

**Devolution: A Far Cry or an Imminent Reality;  
A Critical Evaluation of Punjab Local Government  
Act, 2019.**



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CERTIFICATE

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Khubaib Azam Awan

**I dedicate this dissertation to all those who  
contributed to my physical and mental upbringing.**

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## **Abstract**

Local governments are one of the key components of government structure and provide an organized system for administration at the grass root level. The potential and capacity of local governments in Pakistan remained low to deliver meaningful governance. Literature on local government institutions in Pakistan mostly focused on their performance and its shortcomings for effective service delivery. No, effort has been made to assess the legislation that provides the power and functioning framework. The focus of this study is to assess the local government legislation to see whether it provides sufficient power and authority for their effective functioning. This study tries to find out whether the Punjab Local Government Acts, 2019, has the potential to devolve the authority in true sense or not. Here we show how important the devolution is for good governance and meaningful service delivery. If the legislation itself remains centralized and without power than the fingers are directed toward wrong direction. This research highlights the importance to take the first step right. This study gained insight by studying legislation, interviewing experts and local representatives about their expectations and assessment of the Punjab Local Government Act, 2019. This study shows that Punjab Local Government Act, 2019 is decentralized in terms of administrative structure but remains highly centralized in terms of administrative autonomy. Specific allocation of funds is a step forward, but its implementation is necessary for growth and development at the local level. Operational mechanism is very complicated which is likely to cause friction among different departments and tiers of government. There's a need to overhaul the legislation pertinent to the authority and aspirations of general public. Findings of the study suggest that there is need for autonomous and empowered local government institutions for participation and service delivery. Stable local governments are the need of hour and should be vocalized in policy arena. Autonomous local government institutions can induce inclusiveness and cooperation especially in diversified Pakistan.

## **Abbreviation**

<b>(PLGA, 2019)</b>	Punjab Local Government Act, 2019
<b>(PLGA,2013)</b>	Punjab Local Government Act, 2019
<b>(LG&amp;CD)</b>	Local Government and Community Development department
<b>(LGO, 2002)</b>	Local Government Ordinance, 2002
<b>(PLGO, 2021)</b>	Punjab Local Government (Amendment) Ordinance, 2021

## **Keywords:**

Punjab Local Government Act, 2019, Devolution, Punjab Local Government Act, 2013, Decentralization, Local Government Ordinance, 2002, Governance, Administrative autonomy, financial power, Operational autonomy, Efficiency.

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# Chapter 1. Introduction

## 1.1 Introduction

Devolution deals with the transfer of power from upper to lower tiers of the government. It means the statutory delegation of power from central to local government which aims to make the mechanism of governance more efficient and responsive to the local needs. For good governance devolution is the most important and pivotal factor. Efficiency, effectiveness, equity and allowing the marginalized segments of society having a greater say, are the important factors which can be attained by devolution.

This is because local government allows local administration (of a particular county or district) to be looked after by locally elected representatives. Such representatives have greater ability to solve the local problems as they do not face any information gap being located near to the people. Hence, local government system is at the grass root level to tackle and mitigate local problems efficiently.

From Montesquieu, John Locke to Madison, Classical theorists advocate many advantages of the decentralized governance. They argue that decentralization stimulate participation, representation and accountability. It strengthens public policy paradigm and government effectiveness. Last but not the least it ensures representation and accommodation of territorial based ethnic, linguistic and cultural differences. It provides citizens with multiple points of access and opportunities for participation in democratic process. Proliferation of decision-making institutions at the local level strengthens public policy making. This process reinvests governance mechanism by social innovations and flexible experimentation. Power sharing structures and autonomy are advocated as a solution for conflict and civil wars. Power sharing institutions and procedures turn political opponents into cooperative partners.

Local government legislation provides an organized system for power and responsibilities to work for order, peace and good governance. Importance of

devolution highlighted by the international agencies and research studies provide the background for the effective local government legislation. Since 1947 till today, there remained a mismatch between expectations and capacity of the local government to deliver meaningful governance. First footstep in the process of empowering local government, is the legislation of local government. Province of Punjab is the most populated in Pakistan. Problems of administration and governance become more problematic and severe due to uneven distribution of population across the province. So, a study of local governments in Punjab can provide a holistic picture (to some extent) about the functioning of local tier in Pakistan. On the other hand, Punjab Local Government Act, 2019 is the most recent legislation promulgated. So, there is a need to study this new framework to interpret as to whether this legislation will empower local governments in terms of finances, administration and functioning.

Punjab Local Government Acts (PLGA) 2019 is yet to be implemented, our focus is to find out whether this Act has the potential to devolve the authority to local governments in true sense or otherwise.

Local government of Punjab is still in transitional phase, where capacity and resource constraints leave the local government with little power to formulate and implement policies. Article 140(A) clearly states that every province by law shall establish a local government and devolve responsibility and authority to the elected government. Lack of political will, capacity constraints and financial deficit are the main factors that hinder the formation and operation of local governments which are often highlighted in research studies. This research highlights the importance to take the first step right. Effective legislation mitigates the discretion and contribute toward the rule of law. If legislation itself remains inconsistent to empower the local tier, then problems keep on arising and be solved through discretion. In this context, this study perused the Punjab Local Government Act, 2019 and evaluated, how the new law is different from previous efforts. Moreover, this study evaluated, by adopting different assessment tools and methods, the adequacy of the new law in empowering the local governments in Punjab.

## **1.2 Devolution history of Pakistan**

Pakistan's history is marked by military rule, political and administrative centralization. Since 1958, local governments have been created and disbanded several times by both military and political regimes. Concept of devolution in Pakistan predates to the British administration system at the local level. General Ayyub Khan's system of local governance was mainly dominated and controlled by bureaucracy. Eighty thousand basic democracies were created for the local self-governance. These local democrats were also electors of head of state and legislators. The main aim of the rulers of that time was to create an image of democracy. They might have been succeeded but the local government structure remained stagnant and without power. The era of 1970's was of turmoil and anarchy. The country had loosed its part with more than half of its population. Local governments were totally discarded in that era. General Zia-ul-Haq undertook political centralization at federal and provincial level and provided political representation at the local tier). If we cast a cursory look at the history of Pakistan, it seems local governments were used as a source of political credibility in military era and discarded totally in the civilian period.

Never since the origin of Pakistan local governments system was provided with financial and administrative power. Over the time period, Pakistan has "negatively" transferred functions and responsibilities away from the central government but remained silent on the positive direction of flow of powers.

Those in power and authority see local governments as burden and are not willing to devolve power. Local governments lacked constitutional protection and remained at the whim of provincial governments to be created or suspended. Four democratically elected governments between 1988-1999 did not focus on the local government system. Political parties relied on elites and political patronage for power. Local government ordinance (LGO)2001 under the era of Musharraf was ambitious and focused to provide constitutional cover for local representatives. LGO 2001 reserved 33% seats for women. Likewise, significant proportion was also reserved for minorities and marginalized segments.

After 9/11, international organizations provided monetary stimulus to strengthen the capacity and power of local representatives. War on terror shifted the optics of global institutions and powers toward Pakistan. As, Pakistan was the frontline state in war on terror so, for stability and good governance monetary stimulus was often provided by World Bank and IMF for restructuring governance system. LGO 2001 faced criticism from political parties for channeling funds for representatives who supported Musharraf regime. Bureaucracy was also unhappy with the Ordinance that put administrative officers under the control of Nazims and elected representatives. Nonetheless, after the return of democracy in 2008, Pakistan did not had functional local governments for several years.

