

PUNJAB LOCAL GOVERNMENT BILL 2012

(Discussion Paper)

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(A CRITICAL ANALYSIS)

Theoretical Context:

Believed to be an integral part of democratic system of governance, it is the third tier of local governance that is highly argued about and advocated in contemporary times. Closer to the people and representatives of their essential needs and aspirations, it holds tremendous potential for civic comfort, environmental peace, social justice and economic development. One can hardly find any progressive or progressing state in the world that is either not evolving or thriving with an efficient and autonomous system of devolved governance. Not interchangeable though, notions like deconcentration, devolution and delegation hinge around the modalities and practices of decentralization.

Richard Bird (1994) defines decentralization as “the degree of independent decision making exercised at the local level.” In theory decentralization is sometimes classified into three forms of governance i.e. delegation, deconcentration and devolution (Cheema and Rodinelli 1983). If the dispensation of services is removed from the centre and delivered through representatives of the central government, this is termed as ‘deconcentration’ (Smith 1967), while ‘delegation’ stands for a case, where local government functions as an agent of the federal government. Transferring power and autonomy from centre to the local level is known as ‘devolution’, if genuinely in place and functioning. On the other count, if certain roles and services, normally performed by bureaucrats, are rolled down to the regional or local axis, this is usually meant for shifting authorities and responsibilities, not for independent planning or decision making.

Decentralization comes only if political authority is also devolved (Ibid). However, the term decentralization is used more or less synonymously with ‘devolution implying political as well as fiscal autonomy’. Elected and held accountable to the public, political authorities are mandated to generate funds by levying taxes, planning and endorsing development initiatives and functions under the law, in a devolved system of governance. Elements of fiscal authority,

autonomy and representation decide the depth and scale of decentralization. Therefore peoples' writ in decisions making, accountability, transparency, access to information, transferring authority and its' statutory status are the most significant aspects mapped to analyze the vigour and originality of a decentralized system in a state (Page and Goldsmith 1987, in Bangali 2002).

Perspectives on Local Government in Pakistan:

A democratic system, removed from its citizens and oblivious of their vital goods and services, can rarely serve its' purpose in letter and spirit. Therefore the local government is agreed to be the bedrock of a democratic polity caring for its citizens, men and women, young and old, able and infirm, prosperous or under-bread as its' fundamental responsibility.

Inevitable for social development, vital for citizens' day to day life, yet this tier of governance suffered from centralized control or outright abeyance in Pakistan since its inception. Political ambivalence and financial constricts marked its inefficiency and maneuverability, whatever regime it was put in place in whatever form. Stamped by nomenclature like Basic Democracies in 1960s, Municipalities in 1980s and Local Governance in 2000s, the system was mainly exploited by all military regimes to serve their ulterior motives. Derogating political parties, undermining democratic processes, engineering new constituencies, manufacturing consent and constituting legitimacy remained central to the local bodies installed during non-democratic and extra-constitutional regimes. The flesh and blood of the dictators-led local governance was put-up on the carcasses of the colonial apparatuses, by and large serving the same purpose.

Injected by massive sums of foreign capital in the name of fiscal, institutional and technical support, devolution plan of 2002 was an outcome of Local Government Ordinance 2001. This too failed to sustain once the military government was thrown out of power. Dissolving Magistracy and boiling down the offices of the Deputy Commissioner into District Coordination Office (DCO) and Superintendent Police into the District Police Officer (DPO) and Executive and Deputy District Officers (EDOs and DDOs) in various sectors like education, health, revenues and others were made subservient to the District Heads i.e. Nazims and Naib Nazims. Modern in outlook and organization, even that too did not work due to lack of sincerity, illegitimacy of the regime and piece meal pattern of implementation. District bureaucracy also made tooth and nail effort to make the plan fail. Non-cooperation and non-participation in all

boards and committees, their planning and development initiatives, possessive attitude and sitting on files approaching their tables, were a chief tactics and mischief of the colonial replica.

Knowledgeable of the fact that military governments have frequently exploited this vital tier of governance, the significance and necessity of local government cannot be denied. Realizing its inevitability, political governments always had had an urge to amend and adapt local government system as effectively as possible. In the present age, denying local government tantamounts denying fundamental rights to the citizens.

