

# Local Government in Punjab: Comparative Analysis of PLGA, 2013 and PLGA, 2019

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## Introduction

Devolution of political, administrative and financial powers to local level is essential for inclusive, need-based and equitable governance. The Constitution of Pakistan provides for a federal form of government, wherein authority is distributed between the federation and provinces. Article 140-A of the 1973 Constitution of the Islamic Republic of Pakistan states that the provinces shall “devolve political, administrative and financial” powers to local governments.<sup>2</sup> In Pakistan, the legal history of decentralization includes the promulgation of Basic Democracies Ordinance, 1959 by President General Ayub Khan, Local Government Ordinance (LGO), 1979 by President General Zia-ul-Haq and LGO, 2001 by President General Pervez Musharraf. These laws are viewed as tools for earning political legitimacy and weakening of political forces.<sup>3</sup> Notwithstanding this criticism, LGO, 2001 is seen as the most democratic local government framework introduced till date.<sup>4</sup> Interestingly, LGO, 2001 was promulgated by a military ruler but abrogated by a democratic government in 2008.<sup>5</sup> Thereupon, Punjab Local Government Act (PLGA), 2013 was introduced in the backdrop of the 18<sup>th</sup> Amendment and Article 140-A.<sup>6</sup> However, elections under PLGA, 2013 were only held on directions of the Supreme Court of Pakistan (SCP). In 2019, the local governments were dissolved by the government upon passage of the PLGA, 2019.

This paper examines PLGA, 2013 and PLGA, 2019 in a three-factor based comparative, institution-building and contextualized framework. It identifies strengths and weaknesses of both legal instruments towards establishing sustainable local governments in Punjab. Local government institutions are designed with standard characteristics including a definite area of jurisdiction, authority within such

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<sup>2</sup> Article 140-A, The Constitution of Islamic Republic of Pakistan, 1973

[http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf) (accessed on July 6, 2021).

<sup>3</sup> Ali Cheema, Asim Ijaz Khwaja and Adnan Qadir, *Local Government Reforms in Pakistan: Context, Content and Causes* (Cambridge: Harvard Kennedy School, 2018), [https://epod.cid.harvard.edu/sites/default/files/2018-02/local\\_government\\_reforms\\_in\\_pakistan\\_-\\_context\\_content\\_and\\_causes.pdf](https://epod.cid.harvard.edu/sites/default/files/2018-02/local_government_reforms_in_pakistan_-_context_content_and_causes.pdf) (accessed on July 15, 2021).

<sup>4</sup> Ishrat Hussain, *Governing the Ungovernable: Institutional Reforms for Democratic Governance* (Oxford University Press, 2018), 182-185.

<sup>5</sup> Shahzad Arif, William Cartier, Andrew Golda and Ritu Nayyar Stone, “The Local Government System in Pakistan: Citizen Perceptions and Preferences,” *IDG Working Paper* (2010), 05,

<https://www.urban.org/sites/default/files/publication/29166/412216-The-Local-Government-System-in-Pakistan-Citizens-Perceptions-and-Preferences.PDF> (accessed on July 10, 2021).

<sup>6</sup> Article 140-A, Constitution of the Islamic Republic of Pakistan, 1973,

[http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf) (accessed on July 6, 2021).

designated local areas, clear delineation of responsibilities, civic services provision, need-based development, revenue generation, autonomy (as distinguished from sovereignty), and accountability, both vertically and towards people.<sup>7</sup> The three-factor framework will enable us to analyze the degree of inclusion of these characteristics in PLGA, 2013 and PLGA, 2019. The study explores enabling and limiting factors for establishment of local governments in Punjab. The aforementioned comparative analysis scheme will aid in identifying the essential legal features required for an optimal, context-based and sustainable decentralization model for Punjab. An extreme decentralization plan can result in poor service delivery as seen in Latin America and may even lead to separatist tendencies as evidenced in Italy.<sup>8</sup> Therefore, the challenge is to identify optimal decentralization, division of responsibilities with matching resources and accountability, integration of institutions, etc. with an overarching mission to improve service delivery, need-based development and governance.

## **Statement of the Problem**

Punjab has not been able to establish and build local government institutions despite the passage five local government laws. The legal framework for decentralization must be developed in the specific historical, social, economic and political context of the province to generate ownership and sustainability. It requires symmetrical decentralization in political, administrative and financial spheres. Therefore, a holistic comparative examination of PLGA, 2013 and PLGA, 2019 within contextualized and institution-building frameworks is integral for identifying features of an implementable law for devolution. Notwithstanding the enhanced decentralization under PLGA, 2019, there are common inhibiting factors that do not allow establishment and sustainability of local governments essential for need-based development and improved service delivery. This paper shall undertake a much-needed contextualized and institution-building integrative approach essential for establishment of a local government system in Punjab. These laws will be tested against the three-factor comparative framework to identify an optimal decentralization legal framework for Punjab, which is implementable, sustainable and has political ownership.

## **Significance and Scope of the Study**

Punjab is the largest province of Pakistan with a population of around 115 million. The five attempts at decentralization of power to local governments could not bear the desired results. Notwithstanding the 18<sup>th</sup> Amendment and Article 140-A of the Constitution, the devolution of power could not be made to LGs.<sup>9</sup> Given the rapid speed of urbanization in Punjab, it is essential that local governments are introduced for need-

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<sup>7</sup> Pardeep Sachdeva, *Local Government in India* (London: Dorling Kindersley, 2011): 1.

<sup>8</sup> Chanchal Kumar Sharma, "Emerging Dimensions of Decentralization Debate in the Age of Globalization," *Indian Journal of Federal Studies* (2009): 47-65, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1369943](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1369943) (accessed on July 1, 2021).

<sup>9</sup> Article 140-A, The Constitution of Islamic Republic of Pakistan, Government of Pakistan, [http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf) (accessed on July 6, 2021).

based development, planned urbanization, uplift of rural areas, and improved service delivery *inter alia*. Major works on political, administrative and financial strands of decentralization examine these three areas separately. Moreover, decentralization is studied as an end in itself and not as a tool to improve governance. The debate on decentralization is dominated by international best practices and not set in the peculiar context of Punjab and is not substantiated with data.

This research paper undertakes a legalistic comparative analysis of PLGA, 2013 and PLGA, 2019, places these in the unique context of Punjab, and studies essential characteristics of LG institutions in relation to these two legal instruments. Most importantly, the report undertakes a sample Perception Analysis Survey of 210 LG officers to overcome any shortcoming of data on performance of LGs. The scope is limited to these three factors and is strictly set in the context of Punjab.<sup>10</sup> It will identify the strengths and weaknesses of these laws. This paper will identify the legal features essential for establishment of LG institutions in an integrated manner, which can be useful to build LG institutions aimed at improved service delivery.

## Review of Literature

The literature review undertakes an in-depth examination of PLGA, 2013 and PLGA, 2019. It further studied the work by Pardeep Sachdeva on essential features of sustainable local governments. It analyzed the work on local government by Dr. Ishrat Hussain in his book titled *Governing the Ungovernable*. It undertook an exhaustive analysis of scholarly articles, journals, international donor-funded reports, etc. on devolution of powers in Pakistan. There are various studies under the aegis of the World Bank and GiZ, however, it is observed that these studies evaluate devolution as an end in itself. The work done by Dr. Aisha Ghaus Pasha, Dr. Ali Cheema, Dr. Hafiz A. Pasha, Asim Ijaz Khwaja, Hasaan Khawar, Dr. Saeed Shafqat, Dr. Ahsan Rana, etc. was examined. Multiple reports indicating the economic distribution in Punjab have also been examined. Furthermore, scholarly articles on devolution of power have been studied. These works dilate at length on the importance of establishment of local governments and see devolution as an end in itself. These also identify the major political, administrative and financial features required for establishment of effective local governments. For instance, the work by Dr. Aisha Ghaus Pasha emphasizes the need for symmetry between decentralization of functions and resource generation capacity of local governments and was useful in establishing a link between administrative and fiscal decentralization, autonomy and accountability.

There are just a few studies on comparison between PLGA, 2013 and PLGA, 2019 such as by Janjua and Rohdewohld, which is discussed hereunder. However, PLGA, 2019 has undergone multiple amendments which were studied by obtaining the relevant amendments and consulting primary sources from Local Government & Community Development Department (LG&CDD). There are no adequate studies on

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<sup>10</sup> Saif Anjum, former Secretary LG&CD, interview by author, June 28, 2021.

PLGA, 2019 as it is a recent piece of legislation and has not been enforced through establishment of LGs. There is also a shortage of first-hand empirical data on performance of local governments (in Punjab). Thus, the study tries to undertake a comparative analysis of PLGA, 2013 and PLGA, 2019 (as amended till date) by analyzing the amendments made in the latter. It has further undertaken a Perception Analysis Survey of 210 local government officers to gather first-hand data to predict trends based on feedback of field formations of LG&CDD. The paper further employs an institution-building approach, which is not adequately available in the present body of literature on local governments in Punjab. These points can be found in varying degrees in different studies but are not discussed in a holistic manner.

This study examines local governments as institutions and identifies essential legal characteristics for designing sustainable local government institutions, which is then placed in our unique context. It tries to discover the essential legal features covering both formulation and implementation aspects of a legal instrument that will help in establishing sustainable local governments in Punjab. It is an addition to the existing body of literature and can help us tailor our laws to our specific context and adopt an integrative approach for improved governance and service delivery.

