

# **Stakeholders' Consultation Workshops**

## **Local Councils Association of Khyber Pakhtunkhwa**

### **Consultant Report**

#### **Background:**

As a result of the 2018 general elections, the Pakistan Tehreek Insaf (PTI) managed to form government not only at the federal level but also in the provinces of Khyber Pakhtunkhwa (KP) and Punjab. Having successfully established a broad based local government system in KP, one of the priorities of the new government is to establish similar form of local governments in Punjab and possibly Baluchistan provinces. But before making substantial changes to the local government acts in those provinces, it was considered pertinent to critically review the experience in KP and seek suggestions/recommendations that will not only help improve the system in KP but will also help in framing laws in the other provinces. For this purpose, the Prime Minister has set up a taskforce to come up with suggestions and recommendations. The taskforce has started a consultation process with the provincial governments and other stakeholders to provide suggestions and recommendations.

Seizing this opportunity, the Local Councils Associations of Khyber Pakhtunkhwa and Punjab decided to not only frame their own recommendations but to hold consultations with key stakeholders in order to get a wide range of opinions and recommendations on how to further improve the local government acts and system in the provinces. The GiZ Local Governance Project result area State-Citizens Dialogue (SCD) agreed to support the consultation process by providing logistics and moderation.

#### **Consultation Workshops:**

The Local Councils Association of Khyber Pakhtunkhwa held four workshops, one each with representatives of academia and media, civil society organizations, local government officials, and local government elected representatives. On the other hand, the Local Councils Association of Punjab held three workshops, one with elected representatives of local governments, one with civil society, academia and media and the third one with local government officials.

The participants were asked to share their knowledge of and experience with local governments over the past three years and identify areas where practical improvements can be made to the system either through changes in the Local Government Act or the Rules of Business or both. They were encouraged to discuss both legal and structural issues as well as challenges and impediments to the smooth functioning of local governments with the objective to improve governance and service delivery at the local level. To stimulate discussion, the moderator also put questions to the participants e.g. how can the uniformity and continuity of the local government system be ensured, is the current three tier local government system in Khyber Pakhtunkhwa and two tier system in Punjab able to deliver or should it be simplified further, how best to balance the roles/responsibilities and powers of local government officials and elected representatives, how can elected representatives elected on reserve seats be further empowered, and how best to improve citizen participation in local government service delivery and further strengthen the state citizen relationship.

At the conclusion of these workshops, the recommendations were internally reviewed by both the Associations and later discussed with a select group of officials (past and present) of the Local Government Departments in both provinces to seek their view and feedback as they were directly involved in the overall implementation and management of local governments in their provinces.

### **Recommendations by Stakeholders:**

Following is a summary of key suggestions and recommendations put forward by the participants from Khyber Pakhtunkhwa to further improve and strengthen local government system:

1. According to Article 140A of the Constitution of Pakistan, 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. Furthermore, elections to the local governments shall be held by the Election Commission of Pakistan. Unfortunately, this has allowed the provincial governments in the past to delay/defer and/or establish local governments to serve their own political interests. If democracy is to flourish and strengthen in the country, it is imperative that the local governments are constitutionally recognized as the third tier of government, a uniform system based on political and public consensus is introduced, and the Election Commission of Pakistan is bound to hold local government elections on regular intervals. This will ensure, beyond any doubts, the continuity and uniformity of the local government system in the country and thus improve service delivery and accountability to the citizens.
2. As per Article 140A, all political, administrative and financial responsibilities and authorities shall be devolved to the elected representatives of the local governments. To ensure this is applied in letter and spirit:
  - a) There should be a clear distinction made between the responsibilities of the provincial government and the local governments.
  - b) Accountability of local governments should be based on clearly identified performance indicators.
  - c) Funding to local governments should be streamlined and regularized and substantial part of funding should be transferred at the beginning of the fiscal year.
  - d) The whole administration of local government must come under the elected council and performance evaluation reports of officers and staff must be prepared or, at least, countersigned by the nazim as chief executive of the local government.
  - e) Some specific departments i.e. transport, physical planning and housing, excise and taxation, environment, labor and industries, IT development and promotion, civil defense, Rescue 1122, technical education, and development authorities should be devolved to the appropriate local government.
  - f) Sectorial allocation of funds shall be abolished and one line allocation be made to the local governments.
  - g) The 2% share of Chief Minister and 1% share of the Finance Minister in the funds allocated to local governments shall be abolished.
  - h) Receipts of all devolved departments e.g. property tax, tobacco cess, gas and oil royalty, hydel power profits and other resources shall be paid to the concerned local government.
  - i) The local governments should be allowed to constitute selection board for appointment and promotion of posts be made on the advice of the selection board.
  - j) Posting and transfer of officials from BPS 1 to 16 of devolved departments shall be made after approval of the nazim whereas of BPS 17 and above be made in consultation with the nazim.

