work concerns during a national crisis. This article aims to address that gap and explore the tension between CSR and employees' right to work in times of a global pandemic. The article focuses on the contribution of CSR in emergency situations. Accordingly, it explores the operation of corporations in advancing the use of vaccines against COVID-19 infections by employees. It also explores the tendency of corporations to use various practices in relation to unvaccinated employees in an attempt to prevent the infection of customers, suppliers, and/or other stakeholders.

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Scholars have discussed the interplay of regulations and CSR practices (McBarnet, 2007), suggesting that regulations may influence the motivation of corporations to develop CSR (Karassin and Bar-Haim, 2015; 2019). The literature has not related to different judicial approaches to regulating CSR in times of a pandemic nor has it related to the connection between judicial regulation of CSR and employees' rights. This article discusses the role of the courts in regulating CSR practices in times of a pandemic in an attempt to preserve employees' rights. CSR is often analyzed through the Corporate Social Performance (CSP) model which includes a few categories: institutional or organizational, and individual (Wood, 1991; Carroll, 1979). This article further develops the individual dimension of CSR which, in our case, refers to self-regulation regarding individual employees. It discusses the individual dimension of corporations' policy as opposed to the public dimension. It also develops the institutional dimension of the CSP model which involves the role of court rulings (Wood, 1991; McBarnet, 2007; Marquis *et al.*, 2007; Carroll, 1991; Carroll, 2016)

Carroll (1979; 1999) proposed four dimensions of CSR embedded in the CSP model, composed of economic and ethical or legal and discretionary components, relating to the issues for which social responsibility exists. The article focuses on two responsibilities which extend beyond obedience to the law: the ethical responsibility and the discretionary one. The ethical aspect represents the kind of behavior that society expects businesses to follow. The discretionary aspect represents voluntary roles that corporations adopt which do not follow public expectations. These include, for instance, in-house activities and behavior regarding employees' needs and interests.

The problem raised following CSR practices regarding unvaccinated employees is the infringement of the right to work and freedom of occupation of these employees. In this respect, this article considers distinct approaches by the judiciary regulating CSR practices regarding policies which affect the right to work of unvaccinated employees. The article explores different CSR practices in Israel and the United States during the COVID-19 pandemic by looking at case studies regarding these issues. The research question is: which approach have the Israeli and American courts adopted in relation to CSR practices regarding unvaccinated employees? Another research question is: which approach should the courts embrace in relation to regulating CSR practices regarding unvaccinated employees?

Drawing on the dimensions of the CSP model and the CSR pyramid, the article presents two possible notions of CSR in times of a pandemic: individual discretionary CSR and ethical-public CSR. While the former posits that corporations should advance the individual interests of employees and their right to work, the latter claims that corporations should advance public interest in health. Hence, corporations should mainly consider the health of suppliers, customers, and other employees and their interest not to be infected by COVID-19. Individual discretionary CSR is based on the discretionary dimension of Carroll's pyramid of CSR, representing voluntary roles which do not follow public expectations and the article further develops this discretionary dimension. These voluntary activities include advancing employees' needs and interests and, in particular, the right to work. On the other hand, ethical-public CSR is based on the ethical aspect in Carroll's pyramid of CSR, representing the behavior that society expects and further develops it.

Following these two CSR practices, the article presents two approaches that courts could embrace regarding these CSR patterns in emergency situations of a pandemic. The first approach deals with regulating for individual discretionary CSR and promoting the liberty of individual employees and their right to work. The second approach deals with regulating for ethical-public CSR, according to which the court advances ethical-public CSR practices, while rejecting the recognition of the right to work. In attempt to solve the problems resulting from CSR practices that infringe on the right to work, the article advances the adoption of regulating for an individual discretionary approach by the courts.

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The sections are structured as follows. It discusses CSR and the right to work, as well as the effects of the pandemic on employees' rights. Next section analyses the possible CSR approaches regarding the pandemic: individual discretionary CSR which is labor-oriented, and ethical-public CSR which revolves around public interests. It also elaborates on the issue of regulating CSR practices by the courts in an attempt to preserve employees' rights. After that, the cases from Israel and the United States courts regarding CSR practices during the COVID-19 pandemic will be examined. The last section presents a suggested model that courts could embrace.

### **CSR, COVID-19 pandemic, and the right to work**

The COVID-19 pandemic has raised different challenges to firms and the market regarding the right to work. The right to work as defined regarding the relationship of the employee with the employer is the right to retain a job that one holds and the right to continue working, that is, the right to work is the unconditional right against unfair dismissal and a right to job security (Elster, 2021). States differ as to the willingness to recognize the right to work as a fundamental right.

In American jurisprudence, the right to work has not been considered a fundamental right. Hence, a doctrine of employment at will is quite prevalent. Mostly, the employer has the freedom to terminate employment with no need to show due cause, whereas, in Israel, the right to work and freedom of occupation have been considered fundamental rights (Litor *et al.*, 2020). Hence, an employee can, in many cases, sue against dismissal without due cause and might also be granted reinstatement to a job. The differences in the status of the right to work also reflect upon the tendency to embrace an approach that regulates for individual discretionary CSR.

One of the issues that has been raised both in Israel and the United States concerns employees who pose a threat to the health of others. The pandemic has raised a debate between public health and the personal choice of employees and their human rights, and corporations have grappled with a dilemma regarding unvaccinated workers.

It should be noted that the COVID-19 public health restrictions have affected employees' rights and unemployment has sharply risen (Tham, 2020). In many countries, regulations limited the capability to continue the normal operation of most working places and had far-reaching implications on various human rights and the right to work (Ewing and Hendy, 2020; Albin and Mundlak, 2020).

During the COVID-19 pandemic, many corporations adopted a self-regulation policy of mandatory vaccination or no-entrance policy to various categories of unvaccinated employees. In some cases, unvaccinated employees were either dismissed from work or compelled to take time off. These issues involve a tension between the right to work and the right to health of various stakeholders (Wise, 2021). In Israel and the United States, vaccines for the whole population have been available since March 2021. Neither Israeli nor American legislation has thoroughly addressed this issue of unvaccinated employees, and CSR practices in this regard have been mostly voluntary.

Corporations applying CSR practices operate in an attempt to enhance the public interest and the right to health of various stakeholders, such as service recipients and other employees. By requiring their employees to be vaccinated, corporations attempt to advance vaccination of the population and prevent the spread of the pandemic. The tools employers use regarding unvaccinated employees might infringe on human rights. Various fundamental labor rights might be affected by a policy regarding unvaccinated employees and mostly the right to work. The right to work is a basic right of employees which has been recognized as a major freedom within the working place in universal human rights' treaties. The right to work, as other social rights, is anchored in the International Convent of Social and Economic and Cultural Rights of the United Nations 1966 (ICCPR). Article 6 recognizes the right to work and to occupation. The ICCPR recognized the right for the opportunity to gain

one's living by work which is freely chosen. Article 7 also recognizes the right to equal treatment at work.

In Israel, following the introduction of two basic human rights laws in 1992: The Basic Law – Dignity and Liberty, and The Basic Law – Freedom of Occupation, the Supreme Court declared a constitutional revolution which determined constitutional status of human rights (Litor, 2019). The Basic Laws included several rights such as a right to privacy, a right to dignity, and to occupation. Even though they included only a closed list of rights, over the years, the Israeli Supreme Court has recognized a number of other rights as constitutional, such as the right to a minimum standard of living, which could also relate to the rights of employees to make their living through work.

In the United States, several human rights were recognized by the Constitution, such as freedom of speech. The American Constitution disregards social rights and labor rights, such as the right to work and occupation. Yet employees have various constitutional rights, such as their right to due process of law, which could be relevant to our case and might be infringed upon by a mandatory vaccination policy.

There are a number of reasons justifying the protection of the right to work of unvaccinated employees. Dismissals of unvaccinated employees might raise unemployment rates, which bears severe consequences both for those unemployed who lose income and for society, in general, because of production loss (Elster, 2021). It also affects people's confidence in the economic system.

### **Different CSR patterns and approaches to judicial CSR regulation at times of pandemic**

In the last two decades, corporations have adopted CSR practices. In this vein, preventing unvaccinated employees from entering the workplace or applying different restrictions regarding these employees raises the issue of CSR.

The article introduces two possible approaches to CSR: individual discretionary CSR which is labor oriented, and ethical-public CSR which focuses on the public interest. The ethical-public CSR approach advances the safety of the workplace and the health of different stakeholders and the public in general. Nevertheless, it advances adopting a policy that affects the freedom of individual employees. Meta-regulation of CSR advances the adoption of legal practices aimed at encouraging corporations to develop CSR patterns (Lobel, 2004; McBarnet, 2007; Parker, 2007). Such-meta regulation could be enacted via judicial regulation of CSR.

Following different CSR practices in times of a pandemic, the article presents two approaches that courts could embrace regarding these CSR patterns. The first approach deals with regulating for individual discretionary CSR and promoting the liberty of individual employees while applying a fundamental right to work. The second approach deals with regulating for ethical-public CSR, according to which the court advances ethical-public CSR practices while rejecting the application of the right to work as a fundamental right.

The issue of judicial regulation of CSR should consider the motivation of corporations to adopt CSR. Regarding this motivation, we should bear in mind that CSR was developed partly in attempt to advance financial performance by attracting consumers and partly for institutional reasons (Marquis *et al.*, 2007), such as binding norms within the legal system and court rulings (Karassin and Bar-Haim, 2019). Corporations tend to develop CSR practices due to both intrinsic and extrinsic motivations (Feldman and Perez, 2009). The intrinsic motivation relates to self-interest, whereas the extrinsic motivation refers to external institutions and rules, such as norms set by court rulings.

CSR literature presented societal pressure as a motivation for corporations to adopt CSR practices (Feldman and Perez, 2009). Since corporations usually tend to enhance practices which follow consumers' expectations, they would normally be inclined to advance the public

interest in preventing the pandemic while disregarding employees' rights. Corporations would tend to refrain from self-regulation that preserves employees' rights and prefer to adopt self-practices which promote efficiency and profit. Hence, setting external motivation for preserving employees' rights via judicial regulation is of importance. In this vein, it should be noted that fulfilling employees' rights would not be part of what the public considers or expects. Therefore, embracing an approach that promotes fulfilling labor rights by the courts is needed.

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### Israeli jurisprudence: adopting regulation for an individual discretionary CSR approach

While Israel executed a large operation to vaccinate its entire adult population, there were still around 15 percent of eligible citizens unvaccinated in October 2021. Ten percent of this group were over 20 and part of the working force. This group has constituted most of Israel's deaths and serious cases of hospitalization since the beginning of the vaccination operation (Sokol, 2021). Following the growing availability of vaccinations, some corporations decided to adopt a mandatory vaccination policy.

The Commission of Civil Servants of the State of Israel issued internal directions regarding governmental employees which enabled the demand to present a "Green Pass" indicating vaccination or negative results of coronavirus tests for unvaccinated employees. These regulations did not apply to the private sector and were binding for a period of a few months. New emergency regulations enacted in October 2021 also included a demand, for a period of a few months until the beginning of February 2022 from employees working in public places including universities, theaters and hotels to present a Green Pass indicating vaccination or a negative coronavirus test (Emergency regulations – green pass – October 2021). An appeal against the regulations was rejected (HCJ 5322/21 *Casby v. The State of Israel*).

Israeli jurisprudence has embraced regulation for an individual discretionary CSR approach. Contrary to American jurisprudence, commercial corporations are considered subject to constitutional rights. Having considered the fundamental right of employees to work and to occupation has led to denying the possibility of compelling employees to vaccinate. Rather than allowing employers to adopt a mandatory vaccination policy, the jurisprudence only enabled a policy requiring employees to be tested for the virus. Furthermore, employers are considered under the obligation to apply proportionate measures and consider the possibility of isolating the individual employee from others by allowing work in a closed office or without physical connection to consumers and suppliers or work from a distance.

In the *Aguda* case (HCJ 1441/21 *Haaguda Lezchuiot Haezrach v. The Knesset* 2020), it was held that employees had a right to privacy within the workplace in relation to COVID-19 vaccinations and a right to work. Yet employers could demand the presentation of a Green Pass, indicating that a person was not infected by COVID-19. Hence, in the private sector, employees had the possibility to refuse vaccination, but employers could apply measures regarding non-vaccination.

In the *Chen* case, the Court held regarding a social worker in a childcare facility that even though a policy of mandatory vaccination by itself would not be legitimate, requiring a regular test for the COVID-19 virus was possible (Labor Appeal 1568105/21 *Chen v. Natanya municipality* 2021). The Court emphasized the right to work which should be balanced with the need to ensure the health of the children treated in the facility and their families.

In the *Avishai* case (Labor Appeal 395504/21 *Avishay v. Kochav Yair* 2021), a school banned a teaching assistant who refused to be vaccinated or undergo coronavirus tests from entering the school premises. The Court held that a school might prevent unvaccinated employees from coming to work. The Court ruled that even though every employee has the right to be vaccinated or not, there are consequences for each action. It was held that despite a worker's rights to privacy and work, the need to preserve the rights of pupils or parents to

avoid a COVID-19 infection resulted in requiring employees to take coronavirus tests as a condition for the entrance of unvaccinated persons to the workplace.

In the *Shupersal* case (Labor Appeal 2279604/21 *Fikshtein v. Shupersal* 2021), a cashier in a supermarket chain who refused to take COVID-19 tests was deprived of the possibility to enter the workplace. The Court held that even though adopting a mandatory vaccination policy would not be justified, corporations could compel employees to undergo regular tests for the virus. The Court ruled that the corporation should apply proportionality tests and try to find another position for the employee which did not have a close connection to customers and suppliers. The Court emphasized that the supermarket chain was subject to individual rights of employees to privacy and the right to work and freedom of occupation.

In the *Vizansky* case (Labor case 281903/21 *Vizansky v. A.L.A Sports Association Raanana* 2021), which involved a yoga instructor, the Court held that the right to privacy and the right to work should be balanced with concerns for public health. Following the refusal of the unvaccinated yoga instructor to take regular coronavirus tests, the employer, a sports association hired a temporary replacement for the yoga classes as well as asking the yoga instructor to take time off from work. While the instructor claimed that his right to work was violated upon the demand to present a negative coronavirus test, the Association claimed that its policy regarding sports instructors is derived from concerns for the health of the customers attending the sports club. The Court held that even though the right to privacy and the right to occupation of an employee is of importance, the right to life of the customers should also be taken into consideration. The Court held that, in this case, the fact that the duty of the sports instructor included being present in an indoor closed gym, the interests of the customers – some of which were elderly people and at greater health risk – justified the demand to have a regular medical test for coronavirus.

In the *Aharoni* case (Case 15897/06/21 *Aharoni v. Mphal Hapayis* 2021), an employee was forced to take a holiday and was not allowed to enter the workplace. The Court held that an employer was bound to allow an unvaccinated employee to return to work since the employee was willing to take necessary precautions. The Court emphasized the right to work and occupation of the employee which led to the duty of the employer to consider in good faith the possibility of taking different measures to allow unvaccinated employees the ability to work and enter the workplace. The Court noted that the constitutional rights of employees to occupation and their rights to dignity were of importance. Based on the constitutional rights of employees, it was held that the employer must consider arrangements that could allow the employee to continue working. It was noted that the employee was subject in his actions to proportionality and rationality requirements and, as a result, a total ban placed on all unvaccinated employees denying them the right to work would violate the workers' fundamental rights and would be illegal.

### **American jurisprudence: adopting regulation for an ethical-public CSR approach**

In the United States, only about 63 percent of the population had been vaccinated by December 2021 (Centers for Disease Control and Prevention, 2021). Up until October 2021, legislation initiatives had not addressed the issue of unvaccinated employees, and the CSR practices of corporations regarding these matters were mostly voluntary.

In October 2021, the U.S president announced his intention to ask the federal agency of Occupational Safety and Health Administration (OSHA) to issue orders mandating vaccination for federal employees and large corporations. Nevertheless, these regulations were eventually overturned by the Supreme Court. The Court held that OSHA lacked the authority to regulate such risks (21A 244 *National Federation of Independent Businesses v. Department of Labor, Occupational Safety and Health Administration*). Yet, the Supreme Court upheld mandatory vaccination regulations for healthcare employees issued by

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Medicare. Hence, mandatory vaccination policies of most employers remained voluntary as part of CSR policies.

The American jurisprudence adopted regulations for an ethical-public CSR approach regarding employees during COVID-19. In the United States, mandating vaccines by private corporations is considered legitimate. American jurisprudence is characterized by a denial of the recognition of the right to work as a fundamental right. Private corporations are, in principle, not subject to constitutional rights of employees but only to federal and state laws. A private corporation's ability to embrace a CSR policy of dismissing unvaccinated employees is only restricted by the possibility of discrimination on the grounds of a medical situation or religious beliefs. In this respect, the Equal Employment Opportunity Commission issued guidance stating that employees may be exempt from mandated employer vaccination under the American Disability Act (ADA) or Title VII of the Civil Rights Act of 1964. Section VII requires an employer to accommodate an employee who sincerely holds religious beliefs unless it would cause undue hardship for the business.

According to the regulations for an ethical-public CSR approach adopted by the American system, an employer might have a workplace policy requiring that an employee not be a direct threat to the health and safety of the workplace. Yet, if a vaccination requirement screens out a worker with a disability, the employer must consider a reasonable accommodation, such as allowing the employee to work remotely or take a leave of absence. Hence, an employer, in most circumstances, may dismiss employees upon their refusal to vaccinate.

Past adjudication regarding unvaccinated employees could reflect upon the current pandemic. In the *Jackson* case in 1905, the Supreme Court rejected the claim that a Cambridge regulation requiring residents to be vaccinated against smallpox (then a pandemic) violated the due process of the 14<sup>th</sup> amendment. The same policy would also be prevalent regarding the COVID-19 vaccines.

Following the development of the mandatory vaccination policy by corporations during the COVID-19 pandemic, employees turned to the courts. In the *Houston Methodist Hospital* case (Civil Action H-21-1774 U.S. District Court Southern District *Jennifer Bridges v. Houston Methodist Hospital* 2021), employees were suspended without pay and later dismissed upon refusal of vaccination. The Court held that private employers could order employees to get vaccinated unless the refusal was based on religious or medical reasons and employees could be dismissed upon refusal to get vaccinated.

In the *University of Indiana* case, the Court dismissed a lawsuit against a mandatory vaccination policy. The Court refused to bar Indiana University from mandating vaccination for students and employees attending the school (United States Federal Court of Appeals for the Seventh Circuit *Klaassen v. Trustees of Indiana University*, Appeal no. 1:21-cv-238, No. 21-2326. 7th Cir. 2021). The Court held that the mandate, which included health and religious exceptions, did not violate any constitutional right. The Court held that the vaccination protected not only the vaccinated persons but also those in contact with them and, at a university, close contact is inevitable. On 12 August 2021, the U.S. Supreme Court upheld the Federal Court's ruling.

The ruling in both cases – the *University of Indiana* case and the *Houston Methodist Hospital* case – seems problematic since the Court ignored the infringement of employees' rights. In the *United Airlines* case, the Court stressed the possibility to be exempted from vaccination based on religious beliefs (Case 4:21-cv-1074psw-United States District Court for the Northern District of Texas *David Sambrano v. United Airlines* October 2021). The judge issued a temporary restraining order and held that healthcare workers had the possibility to raise demands for exemption from mandatory vaccination based on religious beliefs.

In a *New York City* case, in October 2021, the Supreme Court upheld the decision of a circuit court ruling that a mandated vaccination policy for public school employees was legitimate

(Supreme Court App. 21A50 N/A *Rachel Maniscalco v. New York City Department of Education* 30 September 2021).

In the *Bauer* case (2:21-cv-02952 DCN *Bauer v. Summey* U.S. District Court), employees of City of North Charleston challenged the mandatory vaccination policy by bringing constitutional claims. The constitutional claims alleged that the policies violated their due process rights as well as their first amendment rights that free exercise and equal protection were dismissed, and the Court rejected the claimed against mandatory vaccination policy.

Table 1 summarizes the differences between the Israeli and American models. Whereas in Israel, private corporations are subject to constitutional and fundamental rights of employees including the right to work, in the American model, corporations are not subject to the constitutional rights of their workers. Whereas in Israel, the possibility of compelling employees to vaccinate is denied, in the American model, mandatory vaccination is possible. Contrary to the Israeli model, it is possible to dismiss unvaccinated employees unless there is discrimination on religious or health reasons. As opposed to the American model, in the Israeli model, there is an obligation to consider proportionate measures to isolate the employee while allowing continued work.