## **Method**

The research method adopted for this study includes qualitative and quantitative research methodologies. An in-depth examination of a large number of both national and international secondary sources on the subject has been undertaken. In view of a lack of data on performance of local governments, a sample Perception Analysis Survey of 210 officers of LG&CD Department including Directors (BS-19, 5), Additional Directors Local Governments (BS-18, 120), Deputy Directors Local Government (BS-18, 20), Municipal Officers (BS-17, 30) and Chief Officers (BS-17/18, 35), has been conducted. Interviews (unstructured) have been conducted with two former secretaries and the incumbent Secretary, LG&CD. The other officers of LG&CD Department interviewed included Additional Secretary (retd) Janjua, who has extensively worked on PLGA, 2013, Arshad Baig, Additional Secretary, LG&CD, Najeeb Aslam, Director Local Government Academy, Lala Musa. Moreover, Hasaan Khawar and Dr. Ali Cheema were also interviewed.

## **Organization of the Paper**

The paper is organized into three sections. Section-I is a comparison of political, administrative and fiscal decentralization under PLGA, 2013 and PLGA, 2019. Section-II evaluates the adequacy of the two legal instruments within an institution-building framework. Section-III undertakes a contextualized approach towards establishing local governments. These three sections will help identify the enabling and limiting factors towards establishments of local governments in Punjab.

## Section I

### Comparative Analysis of PLGA, 2013 and PLGA, 2019

#### 1.1 Background

The legal history of local governments includes five legal instruments. It begins with the promulgation of the Basic Democracies Ordinance, 1959 that introduced a four-tiered local government machinery, wherein only the persons at the lowest rung were directly elected. It acted as an electoral college of around 80,000 “Basic Democrats” for President Ayub Khan.<sup>11</sup> Later, President Zia introduced the LGO, 1979 that entrusted limited powers and roles to the local governments. The most inclusive LGO was introduced by President Musharraf in 2001.<sup>12</sup> However, it is also criticized for devolving powers to local governments with an intent to weaken provincial governments.<sup>13</sup> The LGO, 2001 was repealed by a democratic government and administrators were appointed, accordingly.<sup>14</sup> Local governments in Pakistan have been associated with military rulers requiring instruments to legitimize their rule and weaken political forces.<sup>15</sup> It is also pertinent to mention that four successive democratic governments of Pakistan Muslim League Nawaz (PML-N) and Pakistan Peoples Party (PPP) never ventured to establish local governments during the period 1988-99.<sup>16</sup>

In 2013, the PLGA was enacted in the backdrop of Article 140-A of the Constitution of the Islamic Republic of Pakistan, 1973 that enjoined upon provinces to undertake political, administrative and fiscal devolution.<sup>17</sup> However, despite the enactment of PLGA, 2013, the provincial government in Punjab did not hold elections for local government till directions from the SCP.<sup>18</sup> The election manifesto of the present government included establishment of local governments. It enacted PLGA, 2019 and dissolved the existing local governments elected under PLGA, 2013. Notwithstanding political ownership, the PLGA, 2019 has undergone multiple amendments that curtail financial and administrative decentralization; elections have not been held till date. On March 25, 2021, the SCP restored the local governments as they existed before April

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<sup>11</sup> Ishrat Hussain, *Governing the Ungovernable: Institutional Reforms for Democratic Governance* (Oxford University Press, 2018): 183.

<sup>12</sup> Zulqarnain Hussain Anjum, “New Local Government System: A Step Towards Community Empowerment?” *The Pakistan Development Review* 40, 4 Part II, (2001), 845-867. <https://www.pide.org.pk/pdf/PDR/2001/Volume4/845-867.pdf> (accessed on July 4, 2021).

<sup>13</sup> Syed Mohammad Ali, “Devolution of Power in Pakistan,” *United States Institute of Peace: Special Report*, (March 2018) [https://www.usip.org/sites/default/files/2018-03/sr\\_422\\_mohammad\\_ali\\_final.pdf](https://www.usip.org/sites/default/files/2018-03/sr_422_mohammad_ali_final.pdf) (accessed on July 14, 2021).

<sup>14</sup> “Punjab Proposes Sunset Clause in Local Govt Ordinance,” *Dawn*, July 10, 2009, <https://www.dawn.com/news/963979/punjab-proposes-sunset-clause-in-local-govt-ordinance> (accessed on July 5, 2021).

<sup>15</sup> Ali Cheema, Asim Ijaz Khwaja, and Adnan Qadir, “Decentralization in Pakistan: Context, Content and Causes” *HKS Working Paper No. RWP05-034*, (2005) <https://research.hks.harvard.edu/publications/getFile.aspx?Id=177> (accessed on July 17, 2021).

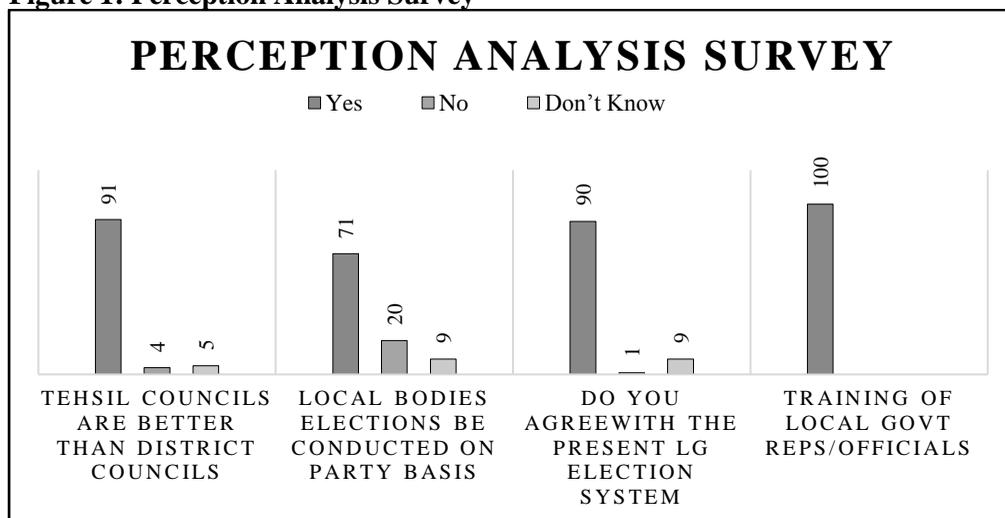
<sup>16</sup> *Ibid* 13.

<sup>17</sup> Article 140-A, The Constitution of Islamic Republic of Pakistan, 1973, Government of Pakistan, [http://www.na.gov.pk/uploads/documents/1549886415\\_632.pdf](http://www.na.gov.pk/uploads/documents/1549886415_632.pdf).

<sup>18</sup> *Ibid* 13.

5, 2019. The Government of Punjab has formulated transition teams for establishment of local governments. This section will make a comparative analysis of the political, administrative and fiscal devolution under PLGA, 2013 and PLGA, 2019. The Perception Analysis Survey of 210 officers of LG&CDD depicts certain useful trends regarding decentralization under PLGA, 2013 and PLGA, 2019, which are employed to analyze these two legal instruments vis-à-vis the views of the implementation agents. The sample survey was undertaken to gather data on performance of LGs as it was seen that there is shortage of data. The trends depicted in the Perception Analysis Survey in Figure-1 will be discussed hereinafter.

**Figure 1: Perception Analysis Survey<sup>19</sup>**



## 1.2 Political Decentralization

**PLGA, 2019:** Under PLGA, 2019, a local government comprises a directly elected head who shall have a cabinet consisting of councilors and professionals. It shall also have a council comprising councilors, a convener *inter alia*. It introduced party-based elections, which minimize patronage related differences between provincial and local tiers.<sup>20</sup> The holding of party-based elections was also supported by 71% of officers of LG&CDD as given in Figure-1. An overall satisfaction with LG election scheme was supported by 90% officers as given in Figure-1. Executive authority of a local government vests in the head and his/her cabinet, whereas the supervisory and legislative powers are with the council. At present, the local government structure comprises 11 Metropolitan Corporations (nine at divisional headquarters and the remaining two at Sialkot and Gujrat). It will have 15 Municipal Corporations for each

<sup>19</sup> Survey conducted with 210 officers of local government in collaboration with Local Government Academy, Lala Musa and LG&CD, Punjab.

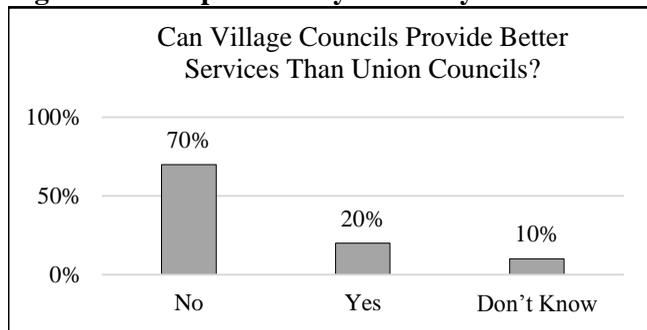
<sup>20</sup> Ali Cheema, Asim Ijaz Khwaja, and Adnan Qadir, “Decentralization in Pakistan: Context, Content and Causes,” *HKS Working Paper No. RWP05-034* (2005), <https://research.hks.harvard.edu/publications/getFile.aspx?Id=177> (accessed on July 17, 2021).

area with a population of 250,000 (including Municipal Corporation Murree), 133 Municipal Committees for towns with populations between 75,000 and 250,000, 64 Town Committees with populations between 30,000 and 75,000, and 136 Tehsil Councils for each tehsil, respectively.