- k) There should be a single development committee for approval of projects of the local government which should be headed by the nazim.
3. One of the key impediments to local governments' development and strengthening has been the blatant opposition by the federal and provincial legislators who feel they are losing influence in their constituencies due to huge resource allocation to the local government elected representatives for development. Complete stoppage of development funds to the legislators will put an end to this resistance and enhance the acceptance and ownership of local governments among the general public.
  4. There is a significant overlap between the district and tehsil/town governments which has made the tehsil/town government redundant. As such this tier should be abolished.
  5. The village and neighborhood councils have very loose linkage with the district government. Councilors to the district council are elected on the ward (old union council) basis who often focus on their area of influence only. To avoid duplication of responsibilities and develop a linkage between the lowest and highest tiers, the nazims of village/neighborhood councils should be made councilors of the district council and election of district councilors on ward basis should be abolished.
  6. Currently the nazim and naib nazim of village and neighborhood council are elected based on the highest and second highest number of votes obtained in the election. This has made these positions quite independent and powerful thus undermining the collective powers of the councils. The nazim and naib nazim should therefore be elected by the councilors through consensus or voting.
  7. Councilors selected on reserve seats i.e. women, workers/peasants, youth and minority, have been generally sidelined and not given their due role in the affairs of local governments. Their role need to be formalized in the Local Government Act by, at least, allocating specific percentage of funds which should be used through committees headed by these councilors. At the time of annual budget preparation, these committees should provide their development plans on how they plan to utilize these specific funds. These plans should be made part of the budget document.
  8. Although required in the Local Government Act, community participation in the planning and implementation of local development has been non-existent. The Act should provide specific guidelines on how community participation will be ensured. One option is that the provincial government will approve local government budget only after the budget along with the annual development plan have been endorsed through public meetings. Furthermore, the local government should be bound to constitute monitoring committees from the beneficiary communities to monitor development schemes in their communities.
  9. The Local Government Act provides for a dispute resolution mechanism i.e. committee, but does not provide clear guidelines on how this should be formed and should function. The mechanism should be elaborated in the Act and its decisions should be made binding on the disputing parties with the right to appeal against committee decision in the lower court.
  10. The councilors of all tiers of local government are working voluntarily and providing their valuable time to address and resolve local issues. They should be, at least, paid honorarium for attending councils/committees meetings.

