

Punjab Local Government Act, 2022

A P O S I T I O N P A P E R





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1. Preamble

Saadat Hassan Manto¹, had penned *Naya Qanoon* (The new law). The main character of the story, Manghoo, a coachman, (symbolizing the masses) pins great hopes on the new law (Government of India Act). He somehow assumes it will not only free the subcontinent from the colonial rule, but will also change the fate of the common citizens like him. He also thinks that with introduction of this new law, getting issued registration plate for tonga (Horse drawn coach) from the municipality will also get much easier. On the day of promulgation of the new law, Manghoo wonders why nothing appears of have changed in the city as he moves around. On the same day, Manghoo encounters a Gora (white-man), symbolizing the colonial rule, who had misbehaved with him sometimes back. Under his illusion that power equation has changed and masses have become the real rulers, he is tempted to settle the old score. He starts beating the Gora while shouting 'Naya Qanoon, Naya Qanoon'. But as soon as this scuffle scene and screams of Gora attracts the police, Manghoo gets immediately arrested for offending the Gora (the Colonial Rule).

Faiz Ahmed Faiz, like many of his contemporaries, was overwhelmed to witness the horrors, contradictions and deceptions of the partition of India. In his iconic poem—*Subh-e-Azadi* (Morning of the Freedom)—written in August 1947—Faiz sums up the situation as “This is not the dawn that had so desperately been waited for” but also solaces those who had dreamt of 'real freedom', “Keep marching as this is not the promised destination”.

Jalib—the poet of the poor and the powerless, was daring and fearless when he openly challenged and did a postmortem of the Constitution of 1962, introduced by Ayub—Pakistan's first formal military dictator. In those dark times, when Ayub had managed to subdue or suppress most of the opposition to his rule and rules; Jalib wrote his iconic poem *Dastoor* (Constitution) which even today is reverently recited or sung as an anthem of the resistance in areas where Hindi and Urdu are understood. Jalib sums up this enforced constitution as, “[A Constitution]—that only lights up the palaces, cares only for the happiness of handful few, one that is ridden with compromises—such a Constitution, I don't accept, I don't own”.

In the face of the recently promulgated Punjab Local Government Act (PLGA), 2022, once again, in a highly rapid succession, a new law has been introduced for the local governments in Pakistan's most populous province. Days before its introduction on 16 November 2022, as some of its salient features were reported by the media, critics had their eye brows raised. Meanwhile it also caused concerns among some regulators too. For instance, the Chief Election Commissioner of Pakistan is reported to have commented on PLGA, ““The Punjab Government's move to conduct local government polls through Electronic Voting Machines (EVM) is a stunt meant to drag feet on the already delayed electoral exercise.” According to the same news item, the CEC also regretted that “no government in the province was willing to hold local bodies elections”².

When one looks at the history of local governments in Pakistan, s/he encounters some unfortunate realities. For instance, if establishing empowered and representative local governments is a democratic act then dictators of Pakistan, appear as the democrats. If discouraging, distorting and dismantling elected local governments is an undemocratic act that undermines the very spirit of

1- One of the most famous Urdu fiction writers of Subcontinent (born 1912-died 1955)

2- <https://www.dawn.com/news/1716886>

democracy; then the so called democratically elected federal and provincial governments emerge as dictators in the guise of democrats.

Concerned citizens, civil society organizations, political activists and governance experts who have had an interest in local governments, have been advocating for the establishment and sustainability of democratically elected local governments with administrative, financial and political authority and responsibility as envisaged in the Constitution of Pakistan. However so far, analysis and observations suggest, no serious heed has been paid to these voices by any large political party that is or has been in power. Local Government acts or ordinances have been introduced only to be scraped and local governments have been brought in power only to be shown the door in the midway. Resultantly local governments have been reduced to 'guinea pigs' that are only worthy of undergoing experimentation in political laboratories of people in power. With the introduction of every new local government legislation, the enthusiasts, like Manto's Manghoo start pinning hopes on it, but later have to resort to Jalib's Dastoor when they realize that between the lines of these legal instruments are tactfully hidden the tools to maintaining the status quo. For the revival of hope while avoiding falling in despair, Faiz Sahab's golden words resonate, "Keep marching, as the promised destination has yet not arrived."

Tailpiece: Pakistan is once again undergoing a severe political turmoil. The politico-economic situation in the country has become so volatile that uncertainty, it seems, has become a new normal. On 22nd December 2022, Governor Punjab de-notified Chief Minister Punjab after the later ignored former's instruction to take the vote of confidence from the Provincial Assembly.³ The Lahore High Court had suspended governor's action, on written assurance of the Chief Minister that he will not dissolve the Provincial Assembly before the next hearing of the court scheduled for 11th January 2023. Meanwhile, as per media reports, Federal Government is considering to challenge Lahore High Court's decision in the Supreme Court of Pakistan. According to the schedule announced by the ECP, elections for the local governments in Punjab will be held in April 2023. It is uncertain whether the ECP will agree or will be able for that matter, to hold these elections using the EVMs as such a precedence is yet not available. Critics of EVMs, have explained in detail that how expensive this solution is, in the first place, and how vulnerable these machines to manipulation. Uncertainty continues to haunt the fate of local governments in Punjab.

Many civil society voices are found to be losing their enthusiasm as well as optimism on account of local governments in general and on sustainability of participatory and representative democracy in Pakistan, in particular. Some have resorted to silence and inaction, while others have toned down their demands. But Faiz Sahab's advice is worth considering and is worth taking inspiration from:

*Speak! For your lips are free
Speak! your tongue is still yours
Your upright body is yours
Speak, your life is still yours.*

*See how in a blacksmith's shop
Flames are flying, iron red-hot
Mouths of locks have begun to open
Each chain link has spread wide.*

*Speak! Even this little time is enough
Before the death of body and tongue
Speak, for truth is still alive
Speak, and say whatever is to be said.*

3- <https://www.dawn.com/news/1727807>

2. Introduction and Background

It is encouraging to note that in recent times, a renewed interest in local governments in Pakistan is visible among bilateral and multilateral donors and national and international civil society organizations. Currently, elected local governments are not in office in Punjab. On November 16, 2022, the Government of Punjab, introduced the Punjab Local Government Act (PLGA), 2022—the latest in a long list of legislative efforts that have been made in the past for the establishment and working of local governments in the province.

This legislation, even before its promulgation by the provincial legislature, had started attracting controversies and criticism. For instance, on 26 October 2022, Daily Dawn while quoting the Chief Election Commissioner (CEC) of Pakistan reported to have said, “The Punjab Government’s move to conduct local government polls through Electronic Voting Machines (EVM) is a stunt meant to drag feet on the already delayed electoral exercise.” According to the same news item, the CEC also regretted that “no government in the province was willing to hold local bodies elections”.³

Besides the introduction of EVMs, the PLGA 2022 is also attracting criticism on certain other fronts. For instance, this legislation has replaced PLGA 2022 that was introduced by the Hamza Shahbaz Sharif led Provincial Government on 24 June 2022 in its very brief stay in power (30 April 2022 to 25 July 2022). The current PLGA 2022 has introduced a completely new concept of elections for the local governments wherein options for contesting the elections as independent or a sole candidate for a seat has been disallowed. Meanwhile political parties and electoral groups have been made to contest the elections while nominating panels of candidates.

This write-up presents a critical review of this new legislation. In doing so, it briefly highlights its key provisions and offers a commentary on the same while blending it with recommendations for corrective measures. It has been tried to keep this document crisp and to-the-point so that it can be used by the civil society organizations, concerned citizens and other stakeholders for understanding the PLGA 2022, policy advocacy and even for further research.

Local Government Acts and Ordinances are long pieces of legislations. They contain hundreds of Sections, Sub-sections and sub-sub-sections. Since these are supposed to be detailed frameworks for the formation, functioning and dissolution of the local governments; their length and details are justified. For instance, the PLGA 2022 is divided in 14 Parts, 38 Chapters, and 209 Sections. 10 Schedules are also annexed to it. In total it is a 137-page strong document. Given this fact, the review of local government legislations requires caution and foresightedness. Thus every possible effort has been made in this document to follow this principle to maintain objectivity and to avoid unjustified and normative judgements.

This write up was commissioned by WISE (Women in Struggle for Empowerment). Local governance is one of its key thematic areas wherein it focuses on women's meaningful participation and representation in the local governance while rigorously working on the capacity building of female elected representatives of various tiers of local governments in Punjab. WISE intends to make use of this document for articulating demands for a representative and democratic local government system in Punjab.

