

# DEVELOPMENT ADVOCATE PAKISTAN

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A New Way Forward  
For Local Governance  
In Pakistan?





DEVELOPMENT ADVOCATE  
**PAKISTAN**



# DEVELOPMENT ADVOCATE PAKISTAN

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*Development Advocate Pakistan* provides a platform for the exchange of ideas on key development issues and challenges in Pakistan. Focusing on a specific development theme in each edition, this quarterly publication fosters public discourse and presents varying perspectives from civil society, academia, government and development partners. The publication will make an explicit effort to include the voices of women and youth in the ongoing discourse. A combination of analysis and public opinion articles promote and inform debate on development ideas while presenting up-to-date information.

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Designed by Torsum Khan  
Communications Associate  
UNDP

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Islamabad, Pakistan

For contributions and feedback, please write to us at:  
[communications.pk@undp.org](mailto:communications.pk@undp.org)

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# CONTENTS

## Analysis

- 2** The Election Commission of Pakistan and Local Government Elections
- 4** Local Government Acts 2013  
Province-Local Government Relations  
**Saeed Shafqat**
- 20** Comparative Table on Provincial Local Governance Laws by Province
- 34** Regional Local Government Lessons  
**Thusitha Pilapitiya**

## Opinion

- 10** Taking Democracy to the Doorsteps of Citizens  
**Naseer Memon**
- 12** Local Governments and the Participation of Women  
**Aurat Foundation**
- 13** Local Governments and Religious Minorities  
**Harris Khaliq**
- 14** Delimitation of Constituencies: A Vital Component of Elections  
**Democracy Reporting International**
- 17** Local Governance in the Federally Administered Tribal Areas  
**Qazi Jamil**
- 18** Local Government in the Federally Administered Tribal Areas  
**Zahid Hussain**

## Interviews

- 22** Balochistan Local Government Minister
- 24** Balochistan Local Body Representative
- 26** Sindh Local Government Minister
- 28** Khyber Pakhtunkhwa Local Government Minister
- 32** Punjab Local Government Minister

## Youth Voices

- 25** Balochistan
- 27** Sindh
- 30** Khyber Pakhtunkhwa
- 31** Punjab

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**T**he political consensus that enabled the passing of the 18th Constitutional Amendment marked a critical democratic milestone for Pakistan. Through a process of dialogue, debate and compromise, Pakistan has strengthened its foundations as a federal, democratic and parliamentary state. Comprehensive implementation of the 18th Amendment is vital to strengthening participatory federalism and decentralization, which are in turn critical to achieving poverty reduction and sustainable human development.

Enhancing democratic governance standards at the local level, by strengthening and developing local government structures, and creating mechanisms to support participatory decision-making, is an essential part of this process. No political system is considered complete and democratic if it does not have a vibrant local government system.

In countries around the world, the absence of effective local governance arrangements exacerbates inequality, instability and underdevelopment, as well as social exclusion and lack of empowerment among youth, women and minority groups. Local government is fundamental to mitigating these grievances as it brings government closer to the people, and has the potential to increase the quality and coverage of services to citizens. It gives voice to local people, offering them opportunities to influence the decision-making processes that affect their lives. Experience has shown that a fully functioning local government system represents the *sine qua non* for inclusive development and the achievement of the Millennium Development Goals (MDGs).

Local government elections in Pakistan offer the country an opportunity to further consolidate the democratic gains that have been secured since the restoration of democratic government in 2008. All provinces have laid the groundwork for the evolution of effective local governance arrangements by enacting legal frameworks in their respective provinces for local government institutions. Balochistan has held elections for local bodies in December 2013 and the attention is now focused on the three remaining provinces.

At the time of writing, the dates for elections in Sindh, Punjab and Khyber Pakhtunkhwa remain uncertain, with some quarters proposing that the elections be postponed until after a national census has been conducted. In view of their importance and the Constitutional requirement, it is vital that local government elections be held in the remaining provinces as soon as possible, even if the circumstances aren't perfect, to lay the foundation for stability and effectiveness of the democratic system in Pakistan.

Going forward, the local governance system must entrust sufficient political, administrative and financial authority and responsibility to the elected local government representatives. The local elections will represent a lost opportunity if the newly elected local bodies lack the resources, mandate and authority to deliver economic and social services to the grassroots communities. Equitable development and broad-based political participation are crucial to addressing the social tensions, human development deficits and disparities that prevent Pakistan from translating its peoples' aspirations into a sustainable reality.



# The Election Commission of Pakistan and Local Government Elections

**E**lections, whether for the national and provincial assemblies or for local government bodies, are an important tool for enhancing democracy. They empower citizens by offering them an opportunity to shape the society in which they live. It is through the holding of regular elections that habits are formed which strengthen the values which deepen our democratic culture

As the institution constitutionally mandated to organise elections in Pakistan, the Election Commission of Pakistan's (ECP) core focus is to serve the people by ensuring they are able to freely exercise this fundamental democratic right. We do this by engaging in ongoing efforts to improve the effectiveness, transparency and integrity of the electoral process.

The local government elections, which have already been held in Balochistan, and will take place in the three remaining provinces in due course, offer an opportunity to further entrench the democratic system in Pakistan. The ECP is ready to fulfil its constitutional obligation of holding free, fair and impartial elections by ensuring that the electoral rolls are complete; that the polling personnel we appoint are adequately trained; that voters, through a comprehensive voter education campaign, are aware not only of the rules and procedures for voting in their respective provinces, but also of the intrinsic importance of individuals expressing their political preferences through the ballot box; and that arrangements are made for the maintenance of law and order on election day.

With these core components in place, I am confident that despite the challenges with which we are confronted as a society, the local elections, and the consequent establishment of newly elected local bodies, will mark another significant chapter in Pakistan's democratic development.



**Mr. Ishtiaq Ahmad Khan**  
Secretary,  
Election Commission of Pakistan







# Local Government Acts 2013 and Province-Local Government Relations

The local government (LG) Acts enacted by the provincial assemblies of Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh differ from Pakistan's previous experience with local governance in several ways. The Acts were imposed neither by a military regime, nor by the federal government, and these have been drafted and adopted by the provincial assemblies after much debate and with a sense of ownership. The positive aspects notwithstanding, the LG Acts of 2013 are fragmented, and appear to be driven by considerations of maintaining the *status quo*, rather than establishing effective local governance arrangements through the devolution of adequate political, fiscal and administrative power to local councils.

## Historical Overview

The Constitution of Pakistan establishes the state as a federal parliamentary republic, comprising four provinces: Punjab (95 million), Sindh (41.3 million), Balochistan (8.8 million) and Khyber Pakhtunkhwa (23.3 million). Administratively, the country is divided into Districts, *Tehsils* (sub-districts) and Union Councils, with each Union Council comprising a number of villages.

However, a universally acceptable form of the federation that guarantees a balanced distribution of power among the federating units, including the local governments, remains an elusive goal. Two factors have contributed to this. First, it was not until 1958 (11 years after Pakistan's independence) that political leaders and parties agreed on a constitution, which was subsequently amended twice. Second, the military took the country's reins at several critical junctures and experimented with various forms of local government, primarily surrogates for a parliamentary form of democracy.



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## Context and Key Questions

The revival of local governments continues to be debated, despite the fact that the 18th Amendment to the Constitution of Pakistan has made it mandatory. Article 140(A) of the Constitution explicitly states, "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." Moreover, sub-clause 2 of the same article stipulates that "Election to the local governments shall be held by the Election Commission of Pakistan."

Since the country's political transition in 2008 and, particularly, after the passage of the 18th Constitutional Amendment, the following trends are visible. First, the provincial leaderships have reluctantly passed the LG laws and taken steps to hold local elections. Second, the provinces have shown a preference for, and a considerable degree of unanimity in, restoring the Commissioner system, whereby the provincial governments manage local government functions directly through the provincial bureaucracy, rather than continuing with the devolution

reforms effected by the previous LG Act of 2001. Third, demographic changes, and an unprecedented rate of urbanisation, have made local governments a necessity and not simply a choice. Fourth, there is growing awareness among civil society, media and policy analysts that local governments are a must for efficient and accountable governance. Finally, a series of landmark decisions and persistent interventions by the higher judiciary have made it impossible for the provincial governments to hold up the local government elections.

These trends raise several questions. Why have the provincial governments been reluctant to revive the local governments? What has caused the return to the Commissionerate system? Why do three provinces still lack a political consensus on the main characteristics of the LG laws? What can be done to ensure that the revival of the LG Acts improves governance, service delivery and citizens' participation at the local level? In the following pages, I will address some of these questions.





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### Basic Democracies Order 1959

In 1958, the military assumed power and chose to install local governments through the Basic Democracies Order (1959). The military rulers found politics divisive and cumbersome and responded to demands for 'provincial autonomy' through centralisation, while seeking legitimacy through local governments. The Basic Demands system was created as a substitute for universal suffrage and served as an electoral college to elect the president and the legislative assemblies.

In urban areas (towns with a population of less than 14,000), it created Municipal Committees (MCs) and Union Committees (UCs), designed to perform 37 functions ranging from social welfare to health and infrastructure. The MCs had limited taxation powers and could levy taxes on vehicles and trade, whereas the UC had no fiscal powers. Each UC had 6-10 elected members and its chairman was elected as an *ex-officio* member of the MC. The chairman of the MC was appointed

by the provincial government or by the Commissioner.