Article-37 of the Constitution of Pakistan pledges to “decentralize the government administration to expeditiously dispose its” business for public convenience and requirements’ and Article-32 of the Constitution dictates the state to “encourage local government institutions composed of elected representatives of the area concerned having special representation of peasants, workers and women” as the principle of policy. Contrary to the centrist practices, it is also a requirement demanded from the “provincial governments to decentralize its administration under article 10-A,” of the Constitution.

Further on Article 140-A of the Constitution, as amended and incorporated in 2002, makes it obligatory stating that “each province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments”. Similarly, Article-10 of the repeatedly referred Charter of Democracy agreed and signed between the two leading parties also emphasizes Local Governments in the following words. “Local bodies’ election will be held on a party basis ... and constitutional protection will be given to the local bodies to make them autonomous and answerable to their respective assemblies as well as to the people through regular courts of law.” One of the promising amendments, 18th Constitutional Amendment (2010) authorizes provinces to legislate and come up with a system of Local Government suitable to their local conditions. Part of the compulsion was re-emphasized in April 2012 by the Supreme Court of Pakistan commanding provinces to hold local elections, as enshrined and authorized by the said amendment and the Constitution of the country.

Towards Local Government Act 2012:

Much delayed and deferred more than once, finally the Government of Punjab came up with Punjab Local Government Bill in early June 2012, here after the Bill 2012 or the proposed Act. Other provincial Governments i.e. Balochistan approved the Bill in May 2010, Khyber Pakhtunkhwa endorsed it in May 2012 and the Government of Sindh promulgated the Act in October 2012. It is, in other words, only the Government of Punjab that still drags its feet on the Bill. Being largest, most urbanized and most complicated, it is the said province's proposed Bill that subject to critical scrutiny and in-depth analysis here.

Besides looking at its' structure and the system of representation, how genuine is the intent and orchestra of the proposed plan is what we are going to thoroughly review here. How, what, where and when an action, authority, representation or responsibility is meant to be dispensed off, shall also be examined from peoples' as well as technical perspectives. What processes does it lay down for inclusiveness, regarding caste, class, gender, religion, age, space and specific needs, for truly a citizen's participation will also remain our essential concern.

As we know, accountability and transparency cannot not be ensured without a suitable mechanism for citizens to ask questions, seek information, register their demands and request enquiries, should a citizen or a collection of citizens desires so. Therefore, exploring such means and mechanism in the would-be system is also important. How clear is the distribution of power and fiscal authority in various areas that help delivering public goods also demand a fair assessment.

In principle, Provincial Cabinet of the Government of Punjab has approved the Local Government Bill and hopefully, it is going to be sanctioned by the corresponding assembly, any time sooner. A four year term of Local Governments has been fixed and respective provincial government is authorized to periodically audit its income and expenses. Once approved from the assembly, the Act will immediately render Local Government Ordinance 2001 null and void, while the Nazims and Naib-Nazims have already been replaced by the District Administrators since 2009.

In the sphere of municipality and corporation, the entry requirements, salary structure and other

incentives, though the proposed Bill declares it to be brought under civil services, are usually too poor to attract talent. At present, their comprehension of development planning, policy issues, management and capacity for service delivery and other requisite skills are seldom admired. Eventually district management, conventionally known as DMG group, reigns supreme over the local services cadre.

“The Government may, although emphasizes the subject Act, “set up institutions or make other arrangements as may be necessary for pre-service and in-service training of the functionaries of the local councils...and other interested agencies; the training of members and chairmen of local councils; organize conferences and seminars on Local Government and related subjects; and undertake research in local government and allied subjects independently or in collaboration with the Universities or Research Institutions”. But hardly any resources are either indicated or readily vested at the hands of Local Government to materialize opportunity. Obviously, the chances of a-prior or on job improvement sound bleak.

Political and Electoral Processes, Issues and Concerns:

When and how local government elections will be held is yet not clear. Will it be non-party or party-based the Bill is silent on it. Reported by various newspapers, however, the elections are heard of being held on non-party basis. The element of party based-elections was part of the draft Bill but the section was removed later. It is now the prerogative of the assembly to decide how the said elections are going to be held.

