Local Governments in Khyber Pakhtunkhwa and Punjab

Framework, Current Status, and Challenges
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Executive Summary

After the enactment of provincial local government acts in the four provinces, local elections were held across the country. The scope and scale of decentralisation varied, and each province followed its own electoral timeframe.

Local elections were held in Khyber Pakhtunkhwa (KP) on May 30, 2015, leading to the formation of district governments and the transfer of substantial powers to local tiers of government. Complying with the provincial act, local governments in KP work within the provincial framework and have a four-year term. Headed chiefly by the district nazim, they operate at three different tiers: district council, tehsil council, and for the first time, village and neighbourhood councils. Many functions have been transferred to local governments, including primary and secondary health, social and population welfare, sports and tourism, rural development, district roads, and water supply and sanitation. The local government system of KP has several strengths. The scale of decentralisation is considerable, and elections on party-basis have helped to strengthen democratic. Channeling at least 30% of the provincial development budget through local governments also marks a significant positive shift. However, the system also faces quite a few challenges. Political friction undermines the work of local governments in some areas, while monitoring and audits at the lowest levels are difficult. Other challenges include capacity constraints, lack of community participation, and negligible reliance on domestic resource mobilisation.

While Punjab completed the third and last phase of local government elections on December 5, 2015, local governments have not yet been formed in the province. The provincial local government act enunciates placing the local governments under the provincial framework and respecting the executive authority of the government. The functions of local governments mainly include managing public infrastructure, mobilising the community, ensuring water management, organising recreational activities, supporting relief measures, executing development work, and overseeing land-use and land development. District education and health authorities will manage health and education sectors, which are to be headed by government-appointed technocrats, while the Punjab Finance Commission (PFC) will decide and settle financial matters pertaining to local governments. However, the PFC is also yet to be constituted. A critical analysis of the basic components of the current local governance architecture highlights certain areas of concern, including lack of independence and autonomy, limited scope of devolution, restrained distribution of powers and functions, and bleak sustainability prospects.
Local Governments in Khyber Pakhtunkhwa and Punjab: Framework, Current Status and Challenges

Section 1: The Local Government System in Khyber Pakhtunkhwa

Introduction

Local elections in Khyber Pakhtunkhwa (KP), under the Khyber Pakhtunkhwa Local Government Act 2013, were held on May 30, 2015. This led to the formation of district governments across the province and the transfer of substantial powers from the provincial to local tiers of government. The current local government system in KP is known for being comprehensive in terms of distribution of powers and extending franchise to the people at the grassroots level. The functional jurisdictions of the councils are broad, and accountability mechanisms allow representatives to monitor outcomes. Significant financial transfers are also being made to the districts. The development budget for local governments alone is Rs. 33.9 billion, which is 30% of the provincial Annual Development Programme. The devolved mechanism is also said to be enjoying political ownership at the provincial level, as the government appears to show commitment to strengthening the councils.

Despite these hallmarks and strengths, the functioning of local governments is facing certain challenges. Monitoring and audits at the neighbourhood level are becoming difficult, and political friction in some cases between districts and the provincial government is hampering the pace of progress. Capacity constraints are also characterising policy development and execution, as competencies for planning and other roles are lacking on the part of both representatives and officials. Domestic resource mobilisation is another area that has not received adequate attention, and functions like local tax generation remain underdeveloped. It is argued that all the major stakeholders should build on the strengths of the current local government system and identify ways to overcome these challenges. Some of the measures to improve the system may include enhancing coordination, increasing community involvement, focusing on monitoring and periodic reviews, building capacities, and stimulating domestic resource mobilisation. These strengths, challenges, and recommendations are elaborated on in the following sections.
Elections under Khyber Pakhtunkhwa Local Government Act 2013

The 18th amendment to the constitution of Pakistan, introduced on April 8, 2010, retained Article 140-A and accorded constitutional protection to local governments. It further added a new clause to Article 140, making it a responsibility of the Election Commission of Pakistan to hold elections for local governments. These clauses read as follows:

1. Each province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments.

2. Election to the local governments shall be held by the Election Commission of Pakistan.

Provincial governments, guided by the constitutional amendment, were moved to draft and enact provincial local government acts of their own. The provincial assembly of KP passed the Khyber Pakhtunkhwa Local Government Act 2013 (KP LG Act 2013) on October 31, 2013 to fulfill the constitutional obligation. It maintained that local governments should work within the provincial framework, while a four-year term for local councils was also set out.

Local elections were held in Khyber Pakhtunkhwa under the KP LG Act on May 30, 2015. It was after a span of six years that local governments in the province were being formed. The provincial government followed up on the election outcomes and on June 15, 2015, issued guidelines and terms of reference for transition and succession of local governments. On November 3, 2015, ‘Rules of Business’ for three tiers of local governance were also issued by the Local Government, Elections and Rural Development Department (LGE&RD). For the first year (2015-2106), funds were allocated and transferred to the local governments through an interim arrangement, while in May 2016, the Provincial Finance Commission (PFC) announced its first award for the year 2016-17.

Local Governments in Khyber Pakhtunkhwa: Structure, Functions and Powers

The local governments in the province were formed at three different tiers in the following structure:

a) City District Government for District Peshawar

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2 Details on the website of the Finance Department, Government of Khyber Pakhtunkhwa: http://www.financekpp.gov.pk/
b) District Government for a district other than Peshawar  
c) Tehsil Municipal Administration for a *tehsil*  
d) Town Municipal Administration for a town in the city district  
e) Village Council for a village in the rural areas  
f) Neighbourhood Council for a neighbourhood in areas with urban characteristics  

**Composition of District Government**

Each district is supposed to have a district government consisting of a district council and district administration made up of the devolved offices. There are 24 devolved offices in all, which are mentioned in Part-A of the First Schedule of the KP LG 2013. Some of the key offices include primary, secondary, vocational and special education, mother and child care health centers, basic health units and rural health centers, social welfare, community development, sports and culture, revenue and estate, agriculture, communication and works, district roads and buildings, and population welfare.