The District Council under the PLGA, 2013 has been abolished and governance has been taken down to Tehsil level, which is supported by 91% of LG&CDD officers as indicated in Figure-1. It is perceived that this will improve service delivery at the rural level. However, the replacement of district level tier with Tehsil Councils has by default reduced the percentage of representation of women and minorities.<sup>21</sup> The Tehsil Councils represent rural areas that are neglected in terms of municipal service delivery and development and will allow representation to these areas in decision-making. The Union Councils have been replaced by Village Councils (VCs) and Neighborhood Councils (NCs), wherein election of chairman, vice chairman and all councilors on reserved seats shall be direct and non-party based. The mode of election is proportional representation with close list system, which gives broader political representation.<sup>22</sup> The elections are party-based except in case of VC and NC. The direct elections, executive authority, proportional representation, relatively smaller size of local bodies with proximity to local populace are major features that indicate a sharp departure from PLGA, 2013 that provided for indirect elections, which diluted the representative character and the authority of the head of local governments.

**PLGA, 2013:** The PLGA, 2013 provided for one Metropolitan Corporation for Lahore. The provincial government could notify an area with a population from 30,000 to 500,000 and an area with a population of more than 500,000 as Municipal Committees and Municipal Corporations, respectively.

**Figure 2: Perception Analysis Survey**



The rural areas in a district were notified as District Councils, save the areas within Lahore. The chairmen and vice chairmen of the UCs were to be directly elected. The directly elected chairmen of the rural UCs elected members including women, minorities and peasants on reserved seats. The District Council in turn elected its chairman and vice chairman. In the same vein, the mayor and deputy mayors of a

<sup>21</sup> Dr. Raja M. Ali Saleem and Zainab Altaf, “Effect Implementation of the PLGA, 2019: Lessons Learnt from the Implementation of PLGA, 2013,” *Centre for Public Policy and Governance, Forman Christian College University*, (2020), <http://cppg.fccollege.edu.pk/wp-content/uploads/2021/02/Effective-implementation-of-Punjab-Local-Government-Act-2019-Consultations.pdf> (accessed July 1, 2021).

<sup>22</sup> Moazzam Ali Janjua and Rainer Rohdewohld, “Critique of the Functional Assignment Architecture of Punjab’s Local Governance Legislation of 2013 & 2019,” *Commonwealth Journal of Local Governance*, (2019), <http://epress.lib.uts.edu.au/ojs/index.php/cjlg> (last accessed 1st July 2021).

Metropolitan Corporation or a Municipal Corporation were indirectly elected by the chairmen of the Union Councils. It provided for adult franchise through secret ballot. A local government had a five-year term in office.<sup>23</sup> It could be removed through a vote of no-confidence by two-third majority of the members of the local government.<sup>24</sup> The chairmen and mayors were indirectly elected and thus lacked the adequate political authority of decision-making. It is pertinent to note that 70% of the participants of the Perception Analysis Survey were against replacement of UCs with VCs as shown in Figure-2. It is apprehended to have serious bearing on quality of service delivery.

### **1.3 Administrative Decentralization**

**PLGA, 2019:** Under PLGA, 2019 the Chief Officer is head of the administration and shall also be the principal officer, who is to be appointed by the government.<sup>25</sup> As per Section 21(2) of the PLGA, 2019, an entity providing services for building control, solid waste management, water supply, sewerage and drainage, traffic management, land-use planning, zoning and sectoral development spatial plan shall be transferred to the Metropolitan Corporation or local government concerned, as the case may be. Transfer of development authorities including LDA, Water & Sanitation Authority (WASA), and Traffic Engineering & Transport Planning Agency (TEPA) was commended as the most significant step towards meaningful empowerment of local governments. However, the transfer has been revoked and now these authorities rest within the provincial government through an amendment in Section 21. Health and primary education were also originally devolved to local governments, which were again transferred back to the provincial government through amendment. Under Section 30, local governments may form joint authorities for discharge of particular functions, which is in the interest of economies of scales and effectiveness.

Section 5(2) of PLGA, 2019 stipulates that a local government shall have no interference in its official business. However, the provincial government is empowered to direct a local government to perform any additional functions. Most importantly, under Section 27 the provincial government may appoint a caretaker to perform any of the functions assigned to local governments. It may further fix the standards for service delivery by a local government and ring fence the expenditure of local government to maintain service delivery standards.<sup>26</sup> The provincial government can also remove the head of a local government after affording an opportunity to show cause and suspend or dissolve a local government after enquiry by the Commission.<sup>27</sup> The mechanism for inter-agency coordination is stipulated at divisional and district levels under the Commissioner and Deputy Commissioner (DC), respectively, to coordinate the work, which are related to the provincial and federal governments. A local government is bound to 'abide by' the directions of the DC or the Commissioner.

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<sup>23</sup> Section 30, Punjab Local Government Act, 2013, <http://extwprlegs1.fao.org/docs/pdf/ind143880.pdf> (last accessed on July 20, 2021).

<sup>24</sup> Ibid 22, Section-35.

<sup>25</sup> Ibid 22, Section 45.

<sup>26</sup> Sections 29 and 136, The Punjab Local Government Act, 2019, Government of Punjab.

<sup>27</sup> Ibid 27, Sections 232 and 233.

Accountability mechanisms are relatively elaborate under PLGA, 2019. The Council is empowered to form monitoring committees to oversee the functioning of the local government. The members are completely prohibited from participating in any business of local government, wherein their personal interests are involved. In this respect, members must declare their interest and the Chief Officer is to maintain a record of conflicts of interest, which will be available for public information. Under sections 225 to 236, the administrative secretary or an authorized officer or a minister can take part in proceedings of local government and order an inquiry into the affairs of the local government through the Inspectorate General.<sup>28</sup> The IG is also empowered to conduct yearly inspections of all local governments.<sup>29</sup> It may also direct the LGC to review and conduct enquiry in any matter pertaining to local government.

**PLGA, 2013:** Under PLGA, 2013, the executive authority of a local government is vested in the mayor or chairman. The government could appoint a Chief Officer, who would be responsible for coordination between the government and the LG and also ensured implementation of all laws and policies by the concerned LG. The Chief Officer functioned under the supervision of the mayor.<sup>30</sup> The PLGA, 2013 established District Health Authority (DHA) and District Education Authority (DEA). The boards of DEA and DHA included chairman, vice chairman and CEOs of the authorities. In practice, the control of DHA and DEA remained with the provincial government through the office of CEOs since the financial and administrative powers remained with the CEO and the DC.

The government was empowered to devolve any of its functions to the local government. Similarly, a local government may devolve its functions to UCs.<sup>31</sup> However, the Act did not provide for establishment of joint authorities. Under Section 119, the provincial government could direct a local government to collect taxes and issue guidelines for better service delivery. Under Section 120, the local government was obligated to implement the directions of the provincial government. The provincial government could also require performance of a function outside the mandate of a local government, while providing matching budgetary resources with it. A local government could also transfer any of its functions to the government or another local government with the prior approval of the provincial government. The Punjab Local Government Commission (PLGC) was entrusted with the responsibility to settle disputes between local governments and departments. The PLGC was also a conduit for consultation between members of the national and provincial legislatures and local governments for holistic development planning. The Commission could conduct inspections and enquiries in to matters of local governments and recommend penal actions including removal from office. However, it did not provide a formal role to the DC Office for dispute resolution between local governments and the province. It also barred a member, having interest in the proceedings or business of local government,

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<sup>28</sup> Sections 235 – 236, The Punjab Local Government Act, 2019, Government of Punjab.

<sup>29</sup> Ibid 27, Section 244.

<sup>30</sup> Ibid 27, Section 64 & 88.

<sup>31</sup> Ibid 27, Section 65 & 66.

from voting under Section 68(7). Under Section 70, the local government is to periodically publish reports and maintain record of its proceedings.

#### **1.4 Financial Decentralization**

**PLGA, 2019:** Under PLGA, 2019, the local government maintains a Local Fund, wherein all general revenue proceeds from the provincial government, rents, taxes, fines, loans, etc. will be deposited. In addition, it shall also maintain a Public Fund, Sinking Fund and a Special Fund. The head of local government shall prepare an estimate of its receipts and expenditures, which shall be approved by the Council by a simple majority. The Provincial Allocable Amount (PAA) shall be disbursed on a need and performance based formula taking into account the needs, backwardness, ability to raise taxes, financial management capacity for expenditures and service delivery standards of a particular local government. Under Section 139, the LG can also raise loan for undertaking public work. Under Section 189, the minimum threshold for total allocable share has been fixed at 26% for first two years and thereupon 28% of the general revenue receipts of the province. It is pertinent to mention that the Local Fund will be considered as the composite balance of Punjab. The tax base remains the same under PLGA, 2013 and PLGA, 2019. The LG receives Urban Immovable Property Tax (UIPT), Entertainment Tax, Tax on Transfer of Immovable Property, Tax on advertisements and billboards, toll tax, *inter alia*. The tax on billboards and advertisements stands reverted to provincial jurisdiction in Metropolitan Corporations. In addition, it receives fees, charges, rates on parking, drainage, conservancy, water, markets, etc.

**PLGA, 2013:** Sections 100 to 118 stipulate the LG finances, budgetary and resource mobilization procedures. Under these a Local Fund shall be maintained for all general revenues including taxes, rents, share in the Finance Commission award, *inter alia*. In addition, it keeps a Public Account and a separate Special Purpose Account. The mayor or chairman of local government shall table budget before local government that may approve it with simple majority. The local government is also to display a statement of annual statement of accounts for public scrutiny. As per Section 112(4), the Finance Commission shall recommend formula for distribution of PAA to LGs. The primary factors to be considered in determination of the formula include performance, requirements, population size and underdevelopment of a particular area. Sections 115-118 and Schedule III deal with taxation by the LG. It may levy a new tax subject to vetting by the provincial government. However, a district-wise study of local governments revealed constrained autonomy of local governments in preparing their budgets, particularly the Annual Development Programme (ADP) due to existence of vertical programs and high salary component in budgets. The PLGA, 2019 allowed collection of fees on billboards and advertisements in metropolises which stood returned to the provincial government. The tax base largely remains identical and static under both laws.