**Drawing on the lines for the approach that courts should embrace**

Having considered the importance of fundamental rights of employees and the widening gap in negotiations between employers and employees during the pandemic, the conclusion is that the courts should embrace the individual discretionary approach to regulating CSR with modification. The courts should apply the suggested approach according to a number of judicial tests and guidelines. The courts should take into account the circumstances of each case, applying the individual discretionary approach while considering proportionate measures. Such approach posits that not only should public health be taken into consideration, but also the basic rights of employees at work, including the freedom of occupation and the right to work. Contrary to the perception of the American jurisprudence

<i>Issues</i>	<i>Application of constitutional /fundamental rights of employees</i>	<i>Whether mandatory vaccination is legitimate</i>	<i>The issue of dismissing employees upon non-vaccination</i>	<i>Application of proportionality test</i>
<i>Israeli jurisprudence: regulating for individual discretionary CSR</i>	Private corporations are subject to constitutional rights of employees. Corporations are subject to a right to work.	Denial of the possibility of compelling employees to vaccinate	Dismissing unvaccinated employees is considered unjustified when other measures have not been considered.	Obligation to consider proportionate measures to isolate the employee: allowing work
<i>American jurisprudence: regulating for ethical-public CSR</i>	Private corporations are not subject to constitutional rights of employees. Corporations are not subject to a right to work.	Mandating vaccines is considered legitimate.	Ability to dismiss unvaccinated employees unless there is discrimination based on religious or health reasons	No application of proportionality demand

**Table 1.**  
Israeli jurisprudence compared to American jurisprudence

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which ignores the individual rights of workers, corporations should take into consideration employees' constitutional rights.

The following five judicial tests and guidelines are proposed. The first guideline posits that neither a total ban on the entrance of all unvaccinated employees to the workplace nor an absolute mandatory vaccination of employees should be considered legitimate. Taking into consideration various constitutional rights of employees should lead to a policy that requires employers to consider, in good faith, taking measures enabling specific unvaccinated employees to continue working. Such measures could include taking regular COVID-19 tests.

The second guideline directs courts to apply proportionality tests, according to which employers would be required to consider taking proportionate measures. These are measures which could isolate the unvaccinated employee from others while enabling the staff to continue working. Such measures include working conditions which would not endanger other employees and the public. In this respect, the employer should be directed to consider the possibility of alternative tasks that the employee could fulfil which do not involve physical contacts with other people. Furthermore, the suggested policy should require the employer to examine whether the employee could continue working from home or remotely. Employers should also consider the type of tasks of the specific employee and the physical conditions of the workplace, i.e., whether the worker meets with people and the possibility to enable physical separation. In this respect, it should be considered whether the employee can work in a separate office.

The third guideline includes the need of the courts to consider the specific field of operation of the corporation. If the field includes essential services of which interruption could endanger the health and life of the whole or part of the population, applying restrictions on employees would be justified. For instance, in the field of home care, there would be more justification for extreme measures regarding unvaccinated employees.

The fourth judicial test and guideline considers the kind of service recipients or consumers involved. For instance, in hospitals it would be more justified to demand vaccination because of the connection to the patients who are vulnerable and could be exposed to the virus.

The fifth judicial test should consider whether the employee has a special medical condition because of which the employee did not get vaccinated. Courts should understand non-vaccination of employees due to medical conditions as legitimate.

### **Conclusion**

The article presents a new approach for regulating CSR practices regarding unvaccinated employees by the courts. On the theoretical aspect, the article contributes to the literature by introducing a novel linkage between CSR, COVID-19 research and the policy regarding unvaccinated employees. It also addresses the interplay of the role of courts, and the regulation of CSR. On the practical level, the article presents policy guidelines that courts worldwide could embrace in coping with the need to regulate CSR practices regarding unvaccinated employees.

Drawing on the dimensions of the CSP model and Carroll's CSR pyramid (1991), the article presents two possible notions of CSR in times of a pandemic: individual discretionary CSR which is labor oriented, and ethical-public CSR. The two possible CSR patterns, which are both beyond the demands of the law, differ in the target of social responsibility and the specific stakeholders they concern: either the public in general or individual employees. While the former posits that corporations should advance the individual interests of employees and their constitutional rights, the latter claims that corporations should advance the public interest in health. Hence, corporations should consider mainly the health of suppliers, customers, and other employees and their interest not to be infected by COVID-19.

Following these two CSR practices, the article presents two approaches that courts could embrace regarding these CSR patterns in emergency situations of a pandemic. The first approach is regulating for individual discretionary CSR and promoting the liberty of individual employees and their rights at work. The second approach deals with regulating for ethical-public CSR, according to which the court supports ethical-public CSR practices.

The article advances the application of the individual discretionary approach while modifying it according to suggested judicial tests and guidelines. The suggested model enables considering the constitutional rights of employees and the gap in the bargaining power between individual employees and their employers during a pandemic while preserving the public interest in health. Future research could explore the impact of regulation of CSR by the courts on the motivation of corporations to adopt different CSR practices in relation to unvaccinated employees. It is also worthwhile to explore what causes the differences in CSR practices regarding unvaccinated employees and in the approaches of courts in different countries.

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# A review of the long-term care policies under COVID-19 in Thailand's aging society: implications for ASEAN countries

Long-term care policies under COVID-19

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## Abstract

**Purpose** – This paper aims to explore the aging society situation, long-term care (LTC) policy preparation, COVID-19's impact on older people, and post-pandemic preparations in Thailand and the implications for The Association of Southeast Asian Nations (ASEAN) countries.

**Design/methodology/approach** – Online databases from international, national, academic agencies and SCOPUS database from January 2019 to July 2021 were utilized for analysis. Relevant literature and data were selected for review.

**Findings** – The evidence suggests that the proportion of the aging population is increasing due to declined fertility and rising life expectancy. Current and future demand for effective healthcare in ASEAN will be better achieved with policies like the Universal Health Coverage and Primary Health Care system. While some countries, specifically Thailand, are developing and expanding their LTC policies, some concerns regarding the active aging policy remain. Most ASEAN countries are using public domain for LTC policies. However, the COVID-19 pandemic has posed a major challenge in implementing LTC and affected the vulnerable aging population in many aspects, including social protection issues in Thailand.

**Originality/value** – With the support from international organizations, ASEAN countries have framed several policy strategies in response to the increasing aging population, such as providing more LTC in the community. The unexpected challenges from the COVID-19 pandemic compel policymakers to consider resource allocations and community-based services. On the positive side, as the pandemic has made the vulnerable group exposed, social protection issues have been brought to the forefront of the political debate and called for an appropriate policy response.

**Keywords** Aging society, Long-term care, COVID-19, ASEAN, Thailand

**Paper type** Literature review

## Introduction

Population aging is a global phenomenon happening all over the world. According to United Nations' estimation, one in six people will reach 65 years old or over by 2050 (United Nations, 2019a). The Association of Southeast Asian Nations (ASEAN) is not an exception to this trend. ASEAN, initially established in 1967, is now composed of 10 countries – Brunei,



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Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam (Baker, 1989). There has been a rapidly growing trend of population aging in the ASEAN countries as the population aged 60 years or over was projected to be more than double from 59.5 million in 2015 to 127 million in 2035 (ASEAN, 2015). It was also reported that South-Eastern Asian and East Asian countries covered the largest aging population in the world (260 million) in 2019 (United Nations, 2019b).

Among the ASEAN countries, Thailand, along with Singapore, remains to have the largest proportion of older adults (United Nations, 2019a). By 2021, Thailand has become the third most rapidly aging country globally, with people aged 60 years and above accounting for 20 percent of the total population (ERIA and ABCD Centre, 2021). To meet the need of a growing older population, the considerable challenges Thailand is facing include long-term care plans and aging-friendly environments (HelpAge Asia, 2021). Hence, it is crucial to obtain a comprehensive understanding of what is being implemented in Thailand to deal with its rapidly aging population and plan for appropriate care strategies.

In response to the demographic change of aging societies, long-term care (LTC) is formulated globally to ensure that older peoples' demands for social care and health care are met. World Health Organization (WHO) regards LTC as "all activities undertaken by others to ensure that people with, or at risk of a significant ongoing loss of capacity can maintain a level of functional ability consistent with their basic rights, fundamental freedoms, and human dignity" (WHO, 2015). While formal LTC has already been framed in developed countries decades before (Barber *et al.*, 2021), many ASEAN countries are not yet prepared for the rising needs of older people and, consequently, do not yet have a formal provision of LTC services to meet the needs of their aging population.

Thailand is one of the leading countries in ASEAN that has been making significant progress in establishing its own LTC system. Since 2016, Thailand government has introduced a proactive community-based LTC program and identified ways to shift regular institutional care to community-based care in 1,000 out of 7,255 sub-districts (Asian Development Bank, 2020a) and they are being scaled up annually. However, many challenges remain and need to be addressed.

To better prepare for the rapidly aging societies, ASEAN countries are expected to prioritize LTC provision for older people, considering that Asian older adults heavily rely upon informal care. Research evidence reveals that understanding the determinants and facilitators of LTC for older adults in ASEAN is still limited. In addition, the evidence-based recommendations to support the public health leaders and policymakers in addressing and improving the LTC strategies among ASEAN population aging are essential not only for the current time but also for the next few decades.

In March 2020, the WHO (2020b) called for strong combat mechanisms in the South-East Asia region toward the global pandemic of COVID-19, as older adults worldwide continue to be at greater risk of severe illness and death. While the ASEAN geriatric and LTC care system is not yet ready for the complexity of caring for the older population, the COVID-19 pandemic has magnified this problem.

### **Objectives of the study**

All things considered, a narrative analysis relating to the responses of the ASEAN countries, especially Thailand, toward the aging society situation and the COVID-19 pandemic was this study's approach to inquiry. This review aimed to explore the most updated aging society situation in the ASEAN countries; to have an overview of how their LTC is being prepared; how has COVID-19 affected older people; and how ASEAN countries, including Thailand, are preparing for geriatric care in the post-pandemic times.

**Methods**

A narrative review using guidance for the assessment of review articles was conducted (Baethge *et al.*, 2019) as shown in Figure 1.

*Eligibility criteria*

Literature included those that met all of the following eligibility criteria:

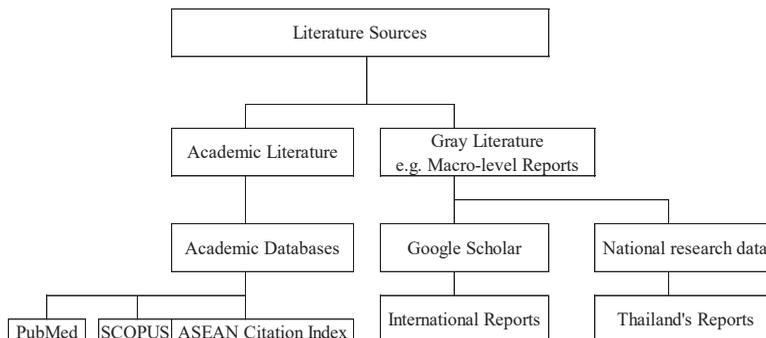
- (1) A review, report, or article of any type.
- (2) Available in English language or Thai language.
- (3) Reported on demography, long-term care strategy, COVID-19 related impact on health and well-being of older people, and related policies.
- (4) Reported on the findings from the geographic region of ten ASEAN countries: Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.
- (5) Included study participants aged 60 years and above according to different retirement age and varied government’s regulations on the definition of older adults in each country.
- (6) Published data from 1 January 2019 until the time that the search was conducted (30 July 2021) were included. As this study intended to gather the most updated information on LTC, specifically during the COVID-19 period, to understand how sectors have put effort into enhancing LTC response to current and future emergencies, only literature published within the past three years was included.

*Search strategies for literature identification*

The search strategy was used to identify relevant literature published from January 2019 to July 2021. An initial search of three databases: PubMed, SCOPUS, and ASEAN Citation Index, was conducted. Some international reports were searched via Google Scholar, and the most relevant results (sorted by relevance) were compared against the inclusion criteria. Thailand national research data was also utilized.

Keywords included “older adults”, “older people”, “elderly”, “senior”, “ASEAN”, “Southeast Asia”, “Asia”, “long term care”, “COVID-19” and “pandemic”.

The selection of relevant literature was conducted in three steps: 1) Initial screening of the title and abstract; 2) Retrieval and screening of the full text with discrepancies resolved through discussion amongst three co-authors; and 3) data extraction and synthesis.



**Figure 1.** Search strategies for literature identification

*Selection of studies*

The three co-authors independently screened titles and abstracts retrieved from the searches and assessed these for inclusion eligibility. All reports, titles, and abstracts meeting the inclusion criteria in full text are retrieved. Three of them read full-text articles to assess eligibility. Disagreements are resolved by consensus.

*Data extraction and synthesis*

Two authors, NNC and VTHM independently reviewed the eligible literature. The following data were extracted: LTC policy, demography of aging population in ASEAN, COVID-19's impact on older adults, solution for older adults' health and well-being care under the pandemic, and future solution. The other author, PT, checked the extraction for accuracy. Discrepancies are resolved through discussion before the final decision.

Narrative synthesis was conducted by using data from included literature. Thematic analysis was performed on each of the selected literature. The findings were categorized into four themes:

- (1) Demography and population aging trend in ASEAN countries and Thailand
- (2) Existing LTC strategies in ASEAN countries and Thailand
- (3) Facilitators and challenges of the LTC system in Thailand
- (4) COVID-19's impact on the health and well-being of older people in ASEAN countries

**Characteristics of included literature**

A database search resulted in 16 pieces of literature that met the inclusion criteria. Of the 16 literatures identified, eight were official reports from international agencies or organizations (United Nations, World Health Organization, The ASEAN Secretariat, HelpAge International, Asian Development Bank, and World Bank Group); four were scientific articles; three were national reports from Thailand, and one from an online database (Statista).

*Meaning and understanding of LTC found in the study*

By definition, LTC refers to services supporting the activities of daily living of a dependent person (Huber and Hennessy, 2005). LTC includes disabled persons from all age groups (Wiener and Sullivan, 1995; Kane *et al.*, 1998), but the terminology's utilization is found more on the dependent older adults than the other groups. Apart from the definition of LTC published by WHO as mentioned in the background, the definition of LTC in Thailand is slightly different, which specifies who needs care, the care settings, and the types of care provided. In Thailand, LTC for older persons refers to all dimensions of care, including social, health, economic, and environmental aspects. Older persons who have difficulties due to chronic disease or disability and are partially or totally dependent on others for a daily living need LTC. It is provided by formal care personnel and informal caregivers (NHCO, 2009).

*Meaning and understanding of COVID-19 found in the study*

COVID-19 is a "severe acute respiratory disease" that is highly infectious caused by coronaviruses (Hossain *et al.*, 2020). As found in the literature, ASEAN countries were affected early in the 2020 outbreak of the COVID-19. Thailand identified its first case on 13 January 2020 – the first country apart from China to detect a case of COVID-19 (WHO, 2020a).

### Demography and population aging trend in ASEAN countries and Thailand

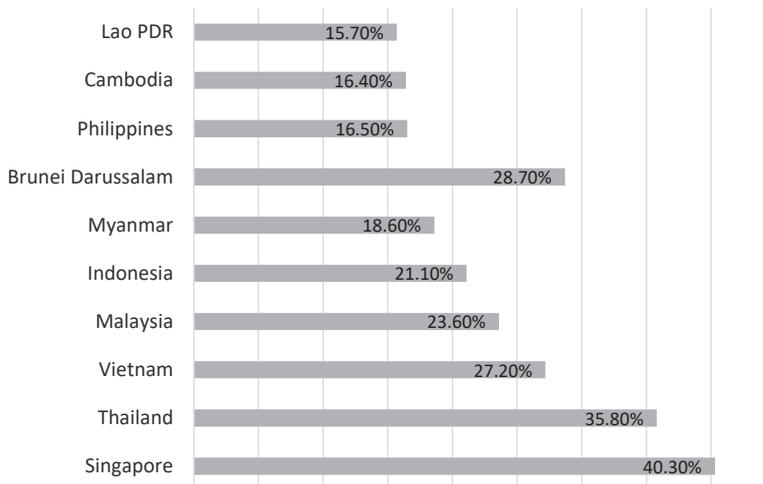
An estimated data from the United Nations (United Nations, 2019b) on top ten countries with the largest percentage point increase in the share of older people from 2019 to 2050 reported that 9 out of 10 countries were from the Eastern and South-Eastern Asia region. Interestingly, two countries in the list were from Southeast Asia: Singapore (20.9 percent) and Thailand (17.2 percent).

Based on the statistics from the ASEAN datasheet in 2020 (United Nations, 2020), there were approximately 74 million older adults who were 60 years old and above in the ASEAN countries. Among that, more than 36 percent (27 million) were in Indonesia, followed by 17.6 percent (13 million) in Thailand and approximately 16 percent (12 million) in Vietnam. However, the projected proportion of the aging population differs depending on each country as presented in Figure 2.

Figures 3a and 3b illustrate the proportion of older people in Thailand. The National Economic and Social Development Council of Thailand states that the proportion of people aged 60 and over was more than 18 percent among the 66.5 million people in 2020. This number will reach 31.4 percent in 2040 (NESDC, 2019). Accordingly, as one of the upper middle-income countries, Thailand had an estimated old-age dependency ratio in 2015 and 2020 at 18.5 and 22.6 and is expected to reach 28.6 and 51.4 in 2025 and 2040, respectively (United Nations, 2019b). On the other hand, the aspect of the social issue causes the aging society's problems to be of more concern. Since urbanization expanded and female education improved, the extended family is reducing while the nuclear family increases over time (Phayungphong, 2020). Hence, the empty-nest situation is increasing. It has been found that the percentage of older adults live alone tends to be continually increasing (Suwanrada, 2008; Knodel *et al.*, 2013; Chamchan, 2018). Higher life expectancy and lower fertilization rate (World Bank, 2019a; 2019b) are also the co-factors affecting the aging society situation that Thailand has to prepare for solutions.

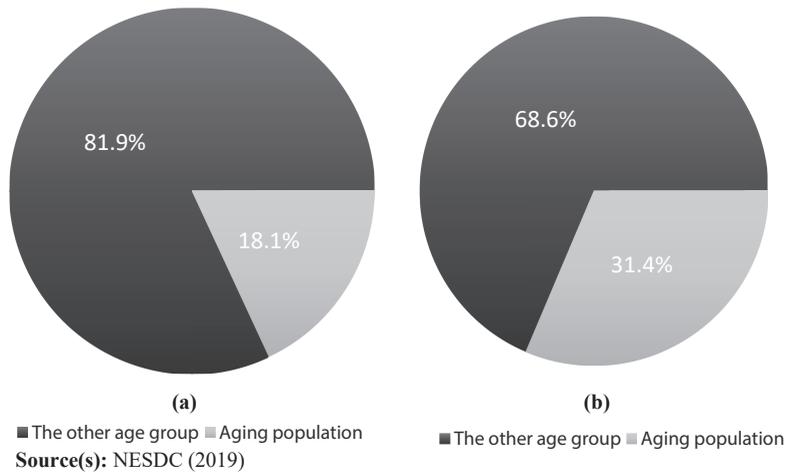
### Existing LTC strategies in ASEAN countries and Thailand

The highly increasing care need due to the high prevalence of chronic disabilities and morbidities among older people, combined with the rising LTC need, has alarmed the public policymakers to address the consequences of these changes.



Source(s): United Nations, Economic and Social Commission for Asia and the Pacific (2020)

Figure 2.  
Share of population  
aged 60 years or over  
in 2050



**Figure 3.**  
(a) Proportion of Thai people aged 60 or over in 2020, (b) Proportion of Thai people aged 60 or over in 2040

In 2013, a regional consultation on LTC for older people was organized by the WHO Regional Office for South-East Asia (WHO, 2019), aimed to promote LTC for older people in these countries. The Regional Framework was developed based on various guiding principles recognized at both global and regional levels, aiming to impact healthy aging in the region through multiple strategies. One of the strategies is to provide a comprehensive system of LTC at home, in communities, or within institutions.

Focusing on Thailand, the LTC system is public domain-driven and comprises both health and social care aspects (Thonchaithanawut, 2019). This undergoing system functioned under the directions and support from multiple sectors and authorities. Currently, the system relies on the Universal Health Coverage (UHC) system. In 2015, the UHC system covered more than 73.7 percent of Thailand's total population.

According to The National Health Security Office (NHSO) of Thailand (Thonchaithanawut, 2019), Thailand's community LTC is being implemented by adopting the following six main strategies:

- (1) Information: with accurate number of the dependent older adults by each dependency level.
- (2) Collaboration: with collaboration in each community within primary health care setting to provide prevention, care, and rehabilitation.
- (3) Financing mechanism: develop the financial mechanism for the community-based long-term care system.
- (4) Human resource development: meet the needs of community-based long-term care services.
- (5) Knowledge management: the long-term care knowledge management and relating data and information to monitor and assess the services.
- (6) Legal framework and regulations: under the legal support framework to enable the stakeholders involved with the long-term care system.