**District Council**

A *nazim* heads the district council, and the executive authority of the district government is vested in him or her. In addition to general seats, a district council consists of seats reserved for women, peasants and workers, youth, and non-Muslims. The number of general seats in a district is determined by the number of Union Councils (UCs), which varies from district to district. This means that each district has its own numerical strength of general members. For example, there are 92 general members in Peshawar and 32 in Kohat. Seats for women are 33% of the general seats, whereas peasants and workers, youth, and non-Muslims each have 5% of the general seats. The members of the district council elect the *nazim* and *naib nazim*. The council enjoys considerable powers and is empowered to approve local taxes, devise development plans, ensure intra-district financial transfers, and elect and run a range of committees on different matters pertaining to the functioning of the district government. The city district council can even approve master plans and review implementation of rules governing land use, tax, infrastructure and housing, among others.
**Tehsil Council**

Each *tehsil* is to have a Tehsil Council consisting of general seats, seats reserved for women, peasants and workers, youth, and non-Muslims. The criteria guiding the number of seats in each *tehsil* is same as that of a district. The number of general seats in a district is determined by the number of UCs, seats for women are 33% of the general seats, and peasants and workers, youth, and non-Muslims each have 5% of the general seats. The executive authority of the Tehsil Council is vested in the *tehsil nazim*, and the members of the council elect the *nazim* and *naib nazim*.

A Tehsil Council is empowered to approve taxes, penalties and bye-laws for the delivery of municipal services proposed by the *tehsil nazim*. It is also mandated to approve development plans and annual budgets for the *tehsil* municipal administration. The council can also elect a variety of committees on matters pertaining to the *tehsil* administration.

**Village Council and Neighbourhood Council**

The neighbourhood and village councils are the latest addition to the provincial governance structure, and 3501 such councils in 24 districts have been established. This has expanded the size and outreach of the lowest tier. The Assistant Director Local Government is responsible for monitoring these councils. Each village and neighbourhood council shall comprise ten to fifteen members. Five to ten members, on the basis of population, are to be elected to general seats, while two seats will be reserved for women, one for peasants and workers, one for youth, and one for non-Muslims. The executive authority of the village and neighbourhood councils is vested in the office of the *nazim*. The candidates securing highest and second highest number of votes in the election to the general seats of the village or neighbourhood council become the *nazim* and *naib nazim* of the respective council.

There are numerous functions accorded to these councils. They can monitor and supervise the performance of functionaries of all government offices located in that area of the particular council. These offices include education, health, agriculture, livestock, police, and revenue. These village and neighbourhood councils are also mandated to register births, deaths and marriages, and assist in out-of-court settlements of disputes. Their other functions include implementing and monitoring village level development works, improving water...
management, maintaining village level infrastructure and collective property, identifying the development needs of the area, and organising sporting events and cultural and recreational activities.

**Functional jurisdiction**

The district governments are mainly responsible for the following functions and offices:

- Primary and secondary health, including BHUs, RHCs and other health facilities in the district
- Social and population welfare
- Sports, tourism and culture
- Agriculture except those specified for provincial government
- OFWM, soil conservation, livestock and veterinary dispensaries
- Rural development and rural works;
- District roads and buildings
- Funeral places
- Solarisation
- Village electrification
- Flood protection
- Water supply and sanitation
- Special initiatives and programs

**Powers and Functions of the Nazim and Naib Nazim**

The *nazim* is the executive authority of the district. He or she is also the approving authority for expenditure within the prescribed sphere of responsibilities. According to Section 14 of the provincial act, a *nazim* can issue executive orders to the departments devolved to district governments. Section 16 further states that the *nazim* can take disciplinary action against functionaries of district government.

The *naib nazim*, being the *nazim*’s deputy, can preside over council meeting as and when convened by the *nazim*. It is his or her responsibility to preserve decorum and decide all points of order, in addition to supervising
the elections of the standing and other committees of the council and acting as the nazim in case of situations warranted by the local government act.

**District administration**

The district administration comprises the district offices headed by district officers and coordinated by the Deputy Commissioner (DC).

*Deputy Commissioner*

The Deputy Commissioner acts as the ‘coordinating head’ of the secretariat to facilitate the routine working of the district government. He or she is also to supervise evidence-based planning, exercise control over programs and activities of the district administration, and coordinate flow of information. Performing as Principal Accounting Officer of the district government, assisting the nazim in his functions, and preparing periodic reports, are also to be among the responsibilities of the DC.

The district government is to dispatch its references on different matters via the office of the DC. And the DC is required to release the budget for the district government within three working days of receiving the funds from the provincial government.

**Provincial Finance Commission**

Fiscal transfers will take place through the Provincial Finance Commission (PFC), a statutory body established under Section 51 of the KP Local Government Act 2013. The PFC is responsible for announcing annual financial awards ‘to provide a transparent, formula-based equitable and predictable inter-governmental revenue-sharing system’, allowing local governments to improve service delivery and the ‘general well-being of the people’. The Minister of Finance is its chairperson. Other members include the Minister for Local Government, Election and Rural Development, two members of the provincial assembly, Secretary Finance, Secretary Planning and Development, Secretary Local Government, Secretary Government, Law, Parliamentary Affairs, two District Council nazimeen, and two Tehsil Council nazimeen.

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6 “Provincial Finance Commission Award, 2016-17,” Government of Khyber Pakhtunkhwa, Finance Department.
The PFC makes recommendations to the government regarding resource distribution, and distributes provincial allocable amounts amongst the local governments. It also distributes the amount received by the government in lieu of octroi and zila tax. Quarterly installments are made to local governments.