Given the political turmoil and the ongoing disagreement between the ruling parties in the centre and the province, it is less likely that elections are going to be held before the general elections – to be conducted early next year or by the end of this year. The reluctance, perhaps, suits the ruling parties both in the centre and the province.

Save, affixing a few things here and there, that we shall further go into details hereunder, over all structure and substance of the proposed Act 2012 appears to be closer to the 1979 Local Bodies Ordinance. According to the Secretary Local Government, Punjab is following the example of

Khyber Pakhtunkhwa which takes good aspects of both the 1979 and 2001 Local Governance Systems. Nevertheless, a deeper look suggests that in certain instances, it is worse than the one installed by decades old dictatorial era. Following the government of Khyber Pakhtunkehuah, Punjab also introduced a ‘limited’ or in other words ‘controlled’ devolution plan. Ironically, the Government also retains the schedules of the Local Government Ordinance 2001, including the details of implementation. For instance the Bill places a bar on the expenses of contesting local government elections (Section 32, Chapter IV) and disqualifies a candidate, if s/he exceeds the limit, but its’ implementation is subject to be seen.

Not completely illustrative of but the proposed Bill does reflect centre-province and intra-province conflicts over a range of issues including energy crises, health and education, the local government itself and the the role of judiciary and others. Changing political map in the province is another factor of which the ruling party in the province might be mindful of, while drafting the bill. We can judge that from various political statements and bureaucratic shifts and maneuvering that are already in process.

The clause mandatory under Article 33, that “every member, within thirty days of the first meeting of the Local Council held after his election shall be notified to file a declaration of his assets and liabilities before such and such authority and in such and such form and manner as may be prescribed,” sounds great but no clear mechanism for check and balance is laid down. Under what powers and how the Election Commission will make it a binding is also absent. How will the people of the area, a voter or a citizen be able to petition for the declaration of assets or a misconduct or report overspending is also not delineated. Citizens’ disempowerment, inaccessibility to the information and inability to hold a public representative accountable is as difficult as it is in other tiers of governance. Holding inquiry about the ‘misconduct’ including bribery, corruption and misappropriation or willful diversion of funds of the local council or any attempt of misappropriation is almost impossible without setting forth a systematic institutional mechanism, particularly for the citizens and or affectees. The cases of inquiry risk becoming more a political controversy than of misappropriating funds. It asks for a clear and transparent judicial system to put in place at the local level.

Administrative Structure and System:

In terms of designation, what is mainly changed is the would be Chairmen, Vice Chairmen, Mayors and Deputy Mayors heading the Municipal and Town Committees, Councils and Metropolitan Corporations instead of Nazims and Naib Nazims. Abolishing the merger, rural-urban divide, is also being set up again that might invite discomfort, confusion even opponents' litigation in some of the cases as the towns and urbanities are rapidly expanding, though haphazardly, and various settlements increasingly see themselves as urban. Ignoring the changing demographic structures 'Zila' is still defined as "a revenue district as notified under the Punjab Land Revenue Act (XVII of 1967) excluding urban areas".

Precisely, The Act determines the composition of rural and urban councils, as a "Union Council for each Union, a Markaz Council for each Markaz, a Town committee for each town, a Zila Council for each Zila; a Municipal Committee for each municipality, a Municipal Corporation for each city, and a Metropolitan Corporation for each Metropolis as the Government may, by notification declare any area, comprising the area of one or more Union Councils to be a Markaz" denominating various population sizes from 300 to 3 million or above.

The Government may, without the availability of recent census, face difficulties in notifying or de-notifying a Local Council as Panchayat, Union Council, a Municipality, Town Committee, or a Metropolis Corporation. Not entirely the case but there will be lot of political maneuvering and influences to serve party interests, strongholds of one or the other political parties or traditional constituencies of a feudal lord. Demarcation of Local Councils will rarely be based on population especially in the absence of recent census.

