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Local Government – A Partner in National Development

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Position Paper

Local Government in Pakistan – Historical Perspective

Decentralization is a popular theme of the modern world. It is being widely accepted as a symbol of good governance and political modernization as well as an indicator of the quality of democratic process. Indeed, a democracy works when all people including the most marginalized ones participate in the process of governance, have capability to ask questions and seek accountability. For the third world countries, it is an indispensable pre-condition for social, economic and political development, stability and national unity. A democracy is successful only when it involves the fullest participation of all segments of society in the matters of administration and decision making through a consolidated and effectual local government system. The local government system is thus, in essence, the administration and management of a given locality extending from a division, subdivision and district to tehsil and union councils by the elected representatives of those areas.

Pakistan's first bold experiment with local governments occurred under the 1958 Martial Law, which set back representative politics at the central and provincial level by disbanding national and provincial assemblies. Following the dissolution of the higher-tier elected governments, General Ayub Khan established local governments as the only representative tier of government. The new local governments, established under the

Basic Democracies Ordinance 1959 and the Municipal Administration Ordinance 1960, comprised a hierarchical system of four linked tiers. The lowest tier, which was the union councils, comprised of members elected on the basis of adult franchise who, in turn, elected a chairman from amongst themselves. The higher tiers of local government had some members elected indirectly by these directly elected members and some official members nominated by the government and had these officials as chairmen.

Ayub Khan's local government system was controlled by the bureaucracy through "controlling authority" vested in the deputy commissioner, commissioner and the government for different tiers. The controlling authority had the power to quash the proceedings; suspend resolutions passed or orders made by any local body; prohibit the doing of anything proposed to be done; and to require the local body to take some action. Although the system assigned several regulatory and development functions to the local governments, especially at the lowest tiers and at the district level, few functions could be performed due to a severely curtailed fiscal capacity. The most controversial aspect was that it came to be used by Ayub Khan to legitimize his essentially unitary Presidential Constitution 1962, which gave effective state power to the armed forces through the office of the President. The Constitution explicitly linked the office of the President to the newly created local bodies by declaring the 80,000 basic democrats as the electoral college for the election of the President and national and provincial assemblies.

After a nascent period under Prime Minister Zulfikar Ali Bhutto, local governments were revived under General Zia ul Haq's military regime. Like Ayub Khan, Zia ul Haq combined

political centralization at the federal and provincial levels with a legitimization strategy that instituted electoral representation only at the local level. Political centralization was achieved during the early years of the regime through the imposition of Martial Law, which held the 1973 Constitution in abeyance, and was followed in 1985 by the 8th Constitutional Amendment that established indirect military rule through a quasi-presidential form of government. Local governments were revived through the promulgation of Local Government Ordinances 1979. In essence, the army sought to use its old strategy of 'divide and rule' by creating a new and competing class of 'collaborative' local-level politicians. However, the increased political importance of local bodies was not complemented by any further decentralization of federal or provincial administrative functions or financial powers to the local level. As such, there was little change in the functions and financial powers assigned to local governments during the two military regimes. Therefore, the increased importance of local governments as a means of political legitimacy did not translate into their substantive empowerment during these periods. In fact, local governments continued to lack constitutional protection and their creation and maintenance remained at the whim of the provinces, which retained suspension powers.

The revival of elected provincial and federal governments in 1985 reinforced the localization of politics that had begun with the 1979 local bodies' elections. The dominance of these revived assemblies by local bodies' politicians helped transplant the culture of local body politics to the provincial and national levels. This tendency was reinforced by the non-party nature of the 1985 assemblies and governments, which personalized patronage as elected government ministers began to use development funds to increase

their individual chances of reelection. This personalization of politics did not reverse despite the revival of party-based federal and provincial assemblies and governments in 1988. Furthermore, the absence of political linkages between different tiers of government, which was an outcome of the non-party basis for politics, created tensions between provincial and local politicians with the local tier being viewed as a competing structure of 'patronage'. The 'tension' between the province and local governments was exacerbated because of the federal government's encroachment upon provincial functions, which was seen as a way to weaken the purview of the provinces. This created a lack of 'political ownership' with regard to the local tier that resulted in the suspension of local bodies in 1993.

The current decentralization reforms were introduced by General Pervaiz Musharraf under his military regime through the Devolution Plan of 2000. The devolution of political power, decentralization of administrative authority, de-concentration of management functions, and distribution of resources were - to a significant extent - transferred from provincial to district level. A Local Government Ordinance followed in 2001 and more than 6,600 local governments were established across the country, with around 80,000 elected representatives (one-third of which were women). However, in spite of such sweeping and dramatic reforms, the concentration of power in the center remained largely unchanged since no political, administrative or financial powers were transferred from the center to the provinces but instead many of the provincial powers were devolved to the local governments. Although local governments did reasonably well in delivering basic services to the public and significantly improved the state-citizen relationship, the system was rolled back by the

democratically elected governments soon after the 2008 general elections through the removal of the elected representatives and transfer of all powers and responsibilities to the civil administration. Many reasons are cited for this measure, one being absence of devolution from the center to the provinces. Secondly, the elected representatives of both the federal and provincial assemblies were also not comfortable as they felt their constituencies were being taken over by local government elected representatives who could replace them in the future. Finally, the civil bureaucracy at the district and sub-district level was made accountable to the local government elected representatives under the Local Government Ordinance 2001, which created a perception that the local government system was designed by the military regime to marginalize the civil bureaucracy, particularly the District Administration Group which had indisputably ruled these areas since the colonial times. As a result, the latter started to actively oppose - rather than support - the reforms. As a result, the local government system was rolled back in 2008 by removing the elected representatives and handing over all powers to the civil administration.