4- <https://www.dawn.com/news/1716886>

3. A Perspective on History of Local Governments in Subcontinent

The importance of local governments is well known. The concepts of local governance and local governments are as old as the history of human settlements itself is. Archeologists and anthropologist tell us that even the most primitive human beings who were hunters and gatherers would follow certain democratic rules for their group living and social activities. With the emergence of organized states, there also emerged laws and rules for the placement, orientation, planning and management or governance of human settlements—villages, towns and cities. One can testify this fact by studying the Sumerian, Egyptian, Indus Valley and Mayan civilizations and the remains of their human habitations or written record that has survived. Much before these civilizations, some 9,000 year ago, Mehrgarh and allied settlements had thrived in present day Balochistan.

The Indus Valley Civilization, a later offshoot of Mehrgarh, that reached its zenith in 3100 BC to 2600 BC has left us with remains of cities that are marvels of urban planning and management which in turn is a depiction of a mature governance system. Millenniums later, Kotliya or Chankiya—a resident of present day Taxila who was the Chief Advisor to Chandra Gupta Mauyriya—the founder of Mauryan empire—compiled Arthashastra—the Book of State Craft. One wonders how astute and methodical the Mauriyans were in governing their human settlements.

But one gets perplexed when he or she thinks what we have learnt from this impressive history which we so proudly present before the world? The things which had been learnt and practiced by our ancestors on account of local governance more than 5,000 years ago, it seems, are great puzzles for our policy and decision makers.

While looking at the history of local governments in Pakistan, one finds that they have been becoming first casualties of restoration or return of democracy in the country. For instance, as of today, the elected local governments are not in office in country's most populous province—the Punjab. The elected local governments that were supposed to have remained in office till 31st October 2022 were not allowed to do so. First they were sent home in 2018 by the then Provincial Government only to be restored later by the Supreme Court of Pakistan. Even getting restored, they were financially and administratively screwed up to an extent that they became dysfunctional. But this is not something that is new. Earlier in 2008, after restoration of democracy in Pakistan, one of the first actions that were taken by the then provincial governments, was the dismissal of the elected local governments making an excuse that the law—the Local Government Ordinance 2001—under which these governments had assumed office was given by a dictator and did not match with the concept of provincial autonomy that was further reinforced by the 18th Amendment to the Constitution. It was ironic that it took almost five years to introduce new provincial legislations on local governments. It was more ironic that that these new laws, were more or less a

reflection of Local Government Ordinance of 1979 introduced by another military dictator Zia. Since 2013, especially in Punjab, Khyber Pakhtunkhwa and Sindh, the local government legislations have remained a punching bag and objects of experiments for provincial governments. Either drastic amendments were recurrently introduced to these legislations or altogether new legislations were brought in place in quick successions. Resultantly, the formation and functioning of local governments got ridden with uncertainty leading to citizens' deprivation of

The following table provides testimony to and further details of this story of local governments in Punjab. This list shows that since 2001, eight new legislations on local governments were introduced in the province. Of these, three came in shape of Ordinances by the Governor and remaining five as Acts promulgated by the provincial assembly. In total 30 legislative efforts were made to introduce the new laws or to amend the existing one. Of these 30 efforts, 29 were made between 2013 and 2022 i.e. in just nine years. It further reveals, that the respective provincial governments, adopted the route of Ordinances—an undemocratic instrument—instead of provincial assembly, to amend the existing legislation on local governments. In some instances, the successive amendments were introduced after an interval of just few days. For instance, Punjab Local Government Act 2013 was promulgated on 23 August 2013. The first amendments to this Act was introduced on 04 November, the second amendment on 09 November, third on 10 November and the fourth one on 22 November 2013. On 06 June 2014, two amendments were introduced on the same day. For further details, please see the following table:

Sr. #	Legislation on Local Governments	Date of Promulgation	Current Status
1	Punjab Local Government Ordinance 2001	02 Aug 2001	Repealed
2	Punjab Local Government Act, 2013	23 Aug 2013	Repealed
3	Punjab Local Government (Amendment) Ordinance 2013	04 Nov 2013	Repealed
4	Punjab Local Government (Second Amendment) Ordinance 2013	09 Nov 2013	Repealed
5	Punjab Local Government (Third Amendment) Ordinance 2013	10 Nov 2013	Repealed
6	Punjab Local Government (Fourth Amendment) Ordinance 2013	22 Nov 2013	Repealed
7	Punjab Local Government (Amendment) Ordinance 2014 (Ord.VI)	06 Jun 2014	Repealed
8	Punjab Local Government (Amendment) Ordinance 2014 (Ord. VII)	06 Jun 2014	Repealed
9	Punjab Local Government (Second Amendment) Ordinance 2014	16 Oct 2014	Repealed
10	Punjab Local Government (Amendment) Ordinance 2015	17 Jul 2015	Repealed
11	Punjab Local Government (Second Amendment) Ordinance 2015	05 Aug 2015	Repealed
12	Punjab Local Government (Second Amendment) Ordinance 2016	31 May 2016	Repealed
13	Punjab Village Committees Ordinance 2016	31 May 2016	Repealed
14	Punjab Local Government (Third Amendment) Ordinance 2016	21 Jul 2016	Repealed
15	Punjab Local Government (Amendment) Ordinance 2018	01 June 2018	Repealed
16	Punjab Local Government Act 2019	04 May 2019	Repealed
16	Punjab Village Panchayats and Neighborhood Councils Act 2019	04 May 2019	Repealed
17	Punjab Khal Panchayat Ordinance 2019	22 May 2019	Repealed
18	Punjab Local Government (Amendment) Ordinance 2019	05 Nov 2019	Repealed
19	Punjab Village Panchayats and Neighborhood Councils (Amendment) Ordinance 2019	05 Nov 2019	Repealed
20	Punjab Local Government (2 nd Amendment) Ordinance 2019	16 Nov 2019	Repealed
21	Punjab Village Panchayats and Neighborhood Councils (Amendment) Ordinance 2020	14 Feb 2020	Repealed
22	Punjab Local Government (Amendment) Ordinance 2020	27 Mar 2020	Repealed

23	Punjab Village Panchayats and Neighborhood Councils (Amendment) Ordinance 2020	27 Mar 2020	Repealed
24	Punjab Local Government (Amendment) Ordinance 2020	02 Nov 2020	Repealed
25	Punjab Local Government (Amendment) Ordinance 2021	03 Feb 2021	Repealed
26	Punjab Local Government (Second Amendment) Ordinance 2021	12 Feb 2021	Repealed
27	Punjab Local Government (Third Amendment) Ordinance 2021	13 Apr 2021	Repealed
28	Punjab Local Government Ordinance 2021	11 Dec 2021	Repealed
29	Punjab Local Government Act 2022	24 Jun 2022	Repealed
30	Punjab Local Government Act 2022	16 Nov 2022	Incumbent

4. The Constitutional Clarity, Framework and Protection for Local Governments

The Constitution of Pakistan is the supreme legal document of the country as no legislation or public policy, made by any tier of the government, is supposed to negate the constitutional framework. Like its predecessor legislations on local governments in Punjab, PLGA 2022 in its preamble states, “It is expedient to reconstitute the local governments and consolidate laws relating to powers and functions of local governments for establishing an effective elected local government system for meaningful devolution of political, administrative and financial responsibility and authority to the directly elected representatives of the local governments as envisaged under Article 140A of the Constitution to promote good governance, effective delivery of services and transparent decision making through institutionalized participation of the people at local level”.

The Constitution of Pakistan provides a very brief framework for the establishment and nature of the local governments while leaving most of the details at the disposal of the provincial legislature and governments to decide. The Constitution contains only three very brief direct but fragmented provisions on local governments. Thus one has to read them together to draw a rough sketch for the local governments. This situation leaves ample space for interpretation, and to be blunt, for maneuvering at part of the provincial governments. This later situation is evidenced by consecutive efforts by the successive provincial governments to either introduce altogether new legislations or to make amendments to the ones that were in place as has been shown in the previous section. These unabated legislative efforts have in turn severely jeopardized the fate of the local governments throughout Pakistan.