In rural areas, the first tier of government was the Union Council (UC) that consisted of a group of villages and performed 37 functions. Each UC elected a chairman from amongst its members who also served as a member of the *Tehsil* (sub- district ) Council (TC). The TC had no executive functions or taxation powers, and its purpose was to coordinate the activities of UCs under its jurisdiction. The next level was the District Council (DC), the electoral college of which included chairmen of all UCs, TCs and MCs, removing the distinction between urban and rural areas. The DC had 28 obligatory and 70 optional functions, as well as the power to levy taxes. Its basic purpose was to coordinate the activities of all the councils and committees under its jurisdiction.

### Local Government Orders 1969 and 1979

Subsequent military regimes (1969-71 and 1977-88), adopted the same model of promoting local

government while maintaining centralised control at the federal level. Thus, rather than a federal principle, the local government came to be identified with the military regimes as an instrument of delegitimising the party system and provincial autonomy, while trivialising political processes and power sharing at multiple levels (federal, provincial and local).

The Local Government Order 1979 expanded the local governments and empowered the Deputy Commissioners. This ordinance created four levels of municipal government in the urban areas: Town Committees, Municipal Committees, Municipal Corporations and Metropolitan Corporations. Members of each council elect the senior officers of these councils and the controlling authority is the elected house. In the rural areas the system provided for a three-tier system of local government, where Union Councils, *Tehsil* or *Taluka* Councils and District Councils came into existence. The chairmen of these councils were elected by the members.



### Local Government Ordinance 2001

The Local Government Ordinance (LGO) 2001 removed the urban-rural divide and established local government at three levels: Union Council, *Tehsil/Taluka* Council and District Council levels. The Union was the basic unit and the Union *Nazims* (mayor) and *Naib* (deputy) *Nazims*, directly elected by the voters, became members of the District and *Tehsil* Councils, respectively. The LGO did not establish any hierarchical relationship between the local and provincial governments, but networked the former with the National Reconstruction Bureau and the President's office.

It devolved administrative, financial and development powers to the elected officials in the local councils and all the government departments became accountable to the District Council. The Deputy Commissioners were re-designated as District Coordination Officers and subordinated to the District *Nazim* for executive approvals, performance evaluations and transfers/postings. The role of police oversight by the Deputy Commissioners was abolished and the district police chiefs became directly accountable to the District *Nazims*.

The LGO changed the political and social landscape by bringing more than 150,000 people into the political arena and creating more than 6,000 councils. According to one report, 38 percent of the newly elected councillors reported that they had never contested an election, nor had anyone from their family. Another important feature of the LGO 2001 was its allocation of reserved seats for women (33 percent), minorities, professionals and peasants, although women's participation was constrained in some parts of the country by the local *jirgas*, tribal leaders, and *biradaries*.

Finally, the LGO provided for several forums, such as District Monitoring Committees, to oversee the work of government departments, Citizens Community Boards to allow direct citizen participation in designing and overseeing development schemes, *Musalehat-e-Anjumans* (consultative bodies) for alternate dispute resolution, and Citizen Police Liaison Committees for promoting rule of law and protection of rights.

### Military and Civil Service Involvement in Local Governments

The military regimes in Pakistan have generally favoured reliance on local government for at least three reasons: first, political exclusion of the incumbents by changing the rules of the game; second, alliance with the bureaucracy to manage the centralised and hierarchical structures; and, third, creating a political elite by introducing new politicians through the local government laws.

The impact of the three local government laws and elections has been different and nuanced. The BD 1959 revived and consolidated the prestigious Civil Service of Pakistan (CSP), whereby the District and the Deputy Commissioners became the lynchpins of the regime and pursued politics of patronage and the development goals of the regime.

Under the military regime of Field Marshal Ayub Khan (1958-69), the military governed and the CSP ruled. That also led to the creation of a new set of political elites, who became members of the 80,000-strong BD system (later raised to an electoral college of 120,000). However, with the downfall of the military regime, the CSP also came under criticism. The 1969 mass movement and protests also tarnished the glory and image of the bureaucracy in general, but particularly the CSP.



**1958**

*Political leaders and parties agree on a Constitution*

**1959**

*Basic Democracies Order installs local governments*



**1979**

*Local Government order expands local governments*

**2001**

*Local Government Ordinance establishes three levels of local government*



**2010**

*Balochistan Assembly passes Local Government Act*



**2013**

*Remaining three provinces pass Local Government Acts*

The Civil Services Reforms of 1973 under Prime Minister Zulfikar Ali Bhutto (1971-77) further eroded the power and prestige of the CSP, who were now labelled as the District Management Group (DMG).

General Zia-ul-Haq, who assumed power by dismissing the government of Zulfikar Ali Bhutto in July 1977, sought legitimacy again through the Local Government Ordinance 1979. The regime revitalised the districts, while delegitimising politics at the national and provincial levels, and resuscitated local government (elections were held in 1979, 1983 and 1987). During this period, the CSP and the DMG were able to rehabilitate their positions both in the policy arena and in the districts.

When General Musharraf seized power in October 1999, the military regime sought the international community's support by promising a return to democracy, improved governance, and reforms in the social and economic sectors. The local government plan emphasised the 1973 Constitution by invoking the separation of the executive and judiciary. It sought to reduce the role of the CSP, particularly the DMG, by restructuring the civil service at the district level and subordinating it to the elected representatives.

The offices of Division Commissioner and District Commissioner (DC) were abolished and their roles and functions were distributed to the District Government headed by the elected mayor (*Nazim*) and including a District Coordination Officer (DCO) who reported to the *Nazim*. The magisterial powers of the DC were withdrawn and given to the judiciary and police. The role of police oversight formerly held by the DC was abolished and the responsibility of law and order was entrusted to the *Nazims*.

### Analysis Of Local Governments Acts Of 2013

In accordance with the 18th Amendment to the Constitution, the provincial assembly of Balochistan passed the LG Act in 2010, whereas the provincial assemblies of Punjab, Sindh and Khyber Pakhtunkhwa passed their LG Acts in 2013. Despite a lack of enthusiasm, and due consultation during the formulation stage, the passage of the LG Acts is a significant milestone.

However, the credibility of these laws is affected by the fact that certain parts of the LG Acts of Punjab, Sindh and Khyber Pakhtunkhwa have been challenged by the opposition parties in various courts. One striking feature of all four LG Acts, in comparison with the LGO 2001, is that none of the Acts devolves sufficient functions and powers to the local governments, and all four provincial governments have retained the authority to suspend or remove the heads of an elected local government. The functioning of the Local Government Fund is managed by the Finance Department and Finance Minister of the province.

### Structure and Constituency Delimitation

All four LG Acts provide for local government elections on a party basis. Punjab, Sindh and Balochistan will have Union Councils and District Councils in the rural areas and Union Councils/Committees and Municipal Committees in the urban areas. The Khyber Pakhtunkhwa LG Act also provides for *Tehsil* Councils and Village Councils in the rural areas and Neighbourhood Councils in the urban areas.

Constituency delimitation and maintaining territorial unity are critical issues in electoral politics, and this process can be used for

gerrymandering. The LG Acts of Punjab, Sindh and Khyber Pakhtunkhwa allow for discretion by the provincial government to change, exclude, include and redesign a constituency.

The Punjab and Sindh LG Acts emphasise the preservation of a Union Council's territorial integrity as far as possible, that the population of a UC in a District should be uniform, and that a UC should not cross the boundaries of a Revenue *Taluka*.

The Balochistan LG Act authorises the provincial government to define and delimit the number of wards. The Khyber Pakhtunkhwa LG Act also provides for a Delimitation Authority, which bodes well for the local governments provided the composition and membership is balanced and allows broader representation and participation. However, the delimitation of constituencies carried out under the auspices of the Sindh and Punjab governments has been recently declared illegal following judgments handed down by the Sindh and Lahore High Courts, respectively.

### Term Limits And the Electoral Process

The LG Acts of 2013 are not consistent on the term limits of the local governments. Punjab provides for a term of five years, Sindh and Balochistan of four years, and Khyber Pakhtunkhwa of three years.

The electoral process also varies across provinces. Punjab provides for direct elections for the posts of Chairmen and Vice-Chairmen of the Union Councils, whereas Sindh envisages indirect election of Chairman and Vice-Chairman of Union Council from a panel of nine Councillors elected to the general and reserved seats.

## Comparative Table on Provincial Local Government Laws (As They Currently Stand)

### Core Similarities

- None of the Acts devolve sufficient functions and powers to the local governments
- All four LG Acts authorise local councils to constitute panels to facilitate out-of-court resolution of disputes.
- Provincial Finance Commissions will be established in all four provinces, headed by the Provincial Minister. All local councils in the four provinces will receive formula based fiscal transfers from the Provincial Finance Commission Award (PCFA)
- All four LG Acts provide for the establishment of Local Government Commissions headed by the Provincial Minister for Local Government.
- Provincial Governments in all four provinces can suspend or remove the heads of local government institutions.

### Core Differences

- Khyber Pakhtunkhwa devolves the most power out of all the current Acts.
- The KP Act provides for greater fiscal autonomy than the other provinces as it empowers Village and Neighbourhood Councils to supervise all local government functionaries, including revenue officials in their jurisdiction.
- The KP Act proposes a slightly different local government structure with Village Councils to be established in rural areas and Neighbourhood Councils in urban areas.
- KP allows *Nazimeen*, with the approval of District Councils, to designate inspecting officers to examine or prepare reports on the performance of a *Tehsil* Municipal Administration, Village and Neighbourhood Council for service delivery. The other three provincial Acts do not have an equivalent measure.
- While in other provinces local government heads are responsible for health and education, in Punjab separate Education and Health Authorities are provided for.
- The KP Act gives Village and Neighbourhood Councils powers to supervise the local police. In the other provinces, there is no oversight mechanism for Local Councils *vis-à-vis* the police.