Regarding the funding system, NHSO is responsible for allocating the capitation for all eligible persons (Thai people aged 60 and over with dependent conditions). The local

government is another player supporting community-based long-term care. It plays the role of non-medical services and financial management support.

A person screened as a dependent is eligible for the public community-based long-term care with four benefit packages based on older adult's dependency level and cognitive function. The first group of the community-based LTC benefit packages refers to the older adults who need help when eating and toileting but can still move independently. Older adults in this group will receive health services at least once a month and non-medical care and housing services at least twice a month covered by lump-sum compensation, not over 4,000 Baht (around 120 USD) per capita. The second group refers to the elderly who needs help when eating and toileting, still have the ability to move independently but are suffering from cognitive impairment. This group receives health services at least once a month and non-medical care and housing services at least once a week, covered by lump-sum compensation of about 3,000-6,000 Baht (around 90-180 USD) per capita. The third group refers to the elderly who lack the ability to move and need eating and toileting assistance or those who suffer from severe illness. Older adults in this group receive services similar to the second group, with lump-sum compensation covering about 4,000-8,000 Baht (around 120-240 USD) per capita. The last group of the LTC benefit packages refers to the persons of the third group with end-of-life stage. This group receives health services at least twice a month, receives non-medical care, and housing services at least twice a week, covered by lump-sum compensation of about 5,000-10,000 Baht (around 150-300 USD) per capita (Thonchaithanawut, 2019).

### **Facilitators and challenges of the LTC system in Thailand**

One of many facilitators that enabled the LTC system in Thailand to achieve three UHC components was its supply-side, such as infrastructure at the district level, which has been continually developed and maintained since 1970. In this regard, Thailand's primary health care system is accessible to the local residents. This profound and well-structured primary health care and UHC is the foundation for Thailand's public community-based LTC system (Thonchaithanawut, 2019). The other reported facilitators were the investment in research evidence for policy and program design with support from many stakeholders. Still, there are some challenges for Thailand to overcome. In particular, the quality control agency for community-based LTC, workforce, and shared responsibilities for coordination from many government agencies and authorities are still on the way for development (Asian Development Bank, 2020b).

### **COVID-19's impact on health and well-being of older people in ASEAN countries**

COVID-19 has been reported to disproportionately affect older people and those with chronic health conditions. Although most middle-income countries in ASEAN had the social assistance systems that could support poor and vulnerable groups throughout the pandemic, a comprehensive picture of the pandemic's impacts on older people and other vulnerable groups is still not yet available for longer-term predictions (ASEAN Secretariat, 2020).

The significant impact of COVID-19 on older people can be categorized as (1) the impact on health and care; (2) violence, abuse and neglect; and (3) income security and social protection (HelpAge International, 2021). Older people are at higher risk of severe health complications and death from COVID-19 due to their underlying health risks because of old age. Moreover, social issues on older people during the pandemic have serious implications not only for physical health but also mental health such as anxiety, stress, and depression, which have been recently reported in many ASEAN countries (Srifuengfung *et al.*, 2021; Pothisiriri and Vicerra, 2021; Marini *et al.*, 2020; Catindoy *et al.*, 2021).

Regarding income security and social protection of older people, it was explained that because older Asian people mainly work in the informal sector, which provides little protection against income shocks, they need to rely on family support, savings and work. However, under much pressure during the pandemic, family support may be inadequate (HelpAge Asia, 2021).

In Thailand, for the total confirmed COVID-19, aging cases as of July 2021 were 44,804 or about 0.39 percent of total 11,627,130 aging people, but the percentage of the death cases among confirmed cases was found to be at 10.44 percent (DOP, 2021). Some existing and active policies were utilized to respond to the COVID-19 outbreak that benefited Thailand's aging population. For example, the government had set the target number of the COVID-19 vaccination for older adults at 10,906,142 people because the aging population was one of the six priority groups at that time (DDC, 2021). As a result, from 28 February to 31 July 2020, there were 2,876,581 people reported as the aging population whose vaccinated or about 21.45 percent of the total number of aging people in Thailand. Focusing on social aspect, the pandemic situation has brought about more challenges and uncertainty to Thai's labor market, which seriously affected the social protection for the Thai aging group. It was reported that the people who take care of older people lacked the financial support for aged care. Also, population aging is shrinking the working-age population. Generally, this pandemic has exposed the vulnerable aging group, which has brought social protection to the forefront (Moroz *et al.*, 2021). For information management related to health behaviors, thanks to the community-based LTC in Thailand, especially in rural areas, rural aging has benefited from the community network of Village Health Volunteers (VHV). VHV provided information during the pandemic as they had a higher level of disease knowledge compared to the urban residents. However, this function might not work well when considering the frequently updated disease development access (Vicerra, 2021). In the health resource utilization issue, when some areas in Thailand were overwhelmed with a lot of cases of COVID-19 and the supplies in those areas were not enough, there were strategies to circulate the medical staff from other areas and set up emergency COVID-19 field hospitals. This harmonized strategy acts as the social health protection for its citizens (Chongsuivatwong, 2021). Also, the Thai government suggested prioritizing and providing free COVID-19 vaccines for older adults as soon as possible (Wanlapakorn, 2021).

## Discussion

### *Strengths and limitations of this review*

The authors identified 16 reports and articles on the aging population, particularly focusing on LTC and COVID-19 pandemic's impact published between 2019 and 2021 in the ASEAN countries. The information extracted was on the presence of demography and populating aging projection, available LTC strategies with its facilitators and challenges, and COVID-19's impact on older people. Since COVID-19 emerged, there have been increasing publications in these two years indicating the growing focus on health and care for older adults in ASEAN during the COVID-19 pandemic. This serious communicable illness is one of the major key changers for services management under the aging society. Reviewing these studies has strengthened related literature and provided a foundation for further attention to the aging population and improvement of LTC policies in Thailand and the ASEAN countries in the pandemic and post-pandemic situations.

There are several limitations to this review. It is possible that some articles or reports relating to aging policy in ASEAN and Thailand were not included explicitly using key selected databases. According to the language issue, only English and Thai language literature were considered the searching strategy for this narrative review, which implied that there could be other relevant literature in local languages that we may have missed. In

addition, our review is limited to public LTC strategies by the main purchaser in the health system, specifically in the context of Thailand as an example, and the general situation of the COVID-19 pandemic from November 2019 until July 2021, not covering all geriatric healthcare and relating social issues in ASEAN countries as a whole. Therefore, the interpretation and transferability of the findings of this review should be made with caution by the finite literature. Future reviews that exclusively evaluate this topic are highly recommended.

### *The significance of the identified evidence*

The found literature revealed a similar situation of the aging population in the whole ASEAN region: increased proportion of older adults (United Nations, 2019a; United Nations, 2020; NESDC, 2019) due to higher life expectancy and decline fertility (World Bank, 2019a; 2019b). This demographic transition has led to a certain shift in living arrangements, causing more aging people living alone in their older ages (Phayunghong, 2020; Suwanrada, 2008; Knodel *et al.*, 2013; Chamchan, 2018), which is considered as one of the significant social issues that should be addressed when proposing the country's health or/and social policy relating to the aging population.

All things considered, the LTC system should be provided to meet the growing needs of the dependent aging population and help address the issues; though, this would require multiple factors to be established, such as human resources, adequate care, or service institutions. Similar to geriatric care, LTC system is also labor-intensive. Literature on preparing and strengthening the workforce for LTC in the coming time has been limited. Therefore, in the long term, it is highly necessary to prepare an effective and efficient aging workforce, adequate enough to provide effective and efficient LTC services for the recipients of aging care. Possible approaches could be considered, for example, delaying the retirement age and considering the retention of older staffs; adoption of advanced technologies; increasing the international labor markets.

In response to the rapid increase of care demand in the region, international organizations and agencies should be called to pay more attention to these issues. In 2013, WHO Regional Office for South-East Asia held a regional consultation on the LTC of older people (WHO, 2014), which established several LTC programs ranging from initiatives or pilot projects to national programs, which was reviewed later in a report (WHO, 2019). However, action from the national government is also important. In many ASEAN countries such as Indonesia, Myanmar, Philippines, Vietnam, Cambodia, and Lao PDR, LTC generally remains an underdeveloped area (Yeung and Thang, 2018) with a lot of rooms for improvement or just starting to emerge as a concept between health and social care services.

### **Policy windows and policy challenges**

Thailand's LTC system, as the proposed example for ASEAN countries in this study, has been gradually developed and reinforced since the first introduction of LTC definition in 2009 (NHCO, 2009). Thailand has focused on the community-based approach, including family caregivers and VHV as the primary service providers on the activity of daily living part (Thonchaithanawut, 2019). Considering the fact that the establishment of a proper LTC system is inevitable in any country with the growing aging population, and the time scope of this study was during the COVID-19 pandemic, the evidence on the updated LTC policies from most of the countries in ASEAN in response to older adults's care still remained scarce. Our results highlighted a stronger focus on this emerging and important aging issue. Although there are considerably remaining challenges to overcome (Asian Development Bank, 2020a), other countries with uncompleted LTC systems can learn from what Thailand

is doing, starting with a clear definition of LTC in their own context and defining the eligibility criteria for the target population. In addition, an integrated model of programs of services for LTC at the community level, while utilizing potential resources in the community for supporting older people, could be effective strategies for countries in ASEAN.

When the COVID-19 pandemic emerged, dependent older adults were one of the most vulnerable group who needed the most assistance. The vast impact of COVID-19 on the older population in ASEAN has been widely reported among countries in the region (ASEAN Secretariat, 2020; HelpAge Asia, 2021; Srifuengfung *et al.*, 2021; Pothisiri and Vicerra, 2021; Marini *et al.*, 2020; Catindoy *et al.*, 2021) including impacts on health well-being and social protection. The pandemic has awakened governments of the countries to realize the cruciality of a well-established healthcare system in the time of emergency and in preparation for possible future challenges, focusing on vulnerable populations. Moreover, the pandemic has strengthened the critical importance of community services to support health and social care for the aging population. Considering the specific impact of COVID-19 responses on older Thai people in meso-level and micro-level, including each community-based LTC management and personal health behaviors during the pandemic, the authors also found that VHV could be a potential mechanism to raise COVID-19 awareness under the LTC system. This function might not work well when considering the issue of accessing frequently updated disease development (Vicerra, 2021). These obtained pieces of literature could urge policymakers to understand the urgent needs for enhancing awareness and resources utilization toward improving healthcare and LTC for older people, the need to offer immediate solutions during the pandemic, and the timely provision of protection for the older population. Protection such as prioritizing the older adults to receive vaccines, just like in Thailand (Chongsuvatwong, 2021), to ensure that they are protected and adequately cared for.

### Conclusion

This review has provided an updated overview of the aging situation, existing LTC strategies, and how the older adults in ASEAN countries were affected by the COVID-19 with focus on Thailand. These results might be helpful to further inform future policy direction by supporting public health workers and policymakers to understand the current incomplete healthcare system, the inadequacy to face unexpected situations such as the COVID-19 pandemic, and to better prepare for post-pandemic challenges and other possible future crisis.

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# Assessing fiscal health of local governments in Bangladesh: evidence from some south-western municipalities

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## Abstract

**Purpose** – Status of fiscal health of local governments helps in determining planned budget and realistic action plan for citizens' wellbeing. This paper aims to assess the fiscal health of local governments in Bangladesh.

**Design/methodology** – Using data from 18 south-western municipalities of Bangladesh during the fiscal year 2018–19, this research measures fiscal health by applying Wang, Dennis and Tu's solvency test and Brown's Ten-Point Test.

**Findings** – The result shows that one-tenth of the entire municipalities are endowed with better position, whereas almost 39 percent of municipalities are in the worst situation and nearly 50 percent of municipalities are in the average category. Because of having limited liabilities, the municipalities are endowed with more than enough cash solvency and reasonable level of long-run solvency. The key problems are that budgetary solvency of all municipalities is not satisfactory, and service expenses are more than their revenue generation. This study suggests improving the financial capabilities of the municipalities through properly using their resources, generating loans, and claiming a need-based budget from the central government.

**Originality** – The paper investigates the status of fiscal solvency of local governments in Bangladesh in a new dimension. The findings might be helpful to policymakers in budgeting for development initiatives of local governments in Bangladesh so that citizens' better wellbeing is ensured.

**Keywords** Local government, Fiscal health, Wang, Dennis and Tu's solvency test, Brown's Ten-Point Test, Bangladesh

**Paper type** Research paper

## Introduction

Measuring fiscal health is essential to determine the ability of a government since it helps to meet their financial obligation, a major challenging task for any government in a country (McDonald, 2018). Strengthening local administration is essential to meet up the financial obligation of the local governments, as it helps by mobilizing resources and services from central government to different levels of local governments (Mollah, 2007). Local government plays a vital role by providing services to their citizens e.g., they involve in the different development programs, work for poverty reduction (Lobao and Kraybill, 2009), mobilize local



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resources (Larson, 2002), enhance co-ordination, increase the flow of information and resource from top to bottom level, create responsiveness of the central government to ensure citizen's facilities and maintain the political stability (Siddiqi, 1995; Turley *et al.*, 2015). More importantly, as a locally elected political sub-division of central governments, local government has substantial control over local affairs (Panday, 2011) and are supposed to collect revenue by imposing fees, taxes to provide the public services. Thus, it is inevitable to reveal how well the local governments are doing and how governments can strengthen their abilities to meet up the public demand. By using the fiscal health analysis of local governments in a country, we can easily explore the answer to these questions.

Without a healthy financial condition of local governments, public service quality will suffer in future (Huang and Ho, 2013). When there is an imbalance between the demand and supply of public service, this indicates that the financial condition of the government is in distress. Thus, it creates a problem between the citizens who want those public services and the officials of the local government who are accountable to ensure the provision of that services (Amrahova *et al.*, 2017). This problem causes tension between these two parties (McDonald, 2018). Therefore, it is crucial to measure the fiscal health of local government to minimize this problem. Since municipalities are the best demonstrator of the local governments, stakeholders should prioritize a better understanding of the latter's financial capability through assessing the fiscal condition of the municipalities.

In recent times, increasing demand for public service makes it more difficult for a local government official to maintain this increasing demand with the available resources. More importantly, a recession or other financial breakdown may decline the revenue of the local government. As a result, the local government would face a financial deficit to conduct their services. Generally, government bodies with financial stress fail to meet their financial obligations. On the contrary, governments with low stress are well managed, and it is easier for them to maintain an adequate slack, solvent budget and to meet short-term and long-term budgets (Hendrick, 2004). Poor financial condition implies that local governments are less susceptible to maintain the current financial obligation at an acceptable level of available resources. Assessing the fiscal health of the local government helps the local government authorities to run their services according to the public demand. There are some other reasons behind the assessment of the fiscal health of local government. It influences the economic development, local government's organizational flexibility quality, competitiveness, service provision quality, variation in services, quality of the human resource, long-term creditworthiness, and local government cost on citizen's competitiveness. According to Honadle *et al.* (2003), assessing the local government's fiscal health helps to identify and solve different financial problems.

The officials of local government often face difficulty in choosing the appropriate measure of fiscal health. While measuring fiscal health, it is essential to emphasize the indicators such as economic and population change, revenue and expenditures per person, debt per person (Caperchione and Mussari, 2000). Hence, the main target of this study is to assess the fiscal health of local governments in Bangladesh. However, the authors conduct this analysis to focus on two measures - Wang, Dennis and Tu's solvency test and Brown's Ten-Point Test. Each of these approaches provides different indicators of a local government's financial condition. Brown's Ten-Point Test focuses on five financial dimensions (Table 1) with ten financial ratios. It has included revenue, expenditure, operating position, debt, and unfunded liabilities to measure the fiscal health condition of the local government. Similarly, Wang, Dennis and Tu's include cash solvency, budget solvency, service solvency, and long-run solvency with 11 indicators to determine the solvency of a local government (Table 2). By comparing these different indicators, the concerned authorities can easily understand the actual financial health of those local government bodies.

**Table 1.**  
Financial indicators of  
Brown's Ten-  
Point Test

Type	Indicator	Measurement
Revenue	Total Revenue Per Capita	Total Revenues for all Governmental Funds (Excluding Capital Project Funds) Divided by Population
	Intergovernmental Revenues/ Total Revenue Percentage	Intergovernmental Revenues for the General Fund Divided by Total General Fund Revenues
	Property Tax or Own Source Tax Revenues/Total Revenues Percentage	Total Tax Revenues Levied Locally for the General Fund Divided by Total General Fund Revenues
Expenditure	Total Expenditure Per Capita	Total Expenditures for all Governmental Funds (Excluding Capital Project Funds) Divided by Population
Operating Position	Operating Surplus or Deficit/ Operating Revenue Percentage	General Fund Operating Surplus or Deficit Divided by Total General Fund Revenues
	General Fund Balance/ General Fund Revenues Percentage	General Fund Unreserved Fund Balance Divided by Total General Fund Revenues
	Enterprise Funds Working Capital Coverage Percentage	Current Assets of Enterprise Funds Divided by Current Liabilities of Enterprise Funds
Debt	Long Term Debt/ Assess Value Percentage	Long Term General Obligation Debt/Total General Fund Revenue
	Debt Service/Operating Revenues Percentage	General Obligation Debt Service/Total General Fund Revenue
Unfunded Liability	Postemployment Benefit Assets/ Liabilities Percentage	Funded Ratio (i.e., Actuarial Value of Plan Assets/ Actuarial Accrued Liability)

Type	Indicator	Measurement
Cash Solvency	Cash Ratio	(Cash+ Cash Equivalents+ Investments)/Current Liabilities
	Quick Ratio	(Cash+ Cash Equivalents+ Investments+ Receivables)/ Current Liabilities
Budget Solvency	Current Ratio	Current Assets/Current Liabilities
	Operating Ratio	Total Revenues/Total Expenses
Long-run Solvency	Surplus or Deficit Per Capita	Total Surplus (Deficit)/ Population
	Net Asset Ratio	Restricted or Unrestricted Net Assets/Total Assets
	Long-Term Liability Ratio	Long-Term (Non-Current) Liabilities/Total Assets
Service Solvency	Long-Term Liability Per Capita	Long Term (Non-Current) Liabilities/Population
	Tax Per Capita	Total Taxes/Population
	Revenue Per Capita	Total Revenue/Population
	Expenses Per Capita	Total Expenses/Population

**Table 2.**  
Financial indicators of  
Wang, Dennis and Tu's  
solvency test

**Source:** Wang *et al.* (2007).

### Literature review

The concept of “fiscal health” or “financial health” is somewhat abstract which cannot be directly observed and precisely measured (Bisogno *et al.*, 2019). Generally speaking, fiscal health is the ability of a government to provide adequate public service to the citizens and satisfy different obligations. More specifically, fiscal health measures the financial performance of a government (Wang *et al.*, 2007). Helpap (2016) and Maher and Nollenberger (2009) have insighted that fiscal health balances the government’s financial obligation with its available revenue streams. Therefore, fiscal health indicates the

proficiency of governments in how efficiently they can meet all types of financial obligation (immediate or short-term, long-term obligation) and the ability of the local government to finance the base-level programs and service as required by law (McDonald, 2018). According to Wang *et al.* (2007), the local government's fiscal health or financial condition is mainly the ability to timely meet its long-term and short-term financial obligation in the form of debt, services expenses, or expenditure. The governments can bear this obligation from either immediate or future financial resources (Hendrick, 2004). Different factors like economic performance, natural and demographic factors, administrative efficiency, revenue and expenditures per person, debt per person, decentralization of resources, types of service affect the fiscal health of local governments (Bastida *et al.*, 2009; Trussel and Patrick, 2018). McDonald (2018) views the fiscal health of government by using four dimensions: government's ability to meet its immediate or short-term financial obligations, the ability to meet its long-term financial commitments, the ability to meet its financial obligations over a budgeted fiscal year, and the ability to finance its base level programs and services.

In Bangladesh, the structure of local government seems to be complex when compared to the international standard. It consists of multiple layers and divides into two categories, i.e., rural local government and urban local government. In rural areas, the layers of local governments are Upazila Parishad (sub-units of district-level local government), Union Parishad (most minor rural administrative units in Bangladesh), and Ward (a division of city and town for administrative purposes). Local government institutions in the urban area consist of Municipalities (Pourashava) and City Corporations. City corporations are the first level of urban local government, and municipalities are the second level. There are 12 city corporations and 327 municipalities across the country as of August 2019 (Rahman *et al.*, 2019). The law mandates that all the layers of local governments provide a wide range of services in income generation, employment creation, sanitation facilities, water supply management, and regional infrastructure development (Kiewiet and McCubbins, 2014).