The Constitutional Framework for the local governments can be summarized as:

“The Constitution of Pakistan terms local governments as the third tier of the State (if Article 7 is read with Article 32 and Article (140A (1) of the Constitution). Article 32 mentions that the State shall encourage local government institutions composed of elected representatives of the area concerned and in such institutions special representation shall be given to peasants, workers and

women. Article 37(i) adds that state shall decentralize the government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public. Article 140A requires that each province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of local governments.”⁵

Civil society organizations and political and legal activists with an interest in local governance and local governments in Pakistan have been demanding 'Constitutional Protection' for the local governments so that local governments, like their federal and provincial counterparts, could exist and function uninterrupted and smoothly. In a recently organized consultation on PLGA 2022 by WISE, the participants even proposed inclusion of a complete chapter on local governments in the Constitution.⁶ This requires a constitutional amendment—a prerogative of federal parliament (National Assembly and Senate). For this, the civil society organizations should direct their advocacy efforts especially at all those political parties which have a presence in the federal parliament and should make consistent engagement with the members of the parliament.

An example in this regard can be taken from the Constitution of India as it comprehensively details out the provisions on local governments and assigns 29 subjects areas to them.⁷

5. The issue of parallel local government systems remains unaddressed

There are 44 Cantonment Boards all across the country.⁸ Of these, almost half i.e. 20 are located in Punjab. In certain cities, urban agglomerations, and districts; there exist more than one Cantonment Boards. The PLGA 2022 mentions that this Act shall extend to whole of Punjab except “the areas notified as cantonments under the Cantonment Act, 1924 (II of 1924), or the Cantonment Ordinance, 2002 (CXXXVII of 2002), or such other areas under active possession and direct control of the Armed Forces of Pakistan that may be notified by the Government for this purpose [Section 1(2)(a)] and the areas exempted by the Government from any or all of the provisions of this Act [Section 1(2)(b)]”. Cantonment Boards are subsidiaries of Military Lands and Cantonments Department, Ministry of Defence, Government of Pakistan. Being federal government entities, Cantonment Boards are not answerable to the Provincial Governments and hence function according to specific laws and rules made by the federal government for them. Although these Boards do have elected representation of civilians, the powers and functions of them are quite limited.

Most of the Cantonment areas, over the decades have turned into congested urban settlements with large civilian population. Besides these cantonment areas, there are hundreds of cooperative and private housing societies across Punjab. The cooperative housing societies are managed by their respective elected managements and are largely governed by the Cooperative Act 1925. The private housing societies are managed by their private developers or owners. When it comes to delivery of municipal services, division of natural resources like water and natural water bodies and sharing of services and infrastructure like Solid Waste Management, Dumping Sites, Storm Water Drainage, Transportation Planning and Management etc.; the Cantonments Boards and Cooperative and Private Housing societies largely function on their own mostly independent of the

5- <https://www.dawn.com/news/1716886>

6- Press Release of the event dated////

7- Sindhu, A.S; Risk Governance and Accountability: Lessons from South Asia and Recommendations for New Global Framework for Disaster Risk Reduction—A Background Paper; Duryog Nivaran, South Asia; Islamabad; 2014

8- Military Lands and Cantonments, Ministry of Defence, Government of Pakistan (<https://mlc.gov.pk/cantonment-boards>)

local governments concerned. They also collect service usage charges from their residents. This situation creates, more often, institutional frictions between local governments and these entities and results in fragmented local governance. The PLGA 2022, like its predecessors, it seems, has not addressed this situation.

6. Devil of Distortion and Discrimination in Definitions

Section 2 of PLGA 2022 contains a long list of definitions of important terminologies and concepts that have been mentioned in this legislation. This facilitates the reader to make a quick reference to understand the meaning of the terminologies. According to these definitions:

“Youth” means a person who is not less than eighteen years of age and not more than thirty-two years of age on the last date fixed for filing of nomination papers. Many social scientists and demographers are of the view that sex and age are important determinants in the make-up of a society, gender identities, gender roles, and conception, designing, planning and management of basic services like education, health, livelihood support services, leisure, entertainment and so on. The age factor also changes a person's worldview and priorities. For instance, an unmarried person of 18 years of age or slightly older who is yet to enter the job market or is economically not independent would highly value opportunities for employment, education and entertainment. In contrast, a person in his or her early 30s', is normally considered a mature person, more often having a family to care and support. His or her priorities may focus more on sustenance of the family, income enhancement, housing and housing facilities like water supply, sanitation and so on. Given the ongoing trends in electioneering wherein huge sums of money are spent on election campaigns, it is highly likely that most of the seats reserved for youth will be filled by persons in their early thirties. This will leave the real youth—persons of less than 25 years of age deprived of chances to enter the local politics. It is thus recommended that the age bracket for youth may be reduced to 18-25 years.

“Worker” means a person who primarily depends upon personal labor for subsistence, or a worker as defined in the “Punjab Industrial Relations Act 2010 (XIX of 2010), and in both cases, has maintained such status for last five years preceding the year in which election is held. It is a known fact that a huge part of Pakistan's economy is undocumented. Only around 3.3 million individuals and entities have filed their tax returns and a majority of workers are employed in the informal sector of the economy. In such a situation, proving or verifying one's status as being a 'worker' will be highly difficult. This will result, it is feared, in capturing of the seats reserved for 'workers' by persons who do not fulfill the criteria set for this category in PLGA 2022. It is recommended that some checks like income bracket, verification by the respective community members should be introduced so that only real workers could become part of the local governments and represent the interests of working classes.

“Trader” means a person who during the period of five years preceding the year in which election is held, has been engaged in the business of buying and selling of goods, commodities or services and primarily depends upon it to earn his livelihood. General observation suggests, that people associated with the real estate sector (developers and property agents etc.) are entering politics in hoards and are managing to make their ways to the local councils, provincial assemblies and the federal parliament. According to Pakistan Bureau of Statistics, Real Estate sector is the largest sector of economy in terms of asset values. The enormous size of this sector, estimated to value at

88 Trillion PKR, can be judged from the fact that total deposits in the banks are 21 Trillion PKR. The Capitalization at Pakistan Stock Exchange is only 7.5 Trillion PKR while Mutual Funds hold a mere 1.2 Trillion PKR. On this situation, Mussadaq Zulqarnain, a progressive Pakistani entrepreneur, has commented, “There is no way Pakistan can progress unless the shackles of undocumented economy is broken and the money hidden in Real Estate is brought into industry and agriculture”⁹. Khawaja Asif, the Federal Minister for Defence, has opined, “Mother of all problems. Real estate investment obsession in Pakistan. It is hugely disproportionate compared to neighboring countries. It goes on unchecked ballooning by the day because maximum black/number 2 money goes into it”¹⁰. The State Bank of Pakistan also lamented this situation in one of its reports arguing that most of the undocumented money was being parked into the real estate sector. Given the fact that the local governments, as per PLGA 2022, are mandated to deal with master planning, the direct or indirect influence of the real estate agents and developers is rightly feared to further fuel the speculations—an important tool in hands of the real estate sector to inflate and maneuver the land and residential and commercial properties' values. It is also feared that capture of local governance by the real estate sector will prove last straw in the capture of local development by this sector. The PLGA 2022, it seems has totally overlooked this risk as it does not contain any effective conflict of interest clause/s to counter it.

“Farmer” means a person who owns more than five acres of land. “Peasant” means a person who is a landless farm worker, or one who during the period of five years preceding the year in which election is held, has been owner of not more than five acres of land and depends directly on it for subsistence living. In the definition of 'Farmer', there is only mention of 'land' and not 'agricultural land'. The definition of 'peasant' has been extended to include persons with less than five acres of 'land' and not 'agricultural land'. The size of lot, it seems has been used as a criterion for defining 'farmers' and 'peasants'. Suppose a person holding a land of five acres or slightly less in a peri-urban or hinterland of a major city, as per current market values, would be holding an asset worth tens or even hundreds of millions of rupees. This definitional maneuvering, it is suspected, can easily be maneuvered in favor of those who are not 'farmers' and 'peasants' in real sense.

The above cited definitions are gender neutral i.e. no distinction between girls and boys (male and female youth) and male and female traders, workers and farmers and peasants. Looking at past trends, it is feared that these reserved seats will mostly be filled by men. To ensure that girls and women should have an equitable representation on these reserved seats including those for minorities; each such position should have been bifurcated i.e. 01 seat for female and 01 seat for male youth, minority members, workers, farmers, peasants etc. Many countries are making serious efforts to bring in gender equality in all walks of life. Greenland is one such example. Pakistan should also take meaningful measure to think beyond 33% mindset i.e. 33% seats for women in parliament, provincial assemblies and local councils. Why not it should be 50% when women make up half of Pakistan's population?