In both Punjab and Sindh, the heads of District Councils will be chosen indirectly through an electoral college comprising all members of the respective council.

Khyber Pakhtunkhwa provides for direct elections of members for all seats (reserved and non-reserved) in the Village and Neighbourhood Councils. In Khyber Pakhtunkhwa, the reserved seats for women, peasants, youth and minorities will be filled through proportional representation by the political parties on the basis of the number of seats won.

### Fiscal Devolution

All four LG Acts provide for the establishment of Provincial Finance Commissions (PFC), headed by the provincial Finance Ministers. The local councils would receive allocations through the respective Provincial Finance Commission Awards, and would have limited powers to impose taxes or exercise regulatory functions. The Khyber Pakhtunkhwa Act provides greater fiscal autonomy to the local government, as it empowers Village and Neighbourhood Councils to supervise all local government

functionaries including revenue officials in their jurisdiction. All four LG Acts require audits of the local councils by the Office of the Auditor General.

### Relations between Local and Provincial Governments

The LG Acts of all four provinces tend to subordinate the local governments to the provincial governments. They allow the Chief Ministers to dismiss a local government or head of council and appoint officeholders after the dismissal of council heads. In Punjab, the government can suspend local



government officials for 90 days, in Sindh for 6 months, and in Khyber Pakhtunkhwa and Balochistan for 30 days. During and after this period the dismissed officials can file review petitions to the provincial governments.

The Punjab and Balochistan LG Acts state that the District Councils will function under the directives of the provincial government, giving the provincial government leverage over the local governments. The Khyber Pakhtunkhwa and Sindh Acts give greater autonomy to the provincial governments to supervise and inspect local governments.

While all the LG Acts devolve the key service delivery functions to local governments, provinces have made exceptions to retain large entities such as the Karachi Water and Sewerage Board, Sindh Building Control Authority, Lahore Development Authority (LDA), and Solid Waste Management (SWM), etc.

The LG Act of Punjab provides for the creation of education and health authorities, comprising members from the provincial government, local governments, technocrats and the private sector. The Chief Minister will be the appointing authority and can dismiss the heads of the authority or dissolve the authorities.

### Consultation, Arbitration And Conflict Resolution

Each of the four LG Acts provide for the establishment of Local Government Commissions (LGC), headed by the provincial Minister for Local Government and including members from the provincial assembly, bureaucracy and technocrats. In Balochistan the commission is named the Divisional Coordination Committee. The LGCs perform inspections, social audits and dispute resolution for councils and submit reports and recommendations to the provincial government.

All four provinces authorise the Union, Village and Neighbourhood Councils to constitute panels of Councillors to facilitate out of court dispute resolution. Punjab allows a nine member *Panchayat* (assembly chosen by the local community) in rural areas and *Musalehat-e-Anjuman* in urban areas, including two women members nominated by the provincial government. Balochistan allows for three-member *Musalehat-e-Anjuman*s in both rural and urban areas. Khyber Pakhtunkhwa allows Union, Town, *Tehsil* and District councils to establish complaint cells to address citizens' grievances.

In Punjab, Sindh and Balochistan, the police are not under the local government, whereas in Khyber Pakhtunkhwa the Village and Neighbourhood Councils have powers to supervise the police and make recommendations to the district government.

### Concluding Thoughts

The LG Acts for each province, in their current form, provide limited autonomy to the local councils in terms of fiscal management and control over service delivery, revenue, tax and police departments. If the local elections are to have any real meaning, provincial governments will need to ensure that newly elected local councils have sufficient resources and authority to address service delivery and development challenges in local communities. This will require provincial governments to recalibrate their approach towards the third tier of government. At present their instincts seem to be to 'centralise' for the purposes of political expediency, rather than acting in the true spirit of the 18th amendment and empowering local government structures.

For a strong federation to work, the provincial assemblies must recognise that autonomous local governments are essential for improved

governance and service delivery, but they also need to create laws that better clarify the division of power and functions between the provincial and local governments.

It is hoped that the LG Acts will evolve over time as the local governments come into being and the province-local government relations play out and attain a new balance of power. The federal government should explore supporting inter-provincial coordination and experience sharing to define guiding principles for local government reform. Such an initiative would lend greater legitimacy to local government and strengthen the federation.

With the advent of local governments, there also is a need to put civil service reform back on the agenda. The provinces could, for example, consider the establishment of the District Cadre Service and strengthen the Provincial Public Service Commissions.

Finally, the role of the Election Commission of Pakistan and the higher judiciary in upholding the spirit of the Constitution bodes well for the credibility and continuity of local governments. The complementary role played by civil society, academia, media and business groups will also raise the level of awareness about the necessity of local government for improving governance.



**Dr. SAEED SHAFQAT**

Professor and Director, Centre for Public Policy and Governance.



Nasser Memon is a development professional, who worked with prominent development sector and corporate sector organizations of Pakistan. He is the Chief Executive of Strengthening Participatory Organisation.

Uncertainty looms over the revival of local governments in Pakistan. Article 140(A) of the Constitution provides the basis and framework for local governments. The constitutional provision for local governments provides assurance that even if the process is delayed, it cannot be denied indefinitely. Democracy in Pakistan is still in a transitional phase, mainly because of frequent interruptions in the past. Evolving from a mere electoral ritual into a robust democratic practice, the process is bound to go through birth pains.

An elected government recently completed a five-year mandate amidst unremitting tumult. This transition and the overwhelming participation of the masses in the 2013 elections signify a deeply entrenched thirst for democracy among the citizens. This thirst, however, was not quenched by elections for parliament and the provincial assemblies. The people of Pakistan want democracy to trickle down to the grassroots level.

For the average citizen, democracy commences with voting and culminates in the delivery of public services and rule of law. Only a functional local government system can fulfil these aspirations. Considering the alarming deficit of basic services, which the Constitution guarantees as basic rights, a robust local government is essential to addressing those constraints that prevent the achievement of universal human development.

Pakistan's human development indicators are low by international standards and in comparison with other countries in the region. UNDP's Human Development Index 2013 ranked Pakistan at 146 out of 187 countries. On a number of human development indicators, Pakistan lags behind most other countries in the South Asian region. The country is set to fall short on most of its Millennium Development Goal (MDG) targets. Education, health, gender equality, youth development,

human rights and employment are among the areas in need of urgent attention.

A country confronting the daunting challenges of terrorism, poverty, ethnic and political schism and natural disasters needs a decentralised governance structure to adequately respond. A transparent, accountable and empowered local government system can contribute to promoting human development by bridging the development deficit, providing social safety nets and bringing the state to the citizens.

Participation is a key element of any democracy. Indeed, the true spirit of democracy will be realised only if ordinary citizens have the opportunity to participate in the decision-making process. A common citizen may not seek participation in foreign policy affairs, but would legitimately desire to participate in decisions related to local public services, such as a neighbourhood school or a clinic, in order to maximise benefits to the community.

An empowered and aware citizenry is the ultimate bulwark of democracy. Decentralization of the democratic process strengthens democracy by developing citizens' ownership of the system. For a citizen, a democracy controlled by the elite is not very different from a dictatorship. Local government provides a forum that enables the participation of politically-dispossessed segments of society, strengthening the relationship between citizens and the state.

The people of Pakistan have endured long periods of non-participation and have undertaken a long journey in search of democracy. The establishment of local governments is an important milestone in that journey. The elected governments are obliged to establish local governments in accordance with the Constitution of Pakistan, and to fulfil the aspirations of the people of Pakistan.



# Taking Democracy to the doorsteps of citizens







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elections indicated a more open society, responsive to changing social realities and the determination of women to become a part of mainstream politics, despite an unfavourable environment.

The performance of these women in the local councils also disproved apprehensions about women's ability to participate in governance and produce results for their constituencies. Their success was also evidenced by the tremendous acceptance and pride exhibited by their families and neighbours and the acknowledgement of their constituencies. Their involvement and advocacy also led to the passage of several pieces of pro-women legislation and policies by the federal and provincial government.

Even after the dissolution of the local governments, many of these women have remained active participants in their communities, providing social, political and economic support to their community members. A large number of the women who started out as councillors at the Union Council level also emerged as Members of Provincial Assemblies in the 2008 and 2013 general elections.

However, the reduction in seats reserved for women in the recently passed local government laws is unfortunate, despite the positive results linked to their past political participation. This is evident from the lower rate of women's participation in the general elections of 2013, which resulted in a much lower proportion of women in policy and decision-making positions. As a result, the influence of women politicians has diminished and there is a risk that the roles and participation of women in the political, social and economic arena will be further diminished.

In this context, it is essential for the local government laws to provide for greater participation by women in local governments so they can not only play a productive role in lifting the status of their communities, particularly women, but also prepare themselves for political participation in the provincial and national assemblies.

*Aurat Foundation*

## Local Governments and the Participation of Women

**T**he establishment of local governments is a key element of democracy, as it provides the platform for citizens to be involved in the planning, execution and monitoring of public service delivery. Local governments are considered a nursery for future leadership and provide them with practical experience to participate in governance. It is, therefore, important that all sectors of society are represented in local governments.

Democracies around the world make special provisions in the relevant laws to enable representation of women and to reduce barriers to their meaningful participation. With the re-emergence of conservative trends, the mandated participation of women in local governments can be an important vehicle for driving

change in the country's political landscape.