## Section II

### 2.1 Building Local Government Institutions in Punjab

Institution-building in developing countries requires definitive missions and goals, functional assignment and alignment between various agencies, resource allocation, accountability, and inter-agency coordination.<sup>32</sup> Local government is defined by K. Venkatarangaiya as “the administration of a locality – a village, a city or any other area smaller than the state – by a body representing the local inhabitants, possessing a fairly large amount of autonomy, raising at least a part of its revenue through local taxation and spending its income on services which are regarded as local and, therefore, distinct from State and Central Services.”<sup>33</sup> The institutional characteristics of LGs include a local entity, locally elected, certain degree of autonomy, non-sovereign, well-defined functions, authority to raise local taxes, vertical and horizontal linkages and accountability.<sup>34</sup> LG is not sovereign but is autonomous in a limited sphere clearly spelt out under the law. This section examines the enabling and limiting characteristics of PLGA, 2013 and PLGA, 2019 from a sustainable institution-building perspective steeped in our political, economic and social framework.

### 2.2 Institutional Mission and Goals

The Constitution of Islamic Republic of Pakistan, 1973 enjoins provinces to establish local governments and ‘devolve’ political, administrative and fiscal authority along with responsibility to such locally elected governments.<sup>35</sup> The term ‘devolution’ as employed under the Constitution is different from ‘delegation’. Devolution allows quasi-autonomous local governments to perform certain transferred functions, wherein these units are accountable only within a certain budgetary framework to provincial governments. In contrast, delegation transfers responsibility and partial autonomy but accountability vests completely in the central or provincial government.<sup>36</sup> Decentralization is designed to transfer powers from centrally appointed unaccountable bureaucracies to locally elected representatives accountable to local public.<sup>37</sup> The mission and goal formulation and implementation process has to include both central and local stakeholders and must be people-centric.<sup>38</sup>

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<sup>32</sup> Peter Blunt and Paul Collins, “Institution Building in Developing Countries: Special Issue of Public Administration and Development,” *Public Administration and Development*, (1994).

<sup>33</sup> Pardeep Sachdeva, *Local Government in India* (London: Dorling Kindersley, 2011): 1.

<sup>34</sup> *Ibid*, 2-3.

<sup>35</sup> Article 140-A, The Constitution of Islamic Republic of Pakistan, 1973.

[http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf) (accessed on July 6, 2021).

<sup>36</sup> Aaron Schneider, “Decentralization: Conceptualization and Measurement,” *Studies in Comparative International Development* (2003), <https://www.researchgate.net/publication/265300663> (accessed on July 7, 2021).

<sup>37</sup> Pranab Bardhan, “Decentralization of Governance and Development,” *Journal of Economic Perspectives* 16, no. 4, (2002), 185-205, <https://www.aeaweb.org/articles/pdf/doi/10.1257/089533002320951037> (accessed on July 25, 2021).

<sup>38</sup> Fumihiko, “Decentralization Theories Revisited: Lessons from Uganda,” *Japan: Ryukoku RISS Bulletin*, no. 31 (March 2001),

[https://www.researchgate.net/publication/242247248\\_Decentralization\\_Theories\\_Revisited\\_Lessons\\_from\\_Uganda](https://www.researchgate.net/publication/242247248_Decentralization_Theories_Revisited_Lessons_from_Uganda) (accessed on July 25, 2021).

It is important that devolution does not become hostage to elite capture at local level as in that case it will overly provide for services for elite at the expense of non-elite and militate against the goals of devolution.<sup>39</sup> Elite capture can be inferred from a 24-year rural household panel survey in Punjab and Sindh, which reflected that intergenerational ownership of land remains stable, reinforcing concentration of wealth.<sup>40</sup> Perpetuated inequalities create separate streams of service delivery for the rich and poor, wherein the former opt out of the public service delivery spectrum and shift to private sector service provision, which is the case in Pakistan. Elite capture depends on social-economic fabric and inequities. For instance, from 2009 to 2004, Lahore had 18 times higher per capita allocation than the average of all 35 districts together, which is indicative of inequitable development.<sup>41</sup>

An examination of PLGA, 2013 and PLGA, 2019 discloses that both were formulated in a top-down manner. The elections to local governments under PLGA, 2013 were made possible only after the intervention of SCP and powers were never fully devolved to the local governments, which reflects inadequate political will. In contrast, the PLGA, 2019 had strong political ownership and political will behind its formulation since establishment of functional local governments was part of the election manifesto of Pakistan Tehreek-e-Insaf. It empowered local governments by transferring development authorities and all such SPVs for service delivery to LGs, which could enhance local government revenues up to 6%.<sup>42</sup>

The delay in holding elections and repeated amendments diminishing powers of local governments are indicative of lack of consensual division of powers. PLGA, 2019 has a robust mayor-council model for both urban and rural local entities and will lead to highly contested elections.<sup>43</sup> For instance, Lahore city with a population of around five (05) million will be the electoral college for the Mayor of Lahore, which is a direct challenge to authority of members of Provincial Assembly in Lahore. Notwithstanding the noble objectives of any local government law, it will not be successful unless the process of formulation is broad-based and inclusive. Participatory LGs can be achieved if the process of formulation of local governments is multi-stakeholder and inclusive. Both Acts also did not have a clear binding mission. Moreover, frequent amendments to PLGA, 2019 have diluted the spirit of decentralization that was present in the original Act of 2019.

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<sup>39</sup> Ibid 38.

<sup>40</sup> Silvia Redaelli, "Pakistan @ 100 from Poverty to Equity," The World Bank Group. (2019), <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/868741552632296526/pakistan-at-hundred-from-poverty-to-equity> (accessed on July 20, 2021).

<sup>41</sup> Ibid.

<sup>42</sup> Gharad Bryan and Ali Cheema, "State Capacity in Punjab's Local Governments: Benchmarking Existing Deficits," *Oxford: International Growth Centre* (2020), <https://www.theigc.org/publication/state-capacity-in-punjab-local-governments-benchmarking-existing-deficits/> (accessed on July 20, 2021).

<sup>43</sup> Gharad Bryan and Ali Cheema, "State Capacity in Punjab's Local Governments: Benchmarking Existing Deficits," *Oxford: International Growth Centre* (2020), <https://www.theigc.org/publication/state-capacity-in-punjab-local-governments-benchmarking-existing-deficits/> (accessed on July 20, 2021).

An equitable governance paradigm requires that LGs are empowered according to the spirit envisioned in their mission and goals, otherwise these will remain ceremonial in nature. For instance, in Punjab, the Human Opportunity Index (HOI) for minorities and various ethnic groups is predetermined by birth. The survey of Learning and Educational Achievement in Punjab Schools (LEAPS) showed difference in learning outcomes in public and private schools and implications for opportunities in life.<sup>44</sup> Another instance of top-down approach is evident in the absence of LG representation in Punjab Finance Commission.<sup>45</sup> However, the present Act of 2019 opens the meetings of Finance Commission for public participation.<sup>46</sup>

### 2.3 Resource Generation and Provision

Fiscal decentralization is measured through extent of devolution of revenues and expenditures from the central government to the last layer of government.<sup>47</sup> In 2019, the Federal Government collected 91.3% of overall revenue and spent 63.1% of total expenditures.<sup>48</sup> The primary determinant of fiscal autonomy is the ability of local government to generate its own source revenue (OSR). Where own source revenue collection is meagre, transfers from provincial government through revenue sharing, grants or borrowing plays a crucial role, which is the case in Punjab.<sup>49</sup> The tax base remains identical under PLGA, 2013 and PLGA, 2019. The Interim PFC Award, 2017 distributed 62.5% and 37.5% of the net proceeds of the PFC between the provincial and local governments, respectively. The PLGA, 2013 did not allocate a specific share from the PCF to be contributed to the local governments. The PAA was distributed amongst three entities viz. Local Councils, DEAs and DHAs. The Interim Award, 2017 allocated 66.9% to DEAs, 16.0% to DHAs, 12.8% to Metropolitan Corporations, Municipal Committees, District Councils and 4.3% to Union Councils. The Interim PFC Award 2017 (in operation till date) distributed funds under the grants system is presented below:

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<sup>44</sup> Silvia Redaelli, "Pakistan @ 100 from Poverty to Equity", *World Bank Group*, (2019), <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/868741552632296526/pakistan-at-hundred-from-poverty-to-equity> (accessed on July 20, 2021).

<sup>45</sup> Dr. Iftikhar Ahmad and Dr. Miraj ul Haq, *Local Governments and Sustainable Urban Development: A Case Study of Punjab*, *PIDE School of Public Policy* (2021): 8, <https://www.pide.org.pk/Research/Local-Governments-and-Sustainable-Urban-Development.pdf> (accessed on July 29, 2021).

<sup>46</sup> Section 182, The Punjab Local Government Act, 2019, Government of Punjab.

<sup>47</sup> Fayyaz Hussain Tunio and Agha Amad Nabi, "Political Decentralization, Fiscal Centralization and its Consequences in case of Pakistan," *Cogent Social Sciences* (2021): 3, <https://doi.org/10.1080/23311886.2021.1924949> (accessed on July 30, 2021).

<sup>48</sup> Economic Survey Pakistan, 2019, [https://www.finance.gov.pk/survey\\_1920.html](https://www.finance.gov.pk/survey_1920.html) (accessed on July 27, 2021).