9-Tweet by @MussadaqZ

10-Tweet by @KhawajaMArif

7. Composition of Local Governments

Part 2 of PLGA deals with the constitution and functioning of local governments. Under this part, in Chapter IV, details regarding demarcation, classification, delimitation, and constitution of local governments and review of local areas are given. The PLGA 2022, introduces three main nomenclatures or classes of local governments i.e. Metropolitan Corporations, District Councils and Union Councils. The traditional nomenclatures, classifications or hierarchies like Municipal Corporations, Municipal Committees, Town Committees, Tehsil Municipal Administration (TMA) have been abandoned or abolished for that matter. The categories of local governments introduced by the PLGA 2022, it seems, are also confusing as there is no clear mention of what will be the structure of local councils for Tehsil and Towns or urban areas other than the ten major urban centers/cities or divisional headquarters. The PLGA states:

- The Metropolitan Corporation Lahore will comprise of all areas comprising district Lahore;
- There will be Metropolitan Corporations for larger urban areas in the districts of Sialkot, Gujrat, Bahawalpur, Dera Ghazi Khan, Faisalabad, Gujranwala, Multan, Rawalpindi, Sahiwal and Sargodha;
- There will be District Councils for areas of districts of Sialkot, Gujrat, Bahawalpur, Dera Ghazi Khan, Faisalabad, Gujranwala, Multan, Rawalpindi, Sahiwal and Sargodha, excluding the local areas of Metropolitan Corporations in these districts;
- There will be District Councils comprising whole areas of districts except districts of Lahore, Sialkot, Gujrat, Bahawalpur, Dera Ghazi Khan, Faisalabad, Gujranwala, Multan, Rawalpindi, Sahiwal and Sargodha.

Chapter V under Part 2 of PLGA 2022 deals with the composition and structure of local governments. It is mention in this section that:

- A local government of a Metropolitan Corporation and a District Council shall consist of:
 - a) Head of a local government. As per definition of PLGA 2022, the "Head" means Lord Mayor of Metropolitan Corporation Lahore, City Mayor of Metropolitan Corporation other than Lahore, and District Mayor of a District Council.
 - b) Two Deputy Mayors in Metropolitan Corporations;
 - c) One Deputy Mayor of each of Tehsil in each District Council;
 - d) A nominate Head's Cabinet comprising elected councilors and unelected technocrats. The Cabinet appointed by the Head is supposed to aid and advise him [her] in exercise of his [her] functions. The Second Schedule of PLGA 2022 provides further details of the Cabinet as mentioned in following table:

Population Size	Total allocated members of cabinet
More than 10 million (One crore)	12
01 million (Ten Lakh) to 10 million (One crore)	09
Up to 01 million (Ten lakh)	06
Up to ½ million (Five lakh)	03

It is further mentioned in the Second Schedule that the number of female members shall be at least 01 for local governments having population less than ten million and 02 for local governments having population ten million or above. The number of technocrat members shall be one third of

total number of cabinet. This formula, is appears, is not equitable from a gender perspective in all but one case. For instance, for a cabinet comprising 03 members only, mandatory inclusion of 01 woman makes 33% representation. However, in case of a cabinet comprising 12 members, mandatory inclusion of 02 women, will make up on 17% representation. In other words, with increase in size of the cabinet, for instance, the representation of women appears to diminish.

e) A Council comprising of Councilors, including the Speaker. The details in this regard are given in the First Schedule of PLGA 2022 and are summarized in following table:

Sr. No	Population Size as per latest census	Minorities	Women	Workers/peasants	Youth	Trader/Farmer	Disabled	Total Reserved	Total General Councilors	Total
1	More than 10 million	6	23	15	8	4	4	60	90	150
2	More than 05 million and up to 10 million	5	18	12	6	4	3	48	72	120
3	More than 04 million and up to 05 million	4	14	9	5	2	2	36	54	90
4	More than 03 million and up to 04 million	4	12	8	4	2	2	32	48	80
5	More than 02 million and up to 03 million	3	10	7	4	2	2	28	42	70
6	More than 01 million and up to 02 million	2	9	6	3	2	2	24	36	60
7	Up to 01 million	2	8	5	3	1	1	20	30	50

This composition highlights two important points from perspective of parity: parity between general (directly elected) and reserved (indirectly s/elected) members and gender parity. In the first case a formula of 40% reserved and 60% general seats has been set. From the gender parity perspective, for various reasons, women have much less chances to get elected on the general seats in the first place, and to reach or work on managerial or decisive positions like Mayor, Deputy Mayor, Chairperson or speaker. It is most likely that this trend will continue even in the upcoming elections for local governments. If this trend continues, as per the formula given in the above table, women representation will be only 15%. Experience from past local government setups suggest, that women who get s/elected on the reserved seats have only ceremonial or token representation. In many instances, only those women had been able to reach the councils on the reserved seats who were either close to the powerful quarters, were voiceless or destitute or those who were represented by their close relatives (husbands, brothers or fathers).

The First Schedule mentions that each Tehsil of a local government shall have representation not less than ten percent of the total allocated seats to such local government. This formula is quite confusing as details have not been provided.

f) An administration comprising of officers and servants in a local government.

The local government of Union Councils shall consist of:

- a) A Chairperson and a Vice Chairperson. The Vice Chairperson shall act as the Speaker of the Council.
- b) Five Councilors elected on general seats

- c) One seat reserved for workers in an urban union council or for peasants in a rural union council;
 - d) One seat reserved for religious minorities. If there is no candidate in an electoral unit to contest election against the seat reserved for religious minorities, such seat shall be deemed to be an additional seat reserved for worker or peasant, as the case may be.
 - e) Two seats reserved for women
 - f) One seat reserved for youth
 - g) An administration comprising a Secretary Union Council and members of ancillary staff.
- The PLGA does not elaborate that how Union Councils will be represented in the Metropolitan Corporations and District Councils. If there is no representation, the arrangement appears to result in a fragmented local governance.

8. Rule of Authorities or Authoritative Rule?

The Provincial Government of Mr. Shehbaz Sharif (2008-2018) had introduced the concept of District Education and District Health Authorities—an instrument wherein the concerned local government had minimal control on such authorities as these were made to mostly work under the influence of the Provincial Government. The PLGA 2022 has expanded this concept. In every district there will be at least 06 District Authorities—one each for Education, Health, Social Welfare, Population Control, Civil Defence, and Sports and Recreation. Besides these six authorities comprising the devolved offices on these subjects, the Provincial Government can form more authorities. As per PLGA 2022, the administration, operation and management of each authority will vest in its Executive Board to be headed by the respective Mayor. However, these authorities have been bound to:

- Implement policies and directions of Provincial Government [Section 27(2)(k)];
- Implement minimum service delivery and infrastructure standards prescribed by the Provincial Government [Section 27(2)(l)], and;
- Perform any other function as may be assigned by the Government [Section 27(2)(m)].

With these provisions, these authorities have been made subservient to the Provincial Government. This subservience of the former is further reinforced by their financial dependence on the later as they shall receive their funds from the Provincial Budget, directly from the Provincial Finance Department [Section 26(7)].

9. Money Matters: Fiscal and Financial Federalism and Localism

An important dimension of relationship between the local governments and the provincial government concerned is the transfer of funds from the later to the former. Pakistan public finance and fiscal architecture is structured in a way that Federal government collects certain taxes on behalf of the provinces, retains a portion of these and distributes the rest among the provinces according to a formula agreed under the National Finance Commission (NFC) Award. According to a research study published in 2019; in the FY 2017-18, for instance, 81% of the provincial revenues actually came from the federal government while only 19% were generated by the provinces on their own.¹¹ The same study, citing the Interim Punjab Finance Commission Award 2017, highlighted

11- Sindhu, A.S; Risk Governance and Accountability: Lessons from South Asia and Recommendations for New Global Framework for Disaster Risk Reduction—A Background Paper; Duryog Nivaran, South Asia; Islamabad; 2014

that Provincial Government was entrusted to retain 62.5% of the net proceeds of the Provincial Consolidated Funds and hence the provincial allocable amount to districts was 37.5%. Of this amount, 66.9% was reserved for District Education Authorities alone, 16% for District Health Authorities, 12.8% for local governments other than Union Councils and 4.3% for Union Councils. It further revealed that despite having many avenues available to local governments to generate revenues, on average a local government was able to generate less than 5% required revenues from its own sources to fund its annual budget.