Generally, local government institutions in Bangladesh have their own sources of revenue. However, they can generate only a small portion of income relative to their needs and consequently always suffer from a shortage of funds. Local government can generate revenue by using two significant sources. One is tax revenue, which includes taxes on property, income, professions, trades, taxes on vehicles and animals, tax on cinema, drama and other entertainment, tolls, and minor surcharges like advertisement and marriage. Another source is non-tax revenue, including fees, charges, fines, rents, profits from the property, grants from governments, and receipts from charitable funds (Bhattacharya *et al.*, 2013; Elias, 2006).

In the urban area, a significant portion of revenue comes from the central government's allotment. The central government is accountable for transferring annual block grants (supportive tiers for ensuring various local affairs) to local governments under the Annual Development Programme (ADP). The government's surplus revenue budget, domestic and external borrowing, and aid from donor agencies finance the ADP fund of the central government. However, the expenditure responsibilities of the local government in Bangladesh are very narrow relative to the duties that are performed by the local governments around the world (Fox and Menon, 2008). Local governments in Bangladesh have few responsibilities like some local development activities, ensuring facilities of community health, primary and secondary education, water supply management, and sewerage management. Some research findings state that the local governments of Bangladesh are less efficient and held poor records of public service delivery (Bhattacharya *et al.*, 2013; Fox and Menon, 2008).

To understand fiscal health, researchers stepped forward to develop a set of approaches for measuring fiscal health (Kim *et al.*, 2020; Maher and Nollenberger, 2009; Wang *et al.*, 2007). For analysing the fiscal health of local government, Huang and Ho (2013) used quantile

analysis; Bastida *et al.* (2009) used regression analysis; Hendrick (2004) used fiscal health indices measurement. In literature, the authors find two types of methodology to measure the fiscal health condition in both developed and developing countries municipalities: scale approach (Brown, 1993; Kleine *et al.*, 2003) and disaggregated indicator approach (Honadle *et al.*, 2003; Hendrick, 2004; Wang *et al.*, 2007). This study uses both approaches to measure the fiscal health of local governments. Every method has some limitations, but those approaches have been used widely for measuring fiscal health (McDonald, 2018).

More importantly, many studies on fiscal health are available in the literature, but most of them are focused on the developed country's municipalities or other organizations. However, a specific study addressing the local government's fiscal health in Bangladesh using a combined framework of Wang, Dennis and Tu's Solvency test and Brown's Ten-Point Test is hardly available in the literature. Additionally, the selected methods efficiently help to check out the different indicators of local government that might be helpful for the policy-making decisions of the concerned stakeholders. Therefore, this research focuses on this crucial area of public economics.

## Methodology

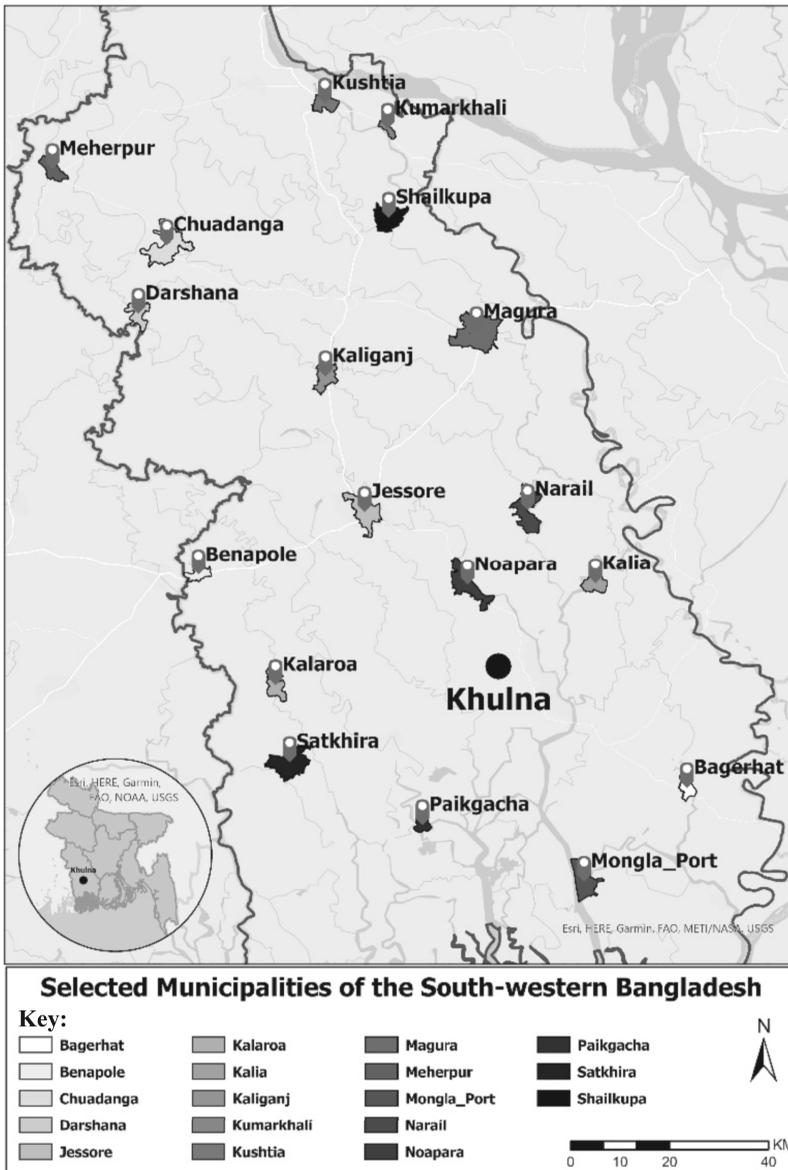
### *Sample and data*

In Bangladesh, there are a total of 327 municipalities within eight divisional cities (Rahman *et al.*, 2019). In this study, the authors mainly focus on the municipalities of the south-western region in Bangladesh which comprises of 32 municipalities. To attain explorative evidence on the determination of fiscal health on local government, the authors use the random sample of 18 municipalities among 32 municipalities of this region, i.e., Jashore, Noapara, Shaikupa, Kaliganj, Magura, Narail, Kalia, Mongla, Paikgacha, Satkhira, Kolaroa, Darshana, Kushtia, Kumarkhali, Meherpur, Bagherhat, Chuadanga and Benapole municipalities (Figure 1). The study covers about 56.25 percent of the municipalities of this region. Among the selected municipalities representation of both district and *upazila* level entities comprise almost 44 percent and 56 percent respectively. Thus, the sampled municipalities represent the general condition of local government in Bangladesh. Since, municipal data is not publicly available in Bangladesh, for measuring its fiscal health; data was extracted from archival documents like annual financial statement, annual budget book and other relevant sources of the selected municipalities during the fiscal year 2018–2019. For collecting data, the authors issued letter to the mayor of every municipality and requested them to assist by getting required data and other information. They responded cordially by providing their archival documents and helping to understand the actual financial scenario through arranging an interview to their assigned representative. Based on those collected data of the municipalities, the authors compile the relevant information on this research.

The research has relied upon data on four dimensions of solvency test in terms of cash, budget, long-run and service solvencies, and ten financial indicators of revenue, expenditure, operating finance, debt, and unfunded liability. Then, by formulating different variables from the collected data, the analysis is conducted by using Wang, Dennis and Tu's solvency test, and Brown's Ten-Point Test. Each of these approaches provides different indicators of a local government's financial condition. By comparing these different indicators, the study has tried to explore the overall actual financial health of those core local government institutions in Bangladesh.

### *Brown's Ten-Point Test*

Brown's Ten-Point Test comprises a combination of ratio analysis which is a quantitative analysis of the local government's financial information that identifies the trends in financial behaviour or position and estimates the government's performance on whether it is



Source: By authors.

**Figure 1.**  
Map of the surveyed municipalities in the south-west region of Bangladesh

improving or deteriorating. Additionally, it expresses the relationship as a percentage, rate, or proportion (McDonald, 2018). The ratio analysis method shows the relationship between financial statement accounts to identify an organization's financial state trends (Dance and Imade, 2019).

The straightforward application of ratio analysis has been considered as a popular method of analysing the financial condition, but this method has some limitations.

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The government choose and interpret only those ratios which generates favourable results to them. To overcome the problem arisen with ratio analysis, Brown's Ten-Point Test (1993) is applied which is both easy to use and understand. Ten financial ratios are captured in this method based on five dimensions, i.e., revenue, expenditure, operating position, debt, and unfunded liabilities. A brief description of the test indicators and their measurement system is in Table 1.

The ten ratios used in this method are easy to calculate and accessible by analysing a local government administrator's annual budget or report. This method helps a government recognize the point from which they differ from others and can respond to an interpretation of that position (McDonald, 2018). According to Brown (1993), the score of fiscal health varies between -10 and 20. The result of " $\geq 10$ " represents "among the best", "5-9" identifies "better than most", "1-4" depicts "about average", "(-4 to 0)" shows "worse than most" and " $\leq -5$ " reveals "among the worst".

However, the estimation focuses on the local government's general fund only, which ignores the more comprehensive financial performance. In this method, there is insufficient evidence to support the structure of the grading scheme. This measurement only compares whether the government is doing better than others rather than measuring the actual holistic feature of its fiscal health (McDonald, 2018).

#### *Wang, Dennis and Tu's solvency test*

Wang *et al.* (2007) have researched to establish a new method by which financial conditions can be easily realized and to address the difficulties of previous methods. To measure the fiscal health, the research moved away from measuring variables and argued that the appropriate approach to measuring fiscal health should directly measure its actual financial condition, such as financial solvency. The study breaks this solvency down into four dimensions: cash solvency, budget solvency, long-run solvency, and service solvency to estimate fiscal health. Table 2 represents an overview of these dimensions and their indicators.

Firstly, cash solvency refers to an organization's ability to generate sufficient financial resources to pay its current liabilities. It is measured by using three indicators, i.e., cash ratio, quick ratio, and current ratio. A more considerable value of this ratio indicates that many specific resources are available to cover current liabilities. Secondly, budgetary solvency refers to an organization's ability to generate sufficient revenues to fund its current or desired service levels. Two indicators are used to measure budget solvency – the operating ratio and surplus (deficit) per capita. A larger value for these ratios indicates higher level of budget solvency. The effect of existing long-term obligations on future resources is considered as the concept of long-term solvency. Three indicators – net asset ratio, long-term liability ratio, and long-term liabilities per capita are designed to measure a government's ability to pay existing long-term obligations. Finally, service solvency is used to measure an organization's ability to pay and sustain existing service levels. Three indicators- taxes per capita, revenues per capita, and expenses per capita are used to measure the service solvency of local government. A larger value indicates a lower level of service-level solvency (McDonald, 2018).

## **Results and discussion**

### *Brown's Ten-Point Test*

Brown's Ten-Point Test provides a specific result, indicating the fiscal condition of municipalities or other organizations. It includes ten financial ratios depending on five dimensions, i.e., revenue, expenditure, operating position, debt, and unfunded liabilities. More importantly, Brown (1993) has focused on these five dimensions of estimating financial

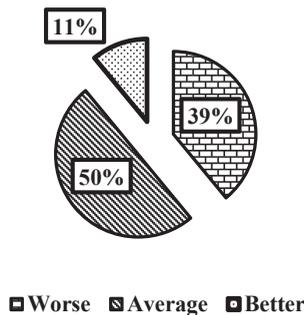
condition by using most commonly used ratios. Maher and Deller (2011) have described the dimensions of the government’s revenue, government expenditure, operating position, the level of debt accrued by the government, and its unfunded pension liabilities. Brown (1993) has also described an approach for indexing and comparability based on benchmarking that is performed by calculating the ratios individually for both the experiment of government and localities.

In this research, Figure 2 represents that according to the fiscal health status, approximately one-tenth of the entire municipalities are endowed with better position, whereas 39 percent of municipalities are in the worst situation and 50 percent of municipalities are in the average category. More importantly, it is found that municipalities in this region accrue limited liabilities, which indicates the municipalities mainly depend on their earnings and central government’s budget. Additionally, the revenue stream, expenditure per capita, and post-employment benefit of the municipalities are not good enough; specially most of the municipalities with average and worse fiscal health face these problems.

*Wang, Dennis and Tu’s solvency test*

The result of Wang, Dennis and Tu’s solvency test is presented in Table 3. It shows the summary statistics of the eleven financial indicators, which help to check out the cash solvency, budget solvency, long-run solvency, and service solvency. Because of lacking

**Fiscal health of the municipalities**



Source: By authors.

**Figure 2.** Status of municipalities based on Brown’s Ten-Point Test result

	N	Mean	Standard Deviation	Maximum	Minimum
Cash ratio	18	196.10	394.45	1339.81	70.776
Quick ratio	18	201.89	401.55	401.55	70.77
Current ratio	18	6.78	21.90	93.36	1.77
Operating ratio	18	1.04	0.11	1.24	0.67
Surplus (Deficit) per capita	18	67.46	173.64	329.43	-500.05
Long term liability per capita	18	932.97	1611.92	5532.04	41.43
Tax per capita	18	471.26	293.32	947.11	28.74
Revenue per capita	18	1745.07	1323.98	6152.13	699.58
Expenses per capita	18	1677.60	1263.41	5931.82	678.39

Source: By authors.

**Table 3.** Summary statistics of Wang, Dennis and Tu’s solvency test

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available data, the authors cannot calculate the net asset ratio and long-term liability ratio. Summary statistics of the indicators of Wang *et al.*'s solvency test, are represented in the following table.

(1) *Cash solvency*

Cash solvency includes three indicators, which are cash ratio, current ratio, and quick ratio. The higher value of these three indicators indicates that the assets are available and the institutions are able to meet their current liabilities, therefore, a larger level of cash solvency is found in the selected municipalities. The cash ratio is calculated as the summation of the cash savings and cash equivalents in current assets over the current liabilities. The mean cash ratio is nearly 196.10 with a standard deviation of 394.45, shows a positive result because a higher value indicates higher level of financial ability. However, standard deviation shows a considerable variation within the municipalities, which indicates the inefficiency of some municipalities. The maximum cash ratio is found in Kushtia municipality, and the minimum cash ratio is found in Sathkhira municipality. The result reveals that local governments of the south-western part of Bangladesh are not equally solvent to lead the development initiative. A study by Wang *et al.* (2007) finds that the mean cash ratio for the municipalities of the USA is nearly 2.62, with a standard deviation of 5.74. Since Bangladeshi municipalities have too low current liabilities, this ratio is higher than municipalities of the USA.

The quick ratio (quick assets over current liabilities) is a more robust measure of liquidity than the current ratio. Quick assets refer to the liquid types of current assets, including cash and cash equivalents, marketable securities, and short-term receivables. A quick ratio, greater than one means that the municipality has enough quick assets to pay for its current liabilities. Quick assets (cash and cash equivalents, investments, receivables, and short-term receivables) are current assets that can be converted very easily into cash. Table 3 shows that the mean value of the quick ratio is approximately 201.89 with a standard deviation of 401.55, which is greater than one. Therefore, we can predict that the municipalities have enough quick assets to pay for their current liabilities. It is noticeable that because of low current liabilities, quick ratio gives a higher value. The average quick ratio in this analysis concludes that the current asset of the municipalities is enough to meet their limited liabilities.

The current ratio (current assets over current liabilities) shows how many times the institution can pay its current debt obligations based on its assets. "Current" usually means a short period of fewer than twelve months. The municipalities must have a current ratio of at least 1.0 to stay solvent, which can exactly meet their current debt obligations. Table 3 shows that the mean value of current ratios is nearly 6.78, indicates the municipalities have strong capacity to meet their current short-term debt obligations. This study finding is consistent with the findings of other research on Bangladesh and Indonesia (Alam *et al.*, 2017; Ritonga *et al.*, 2012).

In this study, the authors find that the current liabilities of these municipalities are too low. Even some municipalities have no borrowings or loans. On the other hand, cash, quick and current ratios are good enough, indicates the municipalities can meet their liabilities. In this sense, they have a scope to improve their overall condition by taking loans or other borrowings. Because of having high cash, current and quick ratio, these municipalities have a higher ability to reimburse the liabilities.

To check the correlation among three indicators of cash solvency, the authors use Karl Pearson's coefficient of correlation. It helps to prevent these three ratios' reliability from predicting cash solvency (Wang *et al.*, 2007). Table 4 indicates the correlation among cash, quick and current ratio are highly associated with each other. All of them are positively correlated and statistically significant by  $P < 0.05$ .

(2) Budget solvency

Budget solvency includes two indicators (operating ratio and surplus (deficit) per capita) to measure financial health. Operating ratio = total revenue over total expenses and surplus (deficit) per capita = total surplus (deficit)/population are used to measure budget solvency. Higher budget solvency, which indicates a better condition, needs a larger value for this ratio. The mean of the operating ratio is nearly 1.04 with a standard deviation of 0.11, indicating that municipalities can meet their expenses by their earnings though it varies across the municipalities. The maximum value indicates that some municipalities' total revenues are probably 124 percent more than their total expenses. Still, the minimum value shows that only 67.5 percent has the ability to meet their expenses by their revenue. The result of total surplus (deficit) per capita indicates that municipalities perform very differently in this measure. The average total surplus per capita is approximately BDT 67.46 (US\$0.79) with a standard deviation of BDT 173.64 (US\$2.05). The largest deficit per capita is nearly BDT500 (US\$ 5.90), and the largest surplus per capita is BDT 329.43 (US\$3.89). Here, BDT (*Bangladeshi Taka*) is converted into US\$ based on the exchange rate on 4 April 2021 (1BDT = US\$0.012). Table 5 shows that the operating ratio and surplus per capita are highly associated and statistically significant by  $p < 0.05$ . This result indicates that operating ratio and surplus per capita interdependently keep an impact on financial condition. Indonesian municipalities also maintain their budget solvency by generating adequate revenue to meet up their operational expenditure (Ritonga *et al.*, 2012).

(3) Long-run solvency

Long-run solvency includes three indicators: net asset ratio, long-term liability ratio, and long-term liabilities per capita, for measuring a government's ability to pay existing long-term obligations. Clearly, a long-term liability ratio = (long-term liabilities over total assets) or long-term liabilities per capita = (long-term liabilities/population) indicates long-run solvency. A larger ratio indicates a lower level of long-run solvency. The mean of long-run liabilities per capita is nearly BDT 932.99 (US\$11.02) with a standard deviation of BDT 1,611.92 (US\$19.04). It also represents that the current long-term liabilities per capita of the municipalities is well appreciated. The municipalities can raise the long-term liabilities by taking loans from other sources, might help to meet their financial obligations. Bhattacharya *et al.* (2013) find that the municipalities in Bangladesh can't raise the capital from capital market or borrow from other sources, through which they could be solvent in the long term.

	Cash ratio	Quick ratio	Current ratio
Cash ratio	1.00		
Quick ratio	0.99*	1.00	
Current ratio	0.66*	0.65*	1.00

\* $P < 0.05$

Source: By authors.

**Table 4.**  
Correlation among cash, quick and current ratio

	Operating ratio	Surplus per capita
Operating ratio	1.00	
Surplus per capita	0.93*	1.00

\* $P < 0.05$

Source: By authors.

**Table 5.**  
Correlation between operating ratio and surplus per capita

Net asset ratio and long-term liability ratio are not applicable because of lacking available data.

*(4) Service solvency*

Service solvency has three indicators, i.e., taxes per capita, revenue per capita, and expenses per capita. All of the ratios are very important to measure the financial condition. Taxes per capita = taxes/population, revenue per capita = total revenue/population and expenses per capita = total expenses/population. Service solvency is important to measure service levels and municipalities' ability to pay. Taxes per capita and revenue per capita assess the tax burden and revenue burden, while expenditure per capita indicates the cost of services. Therefore, a larger value indicates a lower level of service solvency. This study estimates that per capita tax collected from inhabitants of concerned municipalities is approximately BDT 471.26 (US\$5.57) with a standard deviation of BDT 293.32 (US\$3.46). The mean of revenue per capita is nearly BDT 1,745.07 (US\$20.60) with a standard deviation of BDT 1,323.98 (US\$15.63). In addition, the mean of expenses per capita is approximately BDT 1,677.60 (US\$19.81), with a standard deviation of BDT 1263.41 (US\$14.92). It shows that people bear a higher tax though the service provided by the municipalities also charge high. However, this study exerts that the expenses per capita are less than the revenue per capita. This result is supported by the other research findings in Bangladesh (Alam *et al.*, 2017; Bhattacharya *et al.*, 2013).

The correlation among tax per capita, revenue per capita, expenses per capita are also described in Table 6. It shows that expenses per capita are highly associated with revenue per capita, which means change in revenue highly depends upon change in expenses. Revenue per capita and tax per capita are also moderately associated. All of them are positively correlated and statistically significant by  $p < 0.05$ . Thus, it indicates that these ratios have a combined effect on service solvency.