However, 18th amendment in 2010, provided provincial autonomy from central to provincial tier and included the creation of local government to bring governance close to the people. It did not specify any criteria or time frame to formulate local government structure. Balochistan passed its local government Act after a month of 18th amendment, but other provinces took another 3 years to pass their Acts for local government. It took another 2 years for other provinces to hold their local government elections in 2015. All provinces did a little to boost the process to make the local governments truly functional.

By early 2016 Supreme Court ordered the provinces to speed up the transfer of authority and funds for the local governments. Nonetheless, local government structure in Pakistan remained centralized with provincial control over policies and operations. Chief Ministers of respective provinces have the authority to suspend or dissolve the head of local government in all provinces. Local governments in all provinces currently are struggling to varying degrees to secure administrative, fiscal and political powers for their functioning. Local government mainly deals with local affairs but unfortunately, are not independent in Pakistan instead, there is a perception that these are controlled by the central or provincial government (Haque, 2012). Responsibilities decentralized to district government require the system to be financially viable and sustainable in order to deliver quality services to local areas and empower the community in a true sense (Anjum, 2001).



Around the world, in general, and in Pakistan specifically, devolving power to the local level has been the hardest policy aspect. Punjab has a population of almost 110 million hence, for such a diverse and large province, centralized model of governance cannot work effectively. Punjab has created some authorities controlled by provincial government for service delivery and it is in the process of creating more which will dilute the powers for the local governments. Stability, peace, service delivery, access to remote areas and poor segments of society can be better tackled by the effective local government regime. Effective and stable local government structure for Punjab needs to be developed as soon as possible for effective policies implementation. The challenge is to take governance at the grass root level through effective local government system.

Pakistan missed MDGs target because it was assumed that these targets were under the federal government. After 18th Amendment, there is an opportunity for achievement of Agenda 2030 through local self-governance as Pakistan was one of the early countries to declare 2030 agenda for sustainable development, adopted as a national agenda through a resolution in National Assembly in early 2016. Hence, the only way to achieve SDGs, Pakistan needs to proactively empower local governments to ensure active involvement and ownership at grassroots level.

Now, functions and authority provided in Punjab Local Government Acts 2019 and their efficiency remains untested. Opinion of experts in public policies and development, about PLGA 2019, provided insights about this legislation. Only time will tell that, if PLGA 2019 will be able to fulfill those expectations or not. However, this research will provide the policy makers with the prior assessment on the potential effectiveness and efficiency as well as the possible pitfalls of this legislation as it is time for local government system to have authority and resources to tackle the challenges of development.

Punjab Government promulgated Punjab local government (Amendment) Ordinance on 4<sup>th</sup> February 2021. This ordinance contains extensive amendments in the election process. Changes in legislation of Punjab local government Act 2019 through Punjab local ordinance 2021 repelled the Panchayat and neighborhood councils Act 2019. This

ordinance transferred the panchayats and neighborhoods councils under the overall umbrella of local government. It should have been done in earlier draft to mitigate governance problems and to make the process of elections less cumbersome. Supreme court decision on 25<sup>th</sup> March 2021 of constitutional petition no.48 of 2019 under the Article 184(3) enforcement of fundamental rights contained in the constitution for the protection of citizens of Pakistanis another major incident regarding local governments in Punjab. The court declared the Article 3 of Punjab local government Act, 2019 as *ultra vires* to the constitution. It restored the existing local governments prior to the promulgation of Act to complete their term. This judgement empowers the local government against arbitrary dissolution in the future.

### **1.3 Research Problem**

Devolution of power is one of the key factors for development and good governance as argued by many classical theorists. Legislation provides us with the structural framework of any institution in public sector. It is the supreme public policy for a specific purpose. There is very little research about the legislative constraints on the effective functioning of institutions. Local Governments in Pakistan remains unstable and ineffective usually, due to lack of authority. Research studies analyzing local government Acts promulgated in Pakistan are very few. Most of the literature focuses on local governments' performance and its structure. There is not any study that tries to assess the factor of devolution in legislation of local governments. Assessment of local government acts by experts and local representatives and study of legislation itself provides an impetus about how power dynamics work and how that needs to be changed for cooperation and consensus building. Punjab is the most populated province and faces problems of administration and governance. Availability of services becomes more problematic due to large population distributed unevenly across the province. So, there's a need to study recent local government legislation in Punjab to assess whether local government institutions will become more effective or not. Interpretation of legislation from the perspective of devolution is important for better service delivery and effective local government institutions. These are the questions that this research tries to find answers to.

#### **1.4 Research questions**

- i) Are there provisions relating to administrative, financial, and operational devolution in the PLGA,2019?
- ii) Are the experts and local representatives satisfied in terms of decentralization of power provided in the PLGA,2019?
- iii) What problems and challenges local governments face due to lack of power and authority in legislative framework in Punjab?

#### **1.5 Objectives of the Research**

The objectives of the research are:

- i) To critically evaluate the factors of devolution in Local Government Act 2019 to assess whether the Punjab Local Government Act, 2019 devolve the power and authority effectively or vice versa.
- ii) To evaluate the assessment of experts and local representatives regarding devolution of power and does PLGA, 2019 encompass this factor.
- iii) To critically evaluate the administrative and operational framework of Punjab Local Government Act, 2019 to interpret its shortcomings in terms of devolution of power.

#### **1.6 Limitation of research**

In Pakistan, availability of data related to local government had been an uphill task in the past. In the past, few researchers have paid attention to the aspect of devolution provided through legislation hence, there is little literature available on the subject for getting any help. Local government system and its effectiveness are usually analyzed after its implementation and achievement of its targets. PLGA, 2019 is yet to be implemented so, its effectiveness could only be assessed in this research by evaluating the provisions and structure promised in the Act. This research deals with the legislature of local government and viewpoints of experts, local representatives and voters. This research shifts the horizon from devolution at the operational stage to the devolution at legislative stage. To understand the legislative process and language is another limitation in this research. Amendments and Ordinances promulgated by the

Punjab government also hindered the process to minutely study the legislation in a limited time.

### **1.7 Significance of Research**

This research tries to evaluate the Punjab Local Government Act, 2019. Either this legislation empowers local government and provide for their authority and duties for the effective discharge of public services or otherwise. This research focuses on the missing interlinks and factors in PLGA, 2019 which are essential for decentralization. This research incorporates the expert's opinion working in public institutions. This will encompass the viewpoint of experts regarding the local government legislation. Major challenges and views of electors and elected would also be incorporated through interviews. This research will unlock the doors for the scrutiny of local government system through the prism of devolution that may further initiate the debate if legislative design should be given more heed for strengthening service delivery and political culture. Moreover, this research evaluated the outline provided in the constitution regarding the local government system. This research may provide insights for others to examine other options and suggesting innovations in local government system. This research attempted to critically evaluate and point out the missing linchpins in the legislation which have contributed toward the inefficiency of local governments in the past. This research can give insights and contribute towards the effective legislation for local governments in the future.

## **1.8 Organization**

This thesis consists of **5** chapters.

**First Chapter** of this research deals with the introduction, which includes research questions and objectives of the research. It also includes discussion regarding the significance of the research.

**Second Chapter** of this research is the literature review, which includes different themes of the research.

**Third Chapter** explains the methodology of the research in which theoretical framework, sampling and units of data collection have been explained.

**Fourth Chapter** is discussions and findings as per the Hajer's framework for analysis. This chapter follows the steps of Hajer's analysis framework, comprising mainly, on desk research, interviews, document analysis, argumentation sites, interpretation and legislative effects.

**Fifth** and last chapter of the research consist of conclusion and recommendations related to the research problem.

## **Chapter 2. Review of Literature**

### **2.1 Introduction**

Community empowerment, participation in decision making process and development are the values enshrined in democratic and liberal paradigm. Decentralization of power make the governance structure more effective, efficient, and equitable. Local government system is the lowest tier of governance in every state. It plays a key role in development projects, problem solving and service delivery. Local self-governance enables and empowers the marginalized and poor segments of the society. Through participation in decision making, they attain better access to opportunities and equality. There is need for better local government system rather than more federalism. Lack of power sharing creates weak democratic institutions. This is one of the major causes of failed federations.