Local Government Commission

The Local Government Commission has been constituted to further lend support to the coherent functioning of local governments. It is headed by the Minister Local Government, Elections and Rural Development. And its members include two members of the provincial assembly, two technocrats, Secretary Government, Law, Parliamentary Affairs and Human rights, and Secretary Government, Local Government, Elections and Rural Development Department.7

The commission is empowered to conduct annual and special inspections of local governments as well as to undertake social and special audits of any local government. It also has the mandate to resolve disputes between government departments and local governments or between local governments.

Audit and Accountability

The KP Act and its associated rules of business seek to ensure accountability and transparency through a number of ways. For instance, there will be a pre-audit by the Local Fund Audit, which will be complemented with a post-audit by the Auditor General of Pakistan. The KP Local Government Commission will undertake annual and special inspections as well. There could also be a special audit at the direction of the government and the Commission. The Public Accounts Committee of the provincial assembly will consider the audit report. Furthermore, citizens’ right to information, already legally provided in the province, will also be utilised to strengthen accountability and improve performance.

Development Plans

The current devolved set up puts considerable emphasis on planning. Each district government is expected to develop a medium term district development plan, outlining the development priorities of the district for the duration of the local government. The needs and priorities highlighted in district and tehsil development plans

should be reflected in the annual development plans prepared by the district and tehsil governments of the respective district.

The district line departments, part of the devolved set up, should conduct a detailed needs assessment of each individual sector to be able to provide evidence for plans towards development. A consultative process is also suggested in the rules concerning the local governments. It is the responsibility of the District Planning and Development Department to hold multi-stakeholder consultations to identify the needs of the community. These consultations should be conducted with communities, civil society organisations, and representatives of the district, tehsil, and village and neighbourhood councils. Women and girls, and marginalised and vulnerable groups such as minorities, people with disabilities and senior citizens should be given due attention while assessing the needs of the community.

The provincial government, in order to align resources and harmonise responses, has defined priority sectors, which are to be featured in the annual district plan. These include education, roads, health, water supply and sewerage, agriculture, women development, youth, sports, and other areas that the government may decide on at its discretion.

Local Government Finance

Local funds and public accounts

The Act provides for the creation of funds at all levels of local government including the district, tehsil and neighbourhood levels. These funds will consist of revenues received by the respective local government from different sources. A local government, if required by the provincial government, can also establish and maintain a separate fund for any special purpose. Revenue can be classified into three categories: tax revenue, non-tax revenue and capital receipts.

Budget preparation

The annual budget preparation exercise by each local government must carry estimates of different revenue sources and future expenses. To this effect, the annual budget should take into account grants-in-aid from the government, amounts available in the respective fund, receipts for the next year, and expenditures to be

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incurred for the next year. It falls to the nazim to present the budget for approval to the respective local council before the commencement of the next financial year. The local council can pass the budget by simple majority.

The District Accounts Officer will be responsible for maintaining the accounts of each district government. Local governments are required to make public annual accounts for better accountability outcomes. The audit report, once prepared, should be presented to the local council, which will further refer it to its accounts committee for examination. The Auditor General of Pakistan is chiefly responsible for auditing the accounts of the district governments.

**Provincial Finance Commission Award 2016-17**

Constituted on October 15, 2015, the PFC oversaw the announcement of the Provincial Finance Commission Award 2016-17. The award consists of the Provincial Allocable Amount (PAA), earmarked for transfers to local governments. The allocable amount comprises the monies declared for distribution among local governments in accordance with the Local Government Act. It is important to mention here that the PAA is 60% of the provincial divisible pool, whereas 40% of the pool will consist of the Provincial Retained Amount.

The Provincial Allocable Amount is transferred to the local governments under four broad heads: (i) Salary, (ii) Non-salary, (iii) Development, and (iv) Grants to local councils.

Criteria have also been devised to distribute district development shares out of the Provincial Allocable Amount. Financial transfers for development expenditures will take place under the following formula:

i) Population 50%
ii) Poverty 25%
iii) Lag in infrastructure 20%
iv) Revenue base 05%

One unique feature of the Khyber Pakhtunkhwa Local Government Act 2013 is its emphasis on channeling a significant bulk of the development budget through local governments. Section 53 of the Act states that the development grant to local governments shall not be less than 30% of the total development budget of the province in a given year. The total provincial annual development budget, under the Annual Development

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Programme, for fiscal year 2016-17 is Rs. 125 billion. Out of this Rs. 12.2 billion is a loan that does not fall under Section 53. An amount of Rs. 18.7 billion out of Rs. 125 billion will be subject to actual materialisation of resources. Therefore, the amount allocated for the district annual development programme by the provincial government is Rs. 33.9 billion. Of this, Rs. 28.815 billion will be transferred to local governments as district development grant for the said year, while Rs. 5.085 billion will be distributed subject to actual materialisation of the resources transferred.

The tier-wise breakdown of development transfers is as under:

<table>
<thead>
<tr>
<th>Provision for</th>
<th>B.Es 2016-17</th>
<th>Transferrable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Districts</td>
<td>10.400</td>
<td>8.840</td>
</tr>
<tr>
<td>Tehsils (TMAs)</td>
<td>10.400</td>
<td>8.840</td>
</tr>
<tr>
<td>Village Councils/Neighbourhood Councils</td>
<td>13.100</td>
<td>11.135</td>
</tr>
<tr>
<td>Total</td>
<td>33.900</td>
<td>28.815</td>
</tr>
</tbody>
</table>

Source: PFC Award 2016-17

The value of the Provincial Allocable Amount, out of the divisible pool, for the district governments is Rs. 168,640.518 million. The breakdown of this amount against the four major heads is as under:

<table>
<thead>
<tr>
<th>Head</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary</td>
<td>112,584.605</td>
</tr>
<tr>
<td>Non-salary</td>
<td>17,440.064</td>
</tr>
<tr>
<td>Development</td>
<td>33,900.000</td>
</tr>
<tr>
<td>Grant to local councils</td>
<td>4,715.849</td>
</tr>
</tbody>
</table>

Source: PFC Award 2016-17

The KP Local Government Financial Transfer Rules 2016 call for setting up an integrated inter-governmental database, capturing data on revenues, expenditures and transfers to local governments. However, this database has not been developed yet.