11. A large number of issues and challenges faced by the local governments can be easily attributed to the lack of understanding and capacity of both elected and non-elected functionaries of local government. In the past, only one time orientation/training was provided to the elected representatives of local government with the result that most of the councilors remained unclear and confused about their roles and responsibilities. Similarly, the non-elected staff was hardly provided any training. To ensure a sustainable process of training and capacity building of local governments, the local governments should be allowed to budget for training and capacity building of their functionaries and use this budget to provide training to their functionaries through different institutions/trainers. In addition, the Local Governance School should be provided sufficient qualified faculty, staff and resources to develop and offer regular pre and in-service training to local government functionaries on payment. This will transform the Local Governance School as a sustainable training institute.
12. Throughout the world, local governments are facilitated to form their associations which are recognized as legitimate stakeholders to engage in policy dialogue, lobbying/advocacy and networking on behalf of the local governments. These associations also provide numerous services to their member local governments thus supporting and strengthening local governance in their countries. The local governments in KP have established its association known as "Local Councils Association of Khyber Pakhtunkhwa". The Local Government Act should recognize the Association as a legitimate representative body of local governments in the province and allow local governments to budget and pay annual membership fee to the Association to make it a sustainable platform for networking, knowledge sharing, lobbying and advocacy on behalf of local governments.

Following is a summary of key suggestions and recommendations put forward by the participants from Punjab to further improve and strengthen local government system:

1. Local governments should be provided constitutional cover and recognized as the third tier of government with a defined structure and functions. The Election Commission of Pakistan should be empowered to hold local government elections with, or soon after, the general elections. The federal government should then ensure that local government acts passed by the provincial governments are in line with the constitutional provisions and should monitor their implementation. This will ensure uniformity and continuity of the system.
2. To ensure full devolution of all political, administrative and financial responsibilities and authorities to the elected representatives of the local governments:
  - a) There should be a clear distinction made between the responsibilities of the provincial government and the local governments.
  - b) Funding to local governments should be streamlined and regularized and substantial part of funding should be transferred at the beginning of the fiscal year.
  - c) The whole administration of local government should come under the elected council and performance evaluation reports of officers and staff must be prepared or, at least, countersigned by the chairman/mayor as chief executive of the local government.
  - d) Some specific departments i.e. transport, physical planning and housing, excise and taxation and development authorities should be devolved to the appropriate local government.
  - e) Funds generated from local resources e.g. property tax, royalties etc. should be transferred to the local governments.

- f) Sectorial allocation of funds shall be abolished and one line allocation be made to the local governments. However, special groups such as women, labor/peasants, minorities and youth should be allocated a percentage of the local government budget.
3. One of the key impediments to local governments' development and strengthening has been the blatant opposition by the federal and provincial legislators who feel they are losing influence in their constituencies due to huge resource allocation to the local government elected representatives for development. Complete stoppage of development funds to the legislators will put an end to this resistance and enhance the acceptance and ownership of local governments among the general public. Alternatively, they should be restricted to spend their developments funds in specific sectors/areas that are outside the domain of the local government.
  4. Councilors selected on reserve seats i.e. women, workers/peasants, youth and minority, have been generally sidelined and not given their due role in the affairs of local governments. Their role need to be formalized in the Local Government Act by allocating a percentage of seats for these groups on which direct elections should be held like other councilors. In addition, the vice chairman/mayor position should be reserved for females to give them more prominence. Last but not the least, specific funds allocated for these groups should be used through committees headed by these councilors. At the time of annual budget preparation, these committees should provide their development plans on how they plan to utilize these specific funds. These plans should be made part of the budget document.
  5. Although required in the Local Government Act, community participation in the planning and implementation of local development has been non-existent. The Act should provide specific guidelines on how community participation will be ensured. One option is that the provincial government will approve local government budget only after the budget along with the annual development plan has been endorsed through public meetings. Furthermore, the local government should be bound to constitute monitoring committees from the beneficiary communities to monitor development schemes in their communities.
  6. The Local Government Act provides for a dispute resolution mechanism i.e. committee, but does not provide clear guidelines on how this should be formed and should function. The mechanism should be elaborated in the Act and its decisions should be made binding on the disputing parties with the right to appeal against committee decision in the lower court.
  7. The councilors of all tiers of local government are working voluntarily and providing their valuable time to address and resolve local issues. They should be, at least, paid honorarium for attending councils/committees meetings.
  8. There should be separate local governments for urban and rural areas to ensure that area specific issues are addressed by the local governments.
  9. A large number of issues and challenges faced by the local governments can be easily attributed to the lack of understanding and capacity of both elected and non-elected functionaries of local government. In the past, only one time orientation/training was provided to the elected representatives of local government with the result that most of the councilors remained unclear and confused about their roles and responsibilities. Similarly, the non-elected staff was hardly provided any training. To ensure a sustainable process of training and capacity building of local governments, the local governments should be allowed to