<sup>49</sup> Dr. Aisha Ghaus Pasha & Dr. Hafiz A. Pasha, "Devolution and Fiscal Decentralization", *The Pakistan Development Review*, (2000), 981–1011 [https://www.researchgate.net/publication/24046247\\_Devolution\\_and\\_Fiscal\\_Decentralisation](https://www.researchgate.net/publication/24046247_Devolution_and_Fiscal_Decentralisation) (accessed on 30th July, 2021).

**Table 1: Interim PFC Award 2017**

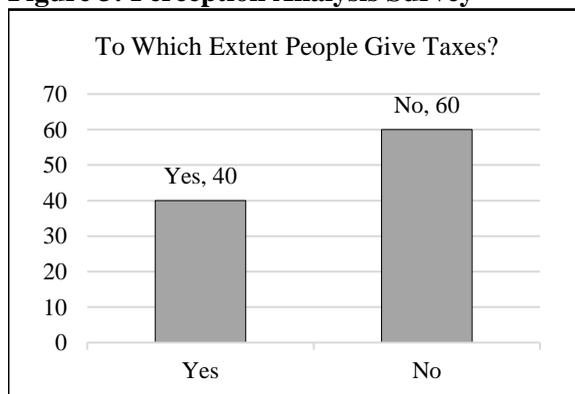
Grant Type	DEAs	DHAs	Councils	Unions	Total (% Share)
General Purpose Grant	57.0%	13.0%	9.0%	3.0%	82.0%
Development Grant	5.2%	2.0%	2.5%	1.3%	11.0%
Transition Grant (Temporary)	4.7%	1.0%	1.3%	0.0	7.0%
<b>Total</b>	<b>66.9%</b>	<b>16.0%</b>	<b>12.8%</b>	<b>4.3%</b>	<b>100.0%</b>

Source: Finance Department, Government of the Punjab

It is evident that majority share of the development funds went to the DHAs and DEAs, which indirectly came under the administrative management of the provincial government through CEOs.<sup>50</sup> Districts, the main units capable of steering need-based harmonious development at local level, were completely absent from transfer of funds.<sup>51</sup> The formula/criteria for revenue transfer must devolve to the district level, while eliminating discretion and preferring poorer districts to qualify for matching grants in non-discretionary and equitable manner to bring equalization in development.<sup>52</sup> Moreover, public participation in budget-making process is to be ensured for building linkages between communities and government.<sup>53</sup>

The PLGA, 2019 dedicates 26% general revenue receipts of the province in the first two years thereupon the share will be 28%. It is evident that both the laws have overlooked fiscal decentralization and need to revisit it.<sup>54</sup> The pattern of low OSR is historically persistent with local governments. In 2003-04, the OSR of six districts in Punjab totaled between 0% to

**Figure 3: Perception Analysis Survey**



<sup>50</sup> Dr. Iftikhar Ahmad and Dr. Miraj ul Haq, “Local Governments and Sustainable Urban Development: A Case-Study of Punjab”, *PIDE School of Public Policy*, (2021), 08 <https://www.pide.org.pk/Research/Local-Governments-and-Sustainable-Urban-Development.pdf> (accessed on 29th July, 2021).

<sup>51</sup> “Policy Paper on Punjab Provincial Finance Commission Award”, *Centre for Peace and Development Initiatives* (2018) <http://www.cpd-pakistan.org/wp-content/uploads/2019/02/Policy-Paper-Punjab-PFC-Award.pdf> (accessed on 02nd August, 2021).

<sup>52</sup> Ibid 981-1011.

<sup>53</sup> Junaid Kamal Ahmad and Richard M. Bird, “Rethinking Decentralization in Developing Countries,” *The World Bank*, (1998) (accessed on July 18, 2021).

<sup>54</sup> Fayyaz Hussain Tunio and Agha Amad Nabi, “Political Decentralization, Fiscal Centralization and its Consequences in case of Pakistan,” *Cogent Social Sciences* (2021): 3, <https://doi.org/10.1080/23311886.2021.1924949> (accessed on May 30, 2021).

8% of total receipts. There is a need for expanding OSR base of local governments under PLGA, 2019.

Efficiency in local governments is directly linked with predictability and certainty of budgetary transfers, certain degree of autonomy in budget making including salary and development sides and expansion of revenue base. A major disadvantage of direct transfers is the disconnect between service delivery and associated cost, free-riding and inclination to overspend by the local governments. While expanding tax bases, it may be seen that tax assignment is linked with needed expenditures to ensure balanced distribution of revenue streams at provincial and local levels. At present, tax compliance remains low as is confirmed through the survey result given in Figure-3. Linkage between service delivery and tax can enhance tax base. Secondly, the capacity to collect taxes is to be examined. The immobile tax factors are usually assigned to local governments as the incidence falls on locals. Tax assessment autonomy for local governments is to be carefully designed as to avoid unrealistically low tax valuations by the local tiers. The PFC Award of 2017 which distributed net proceeds of provincial Consolidated Fund to the local government as Provincial Allocable Amount is still in operation.<sup>55</sup> It is noteworthy that the net proceeds of PCF included UIPT under both Acts.

## **2.4 Functional Assignment and Accountability**

At present, administrative decentralization has stopped at the intermediate provincial tier. Furthermore, PLGA, 2019 and PLGA, 2013 create superfluous functional responsibilities and jurisdictions between provincial and local governments. For instance, in PLGA, 2019 the functions including establishment of open markets, parks and horticulture, value chain development, building control and land use, provision of drinking water, *inter alia* are certain instances of conflicting jurisdictions with Industries, Housing, Urban Development & Public Health Engineering departments, etc.<sup>56</sup> In the same vein, the conferment of powers in relation to development authorities such as LDA and Metropolitan Corporation also create issue of overlapping planning and municipal jurisdiction. The LDA Act of 1975 states that the government shall notify areas comprising as metropolitan areas within Lahore.<sup>57</sup> The SCP, in Imrana Tiwana case judgment, held that the superfluous jurisdiction of LDA stands cancelled in subservience to jurisdiction of Metropolitan Corporation, Lahore. Article 140-A of the Constitution of Islamic Republic of Pakistan, 1973 formed basis for exclusion of parallel jurisdictions that limit the jurisdiction of local governments that has been given primacy under the Constitution.<sup>58</sup> However, the problem persists.

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<sup>55</sup> Dr. Aisha Ghaus Pasha and Dr. Hafiz A. Pasha, "Devolution and Fiscal Decentralization," *The Pakistan Development Review* (2000), 981-1011, [https://www.researchgate.net/publication/24046247\\_Devolution\\_and\\_Fiscal\\_Decentralisation](https://www.researchgate.net/publication/24046247_Devolution_and_Fiscal_Decentralisation) (accessed on July 30, 2021).

<sup>56</sup> Arshad Baig, Addl. Secretary LG&CD, interview by author, August 2, 2021.

<sup>57</sup> Section 3 (b) Lahore Development Authority Act, 1975, Government of the Punjab.

<sup>58</sup> Faryal Siddiqui, *Signal Free Corridor: A Reflection on Inter-Governmental Power Struggle, Judicial Restraint and Regulatory Capture*, Lahore: Lahore Development Authority v Ms. Imrana Tiwana, 2015),

Under both Acts, the roles and responsibilities need to be clearly delineated, which is also imperative for accountability and service delivery. Multiple layers of decentralization confuse jurisdictions across national, provincial and local governments, wherein everyone transfers the responsibility to the other tier.<sup>59</sup> There are superfluous jurisdictions in both local government laws that diffuse responsibility and adversely impact service delivery. The Government of Punjab has established multiple SPVs for provision of service delivery particularly for Lahore viz. the LWMC, LTC, LPC, PSPC, PCMMC<sup>60</sup>, etc.<sup>61</sup> These dual jurisdictions need to be eliminated for clear accountability stemming from responsibility. Moreover, both laws have centralized decision-making and devolved administrative implementation features, wherein the provincial government holds administrative control over responsibilities of local governments.

Accountability structures require presence of ‘invited spaces’ for government mechanisms for public input or feedback and ‘autonomous spaces’ created by civil society or public for activism. Accountability is also affected by the level of funds and authority transferred by provincial to local governments.<sup>62</sup> Accountability mechanisms are to be designed in a manner responsive to citizen-needs and feedback, otherwise, these will lose interest and trust in these structures. Multiple instances are available to report citizen feedback with matching response mechanisms viz. Fix my Street Platform, wherein, citizens can geo-reference a complaint regarding street condition in their locality. These digital platforms are working in Georgia, Hungary, Slovakia, etc. In 2008, a Citizen Feedback Model was introduced in Lahore that recorded phone numbers of citizens and they were later contacted for feedback through SMS. The model generated 110,000 complaints of corruption and 36,000 penal actions were taken to punish corrupt officials in the initial six years. In India, ‘I Paid a Bribe’ framework website enabled complete reformation of the Driver Registry offices in Bangalore making those completely online. The accountability mechanisms are again inter-connected with enabling opportunity to avail legal remedies. Sierra Leone had set up local paralegal services in villages for citizens to demand enforcement of their rights.<sup>63</sup>

The PLGA, 2019 provides for performance delivery standards and massive information sharing with public, however, there is no feedback mechanism for public to name and sanction under-performance. Public participation in meetings and sharing of

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[https://sahsol.lums.edu.pk/sites/default/files/signal\\_free\\_corridor.pdf](https://sahsol.lums.edu.pk/sites/default/files/signal_free_corridor.pdf) (accessed on 3rd July, 2021).

<sup>59</sup> Iñaki Albisu Ardigó, “Local Government Accountability Mechanisms,” *Transparency International* (2019) (accessed July 23, 2021), <https://www.u4.no/publications/local-government-accountability-mechanisms> (accessed on August 4, 2021).