The Constitution of Pakistan provides for elected local governments to have administrative, political and financial authority and responsibility. The provincial autonomy has been and remains an important topic of political debate in Pakistan. The 18th Amendment to the Constitution is often referred to in this regard. However, there is hardly any serious or consistent debate on the autonomy of local governments. It is generally and rightly believed that financial autonomy is a prerequisite for any country to enjoy sovereignty in the community of nations. Likewise, financial autonomy is a must for local governments to enjoy financial, administrative and political authority. Please see following Box:

Pakistan will win or lose its battle for good governance and Domestic Resource Mobilization in Districts¹²

The provincial governments have designed their respective Local Government Legislations in a way that keep local governments unjustly dependent upon provincial governments administratively, financially and politically. Besides, these legislations have structured local governments in a highly cumbersome manner. Resultantly they have become weak to an extent of being ineffective and meaningless, to say the least. This situation must be changed. Even if local governments are entrusted and capacitated to collect property taxes and play a meaningful role in real estate and land markets; they can generate not billions but trillions of rupees in revenues.¹³

Part 4 of PLGA 2022 deals with Local Government Finance. Section 72(2) mentions that the Provincial Government shall transfer the grants of a local government in the Punjab Finance Commission Award (PFCA) and share in the proceeds of taxes, tolls, fees, rates or charges levied by the local government collected by the Provincial Government to the Local Fund of the local government on monthly basis. According to a news item¹⁴ dated 18 September 2019 the then Punjab Minister for Finance was reported to have said that the new Provincial Finance Commission (PFC) Award had been notified. However, no further details were provided. We have tried to search the mentioned notification but could not locate. The PFC is the term referred to a formula for vertical and horizontal distribution of financial resources between provincial and local governments and among different governments.¹⁵ The following Box¹⁶ provides a glimpse of Provincial Finance Commission Awards:

12- ibid

13- For instance, see Haque, N.; Flawed Urban Development Policies in Pakistan; PIDE Working Papers No. 119; Pakistan Institute of Development Economics, Islamabad, 2015

14- <https://www.thenews.com.pk/print/528104-new-provincial-finance-commission-award-notified>

15- Policy Paper on Punjab Provincial Finance Commission (PFC) Award; CPDI; Islamabad; 2019

16- Sindhu, A.S.; Bargain It Just—Domestic Resource Mobilization in Pakistan: Exploring Avenues for Addressing Inequities; HDF and Oxfam; Islamabad; 2019

The Constitution of Pakistan contains strong provisions on National Finance Commission. However, the Provincial Finance Commissions (PFCs) do not enjoy such constitutional backing. They have instead been provided a weak legal cover in respective Provincial Local Government legislations. In actuality, PFCs are left to the whims and wishes of provincial governments. The local governments have only a token representation in PFCs. It is recommended that PFC's must also be structured on pattern of NFC with equal and fair representation of elected representatives of districts. It is also recommended that at district level, District Finance Commissions (DFCs) should be established to ensure an equitable division of resources at local level. The DFCs should also be provided constitutional cover.

Chapter XVIII of PLGA provides details of Punjab Local Government Finance Commission. Section 83(1) mentions that the Provincial Government shall constitute this commission. Section 83(2) highlights that the commission will comprise of following members:

1	Minister in charge of Provincial Finance Department	Chairperson
2	Minister in charge of Provincial Local Government and Community Development Department	Co-chairperson
3	02 member of Provincial Assembly of Punjab nominated by the Chief Minister	Members
4	02 members of Provincial Assembly of Punjab nominated by the Leader of the Opposition in Provincial Assembly	Members
5	Secretary, Finance Department	Secretary of the Commission
6	Secretary, Local Government and Community Development Department	Member
7	Secretary, Planning and Development Department	Member
8	Four experts including one woman, on local governments and local government finance [to be appointed by Provincial Government]	Members
9	Four Heads of local governments to be nominated by the Chief Minister	Members
	Total	17 members

If this composition is looked at critically, following dimensions emerge:

- There is only one direct mention of a woman member i.e. out of four experts or technocrats one (25%) will be a woman. In total women will have only 6% representation. In other words, no decisive voice or representation.
- Unlike National Finance Commission wherein each federating Unit has been given representation, the Local Government Finance Commission has only token or ceremonial

representation of local governments. Even the four local government representatives will be nominees of the Chief Minister. Unlike PLGA 2022 and earlier PLGAs, it is not mentioned that what tier of local governments will be given representation i.e. District Council, Metropolitan Corporation and Union Councils. Further the local government representatives will not have any decisive voice in the commission as they make up less than 1/4th or 23.5% representation in the board;

- Of the 17 members, only 02 or 12% will be from the opposition. This will make the sitting government undue dominance. In the past, local governments formed by those parties that had been in the opposition in the provincial assemblies had to face discrimination on various accounts, the most prominent being the receipt of funds from the provincial government.

- The non-elected members like top provincial bureaucrats (03) and experts (04) will make up 41% of the total membership of the commission, hence getting a substantial influence in decision making.

On account of the Finance Commission; CPDI, Shehersaaz and various other civil society organizations have highlighted that local governments have been fragmented in such a manner that there has been left no single or unanimous voice for a particular district—hence for the rights and demands of its citizens. They even lament that it is the continuation of old colonial policy of 'divide and rule'.

According to 5th Schedule of PLGA 2022, Metropolitan Corporations and District Councils will have 18 avenues for revenue generation while a Union Councils will have only 03 avenues. Section 122 of PLGA 2022 contains six principles for determining transfers to individual local governments and related grants. These principles include:

- a) Fiscal needs of the local government
- b) Equalization payments (keeping in view the comparative poverty and backwardness of the local area);
- c) Fiscal capacity of the local government;
- d) Fiscal effort
- e) Better expenditure management
- f) Quality of public services.

According to Section 75 PLGA 2022, a local government is empowered to transfer fund to another local government and to Community Councils, Panchayats and Community Based Organizations in its local area. Each local government is required to allocate 20% of the development budget for funding matching grants to CBOs i.e. 80% to be provided by the local government concerned and the rest 20% will have to be generated or contributed by the CBO—a formula that was introduced originally in the Local Government Ordinance of 2001. It is appreciable that every local government is required to set aside not less than 20% of the development budget for maintenance and repair of existing infrastructure and provision of earlier initiated services. Every local government is required to allocated at least 2% of its budget for sports and cultural activities. Given the fact that more than 60% population of Pakistan is comprise of youth and culture often remains a highly neglected field, this amount seems highly inadequate. The PLGA however doesn't specify any formula for making the budget gender sensitive nor it mention anything like making the delivery of municipal services gender sensitive. Civil society groups have been advocating for long for making budgets and development gender sensitive.

10. Community Mobilization and Empowerment

Part 5 of PLGA 2022 deals with the subject matter. It introduces and in turn provides legal acceptance or cover to three institutions, namely: Community Councils (CCs), Panchayats and Community Based Organizations (CBOs). While PLGA does give a formula for allocation of budgets to CBOs, it does not set any minimum or maximum limits for funding the activities of Community Councils and Panchayats. The Community Councils are to be established in Urban Union Councils and Panchayats in Rural Union Councils, each comprising 5 members, out of them at least 02 should be women, to be nominated by the respective union council or the Head of the Union Council. This in turn makes them an extension of the Union Councils comprising nominated or selected members. It is feared that communities concerned will have little or no say in selection of members of these institutions which are being termed as 'community institutions'. Section 124 allocated 18 general functions to CCs and Panchayats, adding that these will also assist the concerned Union Council in 06 more areas which in turn are functions of the union councils. These institutions are also required to work for alternative or community based dispute resolution.

Citing past experiences, some critics are of the view that role of Panchayats in dispute resolution and dispense of justice should be seen with caution. Although it is yet to be seen how effective these new institutions will prove to be, the critics wonder that while Union Councils have themselves been poor in terms of human, financial and technical resources; how these new institutions will be able to meaningfully perform the long list of functions that have been assigned to them.

If one prefers to be optimistic, these local institutions offer new window of opportunities for civil society organizations and other development sector stakeholders to engage and capacitate them for development actions, provided they are allowed to function on sustainable basis and provided funds and support as promised in the PLGA.