The local government ordinance of 2001, in response to civil society advocacy, reserved 33 percent of the seats in all tiers of local government for women. There was concern that women would either be unwilling to contest the local government elections or their participation would be constrained by cultural and social barriers. On the contrary, 36,000 women entered local governments, filling 90 percent of the seats reserved for women. This silent revolution was replayed in 2005 when 156,925 women candidates contested the local elections and 98.3 percent of reserved seats for women in the Union Councils were filled.

Women's participation in direct

## Local Governments and Religious Minorities

“Local governments provide religious minorities a better chance to make decisions that affect their daily lives at the grassroots level...”



Harris Khalique is a columnist and intellectual with more than 20 years of professional work with civil society organizations, focusing on human rights and community development.

In Pakistan, citizens' rights to elected local governments and non-Muslim Pakistanis' rights to be seen as equal citizens both remain challenges. Therefore, the question of the participation of non-Muslims in local governments becomes twice as complicated.

After judicial intervention, the four provincial governments, helped by federal institutions including the Election Commission of Pakistan, are now holding elections after passing new local government laws in accordance with the Constitution. The three bigger provinces have been beaten to the chase by Balochistan, which was able to conduct local government elections in very difficult circumstances and amidst a law and order breakdown in many of its remote areas.

As far as the inclusion and participation of religious minorities in local government elections and, consequently, the operation of local bodies is concerned, different parts of the country have different circumstances offering diverse challenges and opportunities.

Minorities live in fear and their participation is checked due to inadequate legal frameworks, and the practices of social exclusion and economic marginalisation. There are Union Councils which are clearly dominated by non-Muslim populations, but we see Muslims

being elected in larger numbers there as well. The allocation of a quota of seats for minorities has both pros and cons. It is useful in places where non-Muslims are in a minority. However, it becomes a problem where they are in the majority because the groups and political parties fielding candidates in these Union Councils are dominated nationally and provincially by Muslims. In such cases, it can be useful if the Muslims can also vote for the minority candidates. This will help mainstream the minority candidates in local politics in the beginning, and eventually at the provincial and national levels.

Local governments provide religious minorities a better chance to make decisions that affect their daily lives at the grassroots level, while also providing a nursery for future higher level political leadership. Non-Muslims have far greater opportunities in local governments than the provincial or national governments at this stage of Pakistan's social and political development. However, it can only happen if the policy makers understand the issue and allow non-Muslims full representation in areas where they constitute a majority by making requisite changes in the law and procedures and making it mandatory for the local political groups and mainstream political parties to award tickets according to each area's population.

# Delimitation of Constituencies: A Vital Component of Elections

Democracy Reporting International

**D**elimitation of constituencies is a vital component in defining how representative and, to a certain extent, how fair elections will be. In recognition of the importance of delimitation, country signatories to the International Covenant on Civil and Political Rights (ICCPR) codified this principle in article 25(b), which provides for the principle of equality of votes. Also, paragraph 21 of General Comment 25 (which is the authoritative interpretation of the ICCPR) states that the vote of one elector should be equal to the vote of another; the drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely. Pakistan ratified the ICCPR in 2010.

Delimitation practices are also codified in the Code of Good Practice in Electoral Matters adopted by the European Commission for Democracy Through Law (Venice Commission), adopted in October 2002. The Code suggests that delimitation should be done impartially; without detriment to national minorities; taking account of the opinion of a committee, the majority of whose members are independent and should preferably include a geographer, a sociologist and a balanced representation of the parties and, if necessary, representatives of national minorities. Other key guidelines given in the code are equal voting power through the even distribution of seats among constituencies, which should be applicable at least to elections to lower houses of parliament and regional and local councils. The code also proposes criteria for the allocation of seats to constituencies. These can be population or number of registered voters, but with a variation of not more than 10 percent. The distribution of seats must be reviewed at least every 10 years, preferably outside election periods.

Pakistan has a separate law – the Delimitation of Constituencies Act, 1974 – governing delimitation of constituencies for national and provincial assemblies. However, provincial legislation on delimitation of electoral units for local government elections is part of the Local Government (LG) laws, together with other aspects of the electoral processes.

In addition to regulating delimitation with a different legal framework, provinces deal with delimitation in very different manners than the federal authorities. Balochistan, Punjab and Sindh provide a mandate for delimitation of electoral units/wards and Union Councils to the provincial government rather than the Election Commission of Pakistan (ECP). The government of Khyber

Pakhtunkhwa, on the other hand, established a semi-independent Delimitation Authority, albeit the Act leaves its composition and scope of work undefined.

Legislation on delimitation in each province has many weaknesses – besides the lack of the independence of delimitation authorities, neither of the provincial laws require preliminary publication of the delimitation plan, so as to allow and encourage public input or challenge, and to guarantee the right to an effective and timely remedy against gerrymandering.

All the LG laws set population as a major criteria for delimitation of Union Councils or Village Councils (in the case of Khyber Pakhtunkhwa) and electoral wards within a local council. While Sindh and Khyber Pakhtunkhwa laws define the term population as “in accordance with the last preceding census officially published”, this definition is not in the Punjab and Balochistan laws. As a reminder, Pakistan’s last available census figures date back to 1998 and the electoral rolls provide for more accurate population figures.

In general, the provincial laws require geographic compactness and contiguity and more or less uniform population as key criteria for delimitation of electoral units. However, not without a caveat: the laws also give extensive powers to the provincial governments to waive these requirements and to merge, divide or alter the boundaries of a local council simply by issuing a notification. This allocation of power to the executive branch of state and arbitrary powers provide little safeguard for such a fundamental element of elections.

Balochistan was the first province where delimitation was tested through the electoral process. An Election Assessment Mission (EAM) deployed by Democracy Reporting International (DRI) reported wide ranging complaints from voters about the lack of availability of delimitation information, leaving candidates unsure of which ward to nominate themselves in (candidates are required to be on the electoral roll in the ward they are running for). Use of the old census block codes created problems for delimitation and consequently for electoral roll division, causing complications at many stages of the process (including candidate nomination, campaigning and voter access to information on contenders, and establishment of the polling scheme). Information on registered voters per constituency (as opposed to the population size) has not been made easily available. The Balochistan LG Act sets a lower (7,000 residents) and upper (15,000 residents) population limit for Union Councils allowing for vast variations in population. The



variations in the sizes of Union Councils also undermine equality of votes within the District Councils where Union Councils are represented as electoral units.

DRI reports cases such as Quetta Metropolitan Corporation, where one ward (2 M.A Jinnah) has 1,947 voters while another (58 Lore Karez) has 26,445, i.e. more than 13 times more voters. Within each of the Union Councils in Quetta there was a minimum variation of more than 261 percent (the smallest ward having 1,151 voters and the largest having 3,009 voters). In the most extreme case, Union Council 3 (Sara Ghurgai), one ward had 1,450 voters making it 145 times larger than the smallest ward which has just 10 voters in total. Sindh and Lahore delimitation issues became apparent

when the Lahore and Sindh High Courts found delimitation of constituencies inadequate and declared them null and void, stalling the electoral process. The

Sindh High Court suggested the formation of an independent commission to deal with objections and appeals, while the Lahore High Court assigned the mandate for delimitation to the Election Commission of Pakistan. A detailed verdict of Lahore High Court is awaited. It remains unclear how the courts' judgments will be implemented.

Khyber Pakhtunkhwa is currently conducting delimitation, but its legislation has systematic weaknesses similar to the other provinces.

## Recommendations

After reviewing provincial legislation for delimitation and assessing delimitation conducted in Balochistan, the following recommendations are applicable to all of the provinces:

- 1 Establish an independent mechanism for periodic review of boundaries that provides for equality of the vote. Full information is made easily accessible to the public.
- 2 Delimitation should be based on updated population information or voter registration data. Constituencies are equalised.
- 3 Provide adequate safeguards against gerrymandering. Boundary delimitation of Union/Village Councils and wards may be undertaken by independent bodies. Also include an appeal mechanism to an independent body within an expedited time frame.
- 4 Include clear, objective criteria for delimitations of units/wards on the principle of equality of votes within one local council.
- 5 Set a statutory maximum percentage deviation from population size uniformity, replacing executive discretion to alter, merge or divide electoral units/councils.
- 6 Define the term 'population' in order to avoid legal challenges and provide a legal basis for the use of new census blocks as the basis for boundary delimitation.
- 7 Provide for preliminary publication of the delimitation plan, so as to allow and encourage public input and challenge where appropriate, and to guarantee the right to an effective and timely remedy against gerrymandering. Bar redistricting/delimitation in election years, so as to guarantee timely remedy to complaints against delimitation.



## Local Governance in the **Federally Administered Tribal Areas**

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Qazi Jamil-ur-Rehman possesses more than 15 years of experience working in the Justice Sector. He is currently working with UNDP.

The 14th of August 2012 was a very special day for the people of the Federally Administered Tribal Areas (FATA). On that day, the President of Pakistan signed the FATA Local Government Regulation 2012; thus kindling hope for self-governance in FATA.