Local governments take responsibility of the poor in more efficient way than centralized governments. Just like the developed nations, transitional economies should follow suit to establish stable and empowered local government structure. Local self-governance is the life blood of liberty and there is a dire need for better local governments all over the world.

### **2.2 International Perspective**

International organizations and public policy authors have identified the importance of devolution and stable local government through many scientific and systematic findings. Devolution of power empowers the local community and enables them to access opportunities and participate in decision making process.

**Lijphart (1999)** argues that decentralization benefits are particularly evident in more divided plural societies. These societies are characterized by multiple groups with class, tribal, racial, and religious identities. The diverse political societies can become homogenous within their region through devolution. This phenomenon will reduce communal violence and promote political stability. It will strengthen accommodation of diverse interests within the state. This mechanism allows spatially concentrated communities to manage their own affairs. Self-determination in the public to protect their economic, cultural and social interests. Lijphart argues that political



decentralization allows minorities to manage policies regarding culturally sensitive issues.

Empowerment enables especially the poor segment to overcome the barriers which hinders them from accessing new opportunities (**Saegaert, 2006**). She further extends her argument and says that to accommodate marginalized segment decentralized approaches are helpful in service delivery. It is presumed that participating and community-based initiatives will help citizens to expand their capabilities for collective action, that can result in major development such as access to basic needs, better quality of life and reduction in social exclusion and inequality (**Gutberlet, 2009**).

Empowerment is not a static or stagnant process but rather, it is a continuous process. Without devolution, there remains a void in the policy arena and effective implementation and result oriented strategies usually fail. Statutory powers to the local representatives provide them with the opportunity to tackle the problems with innovative and expeditious methods. **Narayan and Petesch (2002)** argue that communities are empowered if they participate in decision making, have resources to fulfill unmet needs and have access to information. For any significant and fruitful results in development and policy arena local tier empowerment is a major step forward. Empowerment encompasses participation, capacity building and access to information. **Bermeo (2002)** argues that armed rebellions are three times more common among groups living in unitary than in federal states. Contemporarily, all stable democracies are federal worldwide.

**Alderman (2002)** noted that: *'Decentralization is sometimes seen as a good, as policy makers defined their policy choices more often on grounds of increased efficiency, equity, and higher responsiveness of government to citizen'*. In the modern era, decentralization, public private partnership and international focus on local governance are the current trends shaping local democracy. Developing nations should not lag far behind in building social capital through the modern concept of local democracy.

The structure of developing or transitional economies is quite different from the advanced countries and this signifies the importance of decentralization development, and to go beyond traditional fiscal federalism (**Bardhan 2002**). To go beyond

traditional federalism, the most important part is the effective and stable local tier of governance. Transitional economies can transform their public policy arena and its implementation by empowering local representatives. Governance structure would be left with less obstacles in terms of service delivery and development. It is imperative for less developed countries to have a stable local governance structure for growth and development.

In this context the importance of local government legislation and policies is highlighted by Pratibha Mehta of UNDP's Management and Governance Division. *“There is a need for institutional mechanisms such as policies or laws that promote the formation of new community-based organizations and their empowerment and that formally link them to the municipal decision-making system. This would help promote the participation of the poor (often excluded in a decision-making process at any level) and would encourage self-management at the community level”*. There is a need for local governments as a powerful and strong institution.

Democracy at the local level (International idea handbook) also signifies the importance of decentralization in all major functions of state encompassing economic, political, problem solving and service delivery. The key for building sustainable communities is empowerment, access, security, cooperation and ensuring equity.

While many authors focused on the functioning and benefits of local government empowerment **Perkins and Long (2002)** has provided with the psychological perspective of the community and social capital. All these scientific research and findings only point toward one direction and, that is the empowerment of local community through participation and decision-making process.

Decentralization allows the local government systems the power to fund, initiate and implement projects meant for community development. Decentralization is long term strategic management and requires commitment and cooperation. Expectations, participation and local fiscal capacity should be understood before implementing policies. Role of civil society and private sector can be a major contributor toward sustainable local government system (UNDP 1996).

## **2.3 Federalism and Decentralization**

Norris (2008) discusses about, what is the relationship between notions of democracy and “good governance” a concept which has become common in recent developmental literature? On the other hand, to which extent decentralization effects the good governance positively or negatively. What is good governance? He defines good governance as, “Focusing at first on macroeconomic management it has expanded to trade, social policies, government effectiveness, financial policies, market regulations, and transparency, accountability and corruption”. On the matter of relationship and impact of federalism on decentralization he argues that federal constitutions worldwide allow more decentralization of power than unitary and hybrid constitutions. Centralization and parliamentary structure create checks and balances in the core institutions of the state. On the other hand, federalism and decentralization provide the structure for vertical power sharing among multiple tiers of the governments. In fragile states with civil wars, experts advocated decentralization as a potential solution to reduce conflict, build peace and to protect the interests of marginalized segments of the society. The most influential claim in the modern times is that the decentralized governance facilitates stability and democratic norms. For this purpose, notable solutions are usually advocated as follows.

1. Federal constitutions which preserve states’ rights and regional autonomy
2. Devolution of power to the elected members of the local government
3. Privatization and public private partnerships
4. Contracting out of services

Norris (2008) argues that subnational governments around the world collected on average 15% of revenues and by the time of late 1990s the figure increased to 19%. Similarly, expenditure spent also increased from 20% to 25%. Neo- institutionalism wave especially in the last three decades created a widespread shift from direct control of center toward indirect control through regulations. Potential benefits argued in the book are as follows.

1. Decision making closer to community
2. Policy flexibility

3. Innovation
4. Experimentation
5. Governments responsiveness to local needs.

*“In early stages of transition from autocracy to democracy, political institutions remain weak and vulnerable. This increases likelihood of violence and conflict. Power sharing is one of the easiest ways for peaceful transition to democracy.”*

He argues that decentralization is prerequisite for a gradual move toward democratic norms and public participation.

#### **2.4 Do power-sharing institutions work?**

Social scientists and policy makers remain divided over the issue that whether power sharing can enhance political stability. Cases of both success and failures of power sharing institutions can be quoted by the proponents of both sides. Usually, reliable and systemic estimates of the effects of different types of institutions on the governance is often lacking. Proponents of success argue that regimes which include leaders from rival communities encourage moderate and cooperative behavior. It is the most vital link between the citizens and states. Multiparty parliament and coalition cabinets generate multiple stakeholders in the political system. In these circumstances community leaders learn to work together to bargain and compromise. With political stakes in the system politicians accept the legitimacy of the rules of the game. They collaborate with their rivals. In this process constitutional agreements are preserved and conciliation among the public increases. On the psychological perspective stakeholders feel that their voices count, and rules of the game are fair and legitimate. This is a more inclusive kind of decision making and governance.

Decentralization efforts are identified with the promotion of

- a) Managerial efficiency
- b) Representative democracy
- c) Qualities of good governance
- d) Stronger public satisfaction

e) Social tolerance and trust

*“Majority rule spells majority dictatorship and civil contention rather than democracy. Democratic regimes should focus on consensus rather than opposition, that includes rather than excludes and that try to maximize the size of ruling majority rather than bare majority”*

These kinds of regimes are most effective for democracy and governance. Winner takes all kind of strategies are more prone to confrontational politics that results in a zero-sum game. Majoritarian regimes fail to incorporate marginalized segments of the society. They in turn resort to alternative methods to express their demands. In majoritarian rule some parties will win more while others will lose more. It is an essential safeguard to ensure that no one manipulates the rules of game and exclude the rivals from power arena. So, power sharing avoids the dangers of winner take all outcomes.