Overall, this study identifies that the municipalities in this region are cash solvent, which indicates they can quickly meet up their current liabilities by using their resources. Therefore, they have enough scope to improve their overall condition by taking loans or other borrowings from bonds. Additionally, according to the results of budget solvency, municipalities can meet up their expenses by their earning though it varies from municipality to municipality. On the other hand, to ensure service level solvency, municipalities charge higher tax, and consequently the expense per capita becomes less than the revenue per capita.

**Conclusion**

To ensure sustainable cities and towns, one of the vital targets of SDGs, strengthening local government, mainly municipal governments, is inevitable in perspective of both financial capability and good governance. With the increasing force of urbanization, demand for public and utility services from municipalities is increasing day by day. Still, the local government in Bangladesh is not capable enough to raise additional revenue to meet the service commitments and obligations to urban dwellers. Besides, for accomplishing long-run development projects, i.e., sustainable river and canal management, sewerage system,

**Table 6.**  
Correlation among per capita tax, revenue and expenses

	Tax per capita	Revenue per capita	Expenses per capita
Tax per capita	1.00		
Revenue per capita	0.63*	1.00	
Expenses per capita	0.63*	0.99*	1.00

\* $P < 0.05$   
Source: By authors.

construction of roads, parks, markets, and other infrastructures, the local authorities are not contributing enough due to their fiscal deficiency, improper use of resources, and long term and lack of aid plans. However, before assessing whether the municipalities in Bangladesh are following their citizen charter appropriately, analysing fiscal health is the first and foremost factor. In Bangladesh, there are many types of research on different issues of local governments, i.e., decentralization, good governance, roles and contribution, and so on. Still, very little research is found on the exploration of fiscal conditions. From that obligation, this study tries to assess the financial status of municipalities in Bangladesh through analysis of several prominent approaches but under a combined framework and tries to suggest some associated policies by analysing extracted scenarios and existing literatures.

In this study, the authors adopt Brown's Ten-Point Test and Wang, Dennis and Tu's solvency test to measure the fiscal health by analysing the budget of the fiscal year 2018–2019 of around half of the south-western municipalities of Bangladesh. The results show that only about one-tenth of the municipalities are in better financial condition. In contrast, nearly half of the entire municipalities are average, and the others have worse fiscal conditions. Moreover, most of the municipalities with average and worse fiscal health face the inadequacy of revenue stream, expenditure per capita, and post-employment benefits. Another significant finding of the research is that these institutions have more than enough cash solvency and positive long-run solvency with reasonable long-run liabilities per capita for most municipalities due to limited external liability.

In the case of budget solvency, the average total surplus per capita is positive. Still, the variation denotes that some municipalities have a budget deficit to meet up their expenses. Most of the municipalities in Bangladesh aren't capable to generate adequate revenue to meet up their own expenses (Alam *et al.*, 2017). In many cases, they depend on the central government's budget to meet their needs (Bhattacharya *et al.*, 2013). This study suggests focus on the ratio of municipality's revenue stream and external liability. Since, their external liability is limited and they are cash solvent to meet it, they can quickly generate foreign and domestic loans to improve their financial capability and promptly meet their expenses.

However, in the perspective of service solvency, it is unexpectedly found that service expenses of the municipalities are more than their revenue generation. Behind this consequence, it is conceived that the municipal government levies household tax and cuts the handsome amount of service charge from the inhabitants. However, it is a prediction that the municipalities have a predilection for satisfying the routine work of the organization. Still, they have a massive opportunity of searching for external loans and aid for long-run development projects. This reluctance and preliminary plan keep them less capable, less efficient, and less obligated to use resources appropriately and aloof from properly maintaining citizen charter and strengthening this institution to ensure sustainable cities and towns. The authors suggest that the municipalities of Bangladesh should not be highly dependent on levying high service charges from urban dwellers; rather they have to utilize the opportunities to improve financial capabilities and be more dynamic local governments in properly using its resources, generating local and foreign loans, and claiming need-based budget from central government. Those strategies might help to increase the service level solvency as well as overall performance of the institutions (Ritonga *et al.*, 2012).

Due to lack of intra-organisational and inter-organisational coordination among various departments of local governments, many projects are found incompletely implemented. Besides, central government's budgeting, planning and development focus are not coordinated with the local government's budget, participatory governance and accountability. Also, these facilities are not ensured by the authority, might cause the discrepancies in fiscal health of local governments (Panday and Panday, 2008).

The study would be more rigorous if sufficient data for every variable were available, and the prediction could be made with time-series data from similar developing countries.

Besides, future investigation might be done by exploring the influence of financial conditions on some performance indicators of municipal governments. After all, this exploratory research might have a better role in taking policies regarding the financing of the local government of Bangladesh that will ultimately help to strengthen local governments to expedite the target for sustainable cities and towns. More importantly, this research suggests further research, discussion, and problem-solving applications by developing criteria to compare the fiscal condition, by revealing the associated factors of solvent fiscal health and by finding the relation between management practices and fiscal condition in the context of local governments in developing countries.

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# A study of the capabilities and limitations of local governments in providing community services in Nepal

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## Abstract

**Purpose** – Corruption and dishonesty in the political and bureaucratic realms have impeded the ability of local governments to provide services and social justice in Nepali society. In light of this, the purpose of this research is to answer the key research question: what are the possibilities and limitations of local government in implementing constitutionally guaranteed rights in order to transform local communities?

**Design/methodology/approach** – This study gathered qualitative data from 14 local governments in seven provinces. A total of 56 in-depth interviews were held with elected representatives, political parties, and government officials at both the national and local levels. Both open-ended and open-structured questionnaires were employed for the interviews.

**Findings** – The results indicate that capacity is a major constraint for local governments, which should be addressed to achieve successful local governance, inclusive citizen engagement, and strong technical, administrative and fiscal capabilities. Lack of local autonomy, political conflict and social class differences, external engagement, and conservative hierarchic government bureaucracy are major hurdles to growing capacity.

**Originality/value** – This paper analyses the capacity of newly restructured local governments through qualitative approach. It attempts to understand to what extent the Nepali local governments are capable in delivering the services at the local level as closest unit of the citizens.

**Keywords** Capacity-building, Local government, State-restructuring, Nepal

**Paper type** Research paper

## Introduction

Over the past 40 years, decentralization of public services has been adopted in many developing countries in Latin America (Bossuyt, 2013), Southeast Asia (Grant and Dollery, 2010), South Asia (Wignaraja, 2005), Oceania (Regmi, 2010) and Africa (Shah, 2006). As a result, local government (LG) is consistently viewed as the lowest tier of any polity that operates closest to communities and hence has greater capacity for grassroots involvement around the globe (Acharya, 2014). Considering the essence of LG, it is also theorized across the disciplines of political science (Grant and Drew, 2017) and economics. The key reason is putatively superior capacity of LG residing in the organisation for collective action of extant communities and the inherent efficiencies associated with knowledge of a particular area and governing with this wisdom (Balabuer-Coll *et al.*, 2010; Rondinelli, 1981). Additionally, a



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functioning LG system allows for the satisfaction of different sets of preferences by groups of citizens within one polity and stymies authoritarian or self-interested activity by a central state.

However, the disadvantages of LGs have also long been recognised. Research in developed countries has been inconclusive as to whether enhanced decentralization or centralization improves efficiencies in terms of administration, resource allocation and political representation (Balabuer-Coll *et al.*, 2010). Hiskey and Seligson (2003) found that decentralization can both promote and undermine political confidence and participation at a local level. Pandeya (2015) found that decentralized participation in LGs' decision-making strengthened local governance and accountability systems but was also linked to negative outcomes. Moreover, outcomes were variable depending on participatory structures, local power, incentives for participation and level of support from elected representatives. Challenges have also been experienced regarding poor policy implementation, weak managerial capacity and continuing central control over finance and resources (Acharya, 2014). These difficulties are partly addressed by some governments, but most central authorities appear reluctant to decentralize the powers and simplify the complexity of organisational design (Grant and Drew, 2017). In Nepal, impunity, corruption, and dishonesty are growing rapidly at the local level due to unnecessary connection of politicians and bureaucrats in conflict of interests, power holding attitude, and manipulation in loopholes of the laws. These have led to dissatisfaction among the citizens and threatened LG's capabilities and reliabilities.

The Government of Nepal has long been criticized for its top-down planning, ineffective, corrupt, and elite-controlled administration, all of which have weakened institutional systems and the local governance system (Adhikari, 2020). To ameliorate past lapses, the Constitution of Nepal 1990 formally highlighted decentralization as a means to ensure optimum involvement of people in local governance system through principles of devolution of power and responsibilities in local levels, building and development of institutional mechanisms, and an inclusive approach to people's participation in the decision-making process (Kharel, 2019). Despite these considerable endeavours, between 2002 and 2017, local democracy in Nepal was jeopardised due to the vacuum of elected leadership of local bodies (Adhikari, 2020). In this period, local democracy was subjected to attack by political groups presenting themselves as protagonists of democratic rights and aspirations of the people. Nonetheless, the new Constitution of Nepal (2015) envisaged federalization and decentralization of the state structure and comprehensive LG reform, which was designed based on both the 'principle of subsidiarity' and 'economies of scale' (Adhikari, 2020).

The Constitution of 2015 has provisioned to transfer the political, administrative, and economic authority from national to sub-national level and granted substantial autonomy at the sub-national level (Government of Nepal, 2015). Despite these legislative efforts, research has indicated that some authorities and functions of the LGs have deviated by the federal government towards the federal units at the district level, which have been hesitant to support the LGs in lawmaking, strengthening fiscal governance capacity, human resource development, building partnerships with broader stakeholders, and bureaucratic democratization (Acharya, 2018). Kelly (2016) argues that the Nepali governance structure remained highly centralised, incapable of addressing governance and service delivery problems on the one hand, while on the other hand failing to simplify and re-build the political, administrative, and fiscal dimensions of government in order to enhance efficiency, effectiveness and accountability. In line with this, this paper examines the limitations and possibilities of contemporary local governments in Nepal to ensure effective and efficient service delivery at the local level.

**Literature review: local governance practice and results**

In 1936, Keynes argued that the state intervention could increase economic growth by capturing political system, but its results in terms of development appeared a top-down and centralized approach (Preston, 1996). Until 1960's, most countries in the world adopted this theory in their political, economic and social system. In the beginning of 1970s, there was a major paradigm shift, and a popular concept 'people-centred development approach' emerged in neo-liberal theory. It is an amalgamation of capitalism and socialism, which advocates to the decentralized approach in the development (Jacobs and Laybourn-Langton, 2018). This theory focuses on the free market system, independent role of the state and other institutional mechanisms, which reduces expenditure of the state in social provisions and introduces the market-based strategies in solving economic complexities (Acharya, 2014). In the late 1960s, decentralization was introduced as a concept to transfer the power, authority and functions from the national to sub-national government (Rondinelli, 1981). It focused on democratic reform of the governing structure, which transferred political, administrative, fiscal, planning, and implementation authority from the centre to the province and local governments (Dhungana and Acharya, 2021). In developing countries, the main aim of the decentralization is to promote public participation, empower local people who are mainly marginalized to engage in the political decision-making process, so that governance can be fostered at different levels of the governing structure. Furthermore, it aims at increasing efficiency and effectiveness in the service delivery, optimum management and mobilization of resources (Zafarullah and Huque, 2020; Amah, 2017). However, transferral of legislative, judicial or administrative authorities from national to sub-national level is daunting task in developing countries.

In developing countries, local governments represent as grassroots level government units, which are closest to the citizens, and responsible to deliver not only decentralized services and institutionalize the local governance system, but also accelerate the social and economic development to advance the democratic values and public participation in decision making at the local level (Brosio, 2012). Zafarullah and Huque (2020) added that decentralization is based on subsidiarity principles, which devolves power, functions, and services to the lowest governmental tier subject to economies of scale and capacity. Thus, local governments are governing units that bring citizens and governments closer in new structure, encourage all actors to participate, deliberate, and develop solutions to pressing social, economic, and community development issues (Ghosh, 2020). As a result, many experiences in developing countries highlight that LGs provide services to citizens as self-governing units by using the government's administrative, executive, and judicial functions to enable the citizens (Acharya, 2018).

In Nepal, the Rana oligarchy was abolished in 1950, and democratic polity was established to develop the administrative system through the establishment of ministries and the formation of different departmental committees to facilitate local development under decentralized approach (Acharya, 2014). However, '*Panchayat*' system was instituted in 1960 as an autocratic principal political strategy. Albeit it created a new local government structure under decentralized approach with three tiers: zone forming an upper tier; district at an intermediate level; and both municipal and village at lowest levels, the system adopted a centralized approach that put the monarch at centre of governance and people at periphery. The objective of the *Panchyat*-based local government system was to create centre led accountable local institutions to strengthen the political system at grassroots level; develop local leadership; involve local people in decision-making processes; mobilize resources; and strengthen the local level planning process and service delivery mechanisms and in order to strengthen the system, many laws and regulations were formulated (Pradhan, 1969).

In 1990, a new form of decentralized democracy was established that created plentiful space for citizens in their representational engagement in public institutions. However, the

new political system could not counteract the problems of the basic service delivery system. Issues of local governments' sectoral agencies' coordination and accountability widened due to inexperienced political representation and by local government being overlooked by bureaucracy (Acharya, 2014). In response to recurrent issues and demands for improving the community service mechanism, the *Local Self-Governance Act (LSGA) 1999* was formulated to provide a legal basis for the decentralization of power from central authority to district, village and municipality levels. After the enactment of the LSGA-1999, a number of positive developments took place at the local level. It enhanced autonomy and greater roles of the local government bodies in participatory planning, improvement of financial and resource management, promotion of accountability and transparency, and the participation of external stakeholders such as civil society groups, NGOs and private sectors play their respective roles and promote their causes under the local self-governance system (Kharel, 2019).

Despite its promise, ambiguities remained with the LSGA (1999) on power sharing and authority between different governing units (VDCs/Municipalities and DDC). Moreover, the conflicting provisions of other sectoral laws challenged the autonomy of local governments. For example, twenty-three sectoral laws were identified as conflicting with the LSGA, which stymied desirable results for both democracy and service delivery at the local level (Government of Nepal, 2015).

In 2002, the regime of local governance was handed over to central government employees until June 2017 due to the short tenure of locally elected representatives, which jeopardised the local governance system (Acharya, 2018). Under these arrangements, the local government system in Nepal has suffered on the following grounds. First, the decentralised democracy in Nepal (post-1990) was either more compartmentalised (top-down) than before or was excessively hierarchical. Second, democracy in Nepal was — and is presently — clearly divided into two layers. In the first are political and bureaucratic benefit groups (grassroots level political cadre, elites, and politically affiliated bureaucratic staff), the capitalist and business class and social elites. Such groups utilised the decentralised democracy for their own benefit and forcefully captured the space in decision making process, instruct the administrative system, and drag the power in their own hands for their own purposes. In the second are 'marginalised groups' mainly Dalit, women, ethnic castes, and socially/economically/geographically excluded groups who are denied any opportunity to influence policies intended for them, and for whom democracy only becomes significant during elections (Acharya, 2014). It was further cultivated by the vacancy of political representation at local bodies. This created a vacuum between public and government for institutionalising and democratising processes, deficiency of horizontal coordination in sector planning and budgeting, and weak resource absorption capacity.

In response to these challenges, a new federal Constitution of Nepal (2015) was promulgated, which projected new forms of competition, created new methods of public management, and generated new governing codes for central-local relations (Acharya, 2018). The Constitution allows for three levels of government — federal, provincial, and local — while facilitating the devolution of power to local government and other state organisations. It also specifies local governments as closest to the 'grassroots' (Acharya and Scott, 2020; Government of Nepal, 2015). The Constitution expresses a sincere pledge to create an egalitarian society based on principles of proportional inclusion and participation, which guarantees *Dalits* and marginal communities shall have the rights to participate in all agencies of the state based on the principle of proportional inclusion. In addition, local governments such as village government and municipal government are considered a third-tier government that is much closer to the people. The 2015 Constitution of Nepal also aimed to promote cooperativeness, co-existence and coordination between the federation, province and local levels and aimed to provide for the efficient delivery of services, meaningful people's

participation, and to institutionalise the legislative, executive and judicial practice at local level. Furthermore, the local tiers have also created their own governing and administrative structures and deploy power-sharing mechanisms, not only for government accountability to citizens, but also to allow actors at the multiple levels of government political participation in legislative, executive and judiciary functions (Adhikari, 2015).

To materialize the decentralization, the Constitution allocates 22 exclusive powers and 15 concurrent powers that have been shared among the federal, the provincial and the local levels. Furthermore, extensive tasks involving public services, consisting of planning, implementation, economic development (agriculture, livestock, cooperative and industrial), social development (education, health, vital registration, social security allowances distribution, certifications/recommendation), environment, infrastructure and institutional development have been made through new law *Local Government Operation Act-2017*. These powers and functions were further transferred to ward level structures. From 2016/17, the Government of Nepal commenced allocating budget monies directly to local governments under four schemes, namely equalisation, conditional grants, special grants, and a matching fund, based on the provisions for revenue-sharing outlined in the 2015 Constitution (Dhungana and Acharya, 2021). This was Nepal's first experience of local governments having the mandate to autonomously choose their priorities and spend resources at their disposal.

However, experience shows that many developing countries have failed to cope with these issues in their efforts to transform the social, political, and economic aspects of society due to significant degrees of bureaucratization, politicization, and undue influence of imported ideas and practices (Acharya, 2018). For example, the practices of federalism in Africa did not appear to have positive effects due to local identity cults. Similarly, in developing countries such as India, Iraq, and Nigeria, federalism has not delivered the desired results, nor has it been able to bridge the gap between states and resolve communal and ethnic conflicts caused by poverty, political insecurity, religious intolerance, and poor governance (Ghosh, 2020; Amah, 2017). Nepal's newly adopted constitution paved the way for federalism. The major objective of this Constitution, among many others, is to embrace the people's right to autonomy and self-rule, as well as to achieve people's expectations for peace, good governance, development, and prosperity (Acharya and Scott, 2020).

Despite the literature available in both developed and developing countries on federalism, decentralization, and local governance, these appear only in conventional theoretical approaches, which are facing number of challenges in implementation. However, Nepal's current federalism and local governance system claims as hybrid federalism, which allows all kinds (executive, legislative and judiciary) of governing power to local governments based on "co-operation, co-ordination and co-existence". This study looks at the possibilities and limitations of instituting a hybrid federalism model at the local level.

### Methodology

This study gathered qualitative data from 14 LGs across Nepal's seven provinces to delve deeper into the process of reform in LGs beginning in 2015. Following that, 7 Rural Municipalities were chosen, including *Ramasoshan, Dolpo-Buuddha, Madane, Binayi-triveni, Parvatikinda, Aurahi*, and *Aatharai*. Concurrently, 7 Urban Municipalities: *Godavari, Bheriganga, Tulshipur, Beshishahar, Ratnanagar, Bardibas*, and *Duhabi* were also chosen as unit of analysis.

Between November 2019 and March 2020, 56 in-depth interviews were conducted purposively with national and local governments representatives, including Mayor/Chair, Deputy Mayor/Vice Chair, Chief Administrative Officer, and a Dalit woman member in each LG unit, 2 members of the Ward Citizen Forum, and 3 members of the Citizen Awareness

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Centre. Additionally, a Joint Secretary of the Ministry of Federal Affairs and General Administration, a member of the Local Level Restructuring Commission, 3 representatives from LGs Associations, the chair of the Parliament Development Committee, and spokespersons from major political parties Nepali Congress, a member of the Unified Marxist and Leninist Party, and Maoist Centre Party, 5 independent local governance experts were among those in attendance.

The purpose of these interviews was to gather participants' thoughts and feelings about LG capability. They were also questioned on how LGs are carrying out their constitutionally mandated powers and responsibilities. Building new collaborations with development partners, technical and administrative ability for successful service delivery, budgetary capacity to lead local administration and the design of laws and regulations were among the other topics investigated. For the interviews, open-ended and open-structured questionnaires were used. The qualitative data were transcribed and classified using four themes as detailed below.

## Findings and results

### *Preparation of legal framework*

The Constitution of Nepal mandates that all three levels of government have the authority to exercise three governing functions (legislative, executive and judiciary) by allowing 22 exclusive rights and 15 concurrent functions. These functions and privileges, however, cannot be carried out until subsidiary laws are drafted and approved by local assemblies. On October 2018, the federal government forwarded the *Local Government Operation Act 2017* (LGOA-2017) to speed up the local governance process. This aimed to promote cooperation, coexistence, and coordination between the federal, provinces, and local governments; provide efficient and high-quality services by ensuring people's participation, accountability, and transparency; and institutionalize legislative, executive, and judicial practice at the local level. This Act provides detail of the functions of LGs, different authorities of LGs, defines the procedures of LGs (such as Assembly and operation), provides instructions and a basis for annual planning and budgeting, and prescribes administrative structures and the provision of staff. Similarly, it envisages powers having devolved to the ward levels from municipalities and *village* centres in terms of the formulation, implementation, and monitoring of planning; development work; regulative functions; and certification.