In case of revenue, in certain instances, it might become a serious problem of declaring or dismissing an area to be or not to be a Local Council, as the said Act has readily been qualified in Chapter II, The Constitution of Local Councils under the Clause 6 (a), 1 & 2, "the Government may, by notification, extend curtail or otherwise alter the limits of a local council or declare that a local council shall cease to be a local council..." and further on....." In that case, "if the control of the local area is placed under any other local authority, the balance of the local

council fund and other property vesting in the local council shall vest in such local authority and the liabilities of the local council shall, stand transferred to such local authority”. Otherwise, “the balance of the local council fund and other property vesting in the local council shall vest in Government and the liabilities of the local council shall stand transferred to the Government” state sub-c its sub-clauses 1 & 2.”

In the same context, Clause 7 says for “the division, amalgamation and reconstitution of local council, Government may, by notification, divide a Local Council into two or more Local Councils or amalgamate two or more Local Councils into one Local Council and may specify in the notification the consequences which shall ensue upon the publication of such notification” and when “as a result of such division or amalgamation any new Local Council is constituted in accordance with the provisions of the Act or in the manner specified in the notification, the directly elected general members of any Local Council so divided or amalgamated shall become the members of such Local Council or Local Councils as Government may notify”.

In that reference, given the stand-off and political expediency between Pakistan Peoples’ Party and Pakistan Muslim League, the demarcation and redemarcation will remain controversial even blurred between the two parties and between three, including Pakistan Tehreek-e-Insaf in near future. The said powers are readily provided by the law, though the technical justifications is already outlined but the decisions, one has reason to afraid, will be done on political interests and preferences. Government of each party incumbent in the province will bend upon dismantling and manufacturing constituencies suiting to their voting probabilities and chances of success. Feudal lords will be further keen on it in rural areas.

The role of Deputy Commissioner still carries sufficient weight in case of dispute, arbitration and the appointment of Secretary, as hinted in the following words, “provided further that in case the electoral unit...falls within the limits of more than two markazez and...more than fifty percent of the population there does not fall within any single markaz.... In case of any dispute in this regard the decision of the Deputy Commissioner of the District shall be final”. It also states, “There shall be appointed by Government, a Secretary for each Markaz Council and he shall perform such functions and exercise such powers as may be prescribed.” In case of the provision

of transferring Local Council funds to another, there are very many chances of demographic misrepresentation and ceasing one and installing another Council for political expediency and bureaucratic discretion or financial gains. Besides this, it will also influence General Members of the Councils and the corresponding electoral units and representation as detailed under sub-clause 10-C titled as, “Representation of General Members” the way it has been prescribed for Unions, Markazes, Towns, Municipalities and Metropolis Corporations.

To maintain centralized control, the Local Government Boards constituted under Punjab Local Government Ordinance 1979 are still allowed to administer offices and officials of the Local Council Service. Restoration of the out of vogue colonial replicas of ‘Commissioner’ and ‘Deputy Commissioner’ offices subservient to the Secretary and Chief Secretary is another sign of maintaining bureaucratic control upon the elected representatives.

In another case, Clause 14 (1) of the said Bill maintains that, “all members of the village *panchayat* including its *sarpunch*, shall be nominated by the government.” It clearly denies people’s right to chose representatives of their own liking and therefore, squarely violates Article 140-A of the Constitution. In that case terming it devolved democracy will fly back in the face of democracy itself. The nominees, in that case, will stand accountable only to those government officials, most likely the senior bureaucrats, who appoint them. “All the sarpunchs of Panchayats in the Union Council shall also become ex-officio members of their respective Union Councils” says the Bill.

The process of making sarpunches as members of the Local Councils is opaque and undemocratic. Elected members ratio gets even thinner in other tiers of Local Councils. Say, in a Markaz Council - comprising on two or more than two Union Councils, the Government shall have an authority to nominate government officials as its members. How many of them are going to be the Civil Servants is however not clear. The very act conflicts with the Section 25 (e) of the same Bill that disqualifies any government official to become the member of a Local Council (Intikhab Hanif 2012). Eventually and evidently, very limited administrative power shall remain in the hands of the Municipals and the Metropolises’ elected representatives. Not stopping here the Rural Councils are required to submit their regular progress reports of the implementation of

the development projects to the Planning and Development Departments. The idea of independent planning and development receives a big blow here.

In addition, the Government of Punjab is authorized to put up Divisional and District Co-ordination Committees under Section 172 (1,2,3), Chapter XVI. The members of the said Committees shall be appointed by the Government herself. “The members of the Divisional Co-ordination Committee or a District Co-ordination Committee shall be elected or appointed in such manner as may be prescribed”.