## **2.5 Potential Criticism of Decentralization**

Proponents against the decentralization argue that this process stimulates social cleavages in the political system. They argue that power sharing deepens ethnic problems rather than ameliorating social identities. Leaders may use populist rhetoric of exploitation. Critics charge that decentralization arrangements are complex, duplicative and wasteful forms of government. These are slow to respond to major challenges and can originate uneven development and inequality in the region. Some of the major flaws of decentralization are given as follows.

1. Community differences
2. Partition or even succession
3. Breakup of fragile nation states
4. Inefficiency
5. Increased costs
6. Coordination problems
7. Another layer of governmental bureaucracy
8. Poor service delivery
9. Macroeconomic instability

10. Ethnic hatred
11. Politics of fear
12. Social tensions

On the other hand, centralized governments enhance integration, uniformity, decisiveness, economies of scale and cost efficiency. They have clearer definition of responsibilities. Growth of regional parties can cause political fragmentation. Problems of corruption, clientelist relationships and elite capture can emerge in decentralized governance setup.

## **2.6 Pakistan's Perspective**

While many international organizations and authors signify the importance of decentralization and efficient local government system, Pakistan is still in transitional phase to adopt the system of local self—governance and decentralization. It is imperative to overhaul the local tier of governance into an efficient structure.

Failure of the central and provincial governments to prudently capture local preferences and provide basic services strengthened the case for a new local government system for delivery of public services along with the authority to impose fees, taxes, user charges, etc. to finance these services (**Anjum, 2001**).

Local governments in every country have the responsibility to deliver services in timely manner. In developing countries, responsibilities devolved to local governments are not accompanied by devolution of power and resources which create hurdles in the effective provision of services to the community. Pakistan has a long history of failed state-led initiatives to improve the quality of service delivery. In Pakistan, local development is controlled by bureaucracy, members of provincial and National Assemblies but they use it to oblige their pocket Constituencies. **Dr. Kalsoom Sumra** (2016), in Dawn news article, argues that “Self-governance through local bodies is in the true spirit of the Constitution. Provincial governments leverage over local governments should be done away with to help them dispense services to people”. Central and provincial governments are creating hurdles in one way or another to stop the devolution to the grass root. For democratic and stable public policy implementation more power needs to be given to local governments. International



development organizations are focusing on bottom-up participatory community-based development strategies.

**Ahmed and Talib (2012)** argues that citizen community boards (CCB) have empowered the marginalized segments through self-development initiatives. However, in the case of Pakistan, local community programs face problems of elite control, political interference and financial constraints. Shift from centralized policies to community projects empowers the community and increases social capital. In case of local government structure in Pakistan, important aspects of capacity building and empowerment are usually missed for a long time.

Gender Governance performance report (2012-2013) conducted by United Nations Democracy Fund (UNDEF), shows that despite the efforts of NGOs and other development organizations, there are still problems prevailing at the community level like patronage, nepotism, gender discrimination and bad governance. Transformation of client-patronage model into real democratic decision-making body is still a far cry. Public in general and especially female reported bad experiences regarding government institutions or officials in health, police, education, WAPDA and social welfare programs. The report concludes that improvement in governance is possible through strong, independent and truly representative local government system. This process will enhance communities oversight role and to articulate their need through local councils.

While top-down development approaches failed in many developing nations (e.g. World Bank Africa) community led development initiatives are the new norm. Community participation and inclusiveness are fraternal for the development projects achievement (**Khawaja, 2004**).

World Bank participation sourcebook (1996) case studies emphasize that it is fundamental that communities have control over decision making, resources, development projects initiatives and planning. It is prudent to devolve the power over administrative, financial and operational systems. Without the autonomy of the local tier development projects lack community partnership and often fails.

**Kiani, et al (2020)** Democracy Reporting International article highlighted that Covid-19 could have been better dealt with working local government at grass root level. In absence of local support state authorities are working overtime to deal with the crisis. The report argued that local governments complement quick and real time decision making. Local governments could have facilitated capacity and awareness campaign. Germany and South Korea are prime examples of this argument. Local governments have helped in access to information and ground force. Local governments would have included vulnerable communities in relief efforts efficiently. This report argued in favor to restore dysfunctional local governments until the next local governments elections takes place. Absence of local tier not only creates gap in political representation but also adversely impact effective service delivery. There is a limit for government authorities to reach every household. It could have been mitigated with operational local government structure.

Article 140A is the pivot relating to local self-Governance in Pakistan that states:

*Local Government*

*140A. (1) 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.*

Punjab Local Government Acts, 2019 promulgated on May 4, 2019, consists of 8 parts, XXXIX chapters, 320 sections and 16 schedules. Chapter VIII deals with the authority of local government while chapter XVII deals with the finance of local government. Punjab Village Panchayat and Neighborhood Council Act promulgated by Punjab province on May 4, 2019, provides the operational mechanism of lowest tier of local government. This Act has 9 Chapters, 94 Sections and 13 Schedules. It is for the first time that the affairs of local government would work through two Acts.

## **Chapter 3. Research Methodology**

### **3.1 Research Strategy**

This research relates to qualitative research strategy that is adopted to evaluate the Punjab Local Government Acts, 2019. This research entails relevant provision provided in the Constitution of Pakistan. Qualitative research strategy provides a variety of opportunities to identify the problem. Qualitative research strategy is helpful because it has the framework to understand behaviors and perceptions. With the help of qualitative research strategy, a lot of information was gathered from respondents due to its flexible and open-ended structure. Qualitative research strategy is subjective and systematic approach to explore and highlight the experiences and attach meanings to it.