budget for training and capacity building of their functionaries and use this budget to provide training to their functionaries through different institutions/trainers. In addition, the Punjab Local Government Academy should be provided sufficient qualified faculty, staff and resources to develop and offer regular pre and in-service training to local government functionaries on payment. This will transform the Academy as a sustainable training institute.

10. Throughout the world, local governments are facilitated to form their associations which are recognized as legitimate stakeholders to engage in policy dialogue, lobbying/advocacy and networking on behalf of the local governments. These associations also provide numerous services to their member local governments thus supporting and strengthening local governance in their countries. The local governments in Punjab have established its association known as "Local Councils Association of the Punjab". The Local Government Act should recognize the Association as a legitimate representative body of local governments in the province and allow local governments to budget and pay annual membership fee to the Association to make it a sustainable platform for networking, knowledge sharing, lobbying and advocacy on behalf of local governments.

### **Recommendations for Prime Minister's Task Force on Local Government:**

Based on the consultation process in Khyber Pakhtunkhwa and Punjab, the Local Councils Associations of the two provinces have agreed to forward the following recommendations to the Prime Minister's Task Force on Local Government:

- 1. Continuity and Uniformity of Local Government System should be provided Constitutional Protection:** According to Article 140A of the Constitution of Pakistan, 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. Unfortunately, this has allowed the provincial governments in the past to delay/defer and/or establish local governments to serve their own political interests. If democracy is to flourish and strengthen in the country, it is imperative that the local governments are constitutionally recognized as the third tier of government along with federal and provincial governments the broader structure and functions of local government are defined, and the Election Commission of Pakistan is bound to hold local government elections with, or soon after, the general elections. This will ensure, beyond any doubts, the continuity and uniformity of the local government system in the country and thus improve service delivery and accountability to the citizens.
- 2. Separate Local Governments should be established in Urban and Rural Areas:** The issues and dynamics of urban and rural areas are quite different and cannot be dealt judiciously and effectively by one local government. Given majority representation from the urban areas, the development of rural areas have been compromised in the past by the district and especially the tehsil governments. It is high time that separate local governments are established in the urban and rural areas to ensure that area specific issues are addressed by the local governments.
- 3. All political, administrative and financial responsibilities and authorities shall be devolved to the elected representatives of the local governments in letter and spirit:** Following are some key recommendations:
  - a) There should be a clear distinction made between the functions and responsibilities of the provincial government and the local governments.

- b) The whole administration of local government must come under the elected council and performance evaluation reports of officers and staff must be prepared or, at least, countersigned by the mayor/nazim/chairman as chief executive of the local government.
- c) A substantial part of provincial revenues i.e. 30-40% should be allocated to the local governments and should be streamlined and regularized. Sectorial allocation of funds shall be abolished and one line allocation be made to the local governments. Substantial part of local government funds should be transferred at the beginning of the fiscal year.
- d) Some specific departments i.e. transport, physical planning and housing, excise and taxation, environment, labor and industries, IT development and promotion, civil defense, Rescue 1122, technical education, and development authorities should be devolved to the urban local government.
- e) Receipts of all devolved departments e.g. property tax, tobacco cess, gas and oil royalty, hydel power profits and other resources shall be paid to the concerned local government.
- f) There should be a single development committee for approval of projects of the local government which should be headed by the mayor/nazim/chairman.
- g) Accountability of local governments should be made on clearly identified and defined performance indicators.