Such committees are going to perform very important functions of “co-ordination of the activities of all local councils within their respective jurisdiction and such departments of Government, statutory bodies or other agencies as may be specified; and settlement of disputes arising between local councils within their respective jurisdiction” under Section 173 (1&2). In case of dispute between the two or more than two Local Councilors the matter is desired to go to the Coordination Committees. In that case, appointed and not having voting power, the members of such committees or chairmen will also wield sufficient amount of power as his decision is going to be final. The government also maintains the right to abolish or reconstitute the District and Divisional Committees and the chances of governmental maneuvering are increased in case of political, party or personal differences.

Moreover, Chapter VI, Clause 165 authorizes the Government to “inspect Local Councils, and its’ working at least once in a financial year by inspecting officers and offices to be appointed by the Government. The Inspecting Officers are going to have the powers of “entering into, inspect and survey any...immovable property occupied by a Local Council or any institution maintained by or any work in progress under the directions of a local council.” It can, “inspect files, registers, books or documents in the possession or under the control of a local council and...require the production of such statements, accounts, reports, documents and copies of documents relating to the proceedings of a Local Council as the inspecting officer may think fit...to inquire generally into the affairs of a Local Council”, and so on and so forth. Once again it is going to be the overarching bureaucratic fist oscillating over the elected councilors.

Contrary to the spirit of local democracy and autonomy the Government retains the suspension or dissolutions of a Councilor with itself. “Government may, by notification, suspend a local council, chairman, mayor or deputy mayor, if there are reasons to believe the local councilor is unable to administer its’ affairs, exceeds or abuses power, fails to discharge his duties” etc. “While council ceases holding offices, all the functions shall be performed by such person or authority as government may appoint in this behalf. In not cleared from an enquiry, the Government shall hold fresh elections within three months from the date of dissolutions and so on. Such suspension or removal cannot be challenged in court (Section 170 & 171)”.

Under above drawn situation the Government may plot cases on the ground of political grievances against an individual or a party while the Government decisions are already described to be unchallengeable and final. Civil servants are obviously going to be the instrument of exercising such powers who rarely associate themselves to the people of the area or its’ development concerns, given their conventional bureaucratic arrogance. Rapidly transferred from place to place their term in a particular office hardly exceeds a couple of years.

In Kaiser Bangali’s views, being large centers of population and complex in structure, urban centers ask for more sophisticated governing systems than towns and municipalities. The towns could be demarcated as the central units of urban local governments while municipalities could be formed through agglomerates of towns formed into municipalities. Even larger settlements could be huddled together to form metropolises, giving way to the federating governing structures. Towns being the extension of rural society and economy and functioning as the hub of agriculture produce, marketing and exchange could be made the part of Union Councils. Smaller municipalities, currently knows as committees could be awarded the status of Union Councils. The present confusion and conglomeration of Panchayats, Markazes, Union Councils, Towns, Committees and corporations could be simplified for administrative, political and electoral convenience.

Financial Management, Accountability and Problems:

Financial autonomy is the litmus test for the degree of devolution and autonomy of collecting taxes, planning development and independently managing the affairs of local needs and services

on ground. The would-be Act appears to retain almost all such authorities with herself. Looking through Section 48 & 49 (Chapter VI), which states, the constitutions of Local Government Board will be done with the approval of Punjab Government,” one can already infer how far the Local Governance is going to be independent in managing its finances.

The Board shall “consist of a chairman and not less than three or more than five members to be appointed by the Government. It also says, “the Secretary to Government of the Punjab’s Local Government and Community Development Department, shall be ex-officio chairman of the Board and the Board shall (Article 49) perform the functions of, “Planning Commission for local councils; advise and evolve organization and methods, techniques for the benefit of local councils etc. Local Board Fund shall also be constituted under the complete jurisdiction of Punjab Government, surely managing and controlling all the local government servants, development, planning and management too. Councils are supposed to seek approval of their development plans from Planning and Development Department. How far, they will be financially autonomous, is any body’s guess.