Even though the LGOA-2017 attempted to streamline local government operations by unbundling all exclusive and concurrent rights, the Act has been criticized for a variety of reasons. First, it is unable to minimize the conflicting provisions of laws between inter and intra governments, illustrate the scope of LGs to raise revenue, capacity development of elected representatives and staff which is insufficient when compared to the list of functions LGs are supposed to perform. Second, it does not address the professional capacity limitations among elected representatives and administrative staff. Third, some functions, which were devolved by the federal government, lack clarity.

Nevertheless, situation remains neither laws were prepared, nor the local government could assess its legal and functional rights. The federal government's initial role could be to provide the bare minimum of resources and legal frameworks. Although local governments have the authority to plan and enforce at the local level, federal and provincial governments participation was required in the early phases. Nonetheless, the federal and provincial governments had a vested interest in a centralized attitude during the legislative process. Later, the federal government and associations of LGs forwarded more than 50-types of 'model laws' to facilitate consistent approaches in LG. Central control has been maintained through the leadership of a centrally delegated Chief Administrative Officer, federal government representatives' provisions as the head of LG administration, limiting local

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powers and authority. In addition, the legislation states that the elected LG heads shall have to authenticate the laws endorsed by a LGs' assembly. About the support of federal government in lawmaking process through model laws, a mayor expressed his view.

We will have to wait a long time to see if the laws that are drafted and executed at the municipal level are successful. Federal units design a set of model laws while assisting in the law-making process, taking into account their presence and control at the center, which are instructed to be formulated exactly through the Chief Administrative Officer. Local autonomy is unlikely to be limited to slogans in such a setting.

An independent local governance expert expressed about the situation of local law-making process in following way.

Most of local council members are apathetic in the legislative process due to a lack of capacity, and different priorities. Their main concern is how to increase the budget allocated to their constituency to win the next election. On the other hand, the majority of the people's representatives come from a construction and business background, they put pressure on legislators to write laws that benefit them rather than the people.

Apart from that, according to a federal ministry representative, the process of enacting laws at the local level is extremely cumbersome. Even if laws are passed, their execution is apprehensive with difficulties. Unnecessary disputes were created during implementation. Because certain laws will replace established practices, there will be grassroots protests and people's representatives will not be interested in making laws on a regular basis. They point fingers at the federal agencies to avoid taking responsibility. However, the LGs should be careful that such formulated local laws do not contravene the federal and provincial laws. Overall, the capacity, knowledge, and law enforcement mechanisms at the LG level are considered weak, largely because of an absence of legal training and experience among LGs' personnel.

#### *Fiscal governance and capacity*

LGs have demonstrated fiscal capacity in Nepal with respect to intergovernmental transfers that shift general revenues from taxes collected by the national government to sub-national governments for general or specific uses, and local tax collection. In these systems, the revenue received by the local governments is in accordance with the law on the recommendation of the fiscal commission, considering the capacity, needs and regional balance of the local level. Currently, LGs can generate only about one-third of their internal revenue through taxation and fees for services. Their principal financial source is fiscal transfers (equalisation, conditional, complementary/ matching, and special grants) from the federal government to sub-national level, which were estimated to make up about two-thirds of their total income (Prasad, 2015).

The *Inter-Governmental Fiscal Transfer Act-2017* has proposed 15 different types of taxes and fees to recoup various recurrent and capital expenses. Based on the legislation, LGs collect property, house rent, real-estate registration, land, entertainment, advertisement, business, and hoarding board taxes. They are also collecting fees from various types of services, rent, vehicle parking, tourism, collection of scrap and operation of transport vehicles. However, at the local level, the universally accepted framework for revenue collection has yet to be applied, and numerous parameters such as institutional capacity and efficiency, reliable service provision, and economic development level should all be considered.

At the local level, focusing exclusively on revenue collections is unjustifiable; resource potential and operational capacity, leadership commitment, and citizen support should all be considered. The local government appears to be unaware that low-income citizens take the

burden of local revenue (taxes, services, and fees). Despite the widespread idea that more services can be provided by raising more revenue, there have been numerous cases of local governments failure to reach efficiency in revenue collection and utilization. Even at the local level, according to the results of the SWOT analysis, it should be addressed with as early as possible.

The following are the outcomes of the discussions with respondents about LG fiscal rights, revenue administration, tax scope and areas, public opinion, and existing LG practices. A federal official expressed his view about the existing business and occupational tax collection system.

Local governments tend to slap higher taxes on professions, businesses, and various services on the run, without considering the profitability or transactions of the enterprises and firms. This has neither produced an enabling atmosphere for new investors to enter, nor has it inspired existing entrepreneurs and experts to push the business with enthusiasm. Its immediate effect is that enterprises are increasingly moving to the next local level where tax rates are lower, and the economic climate is more favorable. In the long run, this will have a negative influence on the local level.

Following the context, a mayor expressed the following:

The executive board determines the areas and rates of tax based on their own judgment. Staff and elected officials' experience and knowledge serve as a foundation for tax enforcement. Finally, the annual assembly meeting approves it, and the tax is imposed on the people. However, there have been several objections against taxes at the grassroots level. People have threatened to take the municipality to court over local tax decisions on occasion. Even if we follow the rules and regulations, we are unaware of what is at the root of the gap between LGs and the public.

One of the immediate service recipients of sampled municipality stated:

Complaints that the taxes have imposed by the local government are excessively high are found at the grassroots level. Last year, I paid Rs 2,900 for the land tax, but this year, the municipality has charged Rs 10,200 in the same amount of land. I sought the reason of increasing amount of money in similar amount of land, the answer was that the municipality carried out the property tax.

Based on the findings, local leadership is better to commit to building a local fiscal governance system by establishing local tax advisory committees to ensure proper revenue management. Tax rates should not be raised without assessment of tax and revenue implications. Similarly, determining the service charge depending on the amount of service utilization will be beneficial. Administrative expenses should be estimated for determining taxes and service charges. The service fee should not be levied if the estimate exceeds the tax collected. It is only required to impose taxes in areas where administrative expenses under one's jurisdiction can be reduced. If taxes are imposed in places where sustainable taxes are not possible, one should always be aware that unnecessary administrative costs produce public dissatisfaction.

#### *Human resources capacity*

From 2002 to 2017, LGs were largely steered by centralised mechanisms, which failed to deliver coalface services to the local level. Despite this, the institutional arrangements of the LGs during the period in which locally elected representatives were absent, the service delivery, infrastructure development, planning and monitoring, resource mobilization, auditing and financial management were deeply flawed. Central government staff, by virtue of their position, enjoyed state power and resources, while LGs' staff, positioned merely as support staff, were demoralized, and considered inferior by central government staff, as they were seen to be recruited based on nepotism and favouritism. As a result, LGs' employees

were positioned as passive service providers and were unable to facilitate the democratic and inclusive development objectives.

To these ends, the parliament approved the *Employees Adjustment Act 2018* to support the functions and mandates outlined in the Constitution. The key objective of the Act is to reorganise the existing unitary structure of civil service so that government can re-allocate adjust and transfer civil servants in the public service into the federal, provincial, and local levels. In accordance with the interim O&M survey conducted by the federal government that estimated around 100,000 staff would be needed, among them the federal government would need 35 percent, while the provincial governments would need 16 percent and local levels would need 49 percent of the total estimated employees. This would require substantively more civil servants than the then existing number, which was 99,571 before the adjustment. By March 2019, a total 99,571 civil servants were adjusted, of which 40.12 percent were retained at the federal level, 13.87 percent adjusted to provinces, and the remaining 43.98 percent sent to local levels (Acharya, 2018). The following outcome of SWOT analysis (Table 1) shows the assessment of capacity of human resources.

The finding of the in-depth interviews indicates the government, on the other hand, has been unable to persuade personnel to present to their assigned location. Even after five years of formal implementation of federalism following the completion of provincial and local elections, provincial and local levels have experienced staff shortages. Sectoral personnel such as engineering, finance, legal, and information technology are in limited supply. Without confirmed chief administrative officers, more than 200 local levels are operating, and as a result, service delivery has suffered significantly. Except federal staff, the federal government has no statistics on employee shortages. However, it has been stated that local government positions will be added while existing positions will be managed, whereas federal government positions have been increased unnecessarily. Employees understand that such an attitude may deprive them of professional development and service facilities after local adjustments are made.

### *Role of bureaucracy*

In Nepal, federal bureaucracy operates at the policy level, while those serving in the provinces and LGs are focusing on implementation and service delivery. At the local level, when there were no elected LGs' institutions, it was the bureaucracies of various central-government ministries or agencies which worked at local level as administrative apparatuses. This situation is usually prevalent at the higher tiers of local administration in developing countries. However, the current practice of administrative readjustment indicates that Nepal's bureaucracy has been viewed as antagonistic to the government and has been resistant in institutionalising local democracy and local governance. The following is how a Chief Administrative Officer summarized the overall nature of the Nepalese bureaucracy.

The Nepalese bureaucracy operates with a centralized mindset, which is intrinsically linked to political parties. It is a common propensity to make the services more complicated than innovation. Trade unions are formed and promoted by each political party.

Another expression from local governance expert was as follows:

When looking at meritocracy and grades from high school to college, most of them obtained a third-class degree or an ordinary back paper; first-class certificates are exceptional. The number of readers appears to be high even after joining the service. At the assistant level, those who enter the service for a livelihood with poor qualifications are observed.

Results indicate that the bureaucracy is considered less competent, poor performing in the decision-making process, because of a self-centric mindset amongst civil servants, a lack of motivated personnel and weak systems to hold public servants accountable. The top-level

Strengths	Weaknesses	Opportunities	Threats
<ul style="list-style-type: none"> <li>• Development of a citizen's charter for effective service delivery</li> <li>• The <i>Employee Adjustment Act 2018</i> was approved by parliament and Employee Adjustment processes took place.</li> <li>• A major shift from centralised mechanisms to decentralization took place. For example, a projects approval system was relocated from National Planning Commission to LGs.</li> <li>• All LGs completed O&amp;M survey and prepared the organogram for staff placement.</li> <li>• A merit-based recruitment system replaced the former nepotistic one.</li> </ul>	<ul style="list-style-type: none"> <li>• Gaps remained in terms of knowledge and skills between central government and local government staff in planning and implementation, resource mobilization, auditing and financial management.</li> <li>• There was great discrimination between federal government staff and local government staff as local government recruited staff do not have executive power.</li> </ul>	<ul style="list-style-type: none"> <li>• Services can be reached at the marginalised communities effectively and efficiently.</li> <li>• The agenda of inclusion can drive effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• Power and functions of LGs cannot be operationalised.</li> </ul>

**Table 1.** SWOT analysis of human resource capacity of local governments

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bureaucracy's role in institutionalizing federalism is critical, but there is scepticism and a reluctance to balance the political and bureaucratic machinery. A representative of a political party stated the following concerning the function and performance of top bureaucrats.

Due to a lack of collective accountability, the Nepalese bureaucracy is increasingly attempting to avoid top management duties and blaming itself for failures.

To summarize, Nepal's public administration system is primarily process-oriented, as compared to result. Significant political changes have transpired in Nepal, but little has progressed administratively; the same old style and structure can be found. Bureaucracy is mostly dominated by nepotism and favoritism, leading to a brain drain. Political and administrative elites conspire to eliminate personal efficiency like the right person at the right place. If the bureaucracy is weak, this has increased the incidence of criminalization in society and value-based bureaucracy. However, the federal level staff seems reluctant to transfer the duty to the states in the spirit of federalism, constitutional rights, and international best practices in public administration. For example, when the local administration lacked the competence to use its exclusive power, it had a vested interest in controlling and centralizing it rather than efficiently executing constitutional rights by strengthening its capabilities.

### **Discussion: LG capacity in Nepal**

From the perspective of LGs in Nepal, it is the task of intergovernmental connections to balance local development with higher expectations for bridging the gap between government and civil society, as well as government institutions that deal with human resources and institutional operations. Inadequate legislation and institutional frameworks, human resource management, accounting and procurement processes, and revenue administration have all been concerns (Acharya, 2018). To promote the interrelations among federal, provincial, and local tiers in Nepal, the Constitution of 2015 focuses on cooperation, coexistence, and coordination principles, which emphasize fiscal and administrative processes by which these tiers share revenue through an inter-fiscal transfer mechanism (Acharya and Scott, 2020).

The 2015 Constitution highlights that the federation can be directed or assist LGs directly or through the provincial government under the constitution and federal law. It is the duty of the provincial and LGs to abide by such directives (Adhikari, 2020). Despite these cooperative apparatuses, the Constitution has provisioned several institutional mechanisms to accelerate intergovernmental relations. First, an inter-provincial council mechanism has been provisioned under a chairmanship appointed by the Prime Minister to settle political disputes arising between the federation and a province or between provinces (Acharya and Scott, 2020). Second, the inter-provincial trade mechanism has been envisioned to avoid any kind of obstruction to carriage of goods or extension of services through a provincial or local tier of government to another provincial or local tier (Dhungana and Acharya, 2021). Third, the government promulgated the *Inter-Governmental Fiscal Management Act 2017* as a key fiscal governance Act. This act reinforces a fiscal administration system through revenue management, grant allocation, loan borrowing, budget distribution and expenditure, and public finance management at the federal, provincial and the local tiers. Finally, it corrects the imbalances and reduces the disparities in local service delivery among subnational territories.

However, numerous differences have emerged to hinder inter-government relations. While the Constitution provides that the federal government can direct to the provinces and provinces can direct to LGs, LGs have remained reliant on the federal government for various reasons. First, the power and functions which distribute resources arbitrarily to the LG does not match with the capabilities of LGs. Second, there are imbalances between functional authority and budgetary authority at the province and local level. Third, there is high fiscal

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dependency on the federal government. Finally, bureaucracy which is known as the engine of federalism was highly corrupted and dominant at the local level in recent years (Adhikari, 2015). These dynamics adversely affected the quality of autonomy and institutionalisation of inter-governmental relations.

Many factors influence the adaptive capacity of LGs to be responsive. These factors can be grouped into three broad categories: essential resources, social networks and collaboration, and political legitimacy (Dhungana and Acharya, 2021). Although essential resources critically contribute to capacity development, it is also supported through intergovernmental mechanisms and vertical chains. Evidence suggests that polycentric governance and collaboration are necessary in building resilient social systems (Newig and Fritsch, 2009). The norms and networks of such systems, often referred to as social capital, facilitate cooperative action among citizens and institutions. Political legitimacy is a factor influencing LGs to accelerate the local capacity. Part of this legitimacy is determined by institutional context and the legal powers and authority particular governments possess (Adhikari, 2020). Thus, LGs often propagate strategies to maintain autonomy and retain the regulatory and administrative power needed to make outcomes occur. Hence, capacity development processes can be summarised as follows: First, capacity development activities should not create dependency. Second, capacity development activities should not lead to a weakening of the state. Third, capacity development is not a separate activity to institutional mechanisms. Fourth, capacity development is not solely concerned with financial sustainability.

Having undergone the biggest socio-political change since the end of conflict in 2006, with the promulgation of its 2015 Constitution, the challenges ahead for Nepal are to institutionalise the changes that have taken place in the political landscape of the country. This includes ushering the country towards a new era of economic development through political stability, ensuring inclusivity in all aspects of governance, managing identity politics, addressing the concerns of the *Madheshi* political parties, decentralizing power, and addressing the issues of transitional justice.

## Conclusion

Power devolution from the centre to the local level has been widely implemented since the promulgation of the Constitution in 2015. This process reinforced the shift from a hierarchical to a more networked structure. The devolved authorities, according to the Constitution, have the potential to reform the local governing system through principles of coexistence, cooperation, and coordination. However, the current reality on the ground in Nepal continues to be difficult on multiple fronts, implying that theoretical problems raised in previous studies are manifest in Nepal. LG functions are in their immaturity unable to function effectively due to a lack of technical ability among political and administrative employees, a lack of knowledge and skills among elected representatives in enacting local laws and a slow implementation of annual programs and budgets. Similarly, the federal government is indifferent to the idea that it is the responsibility of the centre to formulate laws and arrange human resources, while LGs' jobs are only to implement them. Local autonomy has been influenced by this hierarchical mindset.

Finally, a substantial amount of the budget has been allocated to local levels to manage federalisation and devolution of service delivery, based on the size of the administrative area, population, and a poverty index. LGs have also been entrusted with the task of drafting laws and collecting taxes. However, figures show that barely 18 percent of Nepal's total yearly budget was directed to local levels in 2018/019, and fewer Acts and regulations were enacted at the local level. The main causes of this are a lack of technical expertise and local governing experience.

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# The influence of ethical leadership in the delivery of agricultural advisory services in Tanzania local government authorities

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## Abstract

**Purpose** – This article discusses the consequences of unethical leadership, particularly, the leader-follower relationship in the delivery of agricultural advisory services in Tanzania. It analyses the means through which ethical leadership framework can be used to address the problem of unethical leadership in this context.

**Design/methodology/approach** – The article uses a comparative case study design to explain the position of ethical leadership in the delivery of agricultural advisory services in two local governments: Morogoro Municipality in Eastern Tanzania, and Hai District in Northern Tanzania.

**Findings** – The research shows that the delivery of agricultural extension services in Tanzania is guided by formal rules, which define the roles and responsibilities of local government officials and field workers. These roles and responsibilities are driven by national-level guidelines written by the Ministry of Agriculture. The guidelines define the key responsibilities of village, Ward and District level Agricultural Extension Officers. In developing the working schedule, agricultural extension workers at the village and ward levels are guided by an annual calendar that defines the seasons of the year and the relevant knowledge required by farmers. Nevertheless, the implementation of these schedules is compromised by a lack of resources and morale of field workers who in turn, cope through charging for the services, which is considered as their prime motives.

**Originality/value** – The findings can be of interest to national and local government policymakers and officials dealing with the delivery of agricultural advisory services in Tanzania.

**Keywords** Ethical leadership, Agricultural advisory services, Tanzania, Local Government Authorities (LGAs)

**Paper type** Research paper

## Introduction

In Tanzania, agriculture is a key sector in the economy accounting for 23 percent of the GDP with more than 67 percent of the population active in crop production (URT, 2016). The delivery of agricultural advisory services is considered an important means of improving agricultural production and marketing (URT, 2013). Agricultural advisory services refer to the transfer of knowledge on agricultural technology to farmers, and which includes the assistance of farmers' groups in the development and execution of special projects to enhance production and collective training of farmers in field schools (Masanyiwa *et al.*, 2019). In Tanzania and worldwide, these services are provided by Agricultural Extension Officers. According to literature (FAO, 2017), more than half a billion extension workers worldwide deliver such services to farmers.

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In Tanzania, the government has been taking various initiatives of improving the delivery of agricultural advisory services. For example, in 1999, the government decentralized the delivery of such services to the local government due to the weakness of the centralized regime which was criticized for hindering a smooth flow of information and a lack of responsiveness of Extension Officers to farmers' needs. Since then, the local departments of agriculture and livestock, instructed and supervised by the local councils, have been responsible for the planning and delivery of such services (Rutaora and Mattee, 2001). Field Extension Officers operate from the offices of the administrative sub-units of the local government, the wards, or villages. From there, they visit individual farmers, farmers groups and villages to provide face-to-face services to farmers. The officials in the Local Government Department of Agriculture at the district level instruct and supervise field workers (JICA, 2008; Kyaruzi *et al.*, 2010; Mvuna, 2010; Daniel, 2013; Masanyiwa *et al.*, 2019).