11. Term of Office and Elections Matters

According to PLGA, the term of office of a local government will be four years commencing from the date of its first meeting. On numerous occasions in past, the elected local government were sent home with simple stroke of pen of the powerful. Likewise, generally provincial governments have been found holding the elections of the local governments in such a manner that they could remain in office when the provincial government had completed its tenure. To counter this strategy, every incoming provincial government, as a first step, sends the elected local governments home. To overcome this tactic, certain civil society sections have recommended that the tenure of the local governments should be extended to five years to make it equal to that of provincial and federal governments. Secondly, the elections for local governments should be held along with those for provincial and federal governments.

As mentioned earlier, the PLGA 2022 has attracted controversies and criticism on account of the election procedures for the local governments. It provides for holding the elections for local governments using Electronic Voting Machines (EVMs). PLGA defines an EVM as “any device that is used by the Election Commission for conduct of free and fair local government elections for voting purposes, other than Ballot Papers whether for voting, counting of votes, transmitting the final

results or recounting of the votes purposes” [Section 2(1)(jj)]. Critics have termed them as 'Election Maneuvering or Manipulation Machines'¹⁷. Talat Hussain, a senior Pakistani journalist, in one of his V-logs aired more than a year ago had interviewed an expert of EVMs Mr. Atif Majeed who had raised many important and logical questions which are summarized below:

- There are three systems for holding elections using Electronic Voting Machines. One of these is called DRE or Direct Recorded Electronic Voting. Almost ten years ago, Election Commission of Pakistan (ECP) had decided to use this system. The EVM that has proudly been shown on the media by the honorable Federal Minister for Science and Technology, is as such not a new machine but the same that was built ten years ago as a demo for ECP.

- There is no truth in the claim that these machines are hack-proof. There is no machine in the world that uses a firmware [a software that provides basic machine instructions that allow the hardware to function and communicate with other software running on a device] that can be made hack-proof.

- Anyone familiar with software technology understands the programs called Self Destructive Routines. These are computer programs that can destroy themselves. If such a program is installed on an EVM it can easily make the tempering untraceable.

- In 2018, European Union Parliamentary Research Services issued a report. According to it, there are 195 member states of United Nations. Of these 167 are Self-describe Democracies. Of these 167 nations, only 08 are using EVMs at different scales. However most of them do not have appreciable democratic credentials. Four of these countries include Namibia, Mongolia, Philippines and Estonia. There are 09 nations who had, at some point in time, employed EVMs, but later abandoned this option. It means there only 4 or 5% democracies in the world that are using EVMs while 95% are resorting to manual voting and counting. There are only 02 countries that are using EVMs on national scale—India and Brazil.

- In India, the first experiment to use an EVM was made back in 1982. In 2002, these were used on national scale. By 2010, Indian Election Commission had maintained a claim that these machines were hacking-proof, temper-proof, do not use any software, do not have any internet connectivity and hence cannot be accessed by any outsider. However, a guy named Hariprasaad from Hyderabad, India—a software engineer and a social activist—contested these claims and requested that Indian Election Commission may grant him or his team access to one of these machines so that he could verify the said claims. However, his request was turned down. Later, with the connivance of some insider, Hariprasaad managed to get access to one of the machines. He appeared on the national media and demonstrated that how using a simple Bluetooth enabled device costing just 10 US\$ can be installed in the machine in less than 10 minutes to hack it. He also showed that this act was so sophisticated that even Election Commission could not detect it.

- If ECP somehow decides to use EVM, for instance, for general elections for National and Provincial Assemblies, it will need 01 million EVMs and this whole venture will cost approximately 01 billion US\$ (at current exchange rate, around 235 billion PKR). Here is the calculation: In 2018, there were established 85,000 polling stations. In 2023 this number will be around 100,000. Hence there will be required 100,000 Voter Identification Units, 200,000 Control Units, 400,000-500,000 Ballot Units and 100,000 Result Transmitting Units. Each of these machines is hackable.

- According to National Database and Registration Authority (NADRA), in each of 272 constituencies of National Assembly, around 18% voters are unverifiable. This translates to around 75,000 unverifiable voters in each constituency.

- According to a recently surfaced scandal, since 2015, around four million Computerize National Identification Cards have been illegally issued.

17- For instance, see Electronic voting machine or electronic rigging machine | Syed Talat Hussain (https://www.youtube.com/watch?v=Zn_sEkovKDo)

- There are various ways to manipulate the EVMs. One, put data of unverifiable voters in these machines. Second, install a Bluetooth enable device in the EVM. Third, install a Self-destructive Routine Program. Fourth, hack the RTS which had allegedly been hacked in 2018's general elections.

- Suppose there are two parties contesting the election—A and B. Party A is expected or has won 120 seats and Party B is expected or has succeeded on 80 seats. However, some powerful quarters want to change this result. For this they have to transfer 40 seats from Party A to Party B. Take the example of 2018 general elections for National Assembly:

- Total Seats: 272
- Total Registered Voters: 105 million
- Total Turnaround: 51.7% i.e. 54.3 million votes were casted
- Total Polling Stations: 85,000

Based upon these figures, issued by ECP, on average, in every constituency:

- Total Voters: 415,000
- Total votes casted: 214,555
- Total Polling Stations: 312
- Average votes casted at each polling station: 688

According to election results, on 30% seats, the margin of victory was less than 10,000 votes. Thus to manipulate results on 40 seats, the manipulators will have to manipulate the results on just 15 polling stations ($688 \times 15 = 10,320$ votes in each of these 40 constituencies as explained below: $40 \text{ seats} \times 15 \text{ polling stations} = 600 \text{ polling stations}$ which make a mere 0.7% of the total 85,000 polling stations. In this way, even if results on 99.3% Polling Stations are transparent and EVMs have worked perfectly alright, party B will be made to beat Party A with a decisive lead. No observe or technical expert will be able to detect such a manipulation.

The manipulation in the results of 0.7% or 600 polling stations can be made even more undetectable by following formula:

- 0.2% votes by manipulating votes of overseas Pakistani voters
- 0.2% by manipulating EVMs
- 0.2% by casting some unverified votes
- 0.1% by manipulating RTS
- Total: 0.7%

No forum, commission, and expert will be able to trace such a manipulation and election results will be declared fully transparent and unquestionable.

- EVMs actually make the election manipulation untraceable.
- Suppose we make use of Threat Modelling—a term used to study the risks attached to electioneering. According to this model, there are two kinds of attacks—Retail and Wholesale. A retail attack is made on manual election process. It can be in shape of attacking individual voters, individual ballot boxes or individual polling stations, say be goons or polling agents. In contrast, a wholesale attack is made on the election process including vote counting, result compilation and result transmission. There are two more concepts—Inside Attack and Outsider Attack. In context of EVMs, an insider attack is one that is made by someone who has either built the software or technology (hardware or software); ECP's staff who enjoy certain privileges or access to the system,

or someone who yields influence on the process—a power abuser. An outsider attack is usually made on the manual process, say by goons or polling agents, but it can also be made on the electronic process by some hackers as was explained in Harprasaad's case study.

- In conclusion, EVMs do not make the system threat proof, but change the nature of threats. These are highly vulnerable to insider and wholesale attacks.

Besides EVMs, the PLGA has also introduced a highly cumbersome election process. Critics have simply termed this system as being mala fide. They believe that this unprecedented system has been designed to favor a certain party. Here are its salient features:

- Election of local governments shall be held on party basis through EVM and I-voting;
- The Head of a local government, Deputy Mayor, or Vice Chairperson, and the Councilors to the reserved seats shall be elected, as joint candidates on basis of simple majority;
- General Councilors shall be elected on closed list proportional representation basis i.e. voters can effectively only vote for political parties as a whole; thus they have no influence on the party-supplied order in which party candidates are elected.¹⁸
- Only a Political Party or an Electoral Group shall be entitled to contest elections;
- No Political Party or an Electoral Group shall be entitled to contest if it is unable to field qualified candidates for all the categories of candidates;
- The entire local area of a local government shall constitute one multi-member electoral unit for elections to the respective local government.
- The head of the Political Party or Electoral group is empowered to make any person to cease to hold his or her office who has won election on its list, if s/he is found to have another political party or electoral group or had voted or abstained from voting in the Council contrary to any direction of the Political Party or Electoral Group in relation to election of the speaker, or vote for removal of the Head, Deputy Mayor, Vice Chairperson or a Speaker.