<sup>60</sup> Lahore Waste Management Company (LWMC), Lahore Transport Company (Lahore Transport Company), Lahore Parking Company (Lahore Parking Company), Punjab Saaf Pani Company (PSPC), and Punjab Cattle Market Management Company (PCMMC)

<sup>61</sup> Dr. Iftikhar Ahmad and Dr. Miraj ul Haq, “Local Governments and Sustainable Urban Development: A Case-Study of Punjab”, *PIDE School of Public Policy*, (2021), 04. <https://www.pide.org.pk/Research/Local-Governments-and-Sustainable-Urban-Development.pdf> (accessed on 29th July, 2021).

<sup>62</sup> Iñaki Albisu Ardigó, “Local Government Accountability Mechanisms”, *Transparency International*, (2019) (accessed 23<sup>rd</sup> July, 2021) <https://www.u4.no/publications/local-government-accountability-mechanisms> (accessed on 04 August, 2021).

<sup>63</sup> Ibid.

information by local governments is inadequate for evaluating their performance. It is a top-down information sharing framework, which can create information monopoly and distortion. Technologically advanced solutions are needed to end information manipulation and asymmetry. A legally mandated monitoring and evaluation framework with digitized tools collecting data and producing outcome information for the government and citizens is required.<sup>64</sup> Elections are not an adequate means for continuous accountability. Media also needs to be bolstered with presence of civil society organizations to hold local governments accountable.<sup>65</sup> Both laws do not provide a system of rewards and punishments at local level that is imperative for efficiency and accountability. While the SCP has directed the government to immediately restore local governments, Pakistan is at a critical juncture. Local participation minimizes the prospects of abuse of power by enabling participation in local decision-making and holding elected structures accountable.<sup>66</sup>

## **2.5 Inter-Agency Linkages**

A conspicuous feature of PLGA, 2013 is Section 5(2), which holds that there shall not be interference in the business of LGs. Yet, as examined earlier, the provincial government can issue directions to a LG to perform functions in addition to those enlisted in the Act.<sup>67</sup> The provincial government can also remove the head of a local government and suspend or dissolve a local body under certain circumstances. The most conspicuous provision for resolution of inter-agency disputes, particularly between provincial and local governments, is that regarding roles of DC and Commissioner as liaison officers between local governments and federal and provincial governments. The office of the DC has been identified as a center for coordinating work between a local government and a provincial or federal government agency.<sup>68</sup> The DC can also issue directions to LGs in relation to any official business that relates to the jurisdiction of federal or provincial governments.

Another distinctive feature is the power of local governments to form joint authorities for delivery of functions, which is not available under PLGA, 2013. Under PLGA, 2013, the provincial government is authorized to devolve functions to local governments and may also direct them to collect certain class of taxes, which the LG is obligated to implement. The LGs can also devolve responsibilities to UCs.<sup>69</sup> The

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<sup>64</sup> Silvia Redaelli, "Pakistan@ 100 from Poverty to Equity", *World Bank Group*, (2019)

<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/868741552632296526/pakistan-at-hundred-from-poverty-to-equity> (accessed on 20 July, 2021).

<sup>65</sup> Fumihiko, "Decentralization Theories Revisited: Lessons from Uganda" *Japan: Ryukoku RISS Bulletin*, No. 31 March (2001)

[https://www.researchgate.net/publication/242247248\\_Decentralization\\_Theories\\_Revisited\\_Lessons\\_from\\_Uganda](https://www.researchgate.net/publication/242247248_Decentralization_Theories_Revisited_Lessons_from_Uganda) (accessed on 25<sup>th</sup> July, 2021).

<sup>66</sup> Inaki Albisu Ardigó, "Local Government Accountability Mechanisms", *Transparency International*, (2019) (accessed 23<sup>rd</sup> July, 2021) <https://www.u4.no/publications/local-government-accountability-mechanisms> (accessed on 04 August, 2021).

<sup>67</sup> Section 22, Punjab Local Government Act, 2019, Government of the the Punjab.

<sup>68</sup> Ibid 66, Section 249.

<sup>69</sup> Sections 65, 66, 119 & 120 Punjab Local Government Act, 2013, Government of the Punjab.

PLGC is empowered under both the laws to coordinate and monitor the functioning of LGs. The PLGC shall also be a conduit for consultation between members of the national and provincial legislatures and LGs for holistic development planning. The mechanism of horizontal linkages has been remarkably improved under PLGA, 2019 by providing for establishment of joint authorities between two or more local governments that will eventually bring economies of scales in service delivery. It will also enable much needed competitiveness between local jurisdictions essential for growth.<sup>70</sup> Conflict resolution mechanisms are rudimentary under the current law, whether between two or more local governments, between the civil administration and local government, between provincial and local governments and can lead to imposition of decisions by provincial government. There is no direct mechanism for consultation and dispute resolution between local and provincial agencies except through the DC Office or the administrative department. It is observed that a body of politically elected representatives at provincial and local level can be a conduit for transmission of local problems to the provincial and even national level.

## **Section III**

### **3. Contextualized and Optimal Decentralization**

Devolution of powers is to be in harmony with a country's peculiar socio-cultural, political and economic DNA to build ownership at provincial and local levels.<sup>71</sup> This section examines PLGA, 2013 and PLGA, 2019 in their unique historical, political, social and economic context of Punjab, which affects implementation prospects of both legislative instruments.

#### **3.1 Contextualization: Inhibiting and Necessitating Factors**

The introduction of LGs by military rulers is envisioned with distrust and as an attempt to either legitimize their ascent to power or to weaken political forces.<sup>72</sup> However, similar trends of centralization of power were also visible in democratically elected governments. Zulfiqar Ali Bhutto also centralized authority as exemplified by not holding party elections and making nominations for party offices.<sup>73</sup> The four successive democratic governments of PML-N and PPP never ventured to establish LGs in Punjab

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<sup>70</sup> Junaid Kamal Ahmad and Richard M. Bird, "Rethinking Decentralization in Developing Countries" *The World Bank*, (1998)

<https://documents.worldbank.org/en/publication/documentsreports/documentdetail/938101468764361146/rethinking-decentralization-in-developing-countries> (accessed on 18 July, 2021).

<sup>71</sup> "Decentralized governance for development: A Combined Practice Note on Decentralization, Local Governance and Urban/Rural Development", *UNDP*, 2015 <https://www.undp.org/publications/decentralised-governance-development-combined-practice-note> (accessed on 02 August, 2021).

<sup>72</sup> Ali Cheema, Asim Ijaz Khwaja & Adnan Qadir, "Local Government Reforms in Pakistan: Context, Content and Causes", *Cambridge: Harvard Kennedy School*, (2018) [https://epod.cid.harvard.edu/sites/default/files/2018-02/local\\_government\\_reforms\\_in\\_pakistan\\_-\\_context\\_content\\_and\\_causes.pdf](https://epod.cid.harvard.edu/sites/default/files/2018-02/local_government_reforms_in_pakistan_-_context_content_and_causes.pdf) (last accessed on 15<sup>th</sup> July, 2021).

<sup>73</sup> Saeed Shafiqat, "Democracy in Pakistan: Value Change and Challenges of Institution Building", *The Pakistan Development Review* 37, (1998), 37:4, 281-298 <https://www.jstor.org/stable/41261058> (accessed on 18th July, 2021).

during their rule from 1988 to 1999.<sup>74</sup> The political spectrum in Punjab also remained under predominant influence of PML-N. Moreover, the rural areas voting patterns remain defined by *biradari* and caste systems.<sup>75</sup> Political leaderships and parties have also failed to evolve an inter-party conflict resolution mechanism and harmonious democratic environment.<sup>76</sup> The religious landscape is influenced by *madrassah*<sup>77</sup>, powerful clerics and sects. It is important to remember that decentralization is directly influenced by the level of economic equality, social-stratification, political participation and literacy, particularly vis-à-vis rural voter. These determine the likelihood of resource and power capture by local elite and capacity of the poor voter to hold them accountable.<sup>78</sup> Decentralization has a direct relationship between structural frameworks and attitudes that eventually construct a new society.<sup>79</sup> South Asian local governments have remained vulnerable to local elite and special interest capture. Citizen participatory frameworks are more pronounced under PLGA, 2019, which are to be reinforced with formal feedback mechanisms to cultivate culture of continuous accountability and responsiveness. Moreover, any LG system needs continuity to generate citizen awareness and gradually change patterns of power in society.

On the socio-economic front, power and resource distribution remains biased in favor of traditionally influential professional, business, landed and bureaucratic interests. In Pakistan, the top 5% of the landed elite holds 64% of the aggregate land, whereas, the small farmers who constitute 65% of our entire population own around 15% of the land.<sup>80</sup> The distributive patterns of landholdings are similar in Punjab. The country is also undergoing massive urbanization with highest ratio of urban population across South Asia. It is estimated that nearly 50% of the Pakistanis will live in cities by 2030. The increase is attributed to large influx of rural populations towards the cities. In 2011, the percentage of migration stood at 58%.<sup>81</sup> Punjab hosts 50% of population and is facing unplanned and massively rapid urbanization. Urban centers have agglomeration

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<sup>74</sup> Syed Mohammad Ali, Devolution of Power in Pakistan, *United States Institute of Peace: Special Report*, (March 2018) [https://www.usip.org/sites/default/files/2018-03/sr\\_422\\_mohammad\\_ali\\_final.pdf](https://www.usip.org/sites/default/files/2018-03/sr_422_mohammad_ali_final.pdf) (accessed on 14<sup>th</sup> July, 2021).