4. **Development Funds allocated to MNAs/MPAs should be abolished or used for Projects outside Local Government Domain:** One of the key impediments to local governments' development and strengthening has been the blatant opposition by the federal and provincial legislators who feel they are losing influence in their constituencies due to huge resource allocation to the local government elected representatives for development. Furthermore, these legislators normally use their funds for development that is mandated to local government thus causing duplication and wastage of resources. Complete stoppage of development funds to the legislators will put an end to this resistance and enhance the acceptance and ownership of local governments among the general public. Alternatively, they should be restricted to spend their developments funds in specific sectors/areas that are outside the domain of the local government.
5. **Local Governments should have a Two-tier System:** There is a significant overlap between the district and tehsil/town governments which has made the tehsil/town government redundant. As such this tier should be abolished to make it a two-tier system. Furthermore, the village/neighborhood councils have very loose linkage with the district government. Councilors to the district council are elected on the ward (old union council) basis who often focus on their area of influence only. To avoid duplication of responsibilities and develop a linkage between the lowest and highest tiers, the nazims of village/neighborhood councils should be made councilors of the district council and election of district councilors on ward basis should be abolished.
6. **Councilors Elected on Reserve Seats should be Further Empowered:** Women, workers/peasants, youth and minority councilors have been generally sidelined and not given their due role in the affairs of local governments. Their role need to be formalized in the Local Government Acts by, at least, allocating specific percentage of funds which should be used through committees headed by these councilors. At the time of annual budget preparation, these committees should provide their development plans on how they plan to utilize these specific funds. These plans should be made part of the budget document.
7. **Community Participation in Local Development should be Formalized and Ensured:** Although required in the Local Government Acts, community participation in the planning and implementation of local development has been non-existent. The Acts should provide specific

guidelines on how community participation will be ensured. One option is that the provincial government will approve local government budget only after the budget along with the annual development plan have been endorsed through public meetings. Furthermore, the local government should be bound to constitute monitoring committees from the beneficiary communities to monitor development in their communities.

- 8. Local Dispute Resolution Mechanism should be Formalized:** The Local Government Acts provide for a dispute resolution mechanism e.g. Musalihati Anjuman, but does not provide clear guidelines on how this should be formed and should function. The mechanism should be elaborated in the Acts and its decisions should be made binding on the disputing parties with the right to appeal against committee decision in the lower court.
- 9. Honorarium should be paid to Councilors:** The councilors of all tiers of local government are working voluntarily and providing their valuable time to address and resolve local issues. They should be, at least, paid honorarium for attending councils/committees meetings.
- 10. Training and Capacity Building of Local Government Functionaries should be Formalized and Ensured:** A large number of issues and challenges faced by the local governments can be easily attributed to the lack of understanding and capacity of both elected and non-elected functionaries of local government. In the past, only one time orientation/training was provided to the elected representatives of local government with the result that most of the councilors remained unclear and confused about their roles and responsibilities. Similarly, the non-elected staff was hardly provided any training. To ensure a sustainable process of training and capacity building of local governments, the local governments should be allowed to budget for training and capacity building of their functionaries and use this budget to provide training to their functionaries through different institutions/trainers. In addition, the provincial local government training institutes should be provided sufficient qualified faculty, staff and resources to develop and offer regular pre and in-service training to local government functionaries on payment. This will develop these institutes on sustainable basis.
- 11. Local Government Associations should be recognized as Key Stakeholders:** Throughout the world, local governments are facilitated to form their associations which are recognized as legitimate stakeholders to engage in policy dialogue, lobbying/advocacy and networking on behalf of the local governments. These associations also provide numerous services to their member local governments thus supporting and strengthening local governance in their countries. The local governments in all four provinces have established their associations. The Local Government Acts should recognize these Associations as legitimate representative bodies of local governments in the province and allow local governments to budget and pay annual membership fee to these Associations to make them sustainable platform for networking, knowledge sharing, and lobbying and advocacy on behalf of local governments.