The Punjab Local Government Fund is going to be entirely controlled by the Government of Punjab. Although, all Local Councils shall be contributing financially to ply through the affairs of the Board but they are not going to possess any authority over its governance. Revenue, receipts, rents and service charges are there but still it is evident that the Government of Punjab is controlling, dispensing, prioritizing and auditing all funds. Will it gradually transfer autonomy to the respective Councils and how far is never explained? Financial control, what is clear, thoroughly remains in the hands of Provincial Government.

Representation Issues of Religious Minorities, Peasants, Workers and Women:

Section (11) with sub-clauses (1 & 2) of the proposed Act categorically states, “The number of members in a Local Council representing minorities shall be 5% of the total number of seats for general members”, and, “a candidate belonging to minorities may contest local council elections against a general member seat in addition to the reserved seats...provided that there shall be at least one member from the minorities in each local council...” While taking care of bare

minimum, provision for 5% representation of minorities and marginalized groups seems encouraging and affirmative at least to its face value. However, certain inadequacies still appear to be considered further. Being mindful of the problems and concerns faced by minorities in every sphere of life, their effective representation and inclusiveness demand further care and consciousness at each step and all areas of concern.

Other than the said Section, other Sections i.e. 12 & 30 carry no mention of reserved seats for minorities, though it is adequate here too. They do, however, mention the representation of women, youth and peasants. Similarly it is taken for granted that minorities' reserved seats shall be filled by indirect election of the electoral college of general members. It might not be the case and they might remain under-represented. The same percentage does not carry a mention in Section 15, whereas other reserved seats are still indicated. Although section 15 (2) maintains the joint electorate as mode of election but it misses out the spirit and treats minorities far too 'separately' and undermines the real goal of mainstreaming them. A parallel could be drawn with 8th amendment that obliterated the word 'freely' in the Objective Resolution to intentionally marginalize the minorities. In addition, there are certain clauses of religious offense that readily exclude religious minorities or minoritized groups from participating in elections. Under the circumstances, it is quite common to bring false charges against a minority person, which will suffice to disenfranchise an already marginalized group (Pater Jakob 2012) ¹. Even one's religious identity or their theological beliefs could stand objectionable for the larger community. Pluralism and inclusiveness needs more proactive actions than reservation of seats alone. It is the right of equal citizenry and respect in each area of local governance.

Beyond the reference of 5% minority representation, other provisions rarely refer to the promotion of their culture, festivals, religious ceremonies, language, if any, and crematory, funeral and other needs and functions. Though it assumes and does not specify of providing such services to majority alone but categorical reference to their specific needs is missing, which I personally think is important given the present state of discrimination and other institutions generally being oblivious to the religion, culture, traditions and values of religious minorities

¹ Peter Jakob is human and minority rights activists and it associated with Justice & Peace Commission. His views were sought through phone and email exchange.

Specifying 33% percent representation of women through reserved seats in all Local Councils is a very positive initiative. However the language of the law assumes all representatives as male members. The reason might be convenience of expression but it has not been said in preamble or introduction.

National Commission on the Status of Women offered an elaborate analysis and policy recommendations against Devolution Plan 2001. The report incorporates women's representation and empowerment challenges faced in 2005. Part of its' observations are still valid with respect to the proposed Act. On reserved seats women should need to be elected directly, based on the constituencies and the seats be filled through joint electorate. Women's 33% representations should be ensured in all monitoring committees. Women's presence in Council's meeting need to be ensured through legislative measures. Gender mainstreaming, missing in the said act, needs to be adopted as an official strategy. Gender budgeting and gender audit should be incorporated as a legislative requirement at the local level. A certain percentage of women-specific projects be made mandatory. Gender discriminatory practices like not to provide them budget, narrowing down women's space to speak during the sessions, not to provide them seating in office, holding Council's meetings without informing women, keeping them away from development planning and budgeting and not to have separate toilets for them need to be legislatively discouraged. And lastly, the results of constituencies where women were barred to participate in LG elections need to be declared null and void. The proposed bill must elaborate things on women's participation (NCSW 2010).

Management of Public Health and Public Education:

Primary education and basic health, already devolved to the provinces, should have further been devolved to the Local Councils as is the case in developed countries. But in violation to the Article 140-A of the Constitution, it has still been retained by the province and simultaneously there are several overlaps and lack of clarities surrounding the bill.