Additionally, the Finance Commission shall present a report on the finances for the local governments to the provincial government annually.
Local Government System in Khyber Pakhtunkhwa: Strengths and Challenges

The present local government set up in the province is a departure from practices in local governance in the past, and sets out to devolve considerable powers to representatives at the local level. The scope of decentralisation is fairly comprehensive and a significant bulk of the provincial development budget is being utilised through local governments. Here it is important to have a look at both the strengths of the present system and the challenges it currently faces. The analysis presented below is based upon interviews conducted with key government officials, subject specialists, and the community in general.

Strengths

The KP Local Government Act 2013 appears to have brought numerous benefits for grassroots communities. It is said to be technically sophisticated and offers to considerably empower public representatives at the bottom tiers of governance. An overview of some of its strengths validates this opinion.

Comprehensive decentralisation

The Local Government Act 2013 is considered by many to be fairly elaborate and comprehensive. At least theoretically, it has a detailed checks and balances system and seeks to promote accountability through various consultative and democratic means. Arguably, one of its fundamental strengths is the extension of franchise to the village and neighbourhood level, which is a pioneering step in grassroots empowerment. These councils enjoy considerable powers and can also hold the officials of various district line departments accountable. An amount of Rs. 13.1 billion, earmarked as development fund for neighbourhood and village councils, is significant and can help fill service gaps if utilised properly.

Political ownership

Officials and office bearers associated with local governments in the province are of the opinion that the current set up in KP has been enjoying sufficient political ownership and the government has been willing to extend support to the actors at different tiers of local governance. This augurs well for the future of decentralised governance in the province and also builds trust between the provincial and local governments.

Development budget

Channeling at least 30% of the provincial development budget through local governments marks a significant shift in government’s priorities vis-à-vis local governance. As we saw above, an amount of Rs. 33.9 billion out of the provincial development budget has been allocated for the annual district program. This is substantial compared to what local governments in the past had received from provincial governments. In the 5th PFC Award 2008-2011, for example, the value of the entire provincial allocable amount was Rs. 32.248 billion, which was further broken up into different heads. This increase in the development budget can serve as an opportunity to fulfill the development needs of the community in general.

Elections on party-basis

For the first time in the history of the province, local elections were held on party basis. The level of participation from all the major political parties was intense, and the electorate showed interest in the process. This has certainly helped to strengthen democratic practices in the province and enriched the political culture. It is expected that the increased involvement of political parties in planning and development and decisions regarding service delivery priorities will allow them to become more familiar with public policy and its execution, and make their politics more responsive and representative.

Challenges

Despite the strengths that the current local government in KP enjoys, it has to face numerous challenges. Identifying these challenges and deliberating on ways to overcome them will help smooth out the bumps in implementation and make the system more effective and responsive.

Monitoring and audit at the Village and Neighbourhood Council Level

Village and neighbourhood councils have broadened governance franchise at the local level. However, facilitating and monitoring the functioning of these councils is a challenging task. Interviews with officials highlighted the problems faced by the government in the domain of monitoring outcomes and activities at this tier. It was also noted that it is becoming increasingly difficulty to audit these councils owing to their huge number and distribution across a vast area.

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Political friction

In certain areas, political friction is also undermining the functioning of local governments. Since the elections were held on party basis, districts with governments representing opposition parties in some instances have appeared to lock horns with the provincial government over identifying development schemes and distribution of powers. This is hampering the pace of progress and shifting the focus away from service delivery and improved governance.

Increased rate of litigation

Devolving powers is one thing, but restoring the community’s faith in the system is another matter altogether. Any initiative that seeks to empower people democratically must be able to elicit their involvement as well. It was confirmed by the local government department that the rate of litigation regarding matters concerning the functioning of local governments across the province has increased dramatically. More people than before are challenging the decisions being made at the local level or about affairs at that level. This partly suggests that people’s trust in public authority appears to be eroding to some extent, and they are increasingly resorting to litigation. However, a positive interpretation of this phenomenon could also be that the level of trust in public institutions has increased and that people are exceedingly responding to policies and outcomes.

Capacity issues

Where there is willingness on the part of the government to enable local governments to function effectively, capacity constraints appear to characterise the current system. The local government system is comprehensive and involves multiple actors. General and specific competencies are required to perform these multidimensional roles, and actors from the provincial government through district governments to local councils seem to be struggling to fully realise the rules enshrined in the Local Government Act and rules books. This lack of capacities is also affecting budgeting and the development of plans at the district level.

Lack of planning

There has not been much focus on planning as a component of service delivery and local government mechanisms. Without sound plans, the needs of the community are not being sufficiently fulfilled and there seem to be gaps between provision of services and actual needs. Local government representatives, especially in far
flung and rural districts, are generally not giving priority to evolving development plans and are content with going about service delivery arbitrarily. This is in contravention with the rules governing the functioning of local governments that explicitly place focus on developing plans.

**Lack of community participation**

Commentators on governance believe that while the current local government system devolves powers to actors at the local level and makes substantial financial transfers, it has not been able to generate community participation to a considerable extent. Roles have been devised, councils put in place, and services are being delivered, but the community at large has not been actively participating in local governance. This lack of participation, critics contend, has is not allowing the system to realise its true potential to promote democratic governance.