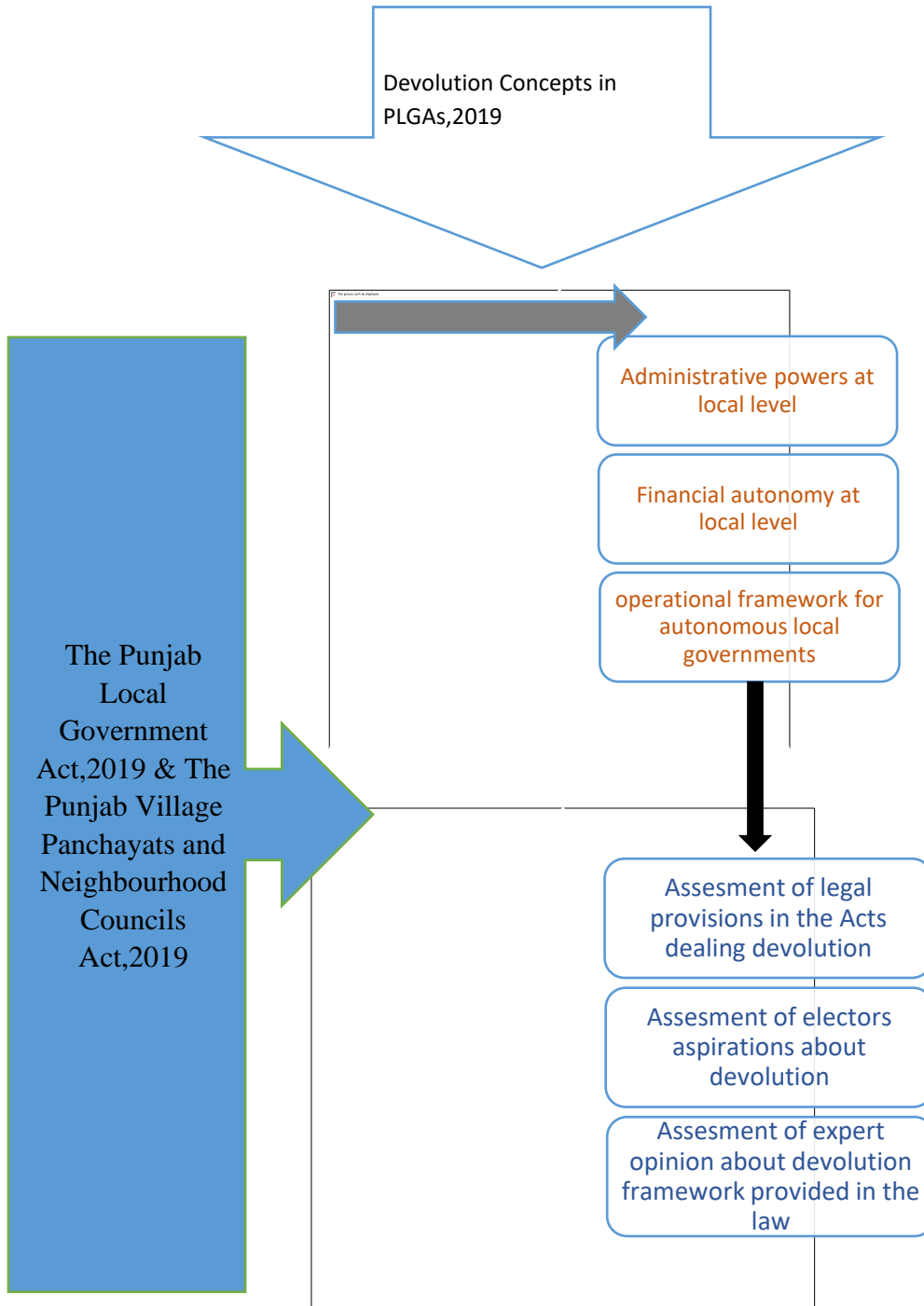
### **3.2 Research Design**

Research design for this study is descriptive because reliance has been made on the Punjab Local Government Acts, 2019 published by Punjab Provincial Assembly Secretariat. Descriptive research presents a picture of the specific details of a situation, social setting or relationship. It would be appropriate to mention that descriptive research focuses on registration of facts and remains distant from searching the explanation of those facts. Descriptive research study retains a well-defined question and a framework of several steps to answer questions.

### **3.3 Conceptual Framework**

Three aspects of the devolution; administrative power, financial and operational autonomy provided in Punjab Local Government Acts, 2019 have been studied in this research. Relevant provisions in the Constitution of Pakistan and Punjab Local Government Acts 2019, have been helpful in the assessment of devolution. Role and powers of local government & community development department and Punjab government in the legislation have provided insights for descriptive comparative assessment. Assessment of expert opinion and aspirations of the public regarding the legislation is also used for the analysis of devolution in Punjab. PLGA, 2019 was also comparatively analysed with respect to previous legislations especially, PLGA, 2013.

The phenomenon may be illustrated as under:



### 3.4 Hajer's Framework

Hajer's framework is used in this descriptive analysis to deal systematically with the research problems. This framework broach with the organization of a central theme of research area and analysis of policy text and document. Hajer's framework comprises of ten systematic steps for the analysis of the documents. These steps are mentioned below:

- i) **Desk Research:** First step of this framework was to gain comprehensive understanding of the research area. For this purpose, extensive reading of Punjab Local Government Act, 2019, Constitution of Pakistan 1973 and other interrelated documents was done. Scholarly articles and research papers related to local government legislation were also incorporated.
- ii) **Helicopter Interview:** This part assessed the viewpoint of policy advisers, experts and financial experts from both private and public sector. In this step, insights from experts and government advisors related to local government structure was incorporated through interviews. Experts with the technical knowledge of local government systems pointed out their expectations and limits of the PLGA, 2019
- iii) **Document Analysis:** This step involves the interpretation and description of the policy documents for fact findings and analysis. In this step, researcher analyzed and evaluated the PLGA, 2019.
- iv) **Interview with key stakeholders:** In this step, inputs from the key stakeholders like local representatives and voters offered diverse point of views. Stake holders provided us with their expectations in local government structure and its legislation.
- v) **Argumentation sites:** This step consists of to get diverse ideas and insights from mix spectrum. It includes debates, conferences and parliamentary debates about local government legislation and structure.
- vi) **Analysis of policy effects:** At this stage of Hajer's framework, researcher examined the interaction between public and institutions. This examination

- provides an impetus about the stance of government and non-government institutions.
- vii) **Identify Key incidents:** This step incorporated historical background, as well as legislative dynamics of the research area.
  - viii) **Analysis of practices in particular cases:** In this step, practices and implementation mechanism of legislation was explored. As PLGA 2019, is yet to be implemented so, the researcher incorporated the perspective of experts about implementation mechanism.
  - ix) **Interpretation:** In this step, researcher formulated logical discourse from set of arguments, related provisions, interviews and expert opinion.
  - x) **Second visit to key actors:** This is the last step before the formulation of findings of research. Return to some key stakeholders to get behavioral change of respondents. This step was not practiced due to the prevalent situation of pandemic. So, the findings are formulated from the initial responses of the respondents.

### **3.5 Units of Data Collection**

UDC1: Punjab Local Government Act, 2019.

UDC2: Relevant provisions of the Constitution and extracts available with relevant ministries relating to devolution.

UDC3: Interviews from experts, voters and previously elected local government representatives.

### **3.6 Variables of interest**

Primarily three variables have been used in order to find out and examine the text and to reach at the conclusion that have been mentioned in the objectives of this research. This study will also incorporate the governance perspective. In the analysis of documents and interviews due heed would be given to assess the governance structure and efficiency in Punjab.

Table No. 3.1 The important dimensions can be explained as below:

<b>Table 1: Important Dimensions of analysis</b>		
<b>Dimensions of analysis</b>	<b>Structure provided in the legislation</b>	<b>Assessment of the impact on target area of the research</b>
<b>Administrative powers</b>	Interpretation of provisions dealing with administrative powers	Through interviews from experts and stakeholders
<b>Financial Autonomy</b>	interpretation of provisions dealing with financial powers	Through interviews from experts and stakeholders
<b>Operational Framework for autonomy</b>	Interpretation of provisions dealing with operational framework	Through interviews from experts and stakeholders

## **Chapter 4. Analysis and Discussion**

### **Hajer's Framework of Analysis**

#### **4.1 Desk Research**

History of public administration science is the search for effective tools of administration. Generally discussing management, local governments have dominated the agenda of public administration scholars like Thomas Dye, Harold Laswell and Ostrom. They all argue that problem solution requires cooperative action. For cooperative action autonomous local governments are most important and essential. Local government legislation provides an organized system for power and responsibilities to work for peace, order and good governance.

**Timothy. D. Mead** in "Federalism and state law: Legal factors facilitating and constraining local initiatives" minutely focuses on the legal factors and legislation regarding the local governments. The writer discusses historical development and court cases regarding the local governments. Writer argues that before local officials can be creative, they must have the legal authority to do so. For legal authority local government legislation is the first step. Without this authority these institutions are just another cog in the machine of state administration. Lacking problem solving, service delivery and developmental capabilities. Legal constraints and opportunities thus fashion the circumstances of administration and management. It seems that local governments are virtually powerless in the face of judgments by other levels of government. Overall local governments are assigned powers than being able to choose them. They must exercise the powers according to the direction of legislature that grants them these powers. So, the autonomy of local tier should be on the agenda of policy makers and legislatures. Another important aspect regarding the local governance is the extension of constitutional constraints on the local tier discretion.

To understand the impact of decentralized arrangements minutely, we can compare historical developments in India and Bangladesh. Both countries are bordering states with same historical and colonial legacy.