Local Councils have been given some construction, coordination, management, assurance and facilities maintenance responsibilities alone. In this relation, Section 79 (1), pertaining to education says, "An urban local council shall establish, maintain and manage such educational

institutions as may be required by the Government and may, with the previous approval of Government, maintain such other educational institutions as may be necessary for the promotion of education in its' local area. It further says, "All educational institutions maintained by an urban local council shall be maintained in a state of efficiency and shall conform to such standards as may be necessary for the promotion of education in its local area. While Section 80, deals with ensuring the maximum attendance of children in Urban area schools".

Responsibility of primary education still falls within the purview of Provincial Government but several areas are yet not clear. For clear authorization and efficient delivery of services, it is very important that federal and provincial line agencies and departments should be separated from areas of local governance, in this case health and education, of which the local councils authority has already been truncated (Kaisar Bangali 2002) is an example.

Public health provision under section 100 to 103, generally seems to be fine i.e. "prevention, cure of infectious diseases, and enforcement of vaccination, establishment, maintenance and management of hospitals and rural health dispensaries, first aid, management of health dispensaries, maternity centers and centers for the welfare of, women, infants, children and training of traditional birth attendants (*dais*) and promotion of *dais* etc in the same section under V to XI. Urban and Rural Councils may take such measures for promoting public health, maternity centers, management and maintenances of hospitals and dispensaries, including education in health, etc. But the provincial government discretion still supersedes and overlap of functions is quite evident. However, the case is relatively less problematic as is the case with education.

A Local Council may allow such honorarium, allowance or remuneration to its chairman as may be fixed by it with the approval of Government". But as was seen in 2002, general members do ask for honorarium of which The Act is silent. Without honorarium, members rarely take their responsibility seriously and do not participate in meetings for complaints, planning or implementation issues of developments at the local level.

Conclusion and Policy Recommendations:

Keeping in view the detailed analysis drawn hereabove, one can clearly identify the legacy of colonial governance in the structures, systems and processes of district management. The traces of multiple acts, attitudes and ordinances through which various military governments have been running the affairs of local governance are also visible. Much of the system is rendered either obsolete or inadequate in the modern democratic context and desires for the drastic reforms and radical changes.

As stated by Kaiser Bangali (2002), I will say, “the architecture of local government in Pakistan appears to be in, what may be described as, a state of institutional anarchy. There exists a multiplicity of over-lapping tiers, hierarchical as well as parallel. Below the province, there are the District Administration tiers - division, district, tehsil, and - and the LGRDD tiers - district councils, union councils, metropolitan and municipal corporations, and municipal and town committees”. He proposes to simplify and develop the Upper and Lower tiers and abolish all other tiers to remove confusion and make local government simple and efficient.

Mr. Bangali proposes, what I too am going to endorse here, the model of German local governments. “It guarantees, in his views, “local autonomy and decrees that districts and municipalities must have a parliament, elected by general, direct, free, equal and secret ballots. It guarantees the right of local authorities to manage all their own affairs, including financial matters, within the limits set by the law. In principle, the Federation (needs to be) the only guarantor of the institutions of local government..., but has, apart from a few exceptions, no direct relations to individual local authorities. On the other hand, local authorities are constitutional elements of their respective States, which are empowered to regulate local government law. The state should be able to dissolve local authorities by means of an act of parliament, assign them tasks or take them away”.

He further argues that, “the constitutional guarantee of local autonomy prohibit Federal and State legislation from removing the rights of the local authorities to manage their own affairs or from restricting this right to such an extent that the substance of the autonomy is taken away. Local authorities command certain sovereign rights which cannot be infringed by the Federation or the State. These are: personnel sovereignty, i.e., the right to select, engage, promote and dismiss

staff; organizational sovereignty. i.e., the right to organize the administration themselves; planning sovereignty, i.e., the power to organize and shape local territory under their responsibility by drawing up land use and building development plans; legislative sovereignty, i.e., the right to pass laws and by-laws; tax sovereignty, i.e., the right to raise taxes; and financial sovereignty, i.e., the right to manage their income and expenditure.”