**High-level meetings**

Both the Provincial Finance Commission and the Local Government Commission are central to the effective and sustained functioning of local governments in KP. The increased interest of members of these commissions is essential for providing impetus for enhanced service delivery at the local level. Sadly, these commissions have not been meeting regularly to periodically deliberate on issues related to local governance, community needs, monitoring and planning. If the frequency of their meetings is increased, it will go a long way to strengthen the local government system in the province.

**Domestic resource mobilization**

Innovative financing is fundamental to achieving desirable outcomes in the face of resource constraints. Local governments around the world are being empowered to generate resources using innovative ways. However, local resource mobilisation is an area that has not been receiving much attention in the current system. The elected local governments should look to explore ways to generate and mobilise resources locally, building on the rules that empower them to levy local taxes or undertake a range of ventures.

**Emphasis on needs assessment**

Assessing needs at the local level is important for evolving responses that genuinely correspond to the needs of a range of groups in a community. Needs assessment as a practice is considerably missing from the
functioning of local governments. If efforts are made to systematically and periodically identify needs, it would enhance the quality of service and increase a sense of ownership among different stakeholders at the grassroots.

The Way-Forward

The analysis above examines both strengths and challenges, and enables us to brainstorm ideas to further develop the system and address the challenges it faces. Some of the ways to improve the current devolved mechanism and achieve critical outcomes are discussed below.

*Enhancing coordination and developing a consensus*

Improved coordination is crucial for setting priorities and mobilising responses. The government should ensure that there is increased coordination and contact between the provincial government and district governments, including the departments under the devolved set up. There should be a systematic mechanism through which different stakeholders engage with each other to share information and clarify assumptions.

To avoid political friction, it is important that there is broad consensus among all the major stakeholders on the development priorities of the province. The government should hold consultative sessions with the nazimeen from across the province to develop trust and elicit their views on development and broader governance needs of their respective regions. Now that the Sustainable Development Goals have been introduced and provinces identified as units mainly responsible for their implementation, both provincial and district governments should work together to achieve the development goals in the province by improving key social indicators.

*Enhancing community participation*

A low level of community participation poses serious challenges to the effectiveness and responsiveness of the local government system. It is only through increased citizen involvement that democratic gains of decentralisation are substantively ensured. One way to enhance community participation is to launch media campaigns centered on raising awareness of the present local government system and encouraging people to actively participate in it. A full-blown communications strategy is required to attract people to the local governments. This will ensure the sustainability of the current government regime and add vigour to it.
Periodic reviews and enhanced monitoring

In addition to constant support from a range of stakeholders, local governments require monitoring inputs to review the processes and improve outcomes. Manuals on local planning and development in KP stress the importance of participatory monitoring and urge the officials and representatives to monitor and evaluate activities through participatory means. However, this is missing in practice. A robust monitoring system is required to enable the system to operate smoothly, with outcomes reviewed and evaluated periodically. Such a system should also ensure that information is collected systematically and continuously and that it is reviewed regularly to improve any further decisions.

Capacity development

To match the comprehensiveness of the present local government system, it is important that both officials and representatives possess the competencies required to perform their respective tasks. A detailed capacity development plan should be developed focusing on strengthening the capacities of a range of actors in governance. Such a plan should be based on extensive needs assessment, identifying and highlighting the varied training and capacity needs of the implementers, representatives and catalysts at various levels. It should be ensured that capacity development particularly focuses on key areas like planning, coordination and financial management.

Domestic resource mobilisation

Local governments cannot totally depend on block grants from the province. In order to fully and strongly respond to local problems, they will have to raise resources domestically. Constitutionally, these governments are empowered to devise and approve local taxes, but this function remains underdeveloped. The provincial government should undertake efforts to facilitate domestic resource mobilisation by providing technical assistance to the districts and building their capacities. The local governments on their part should increasingly focus on local revenue generation through taxes and innovative financing. Generating funds locally will make the local regimes more representative, and there will develop a sense of ownership among both district representatives and the community.
Part II: The Local Government System in Punjab

Introduction

Under the Punjab Local Government Act 2013, local government elections in Punjab were held in three phases, the last of which occurred on December 5, 2015. However, local governments have not yet been fully formed in the province. Slow response on the part of the executive, and litigation over legislative amendments introduced by the government concerning indirect elections for reserved seats, seem to be at the heart of this inordinate delay. The government has recently decided to form the local governments by January 1, 2017. Even then, they will work under a strict provincial framework and evince ‘faithfulness’ to the provincial government.

Under the new devolved set up, local governments will assume, albeit with increased controls and checks, various administrative and financial powers to help deliver a range of services. The Punjab Finance Commission Award has not yet been announced and one cannot know under what financial formula funds will be distributed to the districts and what shape the functioning of local governments will take. However, a critical examination of the framework guiding the work of local councils suggests a number of issues will characterise the implementation of the system. Several provisions in the Punjab Act ensure that the powers of local governments are inherently limited and they operate as subordinate units. And careful analysis reveals that powers and attendant functions of local units are not substantive and comprehensive. Key social sector areas like health and education will remain under the government’s control and will be headed by Chief Executives appointed by the government. Also, the local governments do not have existential protections and their sustainability prospects are weak. The government can dissolve them before general or provincial elections simply by notification in the official gazette. Despite these handicaps, it is hoped that local governance takes root and becomes an inseparable component of Punjab’s governance architecture.

Local Governments in Punjab: Structure, functions and powers

The Punjab Local Government Act 2013 enunciates placing local governments under the provincial framework and respecting the executive authority of the government. Section 4 of the Act not only establishes the authority of the provincial government, it also demands faithfulness from local units. Thus, it notes:

1. The local governments established under this Act shall function within the Provincial framework and shall faithfully observe the Federal and Provincial laws.
2. In the performance of their functions, the local governments shall not impede or prejudice the exercise of the executive authority of the government.