With an area of 27,220 sq. km and a population of 4.02 million<sup>1</sup>, FATA comprises seven Tribal Agencies and six Frontier Regions situated along Pakistan's border with Afghanistan. FATA is the least developed region in Pakistan with 60 percent of its people living below the poverty line. It consistently ranks lowest in Pakistan across human development indicators in health, education, sanitation and other key areas.<sup>2</sup>

Administratively, FATA is under the direct executive authority of the Federation.<sup>3</sup> It is represented in the National Assembly by 12 members<sup>4</sup> and in the Senate by 8 members;<sup>5</sup> however, they have no power to make laws for their own area. The adult franchise was extended to FATA in 1996. Despite law and order problems, voter turnout for general elections in FATA increased from 31 percent in 2008 to 36 percent in 2013.<sup>6</sup>

The Local Government Regulation 2012 provides for Municipal Committees (MCs) for each town, where general members of the MC shall be directly elected based on adult franchise and joint electorate and other members elected indirectly by the elected members.<sup>7</sup> MCs have been given control of a wide range of municipal services which *inter alia* include water supply, sanitation, natural resource conservation, waste management, public roads, traffic signals, pavements and lighting, public parks, billboards, hoardings, fire-fighting, master planning, markets, urban infrastructure, environment and construction, maintenance and development. The Regulation allows local councils to generate revenue by imposing property taxes and charges for municipal services.

The new Regulation is entirely different from the colonial system of governance by *Maliks*,

the local elders appointed by the federal government to support local governance. It is likely to encourage greater participation of poor and marginalised segments of society through their representatives who will be accountable to them, and to deliver participatory self-governance to the marginalised, poor populations in FATA.

However, better governments don't emerge automatically. The proposed MCs can only grow as 'efficient service providers' and 'agents of development' in tribal areas if there is a strong and effective legal framework. Unlike other Statutes, this Regulation has not been made effective immediately; rather it has been left to the discretion of the Governor to enforce it when he deems fit. The power of the Governor to suspend and dissolve MCs is also contested. Moreover, the relationship between Political Agents and the MCs and the chain of administrative and budgetary command also need to be defined. Despite all these and such other concerns, it is high time that the Regulation be enforced in letter and spirit to test it on ground.

The Political Parties Joint Committee on FATA Reforms, which held a series of consultative sessions on the issue of FATA reforms and presented their 11 unanimous recommendations, also recommended that local government elections be held in tribal areas.

FATA, once famous for its peace and tranquility, culture and hospitality, has suffered a lot in the recent past due to militancy. The roll out of the local government system in FATA will not only bring the government closer to the public, but will also foster mutual trust and confidence and open a new chapter of development for the people of FATA.

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1. *Post Crisis Needs Assessment of KP and FATA*, Government of Pakistan

2. *ibid*

3. Art. 247 of the Constitution of Pakistan

4. Art. 51 of the Constitution of Pakistan

5. Art. 59 of the Constitution of Pakistan

6. Election Commission of Pakistan

7. FATA Local Government Regulation 2012



# Local Government in FATA



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Zahid Hussain is a senior editor with "Newsline", and a correspondent for the "Times of London", the "Wall Street Journal" and "Newsweek".

**T**he establishment of an elected local council system is critical for democratic reforms in the Federally Administered Tribal Areas (FATA). There is consensus among all the major political parties for holding local councils elections in FATA at the same time as in other provinces. But no decision has yet been taken by the federal government on their timeframe. This has already become a source of frustration among the people of FATA.

Under the Local Government Regulation for FATA introduced in 2012, the Municipal Councils were to be elected on the basis of adult franchise for a term of four years. These Municipal Councils are supposed to be responsible for social services with some restricted powers to levy local taxes. The Council is authorised to spend funds provided by the federal government with the approval of the governor of Pakhtun Khawa, who is also the administrative head of FATA.

While the local governments in other provinces have greater administrative and financial powers, the proposed local councils in FATA do not have the authority even to carry out



development work in their areas without the approval of the governor. The installation of an elected and empowered local government system has become imperative to fill the void created by the collapse of the old system of Maliks (tribal leaders). The decade-long fighting in the tribal areas has rendered ineffective the Maliks who worked as liaisons between the tribes and the Political Agent (PA), the chief administrative officer of the agency.

FATA's current judicial system is enshrined in the Frontier Crimes Regulation (FCR) promulgated in 1901, a hybrid colonial era legal framework that mixes traditional customs and norms with executive discretion. The FCR concentrates

civil and criminal offences in accordance with the local rawaj or custom, even though the PA can take executive action to deal with any offense against government officials or interests of the state, using force or the good offices of the Maliks. In effect, the FCR preserves the Pashtun tribal structure of the Jirga to which the PA can refer civil and criminal matters.

Until 1997, FATA did not have adult franchise, but instead only a handful of handpicked Maliks were granted the right to vote, and political parties were banned from operating in the area. This ambiguous status has largely been the cause of the social and economic backwardness and lawlessness of the region.

the normal laws of the land are extended to FATA.

The argument that local government elections cannot take place while fighting continues in FATA does not hold either. Tribesmen turned in out large numbers to cast their votes in the general elections.

In fact, the local council elections could help restore peace in the Tribal Areas by getting the tribesmen involved in running their own affairs. Denial of their basic human and democratic rights is a major reason for the growing alienation of the people of FATA. The region is the country's most underdeveloped in terms of even basic facilities like health care and education. For the



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discretionary police, judicial and executive authority in the centrally appointed Political Agent. FATA is further divided into three jurisdictions: inaccessible areas, administered areas and protected areas.

In the protected areas, the tribal Jirgas (councils of elders) deal with

The rise of the Taliban has also weakened the influence of traditional tribal Jirgas that served as an alternate dispute resolution system in the territories where no formal state legal system exists. The Jirga system can coexist with the more representative elected council until

democratisation of FATA and, ultimately, its political integration with the rest of the country, it is imperative to shift the legislative power for FATA from the President to the Parliament, to establish elected local governments for effective local self-governance and service delivery.

## Comparative Table on Provincial Local Government Laws By Province

Electoral System				
Balochistan Local Government Act Passed in May 2010 Elections held 7 December 2013	Khyber Pakhtunkhwa Local Government Act Passed in October 2013	Punjab Local Government Act 2013 (amended)	Sindh Local Government Act 2013 (challenged in Supreme Court)	
<p><b>General:</b></p> <ul style="list-style-type: none"><li>There are four varieties of local government with varying compositions and powers. Local government structure is different for rural/urban areas and Quetta.</li><li>All local bodies are elected on a party basis.</li></ul> <p><b>Specific:</b></p> <ul style="list-style-type: none"><li>Rural voters cast two ballots to elect representatives to Union and District Councils, while urban voters cast a single ballot for a representative on a Metropolitan/Municipal Corporation or Committee.</li><li>Reserved seats are indirectly elected by the members of the respective body.</li></ul> <p><b>Election of Mayors and Chairpersons:</b></p> <ul style="list-style-type: none"><li>The manner in which mayors and chairpersons are to be selected is not determined in the law.</li></ul>	<p><b>General:</b></p> <ul style="list-style-type: none"><li>There are six varieties of local government with varying compositions and powers. Local government structure is different for rural/urban areas and Peshawar.</li><li>Village/Neighbourhood Councils are to be elected on a non-party basis, while all other bodies are to be elected on a party basis.</li></ul> <p><b>Specific:</b></p> <ul style="list-style-type: none"><li>Voters will cast five ballots for seats on Village/Neighbourhood Councils and an additional ballot for a higher council.</li><li>Reserved seats on Village/Neighbourhood Councils are directly elected, while in the higher bodies they are to be filled on a party-proportional basis.</li></ul> <p><b>Election of Mayors and Chairpersons:</b></p> <ul style="list-style-type: none"><li>The two highest vote getting candidates for Village/Neighbourhood Councils will be made Nazim and Naib Nazim respectively. Nazims and Naib Nazims in all other bodies will be elected by the members of the respective bodies.</li></ul>	<p><b>General:</b></p> <ul style="list-style-type: none"><li>There are five varieties of local government with varying compositions and powers. Local government structure is different for rural/urban areas and Lahore.</li><li>All local bodies are to be elected on a party basis</li></ul> <p><b>Specific:</b></p> <ul style="list-style-type: none"><li>Voters will directly elect either the members of a Union Council or a Municipal Committee depending on where they reside.</li><li>Voters in Union Council areas will cast six votes – one for the Chairman and Vice Chairman, and one each for general members, women, peasants/workers, youth, and non-Muslims.</li><li>Voters in Municipal Committees will cast a vote for a single representative.</li><li>The higher bodies are all indirectly elected; composed of the chairmen of the Union Councils, as well as reserved seats selected on a party-proportional basis.</li></ul> <p><b>Election of Mayors and Chairpersons:</b></p> <ul style="list-style-type: none"><li>Chairman and Vice-Chairman of all bodies are chosen by the members of the respective body with the exception of Municipal/Metropolitan Corporations whose chairmen are elected by an electoral college consisting of all members of the respective Union Councils.</li></ul>	<p><b>General:</b></p> <ul style="list-style-type: none"><li>There are eight varieties of local government with varying compositions and powers. Local government structure is different for rural/urban areas and Karachi.</li><li>All local bodies are to be elected on a party basis</li></ul> <p><b>Specific:</b></p> <ul style="list-style-type: none"><li>Voters cast one ballot for a panel of candidates in the Union Councils/Committees, and an additional ballot for a representative in a higher committee/council.</li><li>Municipal, District, and Metropolitan Corporations elected indirectly by members of Union Committees.</li><li>Reserved seats directly elected at Union Committees/Councils and indirectly elected for all other bodies.</li></ul> <p><b>Panel System:</b></p> <ul style="list-style-type: none"><li>The electoral system at union level means the winning party/independent panel of candidates will fill all seats on the respective body (Party Block Vote).</li><li>Independent candidates required to form panels of nine candidates to contest Union Councils/Committees.</li></ul> <p><b>Election of Mayors and Chairpersons:</b></p> <ul style="list-style-type: none"><li>Mayors, Deputy Mayors, Chairman and Vice-Chairman of all bodies chosen by members of the respective body by show of hands.</li></ul>	