In 2015, the Supreme Court of Pakistan ordered the elected provincial governments to hold local government elections in accordance with Article 140 A of the Constitution and transfer all administrative and financial powers to the local government elected representatives. Both Sindh and Baluchistan Provinces decided to follow the Local Government Ordinance 2001 with some minor changes whereas Punjab Province opted to follow the 1979 local government system. Only in Khyber Pakhtunkhwa (KP) Province, the Pakistan Tahreek e Insaaf (PTI), which was elected for the first time, made sweeping changes to the 2001 Ordinance and established

a broad-based local government system from district to village level. As a result, more than 3,500 local governments were established across the province with more than 40,000 elected representatives. Another historical decision made by the PTI-led government was to allocate 30% of the provincial development budget to the local governments so that they can provide basic services to their constituents in a more effective manner.

As a result of the 2018 general elections, PTI managed to form government not only at the federal level but also in the provinces of 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.



The Khyber Pakhtunkhwa Experience

The Government of Khyber Pakhtunkhwa promulgated the Local Government Act 2013 and established a three-tier local government system in the province i.e. District Government, Tehsil/Town Municipal Administration and Village/Neighborhood Councils. Elections were held in May 2015 and local governments assumed their respective responsibilities in August 2015 for a period of 4 years. Elections of the district and tehsil councils were held on political party basis whereas elections of the village/neighborhood councils were held on non-party basis. The most striking feature of the KP local government system is the creation of 3,501 village and neighborhood councils, which has not only provided enhanced opportunities of representation to the people but have also taken the government closer to the citizens at the grassroots level. Politically, all the major political parties have representation in the local governments and thus, a stake in the system.

Each tier of local government has its distinct functions and powers which are further explained and elaborated through different subordinate legislation and sets of rules known as Local Government Rules of Business, Budget Rules and Local Government Taxation Rules etc. Under the Provincial Finance Commission, each local government is provided annual funds to prepare, present and approve their Annual Development Plans through respective councils. The Planning and Development Guidelines provide approval process and forums for the district, tehsil/town and village/neighborhood projects with sectorial

ceiling determined by the Provincial Government.

The Local Government Commission is mandated to ensure that the local governments carry out their mandate in accordance with the prescribed law and to resolve any disputes arising between the different tiers of local governments. Under the existing legal framework, the Provincial Government has the authority to exercise general supervision and control over the local councils in a number of ways, including inspection of local councils, audit of accounts, issuing directions, suspension of Nazims and Naib Nazims of local councils, and control over budget. If implemented to the full extent, these provisions may essentially render the local government subordinate to the provincial government and thus effectively powerless. Although the KP Local Government Act is considered the best among all four provincial acts, yet the Rules of Business introduced in 2015 have curtailed the powers of these councils to a great extent. For example, the Act has empowered the elected representatives to exercise all political, financial and administrative powers, post and transfer civil servants of grade 1 to 16, and write the annual performance reports of deputy and assistant commissioners but the Rules of Business has given these powers to the provincial government through the civil administration instead. Similarly, the Act allows District Government to impose taxes for the generation of funds for their own needs but in the Rules of Business and as per Provincial Government guidelines, the District Government has no power of collection of taxes for their income generation.

Under the Local Government Act, the Provincial Government is bound to award 30% of the Annual Development Program (ADP) funds to the local governments which will be distributed among District Governments (30%), Tehsil/Town Administration (30%) and

Village/Neighborhood Councils (40%). However, the local governments never received their due share in full - In the first year, 30% of the provincial ADP came out to PKR 37.8 billion but the Provincial Government provided only 28 billion to the local governments. In the following years, the local governments were provided 15 billion against the allocated sum of 42 billion and 27 billion against their share of 33 billion. Furthermore, the Provincial Finance Commission is silent over how the 40% share will be distributed among the village and neighborhood councils

In the 2015 local government elections, more than two-third of the councilors were elected for the first time. In addition, a large number of secretaries and accountants were recruited for the village/neighborhood councils with no prior experience of the local government. As such, capacity in the local governments remained a big issue throughout the first tenure of local governments. The Provincial Local Government Department undertook a training needs assessment and developed manuals for trainers and trainees. A pool of 200 master trainers was developed and initial orientation and training was conducted for a majority of elected representatives. However, this one-time training was not sufficient to make the elected representatives understand their roles and responsibilities. This resulted in unrealistic demands and expectations by the councilors and remained a bone of contention during development planning and implementation. On the other hand, the oversight over budgetary spending of 3,501 village/neighborhood councils remained a daunting task for the Provincial Government.