**Constitution of Local Governments**

Each district will have its own distinct local body. In Lahore, it will be called the Metropolitan Corporation, whereas in districts with largely rural features, it will be referred to as District Council. The government may notify the Municipal Corporation for integrated urban areas where the population is over 500,000.

Local governments shall consist of directly or indirectly elected members, potentially bearing the titles of Mayor, Deputy Mayor, Chairman and Vice Chairman, as mentioned in the First Schedule.

A Union Council (UC) is the smallest unit with local funds and accounts, and its members are elected directly. In rural areas, a UC will be called Village Council, whereas in urban areas it will referred to as City Council. A UC consists of the directly elected Chairman and Vice Chairman as joint candidates, and six general members, one from each ward of the UC. It also has elected members on reserved seats. They include: (a) two women members, (b) one peasant member in a rural UC or one worker member in an urban UC, (c) one youth member, and (d) one non-Muslim member.

Even though the first phase of the Local Bodies elections in Punjab was held on October 31, 2015, and the third and final phase on December 5, 2015, elections for the reserved seats of the municipal committees and UCs took place as late as November 17 and November 19 respectively. Elections for the seats of Chairmen, Vice Chairmen, Mayors and Deputy Mayors were held on December 22, 2016.

The government plans to provide support to the UCs for undertaking arrangements to start functioning as devolved units. In this regard, a sum of Rs. 500,000, as a one-time transition grant, has already been transferred to each UC.

**District Council**

Each district in the province, except for Lahore, will have a District Council, which will consist of the Chairmen of all UCs in that district. It will also have a set of members indirectly elected on reserved seats under the following details: (a) women members (not exceeding fifteen), (b) peasant members (not exceeding three), (c) one technocrat member, (d) one youth member, and (e) non-Muslim members (not exceeding five).
Elections for the reserved seats of District Councils took place on November 15, 2016. The polling was held for one Lahore Metropolitan Corporation, 35 District Councils and 11 Municipal Corporations.

The Local Government Act states that the District Council should elect its Chairman and Vice Chairman as join candidates in its first session. These representatives will be chosen from among the members of the council. Since elections for reserved seats of various councils in districts across the province were held in mid-November, sessions to elect the Chairmen and Vice Chairmen have not taken place as yet. However, reports – and our interaction with government officials and governance specialists – suggest that the government has decided to form local governments by the end of 2016. It is expected that the Election Commission will announce the schedule for the final phase of indirect elections soon.

**Metropolitan Corporation**

The Metropolitan Corporation will consist of Chairmen of all UCs in the district. It will also comprise the following members indirectly elected on the reserved seats: (a) twenty-five women members, (b) five worker members, (c) three technocrat members, (d) two youth members, and (e) ten non-Muslim members.

**Authorities**

A District Education Authority and District Health Authority will be established in each district. Each authority will consist of members elected by the District Councils from amongst their peers. Each authority is also supposed to have technocrat members with specialist knowledge who will be appointed by the government and not by members of the District Council. The Chairman and Vice Chairman of an authority will also be appointed by the government. Again, the government puts these authorities under close scrutiny and reserves the right to take action against any of its members or officials on account of misconduct.

**Executive Power and Conduct of Business**

The executive authority of a government is vested in its Mayor or Chairman. A Chief Officer, who will also be the Principal Account Officer, will be appointed by the government for each local government at the District Council to provide support to the latter and to ensure that the elected bodies adhere to all laws and policies of the government.
Local governments in Punjab do not have the latitude to use their powers at their will. Clause 2 in Section 65 of the Provincial Act enunciates that a local government is bound by the directions of the government. For instance, the regularity of meetings of a local council is established as the Act asks to hold at least one meeting during a month.

**Powers and Functions**

The local governments enjoy powers to levy duties and taxes. However, it is the government that will vet the tax before it is approved. In addition to taxation powers, a range of other powers and functions have been devolved to local governments at different levels to enable them to provide services in their respective areas. However, a critical glance at a list of these functions suggests that they mainly deal with public infrastructure maintenance, land management, and the holding of recreational activities. Transfer of substantial powers and independence eludes local governments in Punjab. Some of the broad functions are as under:

- Public infrastructure improvement and management, including public ways, gardens and playgrounds
- Mobilising the community to improve and maintain public infrastructure
- Water management
- Registration of deaths, births and marriages
- Organising recreational activities
- Supporting relief measures in the face of emergencies
- Executing development work
- Maintaining data and information
- Land-use, land subdivision and land development

The Act has also provided, in the form of ‘Panchayat’ and ‘Musalihat Anjuman’, for dispute and conflict resolution through non-formal and amicable means. These bodies will be constituted by Village Councils and City Councils respectively, and will consist of nine members each, two of whom will be women.

**District Education and Health Authorities**

The District Education and Health Authorities will each have a Chief Executive Officer (CEO) who will be appointed through open competition. The CEO will also be the Principal Accounting Officer of the authority.
The broad functions of the education authority include:

(a) Establishing and supervising educational facilities at all levels, including in areas like non-formal basic education, adult literacy and special education

(b) Policy implementation

(c) Ensuring quality education through quality controls

(d) Assessment of schools and promotion of co-curricular activities

(e) Planning and resource mobilization

As for the health authority, its broad functions include the following:

(a) Establishing and supervising health facilities and institutions

(b) Funds allocation

(c) Oversight of health service delivery at primary and secondary levels

(d) Developing linkages between private and public health sectors

(e) Human resource management including monitoring and evaluation of the health staff

(f) Ensuring the quality of services through quality controls

(g) Information management and health coordination

Local Government Finance

Each local government will establish and maintain a local fund which will consist of all the revenues received from different sources such as proceeds of taxes and duties, grants and monies received from the government or other sources, proceeds from fines, penalties, gifts, contributions and fairs. These funds have already been established and all the districts now have their local funds and accounts.