Representation	Municipal Functions			
	Types of Local Govs.	Provincial Oversight	Term Limits	
Representation	<p><b>Women:</b></p> <ul style="list-style-type: none"> <li>Approximately 28 percent of seats are reserved for women in all local bodies, but proportions vary according to other reservations.</li> </ul> <p><b>Non-Muslims:</b></p> <ul style="list-style-type: none"> <li>Seats may be reserved for Non-Muslims as determined by the government.</li> </ul> <p><b>Youth:</b></p> <ul style="list-style-type: none"> <li>No reservations for youth representation.</li> </ul>	<p><b>Women:</b></p> <ul style="list-style-type: none"> <li>13-22percent of seats are reserved for women in all local bodies.</li> </ul> <p><b>Non-Muslims:</b></p> <ul style="list-style-type: none"> <li>4-7 percent of seats are reserved for Non-Muslims in all local bodies.</li> </ul> <p><b>Youth:</b></p> <ul style="list-style-type: none"> <li>4-7 percent of seats are reserved for youth in all local bodies.</li> </ul>	<p><b>Women:</b></p> <ul style="list-style-type: none"> <li>Seats are reserved for women at every level, but proportions vary dramatically. Percentages range from 15 percent of seats in each Union Council to a maximum of 4 percent in larger bodies including Corporations of Lahore and Faisalabad.</li> </ul> <p><b>Non-Muslims:</b></p> <ul style="list-style-type: none"> <li>Seats are reserved for Non-Muslims ranging from 8percent of seats in each Union Council to a maximum of 1- 1.5 percent in larger bodies including Corporations of Lahore and Faisalabad.</li> </ul> <p><b>Youth:</b></p> <ul style="list-style-type: none"> <li>Seats are reserved for youth ranging from 8 percent of seats in each Union Council to a maximum of 0.3 percent in larger bodies including Corporations of Lahore and Faisalabad.</li> </ul>	<p><b>Women:</b></p> <ul style="list-style-type: none"> <li>Seats are reserved for women including 11 percent of seats in each Union Council/Committee and 22 percent in other bodies.</li> </ul> <p><b>Non-Muslims:</b></p> <ul style="list-style-type: none"> <li>Seats are reserved for Non-Muslims including 11 percent of seats in each Union Council/ Committee and 5 percent in other bodies.</li> </ul> <p><b>Youth:</b></p> <ul style="list-style-type: none"> <li>No reservations for youth representation.</li> </ul>
	<p>Health, education, public safety and town planning are some of the core functions that have been devolved to the local councils. Development work will require formal prior approval from the Provincial Government.</p> <p>The Provincial Government can suspend local government officials for 30 days.</p> <ul style="list-style-type: none"> <li>Union Councils</li> <li>District Councils (rural)</li> <li>Municipal Corp. (urban)</li> <li>Municipal Committees (urban)</li> <li>Metropolitan Corp. (Quetta)</li> </ul>	<p>Health, education, social welfare, revenue, estate and rural development have all been devolved to local councils. However, the KP Act devolves power in four phases as opposed to other Acts.</p> <p>The Provincial Government can suspend local government officials for 30 days.</p> <ul style="list-style-type: none"> <li>Village Council (rural)</li> <li>Neighbourhood Council (urban)</li> <li>Tehsil /Town</li> <li>District</li> <li>City District (Peshawar)</li> </ul>	<p>Under the PGLA various key authorities related to public services have not been devolved to local government control, such as the Lahore Development Agency, Solid Waste Management and Punjab Agricultural and Meat Company.</p> <p>The Provincial Government can suspend local government officials for 90 days.</p> <ul style="list-style-type: none"> <li>Union Council</li> <li>District Council (rural)</li> <li>Municipal Corp. (urban)</li> <li>Municipal Committee (urban)</li> <li>Metropolitan Corp. (Lahore)</li> </ul>	<p>Health, education, water supply and town planning have been given to the local councils, but Karachi Sewerage Board and Sindh Building Control Authority remain with the Provincial Government.</p> <p>The Provincial Government can suspend local government officials for 6 months.</p> <ul style="list-style-type: none"> <li>Union Council (rural)</li> <li>District Council (rural)</li> <li>Union Committee (urban)</li> <li>Town Committee (urban)</li> <li>Municipal Committee (urban)</li> <li>Municipal Corp. (urban)</li> <li>District Municipal Corp. (Karachi)</li> <li>Metropolitan Corp. (Karachi)</li> </ul>
	4 Years	3 Years (as per current act)	5 Years	4 Years



# Interview

## Sardar Mustafa Khan Tarin

Balochistan Minister for Local Government

### How important are local government (LG) elections in improving democratic governance in Pakistan?

Local government polls are essential to lay the foundation for a viable and enduring democracy. To empower people at the grassroots level and ensure their participation in government policies and decision-making, the political parties have worked hard for the revival of true democracy in the country. Basic democracy, in the form of local institutions, gives people a sense of participation, ownership and integration in the important matters of their respective communities. Holding LG elections is the only way to engage the public in government policy-making through their representatives, and this is why we strongly supported local bodies and conducted LG elections in Balochistan.

### What will be the fundamental areas of responsibility for newly formed local bodies in your province?

The newly elected body is the real representative of our constituency. When it comes to service delivery and identifying the core issues at the grassroots level, the local representatives could turn out to be the most effective. The newly elected local bodies should assist the provincial government to reform social service delivery and improve law and order. More importantly, the local bodies could play a pivotal role against the menace of corruption and help improve the performance of government departments. For example, a councillor could check on absentee teachers and medical practitioners to hold them responsible for performing their duties.



### How will the LG law, passed by the Provincial Assembly, ensure the sufficient devolution of financial, administrative, and political power to newly formed local bodies?

The local polls were held in Balochistan due to the collective resolve of the present government to empower local bodies in line with the Constitution and the LG Ordinance 2010. The local representatives will be fully empowered to serve the people of their constituencies by exercising their political, administrative, and financial powers.

### What are the barriers to the development of effective LG structures in Pakistan?

The Balochistan government has the distinction of having held LG elections in compliance with the directives of the Supreme Court under Articles 32 and 140(A) of the Constitution, as we want this system to flourish. Unlike in the past, the current government decided to hold elections on a party basis, which makes the local polls more important. It was first time in the country that local polls were held on a party basis since the initiation of the LG system. When a councillor or a mayor elected on a party basis does not live up to people's expectations, they will not vote for his party in the general elections. Non-partisan elections have been a stumbling block in the development of effective LG structures in Pakistan.

### What are the key strengths of the LG Law in your province?

There will be more emphasis on rural development and improving the basic amenities of life. The law has made local representatives take concrete

measures for rural development and improvements in municipal services, which is sometimes difficult for members of the provincial assembly to effectively address.

### How does the LG Law in your province empower local elected leadership in development planning and improving service delivery mechanisms?

The incumbent government has devised a concerted strategy aimed at ending corruption and paving the way for improving service delivery mechanisms. The local representatives' proposals regarding improvements in health, education, maintaining law and order, ensuring continued and equitable development, and creating opportunities for all constituents will be honoured as enshrined in the law.

### What are the fiscal powers devolved to the districts, Tehsils and union councils/neighbourhood councils in your province?

During military regimes, the LG system was preferred as dictators

used local bodies to ensure their legitimacy. Although we are in favour of devolution of administrative, fiscal and political powers to local leadership in line with the LG law, there should be a transparent mechanism with robust checks and balances. The local representatives will be duty-bound to work on development schemes for their respective areas and present them before a committee for approval and implementation. The viability of the development scheme finalised by the local bodies will be appraised by the cabinet and funds will be released accordingly.

### say that again

*"There will be more emphasis on rural development and improving the basic amenities of life."*



### In your view, what would be the political and developmental impact of the elected LGs in your province?

The party affiliation of the newly-elected local bodies with the political parties would not only improve their performance, but would yield positive impacts on the province's development. The LGs will address issues of law and order, absentee doctors and teachers, and rural development, leading to a positive impact on the overall development of the province.

# Interview



## Mr. Aslam Rind

Quetta City local body representative

### *say that again*

*"... provincial government seems reluctant to devolve powers to the grassroots level, as parliamentarians are more interested in getting funds ..."*

#### **What are the challenges facing newly elected local bodies in your province?**

The scenario has entirely changed. The issues people face are more complex and problematic. With the influx of instant information and media, people are much more aware than in the past and they seek sustainable development and permanent resolution of issues.

In the rest of the world, local bodies have been vested with massive administrative and fiscal powers and work domains. The mayors of London and New York happen to be more powerful than national government officials. However, in Pakistan, local government (LG) institutions are currently only supposed to look after municipal services. I fear we will feel helpless if administrative and fiscal powers guaranteed by law are not fully decentralised to the grassroots level.

#### **As a newly elected LG representative, how do you define your key role and responsibilities?**

According to the LG Law, we are duty bound to take steps to improve civil services and public health and to promote education. Some of the key roles we have to perform include:

enforcement of compulsory primary education; master planning for development expansion and improvement; environmental conservation; establishing maternity centres for the welfare of women, infants and children; and establishing and managing hospitals and dispensaries.