12. The real power centers: Who will call the shots?

A study of Local Government Acts or Ordinances that are or have been in place, reveals many important trends. One of these is that these legislations are designed in a manner that the provincial government—Executive and the bureaucracy hold decisive powers leaving little space for local governments to function with real authority or enjoy some minimum level of autonomy. PLGA 2022 has retained this trend. In this section we will try to understand where the real powers rests or who will actually call the shots. In doing so we will summarize the powers that have been granted to certain powerful provincial positions or institutions as well as to provincial and local bureaucracy.

To regulate or control the local governments, PLGA provides for the establishment of three powerful institutions including Local Government Finance Commission; Local Government Commission and Local Government Board. We have discussed in detail the Finance Commission in a previous section and have seen how local governments have only a token representation in this powerful commission. The Local Government Commission will have 11 members including: Minister in charge of Local Government and Community Development Department (LG & CDD) as being Chairperson, four members of provincial assembly—two nominated by Chief Minister and two by leader of the opposition, Secretary LG & CDD as being secretary of the board; Secretary Law and Parliamentary Affairs Department; and four expert members including a woman member to be nominated by the Chief Minister. Hence, the local governments will have no representation at all in this Board. The Local Government Board will be comprised of five members including: Secretary LG

18- Wikipedia

& CDD as Chairperson, and representatives of Finance Department, Regulations Wing of Services and General Administration Department, Law Department and an officer of Pakistan Administrative Service or the Provincial Management Service as being secretary of the Board to be appointed by the Chief Minister. The local governments have no representation in this institution too. Besides these institution, the Provincial Government holds strategic powers to influence the existence, functioning, sustainability and authority of the local governments. Similarly, certain individuals have been given various powers to exercise control on the local governments. Some details, in this regard are given below as an example:

The Provincial Government is empowered to:

- Exempt any area from any or all of the provisions of PLGA;
- Increase or decrease the limit of the local areas of Metropolitan Corporations and District Councils;
- Assign any function to a local government which is not included in its powers and functions;
- Establish as many district authorities as it may desire;
- Issue policy directions for local governments, heads of local governments and district authorities to follow;
- Direct CEOs of district authorities;
- Set operational, developmental and fiscal objectives for local governments or heads of local governments, for that matter;
- Assign duties Heads and Chief Officers of local governments;
- Specify limitation for honoraria and allowances of Head, Deputy Mayor, Vice Chairperson, Speaker, Opposition Leader or a Councilors;
- Have special audit of local governments;

The Chief Minister is empowered to:

- Appoint an administrator with powers and authority of a local government;
- Appoint four heads of local governments as members of Local Government Finance Commission;
- Remove any member of the Local Government Finance Commission except Ministers and Secretaries;
- Appoint an agency or officer for collection local taxes and fees etc.;
- Give policy directions and fix objectives for a local government;
- Direct a Chief Officer to provide required information;
- Suspend and reinstate a local government or head of a local government;
- Issue a Show Cause Notice to a head of local government;
- Dissolve a local government;
- Appoint four expert members of Punjab Local Government Commission;
- Remove any member, except the Minister or Secretary, of Punjab Local Government Commission;
- Cause annual audit and special inspection of local governments;
- Remove any elected official of a local government;
- Be the reporting line of Punjab Local Government Commission;
- Amend or replace planning guidelines for the local governments;
- Appoint Secretary of Punjab Local Government Board.

Minister in charge of Punjab Local Government and Community Development Department is empowered to:

- Approve or disapprove the establishment of establishment of one or more municipal units in a local government;
- Be the Co-chairperson of Punjab Local Government Commission;
- Direct a local government to take required measures;
- Approve or disapprove issuance of standing instructions to local governments;
- Withhold transfer of funds to local governments;
- Impose fines on local governments;
- Be the Chairperson of Punjab Local Government Commission;
- Approve or disapprove the notification of bye-laws for the local governments.

Secretary Local Government and Community Development Department is empowered to:

- Establish one or more municipal units in a local government with the approval of Minister in charge of the department;
- Receive a reference made by the Head of a local government against the Deputy Commissioner of Chief Officer concerned and take appropriate action;
- Assign duties to Chief Officers;
- Review budgets approved by a local government and can call for its review;
- In case a local government fails to pass the annual budget; prepare, approve and authenticate the annual budget of that local government;
- Object and suspend a tax, fee, rate, rent, toll or other charges levied by a local government;
- Direct a local government to make public certain information;
- Exercise supervision and general control over the local governments;
- Direct officer of Directorate General Inspections and Monitoring to probe into any matter of the local government or conduct of elected officials, officers and officials of the local governments;
- Issue instructions and directions to local governments;
- Revoke, prohibit, set aside or suspend a resolution or order of a local government;
- Appoint any of his/her subordinate officers to take such actions which a head of local government has failed to take on his/her direction;
- Exercise all powers and authority conferred upon a local government or an officer of the local government;
- Specify the manner in which a local development plan is to be prepared;
- Specify the limits of amounts that local governments are allowed to spend on construction, maintenance, repair or renewing of its existing facilities or amenities;
- Initiate and certify a development plan, if concerned local government has failed to do so;
- Specify planning guidelines;
- Entrust a local government to enforce a law;
- Determine the number of Chief Officers and other officers and servants, a local government is allowed to have;
- Appoint officers of the local governments;
- Specify functional groups within Local Council Service;
- Direct elected officials and non-elected functionaries of a local government to attend a training;

Deputy Commissioner is empowered to:

- Demarcate local areas of Metropolitan Corporations and District Councils mentioning

- therein urban and rural areas and population of each census block as per latest census results;
- Recommend the Provincial Government to declare a rural union council an urban union council and vice versa;
 - Coordinate with and facilitate ECP in the delimitation of local areas and union councils;
 - Be or nominate someone to be the member of Executive Board of a district authority;
 - Be the link between local government concerned and provincial and federal agencies;
 - Advise local governments;
 - Settle disputes among union councils or a union council with other government agencies in the district;
 - Be the principal representative of the Provincial Government in the district.

It is interesting to note that under Punjab Local Government Ordinance of 2001, for the first time in history of Pakistan, the positions of Commissioners, Deputy Commissioners and Assistant Commissioners—a legacy of colonial rule—were abolished. However, in the local government systems introduced by the elected governments that succeeded the military regime of General Musharraf, reintroduced the Commissioner System—a hall mark of powerful District Management Group or DMG and revived the colonial legacy.

13. Accountability, Transparency, Oversight and Responsiveness

It is encouraging to see that PLGA 2022 have provisions for concepts that are make important pillars of good governance i.e. accountability, transparency, oversight and responsiveness. Part 6 of PLGA is dedicated to details in this regard. Some of the salient features include:

- Every local government shall set up a complaint cell for redress of grievances of citizens;
- Every resident is entitled to seek any information which is in the possession of the respective local government;
- Every local government will be required to display important information at a prominent place within the premises of the office of the local government for access by the citizens.

14. Key Policy Asks

It is encouraging to see that PLGA 2022 have provisions for concepts that are make important pillars of good governance i.e. accountability, transparency, oversight and responsiveness. Part 6 of PLGA is dedicated to details in this regard. Some of the salient features include:

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Earlier in this document, it has been mentioned that Local Government Acts or Ordinances, are long documents as they are supposed to provide a comprehensive framework for the establishment, functioning, and even dissolution of the local governments. Given this fact, this document has touched upon only key structural themes and issues of PLGA 2022 which has been taken, as a case study. While highlighting its relevant provisions, a commentary along with some recommendations

has also been given, in a bid to provide sufficient information to the readers.

It has also been mentioned earlier that this document has been developed by keeping in view, primarily, the civil society organizations, concerned citizens, and social and political activists who have an interest in governance, in general, and local governance and local governments, in particular. For their convenience and ready reference, in this section, some 'Key Policy Asks' are being highlighted. This, it is hoped, will help them frame their demands and advocacy agendas for the establishment and functioning of representative, democratic, capacitated, resourceful, innovative, accountable, efficient, and responsive local governments that are gender sensitive as well as are sensitive to the needs and aspiration of all sections of society and places they inhabit in Punjab as well as elsewhere in Pakistan.

Given the volatile and hasty history of local government legislation during past one decade, one cannot be certain about the fate of PLGA 2022. For this reason, the local governments and local government legislations across Pakistan have been treated generally in this section. Thus the recommendations or policy asks deal with strategic themes only and not the specific provisions of the any specific local government legislation—act or ordinance.