<sup>75</sup> Fayyaz Hussain Tunio & Agha Amad Nabi, "Political Decentralization, Fiscal Centralization and its Consequences in case of Pakistan", *Cogent Social Sciences*, (2021), 03. <https://doi.org/10.1080/23311886.2021.1924949> (accessed on 30<sup>th</sup> May, 2021).

<sup>76</sup> Ibid 73.

<sup>77</sup> *Madrassah* is traditionally defined as "a college of higher learning, specifically a college of law/jurisprudence. Graduates of the madrassahs then were effectively useful for the administration of many Islamic states at that time." Aljunied, Syed Muhd Khairudin, and Dayang Istiaisyah Hussin. "Estranged from the ideal past: Historical evolution of madrassahs in Singapore." *Journal of Muslim Minority Affairs* 25, no. 2 (2005): 249-260.

<sup>78</sup> Pranab Bardhan, "Decentralization of Governance and Development", *Journal of Economic Perspectives Vol. 16, No. 4*, (2002), 185-205. <https://www.aeaweb.org/articles/pdf/doi/10.1257/089533002320951037> (last accessed on 21.08.2021).

<sup>79</sup> David K. Hart, "Theories of Government Related to Decentralization and Citizen Participation", *Public Administration Review*, (1972) <https://www.jstor.org/stable/975228> (accessed on 2nd August, 2021).

<sup>80</sup> Fayyaz Hussain Tunio & Agha Amad Nabi, "Political decentralization, fiscal centralization, and its consequences in case of Pakistan", *Cogent Social Sciences*, (2021) 7:1. P. 15 [https://www.researchgate.net/publication/352290798\\_Political\\_decentralization\\_fiscal\\_centralization\\_and\\_its\\_consequences\\_in\\_case\\_of\\_Pakistan](https://www.researchgate.net/publication/352290798_Political_decentralization_fiscal_centralization_and_its_consequences_in_case_of_Pakistan) (last accessed on 21.08.2021).

<sup>81</sup> Shehryar Nabi and Dr. Ijaz Nabi, "Urban Development in Punjab: A Political Economy Analysis", *Consortium for Development Policy Research*, (2018) <https://cdpr.org.pk/wp-content/uploads/2018/04/urban-development-challenges-punjab-pakistan.pdf> (last accessed on 21.08.2021).

effect due to close location of factors of production including finances, labor force, corporations, etc.<sup>82</sup> The agglomeration effect is most visible in areas with maximum industrial output that include Lahore, Sialkot, Faisalabad and Gujranwala regions. It is pertinent to note that 25% to 33% of the national GDP comes from urban Punjab.<sup>83</sup> The youth bulge with 65% population under 30 years of age has increased traffic load in cities, encroachments, squatter settlements, over-burdened municipal services, shortage of housing facilities *inter alia* and requires planned urbanization. The five biggest cities of the country including Lahore will cumulatively face 78% of housing shortage by 2035, if current migration trends remain unchecked.<sup>84</sup> The PLGA, 2019 did unify developmental jurisdictions of all development authorities with relevant local governments. However, these were returned to the provincial government through amendments. In addition, the need for training to build capacity as evidenced from Figure-1 is significant. Lack of capacity also contributes to unplanned urban sprawl and development. A study of 35 countries which analyzed political decentralization notes that this process delivers better in developed countries with established institutions whereas it fails to bear positive results in poor countries.<sup>85</sup> Therefore, any attempt at decentralization needs to undertake the context for implementation that will lead to institution-building.

### **3.2 Multi-Level Dependence, Integration and Governance**

Integration begins with the process adopted to design decentralization. A law or policy formulated through top-down approach without considering the local context cannot be successfully implemented due to lack of broad ownership.<sup>86</sup> The formulation process for PLGA, 2013 and PLGA, 2019 was top-down and did not involve multi-stakeholder consultative process. It is the primary reason behind multiple amendments to PLGA, 2019 since the stakeholders, particularly the provincial administrative departments resisted implementation due to lack of involvement in the formulation process. Decentralized relationships also extend to include engagement of citizens, businesses and civil society as partners and networks in inclusive development.<sup>87</sup> The PLGA, 2019 provides for citizen inclusion and joint authorities for societal and institutional integration in local governance. However, these need to be bolstered through information & communication technology (ICT) platforms for citizen complaints, feedback, performance measurement and preferences, which are to be integrated in the provincial planning and development processes. It also builds

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<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Shehryar Nabi and Dr. Ijaz Nabi, "Urban Development in Punjab: A Political Economy Analysis", *Consortium for Development Policy/bisu Research*, (2018) <https://cdpr.org.pk/wp-content/uploads/2018/04/urban-development-challenges-punjab-pakistan.pdf> (last accessed on 21.08.2021).

<sup>85</sup> Claire Charbit, Maria Varinia Michalun, "Mind the Gaps: Managing Mutual Dependence in Relations among Levels of Government" *OECD Working Papers on Public Governance*, (2009) <https://doi.org/10.1787/221253707200>. (accessed on 29<sup>th</sup> July, 2021).

<sup>86</sup> Ibid.

<sup>87</sup> "Decentralized governance for development: A Combined Practice Note on Decentralization, Local Governance and Urban/Rural Development", *UNDP*, 2015 <https://www.undp.org/publications/decentralised-governance-development-combined-practice-note> (accessed on 02 August, 2021).

democratic character of citizens through structural designing to allow citizens' input and voice.<sup>88</sup> For instance, Turkey has established multiple local-level platforms including sister city arrangements, women platforms, neighborhood authorities, youth councils *inter alia* to ensure formal systematic participation of local people.<sup>89</sup> These bodies enable joint efforts, continuous monitoring, accountability and horizontal integration at local level.

Local governments are envisioned as a source of information transmission to the provincial tier.<sup>90</sup> For instance, a local government can better inform about the need to establish a trauma center, expansion of children's ward, maternity ward, or even the number of hospital beds needed within a particular locality, which the provincial government can embed in overall policymaking framework. Data on social statistics is essential to design socially and economically inclusive policies for mitigating vulnerabilities based on identity and local governments can efficiently provide it.<sup>91</sup> The PLGA, 2019 does not provide for formal institutionalized feedback mechanism to convey local preference to the provincial government. These are to be linked with FD and P&DD Board through LG&CDD.

The multi-level integration is not limited to citizen, local and provincial spectrum but extends to include field formations.<sup>92</sup> Horizontal harmonization further requires redefining civil services as a partner of LGs to get desired human development and improved participatory governance.<sup>93</sup> The PLGA, 2019 grants a predominant role to the office of Commissioner and DC for resolution of disputes between two local jurisdictions *inter alia*. Both PLGA, 2013 and PLGA, 2019 do not provide an adequate framework for building stakes of local representatives and the bureaucratic machinery in the local system, which needs to be devised by giving a voice and power to citizens over elected representatives and creating incentives for the frontline workers.<sup>94</sup> Goal alignment between local governments, bureaucracies and local staff through a well-designed incentive framework is imperative for improved service delivery.<sup>95</sup>

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<sup>88</sup> David K. Hart, "Theories of Government Related to Decentralization and Citizen Participation", *Public Administration Review*, (1972) <https://www.jstor.org/stable/975228> (accessed on 2nd August, 2021).

<sup>89</sup> "Decentralized governance for development: A Combined Practice Note on Decentralization, Local Governance and Urban/Rural Development", *UNDP*, 2015 <https://www.undp.org/publications/decentralised-governance-development-combined-practice-note> (accessed on 02 August, 2021).

<sup>90</sup> *Ibid* 95.

<sup>91</sup> Silvia Redaelli, "Pakistan@ 100 from Poverty to Equity", *World Bank Group*, (2019) <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/868741552632296526/pakistan-at-hundred-from-poverty-to-equity> (accessed on 20 July, 2021).

<sup>92</sup> Muhammad Usman Asghar, "Governance Issues in Pakistan: Suggested Action Strategy", *ISSRA Papers* (2013) [https://ndu.edu.pk/issra/issra\\_pub/articles/issra-paper/ISSRA\\_Papers\\_Vol5\\_IssueI\\_2013/06-Governance-Issues-Mr-Usman-Asghar.pdf](https://ndu.edu.pk/issra/issra_pub/articles/issra-paper/ISSRA_Papers_Vol5_IssueI_2013/06-Governance-Issues-Mr-Usman-Asghar.pdf) (accessed on 8th August, 2021).

<sup>93</sup> *Ibid* 86.

<sup>94</sup> "Devolution in Pakistan: An Assessment & Recommendations for Action", *Asian Development Bank*, (July 2004) <https://openknowledge.worldbank.org/handle/10986/14373?show=full> (accessed on 13<sup>th</sup> August, 2021).

<sup>95</sup> Claire Charbit, Maria Varinia Michalun, "Mind the Gaps: Managing Mutual Dependence in Relations among Levels of Government" *OECD Working Papers on Public Governance*, (2009) <https://doi.org/10.1787/221253707200>. (accessed on 29<sup>th</sup> July, 2021).

