



Effective Local Governments in Khyber Pakhtunkhwa

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Importance of Local Governments

Local governments are the nursery for democracy. They play a pivotal role in serving the public and at the same time allow people to have a say in administrative affairs. They ensure a system of check and balance. The local governments also serve as a kickstart for those aspiring for public service to develop political skills and wisdom. Local governments have always

proved cost-effective in managing public service delivery.

In the absence of a local government system, provincial governments are forced to intervene in the administration of these services often with mixed results on account of the citizen-authority disconnect. Moreover, the provincial governments are not designed for local service services.

Historical background of Local Governments

Pakistan inherited the local government model established by the British colonial powers. In the beginning, however, little attention was paid to local governments. Local government members were not elected, and in cases where elections were held, they took place through limited franchise. The state was highly centralized and dominated by the civil and military bureaucracy. Later since the 1950s, for various historical reasons, the military has dominated the state. Consequently, the military conducted the major experiments of decentralization in Pakistan to co-opt local elites. Decentralization was usually introduced by first dissolving the higher-tier elected governments. Local Governments during 1959-71 and 1977-88 after the independence of Pakistan, the first extensive local government system was introduced in 1958 when the military assumed power through the military coup of General Ayub Khan. The Basic Democracies Ordinance

1959 established the new local governments. The prime motivation for introducing local governments by Ayub Khan was to legitimize his Presidential Constitution (1962) that gave control of the state to the military through the office of the President. After a short democratic term under Zulfikar Ali Bhutto (1972-77), the military once again got control of state power through General Zia-ul-Haq's military coup in 1977 and ousted the government of late Prime Minister Zulfikar Ali Bhutto. Local governments were revived and reformed, and the Local Government Ordinance 1979 was enacted that remained operational until 2000 in Pakistan.

Zia-ul-Haq introduced Local governments in the absence of national or provincial governments under the direct control of the military. Local government elections were held on a non-party basis in all provinces in Pakistan. Once again, the prime reason for

introducing a new local government system was to create a new class of politicians prepared to legitimize military rule and ready to serve the interests of the military regime. It is important to note that both during Ayub Khan and later Zia-ul-Haq's military regimes, gave much importance to local governments. However, no efforts were made to empower local governments by providing them with constitutional protection. Lack of constitutional protection put local governments vulnerable to the whims of other tiers of government to suspend local government heads, make changes at their will or abandon them altogether in the long run.

In the year 2001, General Musharraf introduced a new local government system, through Local Government Ordinance (LGO) 2001. His LGO has some distinctions, and is therefore worthy of close examination, as it substantially restructured the local governments. Previously the powers of the local governments were somewhat limited, and most of the functions were carried out by provincial line departments. Under devolution, a newly elected government was created at the district level and politically linked to local governments at the sub-district levels [Tehsil (town) and union council. The major distinction of the Local Government Ordinance (LGO) 2001 compared to previous ordinances was that it overcame the urban-rural divide and established the local government at three levels: Union Council, Tehsil Council, and District Council.

The Union was the core unit and the Union Nazims (mayor), and Naib Nazims (deputy mayor) were directly elected by the voters

and became members of the District and Tehsil Councils, respectively. The LGO removed the previously existing hierarchical relationship between the local and provincial governments. Local governments were instead directly linked to the President's office through several institutions, such as the National Reconstruction Bureau and the Devolution Trust for Community Empowerment.

Despite several distinctions, however, the LGO 2001 had some similarities with previous local government systems. For example, Musharraf also followed the legacy of previous military regimes and conducted local government elections on the non-party basis that further entrenched the politics of personalized patronage based on clan and caste loyalties. Moreover, though Musharraf gave a short-term constitutional status to the local government up till 2009 through a Presidential Order (i.e., up till 2009 no government could dissolve local governments formed by Musharraf); the local governments were still not given a constitutional status permanently. Also, though unlike previous military regimes, much fiscal decentralization was carried out, the planning of the budget remained in the hands of the bureaucracy.

After the dismissal of Musharraf's government in 2008, the Pakistan People's Party under the leadership of Mr Zardari introduced the 18th Constitutional Amendment that enhanced provincial autonomy. By this time, the constitutional restriction on amending local government ordinance of 2001 had already expired in 2009. After that, it became possible for provinces to legislate a local government

system of their choosing. Consequently, different provinces opted for different structures for their local governments. The provincial assembly of Baluchistan passed the Local Government Act in 2010, whereas the provincial assemblies of Punjab, Sindh and Khyber Pakhtunkhwa passed their Local Government Acts on 31 October, 2013.