## **India & Bangladesh**

**India** has a population of over 1.2 billion with an area over 3.3 million square kilometers. Indian society is divided into multiple ethnic, religious, cultural and linguistic identities. About 80% of the population is Hindu with 13% Muslims and less than 5% Sikhs and Christians. Literacy rate is below 60% with significant population living in poverty. Despite the challenges of governing such a vast and diversified society, Indian democratic norms have deepened since independence in 1947. Given the odds pertinent to ethnic violence the persistence of democracy is a remarkable achievement. India has a two-tier federal setup since independence. Certain degree of autonomy is given to states. India politics is marred with multiparty competition and coalition governments. History of India shows that intercommunal conflicts can be settled with cooperation and conciliation.

On the other hand, **Bangladesh** has a far smaller area and more homogenous ethnic society. The population is 98% Bengali while majority is Muslim with almost 84% of whole population. About 15% are Hindu minorities living in Bangladesh. After independence in 1971 the country has faced political turmoil and violence. Bangladesh faced two presidential assassinations, thirteen head of government, three military coups and 19 failed coup attempts. Bangladesh was under military rule for 15 years after independence. In 1991 civilian rule was restored. Deep rivalry and opposition exist between the major parties in the state. Hundreds of people have been killed in last few decades in political violence.

### **What explains this contrast pertinent to democracy and good governance?**

In both these countries degree of decentralization and local government structures present a striking contrast. Since 1993 Indian state has been significantly decentralized into three tier structures. Political decentralization was aimed to solve the problems of poverty and governance. India has 600000 village and town setups of local governments. State election commission oversee the local government elections and finance commission oversee the distribution of state's revenue. This phenomenon of empowered local governments has contributed toward the participation of women and scheduled castes in the political sphere.

On the other hand, Bangladesh has always relied on centralized power and control. National parliament is a unicameral body with 300 members. Awami League and Bangladesh Nationalist

party remain in a confrontational mode. Distinct regional political parties remained unable to break the hold of major players in national arena. Local governments since independence remained underdeveloped. Major attempts to create political rural base and legitimacy has remained unfruitful. Instead of decentralization there has been appeals for more recentralization.

So, centralized and decentralized federal systems can be one of the solutions. But administrative, fiscal and functional decentralization can transfer power to the public offices of local government and civil society. There is dire need for regional governments in Pakistan to create remote political base and legitimacy in the general public.

In Case of Pakistan, we can find provisions and articles regarding the local governments in constitution of Pakistan. Chapter 2 of Part II in Constitution of Pakistan deals with the principles of state policy. Though principles of policy are not operative part of constitution yet, but they show the future perspective of state policies.

**Article 32 ‘Promotion of local government institutions’** explicitly explains that “The state shall encourage local government institutions composed of elected representatives of the area concerned and, in such institutions, special representation will be given to peasants, workers and women.

Similarly, Article 140(A) clearly states 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.

The Constitution of every country is its supreme law. The provisions stated above shows the constitutional importance of local government institutions and representation of elected officials.

The scholarly and scientific importance of local government institutions has already been discussed in the literature review of the study. There is uncertain context regarding the importance and role of local governance particularly in Pakistan. Especially after the 1980’s the expansion and transformation of private sphere has hindered the local governments initiatives.

The question that prevails in most of the studies regarding local self-governance is that “Whether cities are like markets or collection of identity groups?” Neo-classical scholars especially after 1980’s treated the administration and management like markets. This phenomenon adversely

impacted the local institutions initiatives and discretion. In case of Pakistan problems of administration and service delivery are still visible and going from bad to worse. So, there is a dire need for effective and autonomous legislation for local government institutions. Courts cases can set the precedents of local governance autonomy for future generations to come. Perusing the document of Punjab Local Government Act, 2019, one can find the impression of central control and obstacles to the local initiatives. As argued by Timothy. D Mead legal factors plays a crucial role in facilitating or constraining local government initiative. So, if legislation is itself central and lacking decentralization, how can local institutions evolve into efficient and effective service delivery machineries? Often local governments are assigned responsibilities with little or no authority and power to exercise those duties. The deficiencies in legislation are not only the work of legislature. Stakeholders, policy makers, civic society, judiciary and bureaucracy all are skeptic toward the autonomous local governments in Pakistan.

Culture of power bends and breaks ideologies and rarely is bent or broken by them. So, it is not only a matter of vision, planning and policies for self-sustaining local institutions. The culture of power sharing and devolution needs to be vocalized. For this purpose, the first and most important step is the autonomous local bodies. They should have power and authority to initiate and implement projects without interference from other levels of government.

## 4.2 Document Analysis

Punjab local government Act, 2019 promulgated on 4<sup>th</sup> May 2019 is an extensive legislative document. It consists of 8 parts, 39 chapters and 16 schedules. The Punjab village panchayat and neighborhood councils Act contains 9 chapters and 13 schedules. This part of the research tries to highlight important sections and chapters of the Act regarding the authority, responsibilities and power of local governments.

**Section 3 Dissolution of existing local governments (1)** All local governments constituted or continued under Punjab local government Act 2013 were dissolved. It was also provided in this section that; the government shall constitute succeeding local governments within one year.

This section abrogated all local governments in Punjab with immediate effect. This section shows the arbitrary culture of administration and management in context of local governments. Sub-section 2 of section 3 clearly states that within one year succeeding local governments would be formed. This impliedly means that, there is no need for existing local governments for a whole year. At the moment 2 years has been elapsed without any succeeding local government setup in Punjab.

### 4.2.1 Administrative Power of Local Government

**Section 6** directs the local governments to work within provincial framework and not to act in any manner that impedes the executive authority of government.

Chapter VI of the PLGA.2019 deals with the functions of Local government. Section 22 elaborates that, the government can assign additional responsibilities to the local government not specified in third, fourth and fifth schedule on terms and conditions mutually agreed. While section 23 specifies the extent of government control on the functions of local governments. It argues that government can issue policy directions and fix objectives for functioning of local governments. The local government shall function as may be directed by the government. In discharge of functions under section 24 local government cannot contract out any public service in terms of seizure, penalty, enforcement of law and liberty of individual. Furthermore, local governments can delegate certain functions to the panchayats and neighborhood councils. This chapter also provides the criteria for the arrangement between other local governments, office or authority of the government for services related to functions of local government in relevant schedules. Section 27 provides the leverage for government to appoint undertaker for one or

more functions of local governments. These functions would not be undertaken by relevant local governments.

Chapter VII specify the establishment of joint authorities for provision of public service. Supervision of the joint authorities would be under the joint committees.

Chapter VIII deals with the authority of local governments. It consists of three sections. These are extent of authority, manner of authority and all orders to be taken in the name of local governments. The extent of the authority of local government is limited to the functions provided in the Act. Exercise of this authority shall be vested in the head of the local government through the officers of local government authorized by him.

Section 42 specify the duties and functions of head of local government. He/she shall be responsible for the efficient and effective functioning of the local government strictly in accordance with the Act. Accomplishment of developmental, operational and fiscal objectives set out by the council or as the case may be **the Government**. General supervision and control over the officers of local government for purposes of local governance. **Sub-section 3 binds the head of local government in exercise of his power to observe the general policy or directions of government.**

**Section 44 (2)** states that, the councilor shall not direct or attempt to direct the officer or servant of local government on the manner in which duties shall be performed. This explicitly means that councilor of a particular area has not any authoritative power to direct even the lower cadre of servants in local government department. This provision is **a limitation on the power of elected representatives.**

Chapter XXVI deals with the supervision of local governments. The government shall establish an inspectorate which will have the power to inspect, monitor, review and report upon the performance of local governments. Inspector general shall conduct yearly and special inspections of the local governments. In case of dispute or difference of opinion on the inspection reports between inspector general, local government and any officer of the government the matter shall be recommended to the government and decision of the government shall be final in this matter.