Despite these efforts, the decentralization reforms have not sufficiently increased information transfer to farmers. Accordingly, recently, the government launched the digital agricultural advisory service as a tool of aiding information transfer to farmers (Fielke *et al.*, 2020). In this regard, the government introduced a web-based and mobile-based agricultural information system; however, this transformation has not enabled the government to realize the intended goal. The effectiveness of such digital services is constrained by the high cost of upscaling the online system in the local government (Sanga, 2018; Steinke *et al.*, 2020). This suggests that, although the decentralization reforms particularly for agricultural advisory services were intended to improve the delivery of such services, the expectations of such reforms have not been realized due to a lack of resources and prevalence of corruption (Mjwahuzi and Kunkuta, 2005; REPOA, 2008; Daniel, 2013; Masanyiwa *et al.*, 2019). Although the literature shows that ethical leadership in government service delivery can improve the quality of governance and contribute to effective public services delivery (Downe *et al.*, 2016), embrace ethical values, and instil the expected ethics in the public service, the public service delivery institutions have not sufficiently internalized ethical leadership in the delivery of public services. Senior officials responsible for ethical leadership focus mostly on their interests rather than the interests of the public (Bailey, 2018; Bonner *et al.*, 2016). The question is what has gone wrong? Why is it that the decentralization reforms in Tanzania have not improved the delivery of agricultural advisory services and how can ethical leadership explain this service gap? Do policymakers at the local government communicate their expectations and standards of service to field workers? Do they lead by example? To address these questions, this article proceeds with the concept of ethical leadership, the analytical framework, methodology, the task of both field workers and the district level policy managers in the delivery of agricultural advisory services, the leader-follower relationship and the ethics of field workers, and finally, conclusion and recommendations.

### **The concept of ethical leadership**

Ethical leadership is a concept that has recently become popular in the literature of ethics and moral decision-making. Some scholars (Grint, 2007; Ahmad *et al.*, 2017) define ethical leadership as moral virtues that could be instilled in individuals through practice and learning. The moral virtues influence employees through motives of duty and moral standards to perform their tasks. Other scholars (Fox *et al.*, 2007) define ethical leadership as actions on the part of leaders of nurturing an environment and culture characterized by morals and ethos of service while other researchers (Brown *et al.*, 2005) see ethical leadership as the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships and the promotion of such conduct to followers through two-way communication, reinforcement and decision-making. In this article, the author borrowed the definition by Brown *et al.* (2005) because he was especially interested in how leaders

communicate and demonstrate ethical conduct to followers in the delivery of agricultural advisory services. Therefore, in this case, an ethical leader is treated as a role model who must demonstrate appropriate behaviour to followers and uses reward and punishment to stimulate ethical conduct (Treviño and Weaver, 2003).

The concept of ethical leadership can be subsumed into three dimensions. The first dimension relates to fairness. A leader is considered fair when he makes principled and fair choices, he/she is trustworthy and honest and who does not practice favouritism and takes responsibility for his actions (Brown *et al.*, 2005; De Hoogh and Den Hartog, 2008). Therefore, in this dimension, fairness is seen as a significant form of ethical leadership behaviour since ethical leaders perform with integrity and treat others fairly. The second dimension concerns power-sharing that implies the ability of a leader to permit subordinates to participate in decision making and listen to their ideas (Den Hartog and De Hoogh, 2009). The subordinates' empowerment includes providing them with a voice and allowing them more control and less dependent on their leaders (Yukl, 2006).

The last dimension concerns transparency which not only clarifies performance goals, expectations, and different roles but it also focuses on open communication between leaders and followers (De Hoogh and Den Hartog, 2008; Brown *et al.*, 2005). In this dimension, the ethical leader has a role to explain responsibilities and performance goals, and expectations to subordinates. This in turn help followers to understand not only what is expected of them in terms of performance but also to reduce uncertain expectations and increase the knowledge to followers concerning their contribution to achieving organizational goals. To be more precise, ethical leadership as a concept that constitutes three important components: personal integrity of a leader, also termed the 'moral person' component of ethical leadership; the extent to which a leader can cultivate integrity among his or her followers and the quality of the leader-follower relationship which bridges the moral person and moral manager components (Treviño *et al.*, 2000). To gain more insights on how different constructs of ethical leadership influence the performance in service delivery, this article uses the analytical frame discussed in the following section

### **Analytical framework**

Several theories have been used to explain the concept of ethical leadership and its influence on service delivery. We can subsume these theories into two categories. The first category is related to reciprocity which views ethical leadership from a social exchange perspective. The assumption underlying this theory is that followers are willing to respond when they are treated fairly and with concern by their leaders (Mayer *et al.*, 2009; Cropanzano and Mitchell, 2005). The second category is related to social learning. This theory assumes that followers behave similarly to their leader through imitation and observational learning (Brown *et al.*, 2005). The validity of this has been proved empirically; for example, the literature by Krasikova *et al.* (2013) shows that employees tend to adjust their ethical orientations to the behaviour they observe from their leaders. This suggests that the absence of ethical behaviour in an organization leads to poor service delivery because the followers lack guidance on ethical conduct which can help them to refrain from unethical behaviour. Therefore, to understand how ethical leadership develops in an organization, two theoretical insights must be taken to account: The first, is how the leaders treat their followers and the second is the kind of behaviour the leaders demonstrate to their followers. Both factors explain the development of ethical leadership in an organization and its impacts on service delivery. In order to demonstrate ethical behaviour, the leader is expected to be a role model who provides direction on how to behave (Brown *et al.*, 2005). Ethical leaders do not only talk about ethics and promoting ethical behaviour but also provide their followers with voices and examples. The leader must set ethical standards, reward ethical conduct, and sanction

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unethical conduct while considering the ethical consequences of their decision (Brown *et al.*, 2005).

Therefore, an ethical leader is judged based on the leader-follower relationship and personal characteristics of such a leader which can be summarized as the ethics of a leader as a person, the ethics of a leader-follower relationship, the ethics of a process of leadership, the ethics of what a leader does or does not do and the ethics of a leader in the larger context of the community (Brown *et al.*, 2005). To be more precise, ethical leadership must constitute two things: a *leader-follower relationship* in which leaders are expected to serve as role models to their followers and demonstrate the behavioural boundaries set within an organization from which the employees learn about values into action. And personal characteristics of a leader play an important role in effective self-leadership and in the process of leading others. This takes us to the key research question on why the decentralization reforms of agricultural advisory services have not sufficiently improved the delivery of such services and how can ethical leadership in the delivery of such services explain this service gap?

### Methodology

This article uses a comparative case study design to investigate ethical leadership in the delivery of agricultural advisory services in two local governments namely, Morogoro Municipality in eastern Tanzania and Hai District in the north. The two cases were selected in order to ensure variety. Both cases are entrusted with the same formal tasks and have the same formal decision-making authority. On the other hand, they abide by the same formal rules, procedures and code of ethics. But they differ substantially regarding the geographical setting, population density, the type of agriculture and the importance of farming in the local economy. The assumption is that these differences constitute different ethical conditions for the delivery of agricultural extension services thus influencing the way the Agricultural Department allocates resources, the way the Extension Officers spend resources and the way they deliver services to farmers. From the two cases, the research began with a content analysis of relevant documents such as policy documents from the central and local governments, guidelines for planning and decision-making, weekly schedules and monthly reports from Agricultural Extension officers. The review of documents provided a rough picture of the formal rules, the patterns of planning and institutional arrangement for the delivery of agricultural extension services. In order to gain insight into the leader-follower relationship, the review was followed by a detailed study of the contact between district-level officials and the field workers through a series of in-depth interviews with 50 local government policy officers, field workers, and farmers selected purposely from the two local governments. Among these, ten officials were the policy officers working at the district level who have to instruct and supervise the work of field workers and fifteen were the field workers who have direct contact with farmers, five were the representatives of farmer's organizations and twenty were the farmers who receive agricultural information and training from the field workers. The research activities also include participant observation, which involved travelling with policy officers and field workers to the field to observe their interaction and the way they deliver services to farmers.

To ensure reliability, interactive questioning of the same respondents and probing were made. In doing so, the researcher not only organized interviews with field workers but also accompanied them to the field. This allowed the researcher to question field workers several times on the same issues, but at different times, in a more relaxed and informal way. The field trips also served as a means of probing whether service delivery practices were in line with the accounts officials provided. Finally, the findings from interviews were analysed using the framework method and categorized according to the main themes of the research which are the task of policy officers and field workers in service delivery and the relationship between policy officers who are the leaders and the field workers who are the followers.

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### **The task of the district and municipal leaders in the delivery of agricultural advisory services**

The delivery of agricultural advisory services in Tanzania has been decentralized to the local government. In the district or municipalities, several planning officers in agriculture and livestock instruct, supervise, assist and coordinate the activities of the field workers. The guidelines attribute several tasks to the District Executive Director. The first task is monitoring and reporting the activities of implementation of the plan to the respective ministry through the regional secretariat. Second, the District Executive Director (DED) is responsible for supervising and coordinating the delivery of support services such as extension services, dissemination of agricultural information and animal health services. Third, the DED is responsible for the disbursement of resources for activities that are included in the District agricultural development plan. Specifically, the DED must facilitate timely disbursement of grant funds to communities and groups. In addition, the DED has to ensure compliance with agricultural development activities with the district and national development priorities. Nevertheless, in practice, it is the district agriculture and livestock officer and the policy officers who assist the District Executive or Municipal Director to ensure effective supervision, coordination and monitoring of such services (URT, 2006).

### **The task of field workers**

Field workers function at the lowest level: the ward or village. These workers are in charge of linking farmers with extension services. Specifically, they are responsible for supporting farmers and their groups through training and maintaining their network, in writing proposals for service contracts, in up-scaling of successful activities and ensuring the dissemination of successful stories and in facilitating farmers' access to and dissemination of agricultural information and in assisting farmers to carry out the trials in collaboration with research institutes (URT, 2006).

In order to guide field workers, there is an annual calendar that describes the type of extension services, which are supposed to be delivered to farmers in a particular period. For example, the annual calendar indicates that in November and December, Extension Officers have to advise farmers on early preparation of farms, proper use of farm equipment, and modern principles of planting. From January to April, Extension Officers have to advise farmers on the accessibility of seeds and planting. In February and March, they have to advise farmers on weeding while in April, May and June the advice must be on plant protection. In May, June and July, they must advise farmers on harvesting and finally, poultry fever immunization services must be provided throughout the year.

Nevertheless, the annual calendar is a standard format developed by the central government. In both local governments involved in the research, field workers are supposed to follow the standard calendar; but they are also allowed to adjust it to reflect local realities (Interviews District Agricultural Officers). In mountainous areas, especially in the rural part of the municipality or in the areas which are suitable for irrigation, farmers grow vegetables; extension officers adjust the calendar to fit this cycle (Interview with field workers and the review of weekly schedule).

In planning for their activities, extension officials are supposed to construct their working schedule from the annual calendar. In doing so, they have to work with Ward Executive Officers. The schedule they develop shows the breakdown of activities and respective areas and time and when and where the field workers have to visit. The content of the schedule shows that it is not a binding document and it can change at any time depending on the instruction from supervisors and the urgent needs of citizens as supported by the quotes below (Interview with agricultural field workers and the review of weekly working schedule).

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Yes, we have a schedule of visiting farmers, which we arrange and inform the farmers but sometimes I don't follow the schedule due to emergencies. For example, if there is an emergency or ill livestock, I often change my schedule to attend to a sick animal first. For example, yesterday pigs' keepers informed me about their ill health pigs; thus, I had to break my schedule to attend the pigs first (Interviews - Agricultural field workers, Morogoro and Hai District Council).

### **Leader-follower relationship between policy officers and field workers**

The ethical leadership theory suggests that leaders are expected to serve as role models to their followers. This includes demonstrating the behavioural boundaries set within an organization and the values from which the employees can learn and translate them into actions. The current study however projected a different picture. For example, in the two selected cases, the District Executive Director and his assistant (the District Agricultural and Livestock Officer and the District Agricultural Policy Officers) are the main leaders who are supposed to supervise the activities of the field workers at the district level. On the contrary, these officers to a larger extent rely on the monthly reports submitted by field workers. The field workers must write a monthly report on their activities. Apart from indicating the number and type of farmers they visited, they are also supposed to identify specific problems and issues farmers encounter. In order to write monthly reports, the field workers themselves meet at the ward office where they discuss and compile the reports. In practice, the field workers feel that they hardly get any feedback on their reports. If problems are raised, the district does not do anything about them as supported by the quotation below (Interview - Agricultural Field officer - Morogoro and Hai District Council).

I normally send information about the problem of plants diseases such as sunflowers to the municipal office but I have not received any feedback. We do this through monthly, quarterly and annual reports but no action is taken. We expect that the problem could be solved at the municipal level.

I have never received any feedback and I don't think they read these reports (Interview - Agricultural Field officer, Morogoro and Hai District Council).

The study findings show that extension officials have a large degree of discretion concerning their daily activities. Weekly schedules and the yearly calendar are formulated in very general terms; and supervision by Headquarters is also general as supported by the quotation below.

Of course, we provide some latitude for flexibility to extension officials in the use of schedule. So, they can use this discretion for their benefit. Therefore, extension officers are always free to break the schedule in case of emergency (Interviews - District Agricultural Extension Officer).

Therefore, ward and other officials from the District Headquarter from time to time check whether extension officials visited groups or engaged in training sessions or field schools. But they also suffer from limited means of transport. They primarily rely on monthly reports that contain general information only to assess the performance of the field workers. As long as village extension officials indicate the number and type of farmers they have visited, and that visits have taken place, their superiors are satisfied (Monthly reports 2012/2016; interview DAEO in Morogoro and Hai District).

### **Ethics of the field workers**

According to ethical leadership theory, employed workers deliver services to clients with integrity and fairness. But this does not just happen. Followers should be willing to respond when they are treated fairly and with concern by their leaders (Mayer *et al.*, 2009), and that the followers behave in the same way to their leader through imitation and observational learning

(Brown *et al.*, 2005) and that employees tend to adjust their ethical orientations to the behaviour they observe from their leaders. This suggests that the absence of ethical behaviour in an organization leads to poor service delivery because the followers lack guidance on ethical conduct which can help them to refrain from unethical behaviour (Krasikova *et al.*, 2013).

The study shows that field workers work with a working schedule, which implies that each extension official every month makes home visits to farmers to advise and support them. In practice, these visits are not carried out as programmed. Extension officials dedicate a substantial part of their time to farmers who call upon them to treat cattle and cure crop diseases. These services are not rendered for free. Extension officials charge for their services and claim that the money is needed to pay for transport as the municipality does not provide them with a fuel allowance. Farmers also pay for the medicine (and insecticides) used by the extension officials when treating cattle and controlling crop diseases. Generally, farmers who call upon extension officials for assistance and willing to pay for the services are given priority over other farmers. Field workers label these calls as ‘emergencies’ which justifies that they do not keep to the original working schedule. The researcher found a series of examples of this practice during fieldwork.

In one of the wards, the researcher observed that the extension official had several farmers who came for advice waiting at her office. When she received a call from two farming sisters asking her to provide mango immunization, she informed the farmers she had just received an emergency call and immediately left the farmers to attend the call from two farming sisters asking for which she was paid. She later visited the farmer whose pigs were reported to be gotten ill. She diagnosed the disease, provided treatment and asked the farmer for a payment of 15,000 Tsh, which he willingly paid (Interview and observation with field workers in the two districts).

Home visits to farmers who do not call upon extension officers for paid assistance, only take place if the farmers live nearby the office or the home of the Extension Officer. Even then, the Extension Officers expect something in return for their services. If they think farmers can or will not give them anything, they try to avoid visiting them. As one of the field workers explained to the researcher, “You must understand that I cannot go to visit a farmer to advise him on the growth of his maize if he is not willing to give me a ripe corn as thanks for my service.”

The overall picture is that Extension Officers work as small entrepreneurs, who buy fuel and medicine themselves – as the municipal government does not provide these services. Some, own shops where they sell agricultural inputs. As a result, Extension Officers dedicate much time to providing services to livestock keepers, who face many problems related to the delivery and breeding of cattle, but some of them have incomes that enable them to pay for the extension services.

In the two local governments, the farmers who call upon extension officials for treatment of their cattle have to pay a transport allowance of up to 2000 Tsh, depending on the distance; they also have to pay for the treatment itself, the amount depends on the type of disease. The tariffs are established by the Extension Officer depending on the cost of transport, which is accepted in the community (Observation and interview – Morogoro and Hai District Council officials).

Farmers who dedicate themselves to agriculture and those living a long distance from the extension offices, as a rule, are not provided with extension services on an individual basis (Interviews- field workers and farmers in the two districts). Furthermore, the Extension Officers in Hai District Council on the other hand have developed an informal guideline of legalizing the payment for the extension services particularly for the livestock keepers as seen in the quotation below.

Yes, we have prepared informal guidelines that the farmers must pay at least 500 hundred Tsh. shillings per a visit and for pregnancy diagnosis we tell them to charge at least 2000 per day (Interview – District Agricultural Extension Officer, Hai District).

Concerning the contact between field workers and farmers, the study findings indicate some variations. For example in the Morogoro case, although field workers are supposed to support all farmers in their area, some of the farmers are never reached. Accordingly, the researcher visited several farmers in Morogoro wards. The farmers reported to have heard about Extension Officers – one farmer even knew the name of the Ward Extension Officer – but they had never seen these officers. As for the case of Hai, field workers live far away from the farmers in a small town and rarely visit farmers; the situation becomes worse during rainy seasons because of the bad state of the roads (Interviews- field workers and farmers). How can we explain this behaviour? The literature shows that the way the leader treats the followers and the behaviours leaders display to the followers has important implications to the behaviour of the followers (Brown *et al.*, 2005). The findings indicate that field workers develop their working schedule and carry it out themselves in the way they think appropriate. Leaders at the district level guide the field workers through examples on the field on how to carry out the schedule without any demonstrations. A lack of leadership models makes the field workers carry out schedules as they think appropriate; but, how can we explain this behaviour? According to literature, to demonstrate ethical behaviour, a leader is expected to be a role model of providing direction on how to behave (Brown *et al.*, 2005).

Therefore, a lack of guidance from leaders affects the performance of field workers as they decide on how and where to deliver the services. Furthermore, to understand this better, it is instructive to gain insights into the antecedents of ethical leadership in Tanzania. Ethical leadership has a being a major theme since the attainment of independence in Tanzania. Before independence, the colonialists established a law for the prevention of corruption ordinance Cap 400 of 1958 to control corrupt behaviours among public servants. After independence, this law did not help much. Public leaders equated leadership with wealth. In this regard, the Permanent Commission for Enquiry was established and embedded in the provision of the interim constitution of 1965 to deal with issues of corruption (Tenga, 2010). The second initiative for building ethical leadership was the inauguration of the Arusha Declaration that came with a code of ethics for TANU party leaders by Mwl Nyerere of 1967. A leader was defined as a member of TANU National Executive Committee, Ministers in Government, Members of Parliament, and senior officials of Organization Affiliated to TANU, Senior Officials of Parastatals, Leaders appointed under the TANU Constitution, Councillors of Local Government, and Civil Servants of high and middle levels. Public leaders were supposed to declare their properties. In addition, Nyerere insisted on the institutionalization of ethical norms such as human liberation, dignity, peace and justice as key to ethics. Some of the ethical norms he modelled include human dignity, liberation, peace and justice which were eventually institutionalized in the political system and culture and codified in his socialism philosophy (Nantulya, 2015).

Moreover, ethical leadership was strengthened through the enactment of the code of ethics for Public Leadership of 1995, which insisted on the following. First, the public leader was not supposed to put him in a position where his interest conflicts with his responsibility as a leader. Second, experienced and competent persons were encouraged to seek positions in the public office and facilitate interchange between the private and the public sector. Third, clear rules of ethics in respect of conflict of interest for, and post-employment practices were established to reduce conflicts of interests of public leaders. Nevertheless, despite all these developments, the role of ethical leadership has not received the required attention.

## Conclusion and recommendations

The delivery of agricultural extension services is guided by formal rules which define the roles and responsibilities of district officials and field workers. The roles and responsibilities are given by national-level guidelines written by the Ministry of Agriculture. These also

define the key responsibilities of village Agricultural Extension Officers. In developing their working schedule, field workers are guided by annual calendars that define different seasons and the relevant knowledge required by farmers. Nevertheless, field workers have a larger discretion in deciding about the content of their working schedule and the implementation arrangement. The district officials who are the supervisors very rarely provide training on how to develop or implement the working schedules. To a larger extent, supervisors at the district level rely on monthly reports which are produced by field workers monthly. The assumption is that field workers must abide by a code of ethics that defines the ethical expectations of all public servants. On the contrary, the field workers do not consider this as an important document and as a result, they consider service delivery to farmers as a favour.

It can therefore be concluded that the problem of unethical behaviour of public leadership in the delivery of agricultural advisory services is caused by overreliance on formal rules than exemplary leadership. Formal rules are necessary but not sufficient tools of addressing the problem of unethical behaviour of agricultural extension officials. These must be complemented with values that guide the behaviour of leaders and officials involved in decision-making. There is a need for senior officials to be trained on organizational values and norms and, they must, in turn, communicate ethical values through demonstration of the desired behaviour to their junior staff. The trainer can use the code of ethics for government officials and politicians, which stipulates management's expectations concerning the employee code of conduct. Moreover, the local governments in Tanzania must establish proper rewarding systems of ethical behaviours. Scholars (Baumhart, 1961; Mitchell *et al.*, 2005; Geeta *et al.*, 2016) indicate that rewarding ethical behaviours can promote it. This implies that after training employees on ethical behaviours, the trainees must be rewarded for displaying positive behaviours to encourage them continue adhering to ethical practices and inspiring others to be ethical. Lastly, is the establishment of negative rewards through disciplining unethical behaviours. In case some employees show any deviation from ethical behaviours after the training, senior officers must impose sanctions against those displaying unethical behaviours. In so doing, employees understand the implications of unethical behaviours and the importance of behaving ethically.