#### **What are the key tasks that the local body you have been elected to needs to perform during its five-year tenure?**

Poor law and order has caused widespread migration from volatile parts of the province. About 3 million people live in the provincial capital of Balochistan, which was initially built for 50,000 people. The population burden has resulted in the collapse of public services.

The previous regimes' lack of a serious attitude and planning for the future took the situation from bad to worse. Key sectors, such as education and health, are on the verge of collapse. Traffic is out of control. Lawlessness, killings, and unabated subversive acts have created chaos in the province.

In this warlike situation, steps on a war-footing are required to bring tangible change in peoples' lives. But

contrary to that, we have been confined with regard to our job descriptions. Unlike other parts of the globe, we are powerless and the provincial government seems reluctant to devolve powers to the grassroots level, as parliamentarians are more interested in getting funds worth millions of rupees instead of taking an interest in legislation, policy formulation and thinking beyond their constituencies' benefit.

#### **What steps will you take to improve the involvement of women and youth in identifying public policy priorities?**

Women and youth are vital to bring tangible change in society's structure. Articles 25 and 26 of the Constitution call for the protection of women and further stipulate that there be seats reserved for women in legislative assemblies. In view of the role of women and youth as enshrined in the constitution, I would make the utmost effort to engage them in identifying public policy priorities. More importantly, I am in favour of direct elections of women instead of the allocation of reserved seats in the LG institutions.



# Youth Voices

The Balochistan Government has successfully fulfilled its constitutional responsibility and has held elections and, as a result, power will shift to the public at the grassroots level. I hope that local elections have a positive impact in improving law and order, which is undoubtedly our province's biggest problem. If local government institutions are strengthened, they can play a significant role in socio-political and economic development.

**Ms. Saman Bakhtawar Jaffar,  
Quetta**



**Mr. Abdul Qadeer Khan,  
Quetta**

Fair play is only possible when honest and devoted people are elected by the masses, and that is only possible when election procedures are changed. I would like to see good results from the elections, and development work responding to the priority problems of communities. These are the basic things that they are elected for, all they are elected for.

**Mr. Shaikh Abdul Razaq,  
Dera Murad Jamali**



The recently held local government elections in Balochistan saw great interest among people from all walks of life. Despite the grim law and order situation and numerous other threats, voters turned out zealously to cast their votes. The beauty of local government is that access is made easier. In this system, everyone can easily approach the elected bodies and get their problems solved.

Local government elections are vitally important for a deprived province like Balochistan. These should always be held on time, without flaws and in a systematic way as the local government system deals with virtually every problem that people face in their daily lives, from birth to education, maturity and marriage to death.



**Ms. Rabia Khan,  
Jaffarabad**

# Interview

## Mr. Sharjeel Memon

Sindh Minister for Local Government

**In your opinion how important are the local government elections in improving democratic governance in Pakistan?**

This will be the first time in Pakistan's history that local government elections will be held under a democratic setup and on a party basis. Local bodies are the third pillar of democracy and these should be strengthened as guaranteed in the Constitution of Pakistan. Democracy is incomplete without local governments and their establishment will strengthen the provincial as well as the federal government.

**In your opinion, what will be the fundamental areas of responsibility for newly formed local bodies in your province?**

Local bodies should maintain municipal services like water supply, sewerage, primary education and basic health units. These are the key responsibilities of these bodies. Local bodies could also impose local taxes to generate income. Provincial governments will provide funds and collaborate with city, district and *taluka* (sub-district) governments so they perform effectively.

**How will the Local Government Law, passed by the Provincial Assembly, ensure the sufficient devolution of financial, administrative and political power to newly formed local bodies?**

Through this law, passed by the Sindh Assembly, local bodies can generate revenue by imposing local taxes. The law has devolved the financial, administrative and political powers guaranteed to the local governments in the Constitution of Pakistan. I believe that this law will be more beneficial for the masses compared to the previous experiences of local governments in Sindh.

**What are the three key strengths of the Local Government Law in your province? Please explain?**

Local bodies can impose local taxes to generate income. They have to provide basic health facilities and primary school education. These bodies can also enact useful municipal legislation.



**How does the Local Government Law in your province empower local elected leadership in development planning and improving service delivery?**

Local bodies will have separate development budgets, and the power to impose local taxes. The Provincial Government will also provide them with funds. This funding will enable them to play their role positively and to complete development schemes improving infrastructure.

**What are the fiscal powers devolved to the districts, Tehsils and Union Councils/Neighbourhood Councils in your province?**

The Sindh LG Law gives a lot of fiscal powers to the districts, *Tehsils* and Union Councils and these powers are devolved to local bodies according to their population and demography. There is room for further devolution and in time more fiscal powers will be devolved to the local bodies.

**In your view what would be the political and development impact of the elected local government in your province?**

In the absence of elected local bodies, their functions are run through the bureaucracy. After the elections, which will be held on a political party basis, local leaders will run the affairs of these bodies. I believe that the local politicians can better perform their roles in this regard and the masses can more easily approach their local leaders than the bureaucrats.



# Youth Voices



**Ms. Sassui Solangi,  
Noshehro Feroz**

Overall I think these elections will have a positive impact and those who were deprived of basic services will find these elections useful. The most important thing the newly elected bodies should keep in mind is honesty. Corruption and bad governance is ruining our system, these bodies should stop corruption and work in an honest and transparent way.

We cannot see any impact unless and until positive amendments are made to the local laws and powers are transferred to the elected bodies in both letter and spirit. These elections should prove to be an opportunity for the people to bring development and harmony, and to raise their standard of living.

**Mr, Hasrat Ali Manjothi,  
District Sajawal**



**Anas Ravaid,  
Karachi**

Law and order is the biggest issue, and the newly elected bodies should have effective communication with the people and the police by enhancing the system of community policing. In this way, the elected bodies can bridge the gap between police and communities. They should also ensure transparency, and that tax funds allocated for development programs be spend wisely and honestly on the people.



**Ms. Faiza Raees,  
Karachi**

The local bodies' election should be held in the province at any cost. If they fail, people will be deprived of their basic rights. Local government ensures that people can communicate with their elected representatives. I am not saying that all problems will be solved at once, but at least there will be some improvement.



# Interview



## Mr. Inayatullah Khan

Khyber Pakhtunkhwa Minister for Local Government and Rural Development

### In your opinion, how important are local government (LG) elections in improving democratic governance in Pakistan?

I think they are extremely important. This third tier of government is required by the constitution and it is continually missing in the elected political governments. The military dictators have held local elections just to provide legitimacy to their rule, whereas the elected political government is avoiding holding the LG elections because they are reluctant to share their power with people at the grassroots level.

LG elections are also important because they are necessary in order to devolve power to the local level, to increase efficiency and to make municipal services work for the people. At the moment municipal services, health and education facilities are dysfunctional and underutilised, in part because they are

controlled by provinces which are removed from the local people. In accordance with Article 140(A) of the Constitution, provinces must devolve financial, administrative and political authority to elected representatives at the district level.

If we hold LG polls consistently, it will strengthen the democratic system. It will provide a platform for new leadership to emerge and will cultivate democratic culture.

### In your opinion, what will be the fundamental areas of responsibility for newly formed local bodies in your province?

As part of our LG act, we will devolve 24 public departments – including education, health, agriculture, communication and works – to the district level. A three-tier system will be established at the district level. At the top will be the district government, then the *Tehsil*

government and then the Village Council. District Councils will look after the devolved offices at the district level, while municipal services will be given to the *Tehsil* Councils. They will monitor and hold accountable the offices at the *Tehsil* level.

Village Councils will have their own internal dispute resolution mechanism, their own security system and will look after their needs and requirements at the village level.

Village Council elections will be held on non-party basis. A Village Council will represent a population of 2,000-10,000, but we will not break up villages. These will be within the limits of the *Patwar* (village revenue official) and we will also not cross the limits of the current Union Councils. We expect to form more than 3,000 Village Councils in Khyber Pakhtunkhwa.

### How will the LG law, passed by the provincial assembly, ensure the sufficient devolution of financial, administrative and political power to newly formed local bodies?

The LGs are empowered not only to monitor and manage, but also to plan and mobilise resources for the devolved subjects. The provincial government will transfer 30 percent of its development funds as well as funds for meeting recurring costs to the district governments.

The allocation of resources to districts will be made by the Provincial Finance Commission (PFC), which will distribute the funds according to an agreed formula, based on population, poverty, remoteness and lack of infrastructure.

Unlike other provinces, the PFC of Khyber Pakhtunkhwa will include two representatives of the District *Nazims* and two representatives of the *Tehsil Nazims*.

### What are the barriers to the development of effective LG structures in Pakistan?

The main hurdles are a feudal mind-set and the traditional political class who are reluctant to devolve their powers and share resources with local governments. Another barrier is the practice of allocating development funds to provincial and federal parliamentarians for visible projects with immediate results, which undermines the principle of local planning and development.

Bureaucracy is another hurdle, as they want to maintain a tight centralised control system without devolving or sharing power.

If we can hold local elections consistently, we would be able to set up a very strong federation. If we elect 50,000 councillors and more than 3,000 *Nazims*, over 900 District Council members and 73 *Tehsil Nazims* and 25 District *Nazims*, power would be shared more broadly.

### What are the three key strengths of the local government law in your province?

First, we are not going to establish local councils; we are going to establish district governments. We are devolving powers in accordance with the spirit of Article 148.