**Section 228** explicitly deals with the power of government to suspend certain orders, resolution and prohibit certain actions of the local governments. It seems from this provision that

government has the jurisdiction of Mandamus on the local governments. Generally, these kinds of jurisdictions are for courts to deal with. The resolutions suspended by the governments shall not have effect till such time it remains suspended. **Section 229** deals with the power of the government to require local government to take action. It is the duty of the local governments to comply with the directions of government and to take such measures as specified by the government. In a federal structure it seems absurd for the federal government to interfere in the matters of the provincial government. As this phenomenon hinders the autonomy of provincial governments. In the same way local governments should also be autonomous and free from interference from the provincial governments. There should be as little as possible provisions hindering the autonomy of local governments. Subjects of jurisdiction should have been clearly laid down to provide as much devolution as possible. This kind of provisions hinders the administrative and authoritative powers of the local tier.

**Section 230** deals with the procedure where head of the local government fails to take actions on the directions of the government. The government has the power to impose fine, sanction and proceed to remove the head of local government. **This means a highly centralized structure and fiscal constraint on the local government.** The head of the local government should not be a mere agent of the provincial government. He should be working for the betterment and development of the respective area without any interference from the government. In certain matters government also have the power to act on its own through officers appointed on its behalf. **The power and authority of these officers will supersede the authority of local government according to section 231(4).** The government also have the power to suspend the head of local government, councilors or convener. This suspension according to the section 232 is based on the **opinion of the government.** This arbitrary mechanism of removal and suspension of local government representatives obstructs their capacity to work effectively. Section 233 elaborates the criteria for the suspension of the local government. The reasons for the suspension are:

- I) Government opinion of one or more reasons listed in thirteenth schedule to suspend
- II) When head of the local government fails to show cause within a specified period
- III) As a result of an inquiry related to thirteenth schedule

The reasons specified in the thirteenth schedule are:

- i) If the head of local government failed twice in a financial year to show cause to the satisfaction of government
- ii) If the council has been unable to meet its financial obligation
- iii) If local government becomes insolvent
- iv) Where the local government exceeds or abuses the authority conferred upon it under the Act.

**Section 236** exempts the government and any of its officers from suit or legal proceedings in case of any loss or damage caused by:

- a) Suspension, modification and revocation of the council
- b) Prohibition of the government doing anything or act by the local government.
- c) Suspension or removal of head of local government, councilor or convener
- d) Suspension or dissolution of any local government.

The government is thus not liable to any suit and legal proceedings in case of any arbitrary use of power and any kind of loss or damage.

#### **4.2.2 Financial Autonomy**

Chief Officer has enormous powers with respect to the head of local government in terms of financial matters of local government.

He is the principal accounting officer and have power to maintain financial and administrative discipline of all offices of local government. Chief Officer has the power to contract. He is also responsible for procurements, contracts and mostly observe policy directions from the government. Any order resolution or direction which is likely to lead to wasteful or improper expenditure, he shall refer it on the grounds of his opinion to the government. In general observations of the past his opinion has a sound weightage and is likely to prevail in the orders of governments. This process of centralization is against the democratic norms. All around the world decisions and resolutions are passed through majority vote and consensus. In case of Punjab local government Act 2019 the discretion of chief officer can highly impact the decisions and procedures of developmental projects because of him being a principal accounting officer.

**The discretion of chief officer seems to be cumbersome to the financial mechanisms of local governments**

Part 4 deals with the local government finance and properties. The estimates of receipt and expenditures will be prepared by head of local government and submitted for approval. These estimates would be approved by council by simple majority. These draft estimates would be published for public information and to solicit suggestions or objections. Revision and amendments of the estimates will be presented to elected councilors if any and will be made through majority vote. If in certain cases there is need to readjust income and expenditures, the head of local government or council shall sanction any measures which they consider necessary. They can either diminish expenditure or recourse supplementary taxation and rates of charges. If they fail to do provincial government would make such provisions after hearing. These provisions shall be deemed to be authorized by local government. In a country like Pakistan with diverse economic and financial problems, there always remain a room for financial instability. These kinds of provisions provide a leverage for government to diminish local government expenditures. With such kind of instability local governments face financial crunch and thus become unable to deliver efficiently. Section 135 states that receipts should always be greater than expenditure.



Chief Officer shall submit every estimate of receipt and expenditure to the government for review. During review government can direct the local government to amend the estimates. **If it fails to observe the directions of government, government can itself amend and certify the estimates.** This shows the tendency of strong and powerful reviewing authority on behalf of government. It can amend the estimates according to its discretion without due respect to the respective local government. Estimates of receipts and expenditure are quite important because if finance commission which allocates the amounts to the local fund fails to do the approved estimates would be used for allocation of funds for respective local government.

Local governments can borrow loans from local development funds for a specific purpose with government approval and the amount shall be used for that specific purpose only. For the repayment of borrowed money, a sinking fund shall be established and investment in government securities and deposit taking institutions nominated by the government can be made. Sinking fund shall be liable to annual inspection by Auditor General.

**Section 153** allows the government to resume any immovable property transferred to local government where such property is required for public purpose. The government shall not be liable to pay any compensation for resumption of that property.

Chapter XXI deals with the authority of local government to levy taxes, fees, rates and tolls. Head of the local government may make proposals for imposition, revision or abolishment of the local tax. This proposal will be notified for suggestions and objections for thirty clear days to the chief officer. The council can disapprove the proposal with two third majority. In case of objections and representation if finance commission thinks that incidence of tax is injurious to the general public or excessive it can suspend or amend the objectionable tax. Duty to furnish information on the liability of tax into residents of relevant area is on the chief officer or any other officer on its behalf. Power of Investigation and decision on the matters of the objection is with chief officer. For the collection of local tax government has the authority to appoint any of its agency or officer.

Chapter XXII deals with the composition and powers of Finance Commission. It consists of 13 members mostly drawn from executive branch of government and higher bureaucracy. Finance Commission shall be chaired by minister of Finance in Punjab. Finance Commission will perform the following functions:

- i) Share of local governments and panchayat and neighborhood councils
- ii) Oversee the transfer of share from the provincial allocable fund
- iii) Advice government and local governments on fiscal matters
- iv) Fix upper and lower limits of taxes
- v) Support local governments to improve fiscal capacity performance and budget management
- vi) Monitor fiscal health of local governments annually.

#### **4.2.3 Operational Autonomy Mechanism**

Chapter XXVII deals with the responsiveness of local governments to the citizen need. Participation of local community is one of the duties of the local governments through, consultation, publication of reports or proceedings and responsibility toward the general public. Not less than five percent of the total expenditures shall allocated to the projects related to community initiatives. **Section 222** clearly states that all orders of the local governments shall be open to inspections by the public.

Chapter XXIX deals with the oversight by the government. Supervision and general control over the local governments shall be exercised by the government. The question of legality of any resolution, order or decision of local governments can be initiated in writing by the following persons:

- i) Head of local government
- ii) Chief officer of relevant local government
- iii) Resident of relevant local area
- iv) Any officer nominated by the government.

The provision highly constricts the autonomy of the local governments. These complaints shall be referred to the government. Government also has the power to call for information through general or specific order. Government also has the power to inquire into the complaints related to the local governments.

Chapter XXXI deals with the coordination and dispute management. For inter-agency coordination (Section 249), **Deputy Commissioner** will coordinate the works of any federal,

provincial or local government agencies. He will take measures to prioritize works and to prevent disputes among local governments in a district. Every local government is liable to assist and cooperate with the Deputy Commissioner. In case of reference by head of local government against the directions of Deputy Commissioner the government can modify, cancel or confirm the directions of the Deputy Commissioner. This chapter also confers the power of dispute resolution to the Deputy Commissioner in case of reference by the head of local government.