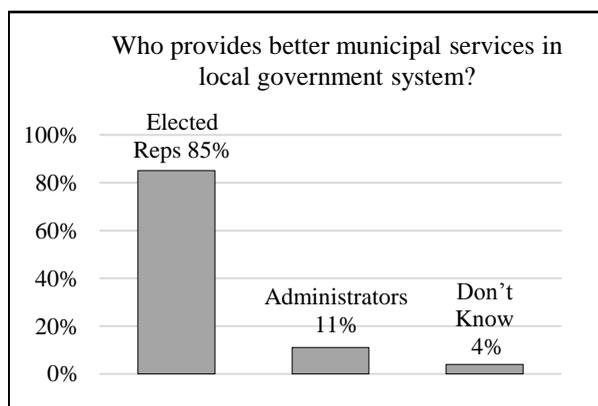
Local based representatives understand local problems and solutions in a much better manner than the provincially elected representatives.<sup>96</sup> Therefore, a collaborative arrangement between local representatives and field formations is imperative for governance. For instance, joint work plans and supervisory mechanisms for local governments and civil service were introduced in Ethiopia for effective decentralization.<sup>97</sup> Local governments have been decried for serious capacity issues and corruption, however, these cannot be employed to discredit the institution as similar problems are reported in well-established provincial institutions.<sup>98</sup> A major capacity deficit in local governments is the inability to utilize funds. In 2018-2019, the median fund utilization remained 33% and 71% for rural and urban local governments, respectively.<sup>99</sup> Capacities of sub-national governments are needed to be built. The integration between civil service and local governments will fill such gaps, however, such incentive framework is not included in both legislative instruments. Moreover, continuous capacity building of LGs as agreed by all participation at 100% (Figure-1) is required. A study of decentralization in 60 countries disclosed that it can reduce poverty only if elements including resource adequacy at the last tier, clear functional assignment and accountability mechanisms involving for both local representatives and bureaucracy are present. The interference of local government representatives in operational and daily work of officials is cited as the cause for underperformance.<sup>100</sup>

### 3.3 Optimal Decentralization

Designing decentralization is as significant as the implementation strategy, which is strictly derived from the political, economic and social context. Figure-4 depicts that 85% of local government officers believe that elected representatives provide better service delivery. Theoretically and practically, the question therefore is no longer about decentralization but about optimal decentralization.

Optimal decentralization requires clear delineation of responsibilities, territorial

**Figure 4: Perception Analysis Survey**



<sup>96</sup> Claire Charbit, Maria Varinia Michalun, “Mind the Gaps: Managing Mutual Dependence in Relations among Levels of Government” *OECD Working Papers on Public Governance*, (2009) <https://doi.org/10.1787/221253707200>. (accessed on 29<sup>th</sup> July, 2021).

<sup>97</sup> “Decentralized governance for development: A Combined Practice Note on Decentralization, Local Governance and Urban/Rural Development”, *UNDP*, 2015 <https://www.undp.org/publications/decentralised-governance-development-combined-practice-note> (accessed on 02 August, 2021).

<sup>98</sup> *Ibid* 91.

<sup>99</sup> Gharad Bryan, Ali Cheema, Ameera Jamal, Adnan Khan, Asad Liaqat, Gerard Padro I Miquel, “State Capacity in Punjab’s Local Governments: Benchmarking Existing Deficit” *International Growth Centre*, (2020).

<sup>100</sup> *Ibid*.

jurisdictions, taxation for service provision and consideration for regional disparities in disbursement of fiscal resources.

Legal instruments must exist in order to elucidate the supremacy of authority in case of overlapping jurisdiction and conflict. The local government system should be made subject to a 10-year review as reform is a continuing process. Optimal decentralization requires that local expenditure is funded locally, which is also imperative for improving service delivery and accountability. Local fiscal taxation, expenditures, and debt-raising must have a definite degree of autonomy to render these governments accountable. An optimal decentralization model will also require capacity building of local entities for discharge of fiscal and administrative responsibilities. It will need entrustment of power to hire and fire local human resource. In our context, capacity building/ training is most required in the fields of procurement, budget utilization, land-use planning, and debt management. As already stated, the fifth ingredient is multi-level cooperation and dispute resolution mechanisms horizontally, vertically and also as a whole at society's and governmental dimension.<sup>101</sup> Economies of scale and optimal utilization of resources require horizontal integration that starts from delimitation process to formal legal mechanisms for joint action between local jurisdictions. Inter-jurisdictional partnerships enable local governments to internalize positive and negative externalities, especially in the areas of waste management, water provision, energy generation *inter alia*.<sup>102</sup>

The PLGA, 2013 and PLGA, 2019 provide for agency arrangements and the latter provides for joint authorities. Another dimension of optimal decentralization requires engagement of public in decision-making, planning, community mobilization and also an introduction of ICT interventions for information dissemination, service delivery and accountability. India has introduced local social audits and also scorecards by citizens whereas New Zealand has adopted result-oriented management model.

Lastly, the central government needs to install a performance monitoring and course correction mechanism. A formal mechanism for equalization of development and opportunities across regions is required at federal and provincial levels, which may be both horizontal and inter-local.<sup>103</sup> Such formal institutional framework are absent at the provincial level under both the Acts.

## Conclusion

The governance challenges faced by Punjab require establishment of sustainable local government institutions. A comparative analysis of PLGA, 2013 and PLGA, 2019

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<sup>101</sup> "Ten Guidelines for Effective Decentralization Conducive to Regional Development", *OECD-Library*, (2019) <https://www.oecd-ilibrary.org/sites/76846b63-en/index.html?itemId=/content/component/76846b63-en> (accessed on 26 July, 2021).

<sup>102</sup> Ten Guidelines for Effective Decentralization Conducive to Regional Development, *OECD-Library*, 2019 <https://www.oecd-ilibrary.org/sites/76846b63-en/index.html?itemId=/content/component/76846b63-en> (accessed on 26 July, 2021).

<sup>103</sup> *Ibid*.

shows that political decentralization, decision-making power and political representation have been enhanced in the latter through the introduction of party-based direct elections and a closed-list proportional representation electoral system. However, administrative and financial decentralization largely remains similar under both the Acts and the enhanced functional devolution under PLGA, 2019 has been reversed through amendments. The frequent amendments in PLGA, 2019 indicate the need for a multi-stakeholder consultative process for formulation of an implementable local government law.

Building sustainable local government institutions requires an over-arching mission to improve governance that is shared commonly by various stakeholders. Also required are contextualized framing, financial certitude and ability to generate own source revenue and clear functional assignment to fix responsibility. These enabling factors are essential to create a degree of autonomy for local governments, which is imperative for holding these accountable. Moreover, a whole of government integrative approach requires horizontal and vertical coordination between local governments and other stakeholders for improved governance, need-based planning and development, ending information asymmetries, and institutional harmonization for service delivery *inter alia*. Thus, optimal decentralization and sustainable local governments depend on careful incorporation of these elements in the process and design adopted for building these institutions. The original form of PLGA, 2019 had better administrative devolution through complete transfer of the development function and authority to local governments; however, it required enhanced fiscal autonomy and better conflict resolution mechanisms.

Most importantly, it is only with political will and building trust and ownership at provincial and central levels that local governments can be established. The context, standards for building institutions and integration for better service delivery can be the best drivers to envision a law that is owned at national, provincial and local levels. A comparative, institution-building and contextualized framework has established that a local government law has to be designed as per our context and in synchronization with other institutions to generate ownership and sustainability.

## **Recommendations**

- (i) A Provincial Coordination Committee should be established under the Chief Minister, Government of Punjab, with representation from stakeholders including the Chief Secretary Punjab and secretaries of departments concerned. It should be assisted by a Cabinet Committee on decentralization to supervise and coordinate implementation of decentralization on behalf of the Chief Minister and the Provincial Cabinet. The Cabinet Sub-Committee may include the ministers of law, finance and other relevant ministers, Chief Secretary and administrative secretaries. The Cabinet Committee will submit recommendations to the Chief Minister and these will be placed before the provincial cabinet for smooth transition of local governments. It will be a

permanent body like the Standing Committee of Cabinet on Finance and Development and Standing Committee of Cabinet on Legislative Business. It will be responsible for ensuring establishment and transition of powers, etc. to the local governments. It will further create provincial political ownership of local governments as on July 17, 2021, provincial, divisional, district and tehsil transition teams were constituted to prepare transition plans for establishment of local governments as per decision of SCP dated March 25, 2021.

- (ii) The Punjab Finance Commission should be notified as given under the PLGA, 2019. The provincial government may devise a mechanism to take input of local governments in disbursement of the award. This may be done through formulation of a committee under Minister of Finance to hold meetings with local government representatives to understand their financial preferences, needs, revenue generation capacity and limitations and ensure financial predictability for local governments.
- (iii) The tax base of local governments has to be incrementally linked with provision of services. The incremental approach will allow capacity building for collection, link service provision with charges and develop a tax culture, and build local autonomy and accountability. The tax base can be increased through revision of UIPT, which can be extended from built-up properties to cover vacant plots not contributing to GDP. The duplicity in tax jurisdiction, wherein stamp duty and transfer of property fee are separately collected by provincial and local government respectively, should be abolished. The shared tax base may be fully allocated to local jurisdictions to expand their tax base and increase tax compliance.
- (iv) Functional assignment should be clearly stipulated and integration of multiple agencies performing the same tasks must be undertaken as was originally provided under PLGA, 2019. The development authorities, water and sanitation authorities, *inter alia* must be transferred to concerned local governments for uniformity of jurisdiction, responsibility and accountability.
- (v) Capacity-building trainings particularly in fields of land use management and fiscal planning must be regularly held. The focus should be on rural local governments. The recommendation has been backed by local government officers during the survey.
- (vi) ICT platforms for complaint registration, recommendation for improvement, and feedback on service delivery should be introduced by PITB for each district. The data should be vertically fed in a portal at the Chief Minister's Office. The poor performing and good performing local governments should be incentivized during finance award.

- (vii) Vertical institutional integration mechanism be formulated through the LGCDD, wherein the development preferences of local governments are reflected in annual development plans.
  
- (viii) District-level horizontal integration between field apparatus and local governments should be undertaken by empowering the latter in hiring and firing of staff. An incentive framework needs to be introduced that enables the local government representatives to hold local officials accountable.

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