Funds will be transferred to local governments through the Punjab Finance Commission Award. Local government taxes, collected by the government, will also be transferred to the councils. The Mayor or Chairman will present the budget for a given fiscal year to the local government, which should approve it by simple majority. However, here again the powers of the provincial government seem to be overriding the independence of the local
Local Governments in Khyber Pakhtunkhwa and Punjab

governments, as the former can review the approved budget of a local government and can even ask them to rectify it.\textsuperscript{13}

\textbf{Accounts}

The accounts will be primarily maintained by the local governments. In addition, district level accounts will also be maintained by the Provincial Director, Local Fund Audit of the Government, who also has the powers to pre-audit all the payments from the local fund of a local government. The accounts of the District Education Authority and the District Health Authority will be maintained by the Accountant General and District Accounts Officer. These two officials can also pre-audit payments from the local funds of these authorities. The audit of the local governments will be conducted by the Auditor General of Pakistan.\textsuperscript{14}

\textbf{Punjab Finance Commission}

The Punjab Local Government Act provides for the establishment of the Punjab Finance Commission (PFC), the main body responsible for financial transfers to the local governments. The government will constitute the commission, which will consist of the following members:

(a) Minister for Finance (Chairperson)
(b) Minister for Local Government (Co-chairperson)
(c) Five members of the provincial assembly
(d) Secretary to the Government, Finance Department
(e) Secretary to the Government, Planning and Development Department
(f) Secretary to the Government, Local Government and Community Development Department
(g) Two professional members from the private sector

\textbf{Functions of the Punjab Finance Commission}

The Punjab Finance Commission is mainly responsible for deciding on and settling financial matters pertaining to local governments. It will make recommendations to the government on a formula for resource

\textsuperscript{13}“The Punjab Local Government (Budget) Rules.” Available at: https://lgcd.punjab.gov.pk/Rules
\textsuperscript{14}“The Punjab Local Government (Accounts) Rules.” Available at: https://lgcd.punjab.gov.pk/Rules
distribution, out of the Provincial Allocable Amount, presented under the title of Punjab Finance Commission Award. Additionally, it will oversee the distribution of amounts received by the government in lieu of octroi and zila tax amongst the local governments. The PFC will also present an annual report on the analysis of the financial transfers to the government.15

However, despite wielding these broad financial powers, even the Commission does not enjoy independence as a high level body. Clause 5 of Section 112 of the Local Government Act provides that the government has the authority to alter the recommendations of the Commission and make direct transfers to the local governments.

It is important to mention here that the PFC is yet to be instituted. Funds to the unelected local structures are currently being channeled through the interim Provincial Finance Commission. Correspondingly, the Government of Punjab is yet to decide on a formula for financial transfer to the district governments. It is, however, being reported that deliberations are currently underway to develop a financial formula for future transfers.

Local Government Relations

Relations between the local and provincial governments are explicitly asymmetrical. It is the latter that is the chief source of all powers and may exercise discretionary powers. The provincial government can direct a local government to collect provincial taxes, in addition to issuing other directions that the local government is bound to follow. It can even bypass the local government if it thinks that the latter has failed to comply with its directions.

Punjab Local Government Commission

The Punjab Act provides for the appointment of a Punjab Local Government Commission by the government. The composition of the commission will be as under:

(a) Chairman (Minister for Local Government)
(b) Three members of the Punjab Provincial Assembly
(c) Two technocrat members, including at least one woman
(d) Secretary, Local Government and Community Development Department

Functions of the Commission

The Local Government Commission will conduct annual and special inspections of local governments as well as special audits of any local government. The Commission also has the power to resolve disputes between government departments and local governments. Reporting is another function assigned to the Commission, as it is required to submit an annual report on the overall progress of local governments to the provincial government.

The Local Government Commission also serves as an instrument to keep a check on local governments on behalf of the government. Clause 3 of Section 123 of the Punjab Local Government Act states that the government, on the recommendation of the Commission, may suspend a Mayor or Chairman for a maximum period of ninety days if an inquiry against him is being conducted. The Commission can even recommend the removal of the Mayor or Chairman if the inquiry finds him guilty.

At present, local government functions are being channelized through an interim arrangement, which installs administrators under the LGs Transition Steps. This interim arrangement invokes the Punjab Local Government Ordinance 2001 and all offices, authorities and functionaries operate under this act.

Local Governments in Punjab: A Critical Glance

Despite the fact that elections for local governments in Punjab were completed on December 5, 2015, local governments in the province have not yet been formed. This renders difficult, if not impossible, the task of fully assessing the current local government system. However, the Punjab Local Government Act 2013 itself comprehensively outlines the basic components of the system and allows us to understand its nature. Furthermore, analysts and commentators on governance as well as the community in general have already formed impressions about the local governments based on an analysis of the powers and functions devolved to these governments and their potential relations with the provincial government. The discussion below takes account of these observations and highlights major areas of concern vis-à-vis the current devolved set up in the province.