Following the model suggested by the above mentioned author, I will argue. If we are interested to make local government system representative, autonomous and effective, we need to erect a modern and truly representative structure of governance at local level. A sort of ‘local cabinet’ needs to be constituted at the local level, elected through direct franchise of the Mayor. It could be constituted by the members of ‘district assembly’. Each member of a cabinet could be vested with the responsibility of one local department that could be administratively headed by a secretary taken in from Civil Services. If we are really serious to devolve governance, the local governments must not be created as an extension of the provincial governments rather an autonomous third tier of governance. The provincial governments should exercise its powers only in terms of legislation, regulation, standardization, monitoring and periodical audits. A whole chapter promulgating fundamental principles for local governance needs to be incorporated with a list of subjects falling in the sphere of local governance. Apart from the legislative structure, specific recommendations to the bill are as under:

- Just to reiterate in the light of legislative structure suggested above, there is no room for the colonial modeled district management systems and structures. Relevant provision and respective authorities must be done away with. Punjab Local Government Board and Coordination Committees and their overriding financial and administrative authorities be abolished to devolve these powers to the proposed ‘Local Cabinets.’ The said Board’s powers as Planning Commission and the power of Local Board Funds need to be devolved to the Intra Local Cabinet’s financial and planning structures. Planning and Development Department’s mandate to approve Local Councils’ development plans need to be removed or the department be made accountable to the Local Government instead of the Provincial Government. Otherwise, it is ‘provincial centralization’ in the name of decentralization;

- Providing legislative cover, Local Bodies elections must be held on party basis to corroborate the system on top and make it genuinely democratic;
- Confusion and overlap between Zila, a revenue district, Urban and Rural Council and its arbitrary constitution and abolishment need to be removed to minimize the chances of conflict and political maneuvering. Progressively eliminating the rural urban divide is recommended to minimize feudalist influence and eliminate discriminatory development planning, budgeting and public facilities. Reconstitution of the rural or urban constituencies, if and when required, must have sound justification besides population factor. The point is to minimize the conglomeration and confusion between Panchayats, Markazes, Union Councils, Towns, Committees and Corporations for a simplified administrative, political and electoral functions.
- To ensure responsive attitude, regularity and responsibilities the Councilors are supposed to dispense with, an honorarium essentially needs to be allocated for them;
- Mere the right to contest elections at the ‘reserved’ as well ‘general’ seats and assuring certain percentage of their representation at each level is not enough. Given the depth and frequency of entrenched discrimination, affirmative measures to impart them equal representation, the right to adult franchise and equal citizenship is important, which needs explicit mentions in the proposed Act 2012. Mainstreaming minorities is far more a complicated and challenging task than it is generally assumed to be.
- Gender mainstreaming asks for special provision of budget to women for women’s development, women-specific projects, creating room for their active participation during the Sessions, providing them suitable seating in office, keeping them informed about the Council’s meetings, ensuring their participation in development planning and budgeting, all substantiated by legislative support from the Bill. Equally important is to declare the results of constituencies where women were obstructed or discouraged to participate in LG elections, as null and void.

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Practical Action (formerly ITDG) is an international NGO founded by Dr. E.F. Schumacher, the famous Nobel Prize winning Economist. Practical Action works in Southern Africa, Eastern Africa, Latin America, and South Asia to eradicate poverty using people centered appropriate technology approach. It has been working in the sectors such as Energy, Disaster Management, Natural Resource Management, Water and Sanitation, urban development etc. Community participation is one of the key values of Practical Action and the concept of “Community Governance” was developed and promoted based on this value.

Rural Development Policy Institute (RDPI)



Rural Development Policy Institute (RDPI) is a civil initiative aimed to stimulate public dialogue on policies; inform public action; and activate social regrouping to celebrate capacities and address vulnerabilities of resource-poor rural communities in Pakistan. RDPI undertakes research, planning, training, advocacy and endeavors to streamline appropriate and people-centered rural development in Pakistan. RDPI is a non-profit civil society organization dedicated to sustainable rural development in Pakistan. It initiated work in 2001-02, since working in a broad domain of action ranging from disaster and environmental risk reduction to concrete initiatives strengthening local livelihoods and local governance.