Second, we have blocked the way for horse-trading. For example, in District and *Tehsil* Councils the elections would be on a party basis. Those elected as members of district and *Tehsil* Councils would be eligible as candidates for district and *Tehsil Nazims*, to be elected by the respective council. There will be no secret ballot. It would be a vote by division. So, those who vote against their parties would lose their seats.

Third, we are the only province that will be establishing more than 3,000 Village Councils. The government functionaries at the village level would be accountable to the elected representatives. This is a major and fundamental shift.

### How does the LG law in your province empower local elected leadership in development planning and improving service delivery mechanisms?

When you empower people to plan for themselves, to identify and prioritise their needs, to control finances and to generate revenue, you improve the service delivery system. When you empower communities to manage their problems at their own level, this changes the entire situation on the ground.

### What are the fiscal powers devolved to the districts, *Tehsils* and Union Councils/ Neighbourhood Councils in your province?

The District, *Tehsil* and Village Councils are fully empowered to use the funds given to them. The provincial government would have no right to override the decisions of these councils and the budgets passed by them.

### In your view, what would be the political and developmental impact of the elected LGs in your province?

The LGs will change the pattern of politics in Pakistan. They will cultivate a democratic culture and people will be able to identify and prioritise their needs, plan for development, generate revenue and spend their own finances. But continuity is very important, and without it the system will not work.



### say that again

*"If we hold LG polls consistently, it will strengthen the democratic system. It will provide a platform for new leadership to emerge and will cultivate democratic culture."*

# Youth Voices

**Mr. Junaid Sabir,  
Peshawar Cantt**



The local government system is nothing but a competition among *nazims*, *naib nazims* and councillors for power. The *nazims*, like the ministers, make big promises before the elections, but they disappear when they win their seats.

In my opinion, the local government is a good system. People will get a platform to resolve their problems at their doorstep. The people won't have to wait for months to meet a minister regarding their problem. They would just ask the local *nazims* to resolve their problems. I want the local elections to be held in our province as early as possible.



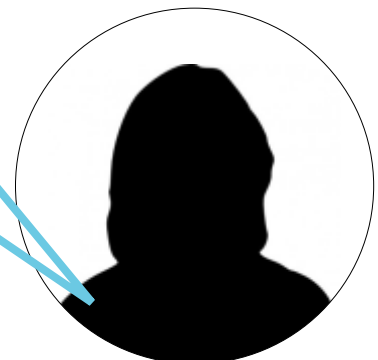
**Rahmanullah,  
Maland division**

The local government system provides the basis for real democracy. Unless we have a proper local government system and hold local government elections consistently, true democracy cannot flourish in the country. I think the government should fulfil its commitment by holding local government elections at the earliest possible time.



**Ms. Rafia Khan,  
Peshawar Sadar**

In local government, every member of the community is represented. I think it is especially good for women in the rural areas where they are deprived of their rights. If they have their own representation on the local council, their voices will be better heard.



**Salma,  
Mardan District**



# Youth Voices



**Mr. Azhar Shaheen,  
Okara**

I think these elections should be held. If these elections happen and we nominate someone from our area for the *nazim*, we can get our problems solved through him right here and would not need to go anywhere else or travel long distances. These elections should definitely happen, but without rigging.



**Abuzar,  
Lahore**

Jobs should be given to women for their empowerment and they should be treated equally at all levels without any discrimination. Local officials should use their role for the welfare of society, particularly for women. They should mainly focus on women's education.

The newly elected officials should take this opportunity to perform their best in addressing their communities' problems. Budget allocation should be appropriate and no corruption should be forgiven at any level. Better performance would allow people to rely on their local government, creating a stronger democratic system.



**Aasia,  
Okara**



**Hanniya,  
Lahore**

I would like the elections to have a positive impact for all Pakistanis. I would really like to see locally elected politicians step up and do their bit for the people who have placed their trust in them. The best impact these election could have is to make people and politicians realise the power of public opinion.

# Interview

## Mr. Rana Sanaullah

Punjab Local Government Minister



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### In your opinion, how important are local government elections in improving democratic governance in Pakistan?

I think the local government bodies are the basis of the democratic system; they are nurseries of democracy and for local level development. Streets, street light, parks, primary education and other such matters are dealt with by locally chosen representatives of local bodies. They are a very important organ of government and democracy as well.

### In your opinion, what will be the fundamental areas of responsibility for newly formed local bodies in your province?

I think the primary work area for local government is and should be the local problems of the people. The security situation is the responsibility

of the national and provincial governments, as well as large projects like roads, flyovers, big buildings, etc. Besides these large projects, all other constructive and social work must be carried out through local bodies.

### *say that again*

"There is all power with these local bodies to conceive to execute and then operate the development schemes in their respective areas."

### How will the local government law, passed by the Provincial Assembly, ensure the sufficient devolution of financial, administrative and political power to newly formed local bodies?

The LG act provides a single line budget through the provincial finance commission with the criteria of population and lack

of development. Funds will be submitted or transferred to the local government or local bodies and they are fully empowered to use those funds according to their own requirements. They will pass their budgets according to their own needs without any interference and they will execute expenditures through the year on their own. So there is full financial autonomy for the local bodies to use their own resources and resources transferred by the provincial government. They will enjoy full financial autonomy.

### What are the barriers to the development of effective local government structures in Pakistan?

There is a lot of space for capacity building because the capacity of local bodies to execute large development projects is in question.

So the most urgent need is for capacity building in local bodies to execute development projects.

### **What are the three key strengths of the LG Law in your province?**

The three strengths are the areas that we are giving financial autonomy in. We have introduced district education authorities where the authority will comprise the elected members of local bodies and the provincial government power will be there for the district education committee to exercise to improve education in that district. The same is true for the district health authorities and we are introducing reconciliation committees and *Panchayat* committees in the LG Act. These are very strong interventions by the present LG Act. I think that the sooner this system starts; the sooner things will come out.

There is always space for improvement. Things are always tested when there are put into practice. When this LG Act is put into force, many things will come out. Because it is the product of the Provincial Assembly, we can amend or improve the act at any time.

### **What do you think are the gaps in LG law in your province?**

There is no gap. We had very lengthy discussions in the Special Committee

and we have tried our best to improve and fill all those gaps. There were gaps in the previous local body system. When this act is enforced and practiced on the ground, those things will come out in time.

### **How does the LG Law in your province empower local elected leadership in development planning and improving service delivery mechanisms?**

In this local government act we have given all powers to make their budget to conceive the development schemes and to execute them. So



there is all power with these local bodies to conceive to execute and then operate the development schemes in their respective areas.

### **What are the fiscal powers devolved to the District, Tehsil and Union/Neighbourhood Councils in your province?**

As I have said, the province will transfer to the local bodies of that district one budget line, which will be determined by district. All these bodies will be empowered to use that budget in accordance with the rules and regulations regarding budgetary and development schemes.

### **In your view, what would be the political and development impact of the elected local governments in your province?**

I think that basic democracy must be from doorstep and up to the provincial and federal levels. The local bodies, run through their chosen representatives, will have a very good effect on the local development of those areas and the people will benefit more through their chosen representatives in the local bodies.

### **How would you compare your provincial law on LG with other three provinces?**

I think that all are good. Some are more progressive in the sense that besides local development – like streets, parks, and streetlights – we are also giving them vast powers in the education and health sectors through district health and education committees.





# Regional Local Government Lessons



Ms. Thusitha Pilapitiya is a policy adviser at the UNDP Asia Pacific Regional Centre. She works in the area of Decentralization and Local Governance for Asia.

## Local Government Lessons from the Asia Pacific Region

Local governance institutions represent the first frontier of interaction between people and their government. This experience can create lasting impressions among people on the value of democratic governance and as such decentralization and local governance represent a fundamental building block for a broader and improved democratic governance framework to improve public policy, the decision-making process, accountability and human development. Local governance involves empowering actors and institutions at the sub-national levels to provide basic services in a transparent and accountable manner.

## Lessons from International Experience

The implementation of MDGs hinges on close and meaningful involvement of effective local governments. Local governments not only enable data collection that helps to identify areas that are lagging behind, but also enable local level innovation and actions to focus on these areas.

In the aftermath of a conflict or a disaster, service delivery to the people in a timely and transparent manner is a critical element of building trust in state institutions, bringing together adversaries, and empowering the marginalized, including women. Local level institutions help foster participation in development management and decision-making and lead to empowerment of people and grassroots institutions to perform key development functions on a sustainable basis with transparency and accountability. Local governments can also identify, plan and implement productive, income generating schemes to generate economic growth that is inclusive of women and marginalised groups, with

due regard to environmental and sustainability aspects.

Local government laws that include quotas for women in the local bodies play an important role in increasing women's role in democratic processes and decision-making. Experience from India and Afghanistan, which have allocated quotas for women's participation, has shown higher levels of women's participation – 25–35 percent – than in Sri Lanka, which does not have women's quotas and has low women's participation – i.e. only 1.8 percent in local government

Although fiscal decentralization remains a challenge in many countries, increasing amounts of national and international funding to local level institutions increases the transparency and accountability of development funds. By being closer to the grassroots communities, local government plans, activities and spending can have greater public visibility and oversight, thereby reducing the proportion of waste and pilferage of public resources.

While climate change action requires global commitment and strategy, the implementation of adaptation and mitigation measures requires effective local governments, including municipalities and cities. Many cities and local governments have been pro-active in addressing climate change, including through targeted subsidies, awareness raising and mobilisation because they see it as essential for their survival and the sustainability of their natural resources.

Finally, benchmarking, knowledge management and experience sharing are critical for creating healthy competition among various local governments and promoting democratic values and results orientation.











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