Finally, the local government should establish ethical leadership procedures and strategies founded on ethical foundations as suggested by the principles of King III Report which provides ethical guidelines for local government administration (Dube, 2016). The report recommends that for effective ethical leadership and corporate citizenship, the Council should offer effective leadership founded on an ethical foundation. The ethical values of obligation, accountability, fairness and transparency should be established.

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# A study on listed companies' compliance with value-added tax: the evolving role of compliance officer in Oman

Listed  
companies'  
compliance  
with VAT

89

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## Abstract

**Purpose** – The purpose of the paper is to examine current companies' compliance with value-added tax (VAT) and the evolving role of the compliance officer in the listed companies at Muscat Stock Exchange (MSX), Oman.

**Design/methodology/approach** – The study has collected various compliance measures set by Capital Market Authority (CMA) from 2011 to 2019. On top of the websites of CMA, MSX, Oman Tax Authority and other related websites, the paper has considered real data of specific compliance or disclosure measures set by CMA on all companies listed under MSX. The focused period from 2011 to 2019 is where CMA has provided disclosure data as part of mandatory disclosure requirements.

**Findings** – This paper identified that there is a lack of timely compliance by companies under the existing law, and these companies may face pressures for compliance with VAT enforcement in Oman. Therefore, to comply with the disclosure requirements of listed companies, there is a growing need to appoint a full-time compliance officer and do a compliance audit.

**Practical limitations/implications** – The results of the study indicate the value of full-time compliance officers and compliance audits. The findings are able to aid in the appraisal of VAT accounting, compliance audit research, and in the selection of proper assessment methods and criteria.

**Originality/value** – This paper reviews the literature and provides new empirical analysis that are possibly beneficial for both scholars and accounting practitioners.

**Keywords** Companies compliance, VAT compliance, Muscat Stock Exchange, Capital Market Authority, Compliance Officer, Oman

**Paper type** Research paper

## Introduction

Every organization tries to keep the brand image, standard, and high quality by complying with applicable rules and regulations issued by both internal and government regulations or policies from time to time. All listed companies must comply with different rules, regulations, laws, and guidelines. Implementing timely compliance helps companies to prevent and detect legal violations of laws or rules, which protects organizations from government levies in form of penalties, fine, and lawsuits. Timely compliance avoids loss of stakeholders' self-confidence and damage of the company's reputation. Likewise, compliance provides efficiency and accountability into the organizational operating system. A full-time compliance officer ensures the compliance of company laws, tax laws, standards, and

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other applicable regulations. They can also ensure the compliance with the clauses of Articles of Association, Memorandum of Association, and other related corporate bylaws, policies, and procedures. Compliance officers provide services to listed companies and work independently to identify and oversee the company's regulatory risks.

Compliance may seem complicated and expensive; however, the cost of non-compliance will be greater. Some business expansions will be required by adhering to additional rules. Multinational companies have to comply with more compliance regimes. If any company does not meet industry-specific standards, it will possibly need to pay fines, and consequently affecting the business integrity. Listed companies generally are not ready to appoint a full-time compliance officer, as it will increase business operational costs. Corporate governance rules are other notable compliance aspects. Failure to comply with corporate governance rules will increase organizational operational risk which may affect the interests of stakeholders (Zerban and Madani, 2018). Generally, in Oman, the non-compliance penalties of both direct tax and indirect tax by companies are very high. Future operational profits will possibly be influenced by non-compliance with tax regulations by levying tax penalties (Tarmidi, 2019). The non-compliance with the latest International Financial Reporting Standards (IFRS) by companies was problematic across companies (Tawiah and Boolaky, 2019).

Compliance related to corporate law and taxation law is less in Gulf Cooperation Council (GCC) countries when compared to non-GCC countries. However, recently as part of GCC countries' economic development, the Omani government has been forced to amend/ implement new regulations under the existing corporate law. Furthermore, the recent introduction of value-added tax (VAT) laws in GCC including Oman has made organizations more compliant than before. With a special focus on Oman, this paper investigates various challenges faced by companies in their implementation of compliance standards. The main purpose of this paper is to examine current companies' compliance with value-added tax (VAT) laws and the evolving role of compliance officers in the listed companies at Muscat Stock Exchange (MSX), Oman.

### Literature review

A compliance officer is mainly responsible for managing and monitoring the statutory and regulatory compliance frameworks of a company. Compliance involves compliance with the law, rules, regulations, policies and standards. Listed companies must follow several regulatory compliances for their successful operations and corporate disclosures. Overseas involvement in company's corporate tax non-compliance and the involvement of foreign Chief Executive Officers on corporate tax non-compliance were examined by Suleiman (2021). The impact of intergovernmental shifts on firms' corporate tax non-compliance was investigated by Ye and Xiang (2020). The rationales about large-scale tax non-compliance in underdeveloped nations' tax administration reforms were studied by Umar and Masud (2020). The factors of compliance disclosure on of IFRS among listed insurance companies were examined by Suleiman and Sani (2021). Arena *et al.* (2018) investigated broad corporate social responsibility disclosure in Asian countries with the goal of unraveling whether such regulatory disclosures are the effect of proactive views or a response to regulations. Venturelli *et al.* (2019) studied non-financial information of larger public companies and their disclosure requirements of social, environmental, and governance sectors. Saenz and Brown (2018) aimed to create a tool based on global standards for assessing anti-corruption, non-compliance in various organizations and anti-corruption methods disclosed by companies under the construction sector. Baalouch *et al.* (2019) studied the effect of several aspects on the quality of environmental disclosure policies. Investor feedback to the companies' disclosure regulations on compliance and non-compliance of taxation provisions was analyzed by

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Tarmidi (2019). The practical effect of using e-filing of tax returns, the use of e-invoicing and levy of administrative fines on individual taxpayer compliance were investigated by Sentanu and Budiarta (2019). The successful compliance by companies listed in the securities market with the country's code's proposals on related-party transactions and minority shareholders interest were analyzed by Maglio *et al.* (2020).

It is evidenced that the role of a compliance officer will guarantee the effective and efficient management of a firm's compliance risks, prevent their bias, and promote optimization. If an acceptable level of regulatory compliance is proven, organizations at an initial phase go for practical and rational application (Fiandrino *et al.*, 2019). It is found that moral culture, companies' internal control operations, and corporate governance on financial reporting provide a substantial contribution to applicable IFRS compliance for listed companies (Nalukenge *et al.*, 2018). The setting of regulatory compliance functions in any organization is an important factor for compliance demands on any corporations to continue to strive. The growing complexity of finance and regulatory compliance requires integrating the compliance regulatory management functions inside the organization (Usnick *et al.*, 2018). It is found that detection moderates the nexus among interactional fairness and intention of tax compliance diminishes with higher detection (Farrar *et al.*, 2019). It is evident that listed companies are strictly adherent to the laws of anti-corruption and it is also revealed that greater levels of adherence to financial or regulatory compliance programs are linked with higher adoption of internal controls in the organization. A company's own specific characteristics are crucial factors that affect various tax disclosures (Mgammal *et al.*, 2018). It has been found that company secretaries or compliance officers considerably influence financial reporting and board practices because of their positions and roles (Nowland *et al.*, 2020). The separation of compliance responsibility from the legal functionalities of a company might not be advisable as both structures are frequently demanded upon by governors, regulators, and enforcement authorities. Therefore, the role of a compliance officer should be delegated to legal officers so that one officer can solely be charged with interpreting corporate or tax law and advising the company about the legal requirements (Meissner, 2018).

The lack of compliance audit on disclosure guidelines of financial statements increases the risk of disciplinary actions such as fines, penalties, civil and criminal liabilities (Thottoli, 2021). Certain associated risks for regulatory compliance were observed by Van Wyk and Rudman (2019) while entrepreneurial mode strives to establish leaner structure in various parts of the institution. Some listed companies have not been given any legal protection from criminal or civil liability by adopting compliance programs on corporate social responsibility and codes of conduct. Executive officers of organizations who have failed to perform operations in compliance with government implemented policies have been removed from their positions (Pastory, 2019).

Based on the literature regarding the link between companies' compliance (including tax compliance) and the role of the compliance officer in a listed company, this paper has adopted a framework to show the evolving role of a full-time compliance officer. As shown in Figure 1, the management of a company tries to achieve objectives as per internal regulations — financial regulations, management, clauses of Memorandum of Association, and clauses of Articles of Association; and external regulations — government including tax authorities, IFRS, securities laws, banking regulations, Islamic sharia rules, and insurance regulations. On the other hand, a full-time compliance officer shall be required to oversee the internal and external regulations in a timely manner.

### Research methodology

The Capital Market Authority (CMA) is responsible to monitor the compliance issuers of securities in Oman. This paper has obtained sourced data from the websites of CMA, Muscat



**Figure 1.**  
The evolving role of  
compliance officer

Source: By author.

Stock Exchange, and Oman Tax Authority. Moreover, the paper has considered real data of specific compliance or disclosure measures set by CMA on all companies listed under MSX from 2011 to 2019. The CMA index information consists of both quantitative and qualitative data such as the details of compliant and non-compliant companies with various listed violations/issues, the disciplinary actions taken against them as well as the evaluation criteria followed. In addition, the paper has collected available value-added tax information from the authorized websites of the Oman tax authority and the Government of Oman.

### Findings and discussion

#### *Current companies' compliance of listed companies in Oman*

Latest research studies in regulatory, financial, and internal compliance (Majerowska and Spigarska, 2021; Chang *et al.*, 2019; Tawiah and Boolaky, 2019) validate the results of the present study on current companies' compliance of listed companies. The majority of the study revealed that overseeing the compliance of companies with internal regulations is vital for consistent growth and profitability. In Oman, this related study was broadened by Sarea *et al.* (2020).

Table 1 below indicates descriptive results of the disclosure index reported by CMA and MSX from 2011 to 2019. The main reasons for disciplinary actions were for non-compliance of Executive Regulation of the Capital Market Law, Commercial Companies Law, Insurance Companies Law, Insurance Agents Licensing Requirements, Brokers' Regulation, Clearance and Settlement Regulation, Unified Motor Vehicles Insurance Policy, Auditors Accreditation Rules, International Accounting and Auditing Standards, Auditors Accreditation Rules, and provisions for practicing accounting and auditing professions.

Table 2 indicates descriptive results of the reported disclosure index by CMA from 2011 to 2019. Some companies were found non-compliant with the required statement as per the CMA

Year	Reasons
2011	Infringement of Articles 301 of the Executive Regulation of the Capital Market Law Infringement of Articles 117 and 83 of the Commercial Companies Law and Article 20 of the Executive Regulation of the Capital Market Law Infringement of Article 12 of Administrative
2012	Infringement of Articles 279 of the Executive Regulation of the Capital Market Law Infringement of Articles 291 of the Executive Regulation of the Capital Market Law Infringement Clause 1 of Article 157 of the Executive Regulation of the Capital Market Law
2013	Infringement of circular No. (6/2012) Infringement of article 1/19 of the Insurance company law and articles 8 & 7 from the Executive Regulation of Insurance Companies Law Total 16 number of, MISCELLANEOUS FORMAL REGULATORY DECISIONS
2014	Infringement of Article 280 of the Executive Regulation of Capital Market Law Infringement of Article 124 of the Executive Regulation of Capital Market Law Infringement of Decision 26 on obtaining CMA's approval for new insurance products Infringement of circular No. 6/2012 Total 4 number of, MISCELLANEOUS FORMAL REGULATORY DECISIONS
2015	Infringement of Article 125 of the Executive Regulation of the Capital Market Law and failure to apply Article 163 of the same regulation Infringement of Article 9 of the Regulation of the Insurance Companies Law Infringement of Brokers' Regulation Infringement of Article 8 of the Regulation of the Insurance Companies Law Infringement of Article 17 of Brokers' Regulation Infringement of Article 9 of Brokers' Regulation Infringement of Clause 7 of Article 11 of Brokers' Regulation and clauses 1 and 2 of Article 13 Infringement of Clause 14 of the Code of Professional Conduct and Article 3 of Insurance Agents Licensing Requirements Total 4 number of, MISCELLANEOUS FORMAL REGULATORY DECISIONS
2016	Violation of the provision of Article 147 of ERCML Violation of the last para of Article 54 of ERCML Violation of Article 12 of AD 6/2002 on constitution of internal audit committee and appointment of legal advisor Violation of Article 311 of ERCML Violation of Clause 3 of Article 55 of Clearance and Settlement Regulation
2017	Violation of the provisions of Article 280 of the Executive Regulation of the Capital Market Law relating to disclosure of the initial results of the first quarter Violation of the provisions for practicing accounting and audit profession Violation of the provisions of Unified Motor Vehicles Insurance Policy Violation of the provisions of Article 1 of Ministerial Decision No. 26/86 and Article 3 of Insurance Agents Licensing Requirements Violation of Article 9 of Insurance Agents Licensing Requirements
2018	Violation of the provisions of Article 146 of the Executive Regulation of the Capital Market Law Violation of Clause (b) of the provisions of Article 123 of the Executive Regulation of the Capital Market Law Violation Article 5 of the Capital Market Law Violation Article 149 of the Executive Regulation of the Capital Market Law Violating certain international accounting and auditing standards Violating Articles 112 and 113 of the Commercial Companies Law Violation of Schedule (b) of the Unified Motor Insurance Policy Violation of the provisions of Article 12/4 of Insurance Agents Licensing Requirements Violating Articles 112 and 113 of the Commercial Companies Law, Article 5 of the Capital Market Law and article 282 of the Executive Regulation of the Capital Market Law Violation of the provisions of Article 20 of Insurance Brokers Regulation
2019	Violation of the provisions of Insurance brokerage regulation Violation of the clause of standard motor insurance policy Failure to remedy the situation as per the resolution of the BOD of CMA Violating second paragraph of Article (1) of the Auditors Accreditation Rules

Source: CMA Annual Reports adapted from Capital Market Authority (2011-2019).

**Table 1.**  
Disciplinary reasons

disclosure index. Major discrepancies were found on required statements such as: unaudited annual results, audited annual financial statements, first-quarter financial statements, second-quarter financial statements, third-quarter financial statements, dissemination of audited annual financial statements, disclosure of the resolutions of the general meetings, and timely material information.

Table 3 indicates descriptive results of the reported disclosure index by CMA from 2011 to 2019. Some companies were found to be non-compliant with several directors' meetings, non-compliance with directors' roles, non-compliance with audit committee's role, non-compliance with rules for appointment of auditors, non-compliance with executive management's role, non-compliance with minimum internal regulations, violation information of audit committee, violation in the appointment of an internal auditor and legal advisor, non-compliance of internal auditor's work and role, non-compliance of internal auditor in preparing annual work plan before the year, non-compliance in the appointment of secretary to the board, non-compliance in legal advisor's role, non-compliance with Articles of Association of the company, and non-compliance with executive regulation.

*Value-added tax compliance on listed companies*

The Tax Authority of Oman issued three executive decisions on the implementation of the value-added tax, which entered the enforcement stage by April 16, 2021. Research studies in

**Table 2.**  
Non-compliance of  
'required statements'  
by companies  
(2011-2019)

Number	Required Statements
1	Unaudited annual results
2	Audited annual financial statements
3	First quarter financial statements
4	Second quarter financial statements
5	Third quarter financial statements
6	Dissemination of audited annual financial statements
7	Disclosure of the resolutions of the general meeting
8	Timely material information

**Source:** Adapted from Capital Market Authority (2011-2019).

**Table 3.**  
Type of violation by  
companies (2011-2019)

Number	Type of violation
1	Non-compliance with number of Directors' meetings
2	Non-compliance with Directors' roles
3	Non-compliance with audit committee's role
4	Non-compliance with rules for appointment of auditors
5	Non-compliance with executive management's role
6	Non-compliance with minimum internal regulations
7	Violation in formation of audit committee
8	Violation in appointment of internal auditor and legal advisor
9	Non-compliance of internal auditor's work and role
10	Non-compliance of internal auditor in preparing annual work plan before the year
11	Non-compliance in appointment of secretary to the Board
12	Non-compliance in legal advisor's role
13	Non-compliance with Articles of Association of the company
14	Non-compliance with Executive Regulation

**Source:** Adapted from Capital Market Authority (2011-2019).

regulatory tax compliance (Musimenta *et al.*, 2019) validate the results of the present study on current companies' compliance on listed companies. So far, only the United Arab Emirates (UAE), Kingdom of Saudi Arabia (KSA) and Bahrain have rolled out VAT schemes among the Gulf Cooperation Council member countries - though those initiatives are still in the implementation stage. Non-compliance on the VAT system in Saudi Arabia attempted to reduce penalties by adopting a set of electronic applications and strictly overseeing the compliance by officials (Ershaid and Nawash, 2021). Non-compliance with VAT regulations can hinder the countries progress in general. To offset tax evasion in the country, the government imposes a criminal penalty with the levy in the form of output tax. Likewise, new business startups were also showing non-compliance with VAT regulations, which were also imposed three times the normal tax rates with criminal penalty were inflicted after a particular date of registration. If the offense continues by any company will make the penalty even double. Consequently, VAT compliance is considered one of the most substantial reforms of any country's public financial system (Shakkour *et al.*, 2021).

The above results and discussion on current companies' compliance with value-added tax compliance on listed companies in Oman have revealed that it is important for every organization to implement both internal and external regulatory compliance both efficiently and in a timely manner in order to reduce the risk of disciplinary actions such as fines, penalties, and civil and criminal liabilities. The details on Table 1, Table 2 and Table 3 above have displayed the importance of the evolving role of compliance auditors in connection with listed companies in Oman. The recently introduced VAT in Oman will increase the regulatory compliance of listed companies. Thus, the findings of the research are consistent with and substantiate the evolving role of the compliance officer in the listed companies at MSX in Oman. Further, both current companies' compliance on listed companies and value-added tax compliance on listed companies in Oman will strengthen the evolving role of compliance officers among listed companies at MSX in Oman.

The study proposes that in the future, the proficiency in accounting concepts can facilitate organizations by adopting information communication technology enabled accounting practice.

### **Implications**

The evolving role of a full-time compliance officer has significant implications for both the economy and the prospects of business growth. The results of the current study acknowledge the value of full-time compliance officers and compliance audits. Moreover, the findings can aid both in the appraisal of VAT accounting, compliance audit research and in the selection of proper assessment methods and criteria. The appointment of a compliance officer and compliance audit guarantees long term value creation among listed companies in Oman.

Notably, compliance audits guarantee adherence to the organization's regulatory rules, regulations, and guidelines prescribed by the government. It also ensures effective compliance with the organization's internal rules, policies, and processes. As a result of a compliance audit, trust among stakeholders may increase if they believe that the organization is operating within a legal framework. Further, it enables companies to meet timely submission of tax returns as per tax laws.

Therefore, this study may influence the management or board of directors to deal with applicable internal and external regulations in a more professional manner. This could enable an organisation to satisfy the interests of its shareholders, management, the government, and other stakeholders. In addition, this research may aid the policymakers, statutory regulators, Muscat Stock Exchange, and Capital Market Authority in designing thoughtful policies/guidelines to appoint compulsory full-time compliance officer in all the listed companies in Oman.

## Conclusion

The study found out that there is a lack of timely compliance by companies in the existing law and these companies may face several pressures for compliance with VAT enforcement in Oman. Therefore, to comply with the disclosure requirements of listed companies, there is a growing need to appoint a full-time compliance officer with compliance audit.

For the compliance of a company to be achieved, managers or board of directors are obligated to follow applicable laws, regulations and rules depending on the nature of the organization and the relevant regulatory disclosures. The corporations should consider compliance regulations related to safety, direct or indirect tax laws, reporting guidelines of financial statements, securities contract, regulation act, contract act, prevention of money laundering act, special economic zones act, state employment laws, corporate social responsibilities, environmental laws, minimum wages act, foreign exchange regulations act, and public health regulations.

A compliance officer should take measures to adhere to all the above-mentioned applicable rules, regulations, and laws; including the laws of national or international government and various legislative aspects of a company.

This study recommends that future studies should employ quantitative research methods such as case studies on independent variables to better investigate VAT compliance among listed companies in Oman. Besides, the researchers could examine numerous other challenges that listed companies face in their attempt to employ a full-time compliance officer.

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