Lack of independence and autonomy

Local governments in Punjab lack independence, which runs contrary to the spirit of democratic governance. The provincial government not only places itself above the devolved structures but also, through

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strong assertions in the Act, reminds them of their subordinate and subservient status. Indeed, suspicion towards local governments is palpable in the Provincial Act. Section 4 alone, demanding faithfulness from the local units, epitomises this. Similarly, education and health authorities are important entities for policy development and delivering services in the social sector. But their heads, i.e. the Chairman and Vice Chairman are not democratically elected and will only be appointed by the government. This means that an important aspect of local governance will not be based on representation. Furthermore, strict compliance is expected with the instructions of the government. Clause 2 of the Section 65 of the Provincial Act enunciates that local governments are bound by the government’s directions. The government is also empowered to hold annual and special inspections of the local councils through the Local Government Commission. Suspension and removal of a Mayor and Chairman, on the recommendation of the Commission, also points to the vulnerability of District Councils. A look at the provisions above suggests that local governments, even when formed, will remain at the mercy of the provincial government and their independence will be seriously compromised.

**Delay in formation of local governments**

Even though the last phase of the local elections was held on December 5, 2015, local governments in Punjab have not yet been formed. Technically it may not be difficult for the government to adduce a number of reasons, such as a protracted litigation process, to explain the delay in the formation of local governments. But an honest reading of the situation points towards the government’s mistrust of the devolved units. In the past, local councils and decentralised bodies were used by non-representative regimes to erect parallel service delivery structures and subvert the moral authority of political parties. The government, therefore, seems reluctant to partner with elected representatives at the local level and share powers with them. Centralised policy making and governance is another reason why engagement with local actors is avoided. However, as signs and recent developments suggest, this time the government seems willing to institute the local councils and complete the election process by early January 2017. It can only be hoped that this results in the development of trust between the executive and local governments and that there starts a new era of cooperation.

Distribution of powers and functions

The Local Government Act provides for covering a broad spectrum of services through the local governments. There are about eleven departments that have now become part of the devolved set up. However, a careful analysis of the powers transferred to local units reveals that these powers and the attendant functions are not substantive and comprehensive. Key areas like health and education continue to be governed by the government, which will supervise the functioning of District Education and Health Authorities through its appointed CEOs who will technically be considered technocrats. What the local governments are left with are functions like public infrastructure maintenance, land management, and the holding of recreational activities. Even their decisions pertaining to levying taxes will be vetted by the government. An examination of the powers devolved to the local governments suggests that instead of empowering devolved units as democratic governments, the current local government system only devolves certain administrative and financial powers to them and treats them as subsidiaries of the provincial government.

Bleak sustainability prospects

Local governments are now being increasingly recognised as independent and autonomous local units. In some places, they are even considered democratic governments. Even though Article 140-A provides for establishing local governments, Punjab’s Local Government Act, by introducing certain clauses, leaves their future at the mercy of the provincial government and renders their sustainability prospects weak. Section 126 of the Act clearly states that the government, before the expiry of the local governments’ term or the announcement of general or provincial elections, can dissolve local governments by notification in the official gazette. This is arguably the least democratic way to dispense with democratically elected governance structures at the local level. If local governments have to continue to operate in an environment of fear, then the long-term gains of the system cannot be ensured and democratic governance cannot be promoted.

Conclusion

Reviving the local government system under the democratic regime is a welcome step. For the first time in the history of the country, powers were devolved to local units to promote democratic governance and strengthen

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19 The Punjab District Education Authority Rules & The Punjab District Health Authority Rules
20 For instance, see “Chapter 26: Community Charter” of British Columbia Laws. Available at: [http://www.bclaws.ca/Recon/document/ID/freeside/03026_00](http://www.bclaws.ca/Recon/document/ID/freeside/03026_00)
democracy at the grassroots. It is apparent that provincial governments, at the moment, are not completely willing to share powers with local governments for a host of reasons. Delay in elections in all the provinces is symptomatic of ruling parties’ reluctance to set grassroots democracies in motion. However, constitutional protection accorded to local governments, realised further through the courts, served to make possible the holding of elections. Consequently, the provinces too – at least in the case of KP – resolved to own their respective local government systems. The scope and scale of devolution and its attendant powers and functions varies from province to province. Even though local governments everywhere are placed under the provincial framework, we saw that in KP the scope of decentralisation is broader and covers more areas and domains. KP also chose to channelize a significant bulk of its development budget through district governments. Devolving powers to the lowest tier, i.e. VCs and NCs is another distinguishing feature of the system in the province, which if realised properly, has the potential to empower people and their representatives at the grassroots. A lot will depend on how the capacities are built for running the system at all the three tiers and how people are encouraged to participate in an optimal manner, since these are essential factors in an effective local government system.

The case of Punjab, however, is characterised by centralism or centrist tendencies. Inordinate delays in holding local elections, and then forming local governments, only pointed at the government’s lack of enthusiasm towards sharing powers with local governments. The canvass of devolution remains limited and the government accords a subordinate status to local bodies. Since the provincial finance award is yet to be announced, we do not know what the scale of financial transfers to the local governments will be, nor are we aware of the extent to which the development needs of communities will be met through their local representatives. The provincial government has also maneuvered to take in its hands the future of local governments, for it can dissolve them by a simple notification in the official gazette. Despite these challenges and restraining elements, it can be hoped that once local governments are formed in the province, considerable space will be created for democratic action at the grassroots and that a new tradition of local governance will take root. After all, democratic processes are evolutionary, and only continuous representation at the local level can engender democratic governance.
Appendix A: Key Interviews

Khyber Pakhtunkhwa

1. Mr. Amer Latif  
   Director General  
   Local Government  
   Khyber Pakhtunkhwa

2. Haji Hameedullah  
   Deputy Secretary  
   Provincial Finance Commission  
   Khyber Pakhtunkhwa

3. Mr. M. Khalid Khan  
   Team Leader  
   Sub-National Governance Programme  
   Oxford Policy Management (OPM)

Punjab

1. Tanvir Ahmad Warraich  
   Additional Secretary  
   Local Government and Community Development  
   Punjab

2. Mr. Faisal Rashid  
   PFM/Policy Advisor  
   Sub-National Governance Programme  
   Oxford Policy Management (OPM)