Of the provincial local government Acts passed during 2013, the Khyber Pakhtunkhwa local government Act of 2013 stood out for being bolder than laws in the other provinces. It provides a degree of fiscal autonomy with its considerable allocation of development grant to local governments. These funds represent 30% of the total development spending of the province and are transferred to the local government tiers according to their specified shares.

After the introduction of the KP LGA 2013, elections were held in May 2015, in phases. Though the local governments only slowly became functional, as they had to contend for long periods without rules of business and regulations for planning and executing operations. Once the local governments became functional a number of

amendments were introduced some of which were detrimental to the spirit of devolution.

In 2019 the LGA 2013 was amended and passed by the Provincial assembly on 29th April 2019 as the Local Government Amendment Act 2019. Prominent new features of this law include doing away with the district tier of the elected local government, direct election of the tehsil (sub-divisional) Chairman and Mayor of the city administration and linking the tehsil council with the village and neighborhood councils (VCs and NCs) in such a way that the tehsil council will comprise of the Chairmen and some members of VCs and NCs. One of the amendments provide for a reconciliatory mechanism and body for the resolution of disputes that are of civil nature at the village and neighborhood level. Perhaps the most important feature will be the implementation of this law in newly merged districts of Khyber Pakhtunkhwa. There are also claims that the changes to the law ensure a new simplified system of local governance which provides for robust fiscal decentralization and oversight.

Structure of LGs in KP

Under the new local bodies system, a two-tier system has replaced the older system which also had district council.

The new law does not provide for the district council and union council. Instead, there are village councils (VC) in rural areas and neighborhood councils in urban areas. Tehsil Councils will work on the Tehsil level.

There are 3 General Council (GC) seats in each Village / Neighborhood council. The GC candidate who receives the highest number of votes is elected not only the general councilor but also the chairman of the village /Neighborhood council and the members of the Tehsil Council.

The GC candidates who get the second and third highest numbers of votes are simply elected general councilors to the VC or NC.

Every VC or NC will have about seven seats in total, one seat each for women, youth, farmers and minorities and the three seats for general council members.

One of the major changes introduced in the current LG system is that voters would elect Tehsil Chairman and Mayor in rural and urban areas respectively. Mayors and Tehsil

Powe of the local government will be:

Under KP's 2013 local government Act, 23 government departments used to be under the local government. This, however, has changed under the amendment in 2019. By making amendments to the law, the number of departments answerable to the mayors has been reduced to ten. The provincial government will provide the local government with 30% of the development budget.

The Tehsil chairman will oversee primary education, social welfare, public health engineering, sports, culture, livestock, population, water and sanitation, and rural development.

Tehsil Chairman's responsibilities:

- Providing development roadmap
- Setting timeframe for infrastructure development and delivery
- Coordinate with local administration if the need arises.
- Making yearly development and implanting it
- Presenting the yearly budget in Tehsil Council

Chairmen are to be elected by direct vote. Under the older system they were picked by elected council members.

The Deputy Mayor/Deputy Tehsil Chairman, however, will be elected using the older method, that is, Tehsil council members will elect them.

For larger cities that serve as divisional headquarters a slightly different system will work. People will elect the mayor who will head the metropolitan government.

- Presenting the bi-annual report of the local government
- Monitor government offices on the Tehsil level
- Sending quarterly reports of the government departments that comes under him to the district administration and relevant provincial departments
- Regulating markets and services through local administration
- Municipal officers will need the chairman's permission to take action against the violators of municipal laws
- The chairman will also have the authority to discharge officers of the departments that comes under him through executive order.
- Recommending disciplinary action against local government employees
- Powers to appoint caretaker deputy chairman

Tehsil councilor's power and duties include

- Approving tax and fines through the chairman

- Passing supplementary laws and code of conduct for service delivery
- Approving annual budget, short- and long-term projects proposed by the chairman
- Appointing standing committees for municipal and tehsil head offices
- Appointing accounts and finance committee, the conduct of business committee, code of conduct committee

Mayor's powers and authority include

- Approving proposals for the construction of mass transit systems, expressways, flyovers, roads, bridges and underpasses
- Sewerage treatment plants, flood control protection, waste management, recreational spaces,

libraries, beautification of city, monuments and community centres come under the mayor

Village/Neighbourhood council's powers include

- Implementation and monitoring of development projects on village/neighbourhood level
- Recommending required development work in the area
- Registration of birth, marriage, divorce and death
- Organizing sports events on village/neighbourhood level
- Organizing cattle market and shows
- Monitoring the services and sending a report to the Tehsil chairman
- Collecting social indicators stats

Recommendations for Effective Local Governments in Khyber Pakhtunkhwa.