- The slogan, promise and dream of democracy and good governance in Pakistan are bound to remain elusive, shallow, empty and meaningless unless representative, resourceful and democratic local governments are established and protected to remain functioning uninterrupted. This is a lesson that economically and politically developed and progressive and democratic nations had learnt and started religiously following, in letter and spirit, long ago.

- The proponents and apologists of 18th Amendment to the Constitution of Pakistan, often argue that this amendment has shut the door to imposition of martial law in Pakistan. This argument has so far proved right as far as direct military takeover is concerned. Unfortunately, the authors of the 18th Amendment, it seems, couldn't foresee and take preemptive measures to also address what has been termed as 'hybrid regime'—a dictatorial regime with a thin veneer or façade of democracy—a situation that has pushed the country into political and economic turmoil during last few years. To meaningfully stop such adventures and misadventures in the future, one of the most meaningful measures is establishment and sustainability of representative and democratic local governments.

- Decentralization and devolution of administrative, financial and fiscal, and political powers are hall marks of federalism. It is high time to rewrite the meaning of 'federation of Pakistan'. If State of Pakistan means the federation of four provinces, let each province and region be a federation of Districts it is composed of. And each district be a federation of tehsils/talukas, and each tehsil/taluk or sub-district be a federation of Union Councils. This is in light of an old principle: The cure for the ills of democracy is more democracy. In the same vein, the cure for the ills of federalism is more federalism.

- If Constitution of Pakistan terms local governments as the third tier of government; then local governments deserve same sanctity and constitutional cover as has been provided to federal and provincial governments. For this, the Constitution of Pakistan needs to be revisited and amended accordingly to contain a full and comprehensive chapter on Local Governments. Such a chapter should unambiguously mention the tenure of the local governments, and define their

administrative, financial and fiscal, and political powers; subjects that they can autonomously deal with and the relationship between local governments and the respective provincial government and legislature. This chapter should also have a clause on pattern of Article 6 that defines 'high treason' against state and determines the punishment for this heinous crime. Frustrating, rendering them dysfunctional, suspending, and sending home the elected local governments, history loudly tells, has been as simple an act for successive provincial governments, as is blinking of one's eyes. This practice must immediately be stopped. Any provincial government found guilty of such an act should be punished for 'treason against the citizens'.

- Local governments are too important to be left at the mercy and whims and wishes of provincial governments and treasury in provincial legislature. Time and again, provincial governments and treasuries have proved their unwillingness to let local governments breath and function. The mockingly recurrent efforts by the provincial governments to amend, repeal and bring in place local government legislations are testimony to this sad fact. This practice must end. One measure towards this end, should be putting some effective restrictions on amending or repealing the incumbent or bringing in place new local government legislations. Here are some options: 1) No amendment, repealing or introduction of new legislation should be allowable through ordinances; 2) Two third majority in the provincial legislature should be required for amending or repealing an existing or introducing a new legislation on local governments; 3) Any proposed amendment to existing legislation or a proposal to bring in a new legislation should be made open for public debate and discussion, at least for 90 days. Every proposal that is thus received and every concern that is raised should be documented and put before the provincial legislature for debate.

- It is time to burry for good the gender discrimination whether it is blatantly manifest, or latent especially when it is disguised in the garb of 'gender equity'. For instance, who has determined that 33% representation of women is 'gender equity'? When girls and women make up half of country's population, they should have 50% share in every sphere. This principal leads to the attainment of goal of 'gender equality' and equal gender parity. Many countries are striving towards this end while some have achieved this historical landmark. This should also apply to local governments. There are practical measures that can be taken and many examples that can be given in this regard.

- 'Elite Capture' has become a menace for Pakistani politics and governance. It has reduced democracy to the 'den and dung of the power abusers and maneuverers, the wealthy and the influential' while reducing the role of citizens—especially the poor, powerless, dispossessed and destitute to blind spectators and voiceless victims but vociferous sloganeers. It is time to make the question of class as one of the central themes in composition of the local governments, to begin with. The local governments, being closest to citizens, should comprise of all classes of citizens. For this the regime of 'reserved seats' and 'nominated persons' should be abolished. This regime has proved to be a sophisticated tool employed for elite capture and entrenchment of elite's interests.

- Zia—the most notorious and shrewdest dictator, Pakistan has so far suffered from; had introduced the idea of development funds for senators and members of national and provincial assemblies to woo their allegiance, and to first ignite and then exploit their greed. Resultantly legislators were systematically turned into contractors and politics was reduced to what is called Galli Naali ki Siyasat i.e. the politics that revolves around construction of streets and sewers only. This led to coming in power of Prime Ministers and Chief Ministers whose vision and thinking shrank

to the level of a mayor and councilors of a small town. Thenceforth provincial governments and legislature began to see and take local governments as competitors and foes. This malicious move, is the primary reason for volatility of local governments. To break this spell of the dictator and give the politics its sanctity back; the legislators should be reduced to the business of legislation and strategic thinking while leaving the decisions of development of municipal infrastructure and provision of municipal services to the local governments.

- Ayub—the great grandfather of Pakistani dictators; had reinforced and reenergized the colonial era's 'burden of bureaucracy' while giving unparalleled powers to military personnel in political affairs. Musharaf—the latest in the series of Pakistani dictators had given death to the 'Demon of DMG' by abolishing the Commissioner System. In his local government system, he abolished the tier of Divisions and with it the institution of Commissioner. Resultantly the institution of Deputy Commissioner and Assistant Commissioner also came to an end. But sadly, the democrats revived the Commissioner system. DMG regained space it had temporarily lost to the local elected representatives. So called democratic provincial governments found it too challenging to deal and negotiate with local elected representatives democratically when it was so easy to deal the matters administratively through Secretaries, Commissioners, Deputy Commissioners and Assistant Commissioners. Given its mastery of maneuvering the matters through the magic of tactfully placed but meaningless words, bureaucracy retained the real power in its hand while making local elected representatives the ones who are chosen by the people so that they could at least have ease to blame someone. Under point 11 above, this has been shown. This situation must be addressed and reversed.

- The Constitution provides for giving administrative, financial and political 'authority' to local governments but does not provides for their 'autonomy' in these areas. Some advocates of 'provincial autonomy' opine that without giving autonomy to local governments the agenda of provincial autonomy will remain incomplete. When there are many autonomous government institutions, why there can't be autonomous local governments? The autonomy of local governments is mainly ensured through their financial and fiscal autonomy. This entails the power of local governments to raise their own revenues to fund their administrative and development expenditures. Since this means the surrendering of some of the most lucrative revenue collection avenues by the federal and provincial governments to the local governments; the 'autonomy' of local governments has not been allowed. This situation must be addressed.

- One of the most praiseworthy actions under the 18th Amendment for the provincial autonomy was the abolition of concurrent list. Such an action should be extended by clearly demarcating the subjects that can be dealt separately by provincial and local governments.

- The National Finance Commission Award has a constitutional cover and gives a somewhat equitable formula for division of fiscal resources between federal and provincial governments. The Provincial Finance Commission Award, in contrast, is devoid of this privilege. The PFC Award deserves same treatment. Likewise, there should be District Finance Commission Awards and even Tehsil/Taluka Finance Commission Award so that fiscal resources could reach where they are needed the most.


- The elections for local governments should be held along with the elections for national and provincial assemblies. Likewise, the tenure of local governments should be equal to the tenure of national and provincial assemblies/governments.

- Democracy discourages the concentration of power. In case of local governments, the power of individuals should be transferred to institutions where local governments should have an equitable and decisive representation.
- The hierarchy of 'Division' should be abolished and let District be a federating unit in the province. There must be constitutional bar on breaking or redefining the limits of districts to satisfy some narrow and vested interests of provincial governments.
- The 18th amendment had acknowledged the right of the provinces on their natural resources and financial proceeds from these. This principle should be extended to acknowledging the right of districts on their natural resources and they should be getting the lion's share from these.
- It is time to say goodbye to the so called 'rural-urban' divide in composition of local governments. Let there be a single central local government for the whole district with an elected head who could be empowered to represent the interests of his/her district in institutions like Finance Commission, Local Government Commission and Local Government Board. These institutions should also be made gender equal.
- To capacitate citizens to oversee the working of local governments and to make them accountable, the first step is transparency and ease of accessing information. In this age of information, it should be made mandatory for every local government to have an official website. There should be a uniform template so that important information especially budgets, development spending, complaints and status of their redress could be made accessible to citizens.




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