In addition to general seats, the Local Government Act provides for seats reserved for women, peasants/workers, non-Muslims and youth. The number of

reserved seats in the district and tehsil councils vary depending on the size of the council but the number of reserved seats in the village/neighborhood councils is explicitly set in the law. These reserve seats are filled through proportional representation in the district and tehsil councils but are filled through direct elections in the case of village/neighborhood councils. The inclusion of youth in the local governments has largely benefited the youth community in terms of sports and culture. Youth councilors encouraged the government to build playgrounds and provide sporting goods among the deprived youth in different parts of the province in order to involve them in healthy activities. Similarly, the members elected on the minority seats now have a big voice in the affairs of their communities. However, women and other members feel that their role in community development is marginalized. Although, they are getting their share in the budget but they believe it's not enough to fulfill the demands of their communities.

In a recent push for further reforming the local government system, the Local Councils Association of Khyber Pakhtunkhwa and Punjab decided to hold consultations with key stakeholders in order to get a wide range of opinions and recommendations on how to further improve and strengthen the local government acts and system in the provinces. Consultative workshops were held with representatives of academia and media, civil society organizations, local government officials, and local government elected representatives. 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. The discussion focused on a number of key questions - 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. Based on the consultation process, the Local Councils Associations of the two provinces agreed to put 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.



National Conference on Local Government

In partnership with the Commonwealth Local Government Forum, the local councils association of KP, Punjab, Sindh and Baluchistan are holding a two day conference to identify the ways in which local governments and their associations can play a more proactive and effective role in the national development as envisioned in the Government of Pakistan's 100 Days Plan. The meeting will discuss the current and likely reforms in local governance, lessons learned in the past, emerging commitments and expectations, and the potential role of local governments and their associations in creating a more enabling environment for inclusive

and sustainable development of the country. The event will bring together local government leaders from across Pakistan to discuss:

- Local Government's key role in national development and achieving the Sustainable Development Goals (SDGs)
- Priorities to strengthen local government's capacity to deliver effectively to all citizens and leave no one behind
- The role of local councils associations in supporting their members
- Shared experiences and good practices in local governance and service delivery

The conference will be divided into four key sessions. The first session will stimulate discussion on the current local government legislation in the country. Lessons learned from the existing legislation and local government systems will be discussed by the panel and opportunities will be identified to further enable local government to deliver their mandate. The second session will focus on emerging commitments to and expectations from the local government by identifying key challenges and success stories. The third session will more meaningful inclusion of women, minorities and vulnerable groups in the local decision making whereas the fourth and final session will formulate the potential role of local councils associations in promoting local government across the country, engaging in intergovernmental dialogue and disseminate national messages and inter-provincial best practices.

At the conclusion of the conference, the recommendations will be shared with the wider audience including the Federal and Provincial Government representatives.

Following is a tentative program of the conference:

Day 1 – 15th January

- Session 1 – Opening Ceremony**
9.00 – 9.15 Introductions
9.15 – 9.45 Welcome & Opening remarks
Keynote Speaker
Local Government Reforms: 100 days on as assessment
9.45 – 10.15 Commonwealth Local Government Forum work in Pakistan



10.15-10.45 - Coffee/Tea Break

- Session 2 – Discussion on local government legislation in Pakistan**
10.45 – 13.00 Local Government Acts – legislation enabling development
Panel discussion
- Lessons learnt from existing legislation across the country
- What opportunities to further enable local government
Questions/Discussion



13.00-14.00 - Lunch

- Session 3 – Local Government: Emerging commitments and expectations**
14.00 – 15.00 Future of local government
- Commitments and developments
- Expectations and opportunities



15.00-15.30 - Coffee/Tea Break

- Session 4 – Local Government: Emerging commitments & expectations (Cont..)**
15.30 – 17.00 Discussion
- Key challenges and existing successes to gather recommendations

Day 2 – 16th January

- Session 5 – Overview of day 1: Key issues so far**
09.00 – 09.30 Recap of day 1

- Session 6 – Diversity and Inclusive leadership**
09.30 – 11.00 Meaningful Inclusion in decision making
- Role of female councilor in local development
- Engaging minorities and vulnerable groups



15.00-15.30 - Coffee/Tea Break

- Session 7 – The potential and role of Local Councils Associations (LCAs)**
11.30 – 13:00 Purpose of the Provincial LCAs
- LCAs in promoting local government across the country
- LCAs in intergovernmental dialogue
- National messages and inter-provincial best practice



13.00-14.00 - Lunch

- Session 8 – The potential and role of Local Council Associations (LCAs) (Cont...)**
14.00 – 15:15 Table Discussions



15.15-15.30 - Coffee/Tea Break

- Session 9 – Outcome of the conference**
14.45 – 15.15 Key recommendations from the conference

- Session 10 – Presentation of Outcomes to Prime Minister**
15.30 – 16.00 Closing remarks by the Prime Minister Pakistan