Legislative

Though the elections are held under the Local Government Act 2013 now, the district tier needs to be reintroduced. Most of the departments has district heads who are now directly reporting to provincial government. These departments are responsible for service delivery at district level, therefore an elected council is required at the district level to oversee their performance of these departments.

Planning and Reform

Support to strengthen coordination mechanisms for implementation of the LGA. A coordination mechanism comprising of Local Government, Elections & Rural Development Department (LGE&RDD),

Planning & Development Department (P&DD), and Finance Department (FD) at provincial level is needed to prepare an implementation roadmap. Similarly, coordination between Assistant Commissioners, Tehsil Municipal Officers (TMOs) and devolved offices is needed at the local level to coordinate implementation matters at the local level. The amended Act has a provision for a 'coordination unit' but it is not yet clear how this will operate.

Strengthen planning functions at tehsil and VC/NC level. This involves two activities. First, the extension of the Development Planning Management System (DPMS) to local levels across the province. Second, preparation of VC/NC and tehsil development plans in the NMDs - currently

supported by UNDP and GIZ. This planning exercise, which is based on citizens' needs and priorities, needs to be rolled out across other districts.

Establish a functional M&E framework at the local level. An M&E framework is required to ensure accountability and transparency in the use of public funds at the local government level. Section 3 of the amendment Act provides the basis for accountability and oversight, but rules are yet to developed.

Establish key functions (HR, Planning, Development, and Finance) at tehsil level. New staff positions, job descriptions, and training may be required to build core government functions at local levels. While office of Assistant Director Local Government & Rural Development (ADLG) exists in most tehsils it may not have capacity to adequately perform all core functions.

Develop an integrated public grievance system. The existing public grievances system is fragmented. There should be, in line with the provincial government's good governance strategy, an integrated public grievance system governed under rules to strengthen the accountability regime. While the revised Act makes provisions for public grievance and accountability, how these will be operationalized remains unclear.

The Local Government Commission should assume a greater role. The LGC need to strengthen its institutional presence at the local level to guide functioning of local governments and address instances of deviance or violations of rules and laws by the LGs.

The LGA has established new features in the LG system. This will require capacity development of elected representatives and departmental staff on local governance systems, including the amended law and its associated rules.

Budget and Transparency

Strengthen financial flows to LGs. Delays in the release of funds to LGs is a potential risk to service delivery. To ensure optimal utilization of devolved funds procurement and financial flow processes needs to be reviewed and made responsive to the needs of LGs.

New PFC formula based on tehsils instead of districts. The lack of socio-economic data at tehsil level will hinder the calculation of the PFC. Socio-economic studies are required at tehsil level, drawing on existing GIS and other databases available to departments. This will enable the PFC to equitably distribute LG funds among TLGs.

Extension of Internal Audit to local levels. The LGA requires the Finance Department to support the Local Government Department conduct Internal Audit at each tier of Local Government. This requires the extension of the Internal Audit Policy and agreement on roles and responsibilities for conducting internal audit at local government level.

Establishment of a LG Financial Management Cell. The LG Department now has a significant development portfolio, encompassing the development portfolios of local governments. There is no system in place to prepare financial reports across this wide portfolio.

Process reviews for service delivery functions. The Secretary LG has proposed a

review of business process for improved service delivery, including scope for process optimisation through automation. This is a major initiative that is likely to require transformative action.

Inclusion of women, minorities, and civil society

Response to the needs of women and minority groups. Statutory provisions on women's, minorities and other excluded groups requires specific actions. For example, the training designed for female and minority councillors, and RoB that ensure adequate representation of women and minority councillors in all council committees at tehsil and VC/NC level.

Establishment of a women councillors' caucus. To enable women and minority groups to better understand local government processes and enhance their ability to engage in local decision-making.

Improve civil society engagement in development planning. To ensure compliance with statutory provisions on participatory planning tehsil development units should be established comprising government officials and civil society representatives to hold pre-budget consultations on annual development plans.

Support to civil society at tehsil level. Existing village-based institutions should be supported to engage proactively in pre-budget consultations, identification of needs, evidence-based planning and social accountability functions, for example through citizens' score cards, *kuli kachehries* and other social accountability tools.

Tehsil information centres established. To ensure transparency and disseminate

information on public funds and development projects, for example through billboards and social media tools (tehsil portals, Facebook, WhatsApp etc.).