Chapter XXXII deals with the planning, development and land use. Within the six months of assumption of office, head of local government will prepare a local development plan. It will contain objectives, strategies and resource plan for a specific period. Head of local government will call for proposals from the representatives of local government for construction and works. Local development plan presented by head of local government will be approved by simple majority. In case of local development plan not prepared by local government, the government shall prepare such plan and certify it in prescribed manner. Evaluation and approval of new works will be done through local planning board and should follow the planning guidelines. Chief Officer is among the five members of the planning board. **Local development and land use plans should abide by the provincial and regional considerations.**

Chapters XXXIV, XXXV and XXXVI deals with the municipal offences, offences related to conduct and conflict of interest and offences related to local taxes respectively. Punishments and fines related to these offences are mentioned in fifteenth schedule exhaustively.

In the context of local self-governance **section 62** strengthen participation of the community. Meetings of council, committee and sub-committee shall be open to the public. Except for the confidential matters and disorderly conduct of a person. Public participation is key for effective mechanism of developmental projects and this provision empowers participation of local community.

Part 3 of the Act deals with the authority of election, method of elections and conduct of elections respectively. The authority to conduct the elections of local governments is vested in the Election Commission of Pakistan. Election Commission shall conduct the elections in just, fair and transparent manner and make necessary arrangements for it. Chapter XXXIII deals with the offences related to local government elections. The procedure of punishment and offences mentioned here are mostly like the other general elections

#### **4.2.4 Punjab Village Panchayat and Neighbourhood Councils Act, 2019**

This Act envision to institutionalize and strengthen civic management for non-political action in Punjab through village panchayats and urban neighborhood councils. Section 3 of this Act explicitly states that within six months of the commencement of this Act government shall constitute villages and neighborhood councils for the purpose of this Act. Every resident of the relevant village shall comprise the common assembly according to section 5 of this act. Decisions in the common Assembly shall be made through majority vote of residents present in the common assembly. Every common assembly shall have at least two meetings in a year. The quorum of the common assembly shall be one twentieth residents of the respective village. The term of office of panchayat and neighborhood council shall be four years unless earlier dissolved. Common assembly shall constitute and through the panchayat or council. The quorum of the council is chairperson and one-half members of the council. The government and local government have the authority to delegate certain functions upon the panchayat or council through a written order. Panchayat and neighborhood councils shall have the power to enter into contracts and acquire or dispose of property. No panchayat and council can alienate a property vested in it without two third majority of respective common assembly and **without the prior permission of the government.** Section 20 vests the power to the councils and panchayats for the removal of any unlawful obstruction. Panchayat and neighborhood councils have the power to make certain general orders regarding the health, sanitary, standing crops and environmental protection. Panchayat and neighborhood councils have only the power the report delinquency on part of local officials. This report shall be made to his superior officer or the Deputy Commissioner. **Panchayats and councils do not have the power to summon or exercise control over such officials.** Panchayats and councils can cooperate for joint works and undertakings. In case of conflict higher authorities of local government will solve the issue. So, it seems panchayat and councils are mini replica of what was the relation between government and local government in Punjab Local Government Act 2019.

Panchayats have the power to name the streets and paint the buildings in any manner as it thinks fit. Local tier of governance should be focused on service delivery, problem solving and developmental projects. These kinds of provisions to name the streets and paint buildings do not solve the governance issues prevailing in societies. Instead, they should have been replaced with planning and empowerment for developmental projects implementation.

For elections the government shall direct the elections and all elections shall be held by Election Commission of Pakistan. Elections will be held on the basis of secret ballot and adult franchise.

**Section 39** deals with the sources of local fund for villages and neighborhoods. It includes grants from the government, income from rents, fines, fees, and investments. It seems that grants would be the major source of revenue for the villages and neighborhoods. The criteria for the grants and formulae for the grants shall be determined from the Local Government Finance Commission. At least, the legislation should have provided a certain specific amount for the villages and neighborhoods. It would always be at the discretion of government to financially stabilize the local tier or not. The legislation should have specified a minimum amount for the panchayats and councils for their financial autonomy and effective operationalization. In terms of matters related to the local fund the government will have a significant amount of control. These provisions hinder the autonomy and causes the problems like red tapeism, undue delay and inefficiency. Fees and rates levied by panchayats and neighborhoods are subject to the general direction and control of the government.

**Section 50** states that chairperson and members shall be liable to the residents of respective village for any waste and loss. Moreover, designated officers of government have the power to require chairperson to produce any record books and proceedings. The government has the power to inquire into the affairs of panchayat and neighborhood councils. Section 56 empowers the government to modify or rescind any resolution or action of panchayat and neighborhood councils. The government can stop and dissolve the council at its discretion. Chairperson and other members of the council can be removed through the vote of no confidence and recommendations of government board. It seems that panchayats and councils will remain under the exclusive control of the government.

Section 63 and 64 deals with the suspension and dissolution of panchayats and councils respectively. On the basis of report by board the relevant minister of government can suspend few or all members of the councils including the chairperson. Same is the case for the dissolution of councils and panchayats. If minister of the view from the report of the board that one or more grounds of suspension are relevant, he can dissolve the assemblies.

Chapter VIII deals with the penalties, offences and compensations. The penalties are for disobedience and obstruction to the general orders of the panchayats and councils. The

government shall administer the fresh election in case of suspension and dissolution of assembly. The staff of the panchayat and neighborhoods will be determined by the government. Section 90 empowers the government to make rules for the panchayats and councils to carry out the purpose of local governance.

### 4.3 Helicopter Interviews:

Table 4.1 Helicopter Interviews

Expert Respondent	Name	Organization
1.	Mr. Naeem Ahmed (Deputy Director)	Election Commission of Pakistan (Local government branch)
2.	Mr. Tahir Saleem (Deputy Director)	Executive in Punjab Local Government and Community Development (LG&CD)
3.	Mr. Zain-ul-Abidin (Director)	Senior Executive in International Rescue Committee (INGO)
4.	Mr. Irfan Kausar (Staff Officer to Secretary)	Senior executive in Election Commission of Pakistan

#### 4.3.1 First Respondent

First respondent of the interview works in Election Commission of Pakistan in the Local Government branch. He said that PLGA 2019 is a highly centralized legislation in terms of autonomy and power. This legislation devolves nothing or none in terms of operational and financial autonomy. The government control over the finances and developmental projects is likely to create problems rather than solving them. Financial structure is not stable and unlikely to be a long-term mechanism. Local tier provides basic necessities to the public like water and sanitation. Delay in the provision of funds disrupts the service delivery mechanism. Sources of revenue generation are very little and financial capacity will depend upon the grants from the government in PLGA, 2019. Local government and community development department is not under the control and direction of local representatives. Project appraisal and approval mechanism is not sustainable and efficacious. This legislation shifts a lot in terms of responsibilities but without the authority and finances, it is unlikely to improve service delivery mechanism. This legislation according to his understanding will exacerbate the problem of delays in provision of funds. Comparatively both PLGA, 2019 and PLGA, 2013 are same in terms of devolution. The structure of local tier has changed in PLGA, 2019. The significant and

better aspect in PLGA, 2019 is the specific amount of funds which is about 27% of provincial allocable fund. He also highlighted that shifting the local government structure from districts to the tehsil level is also a positive initiative. Respondent said that, in terms of major challenges faced by local representatives, Political interference and spending autonomy are the key issues. He also added that, mostly cooperation problems are the result of vague legislation. He concluded with that, empowered local governments are imperative for the effective governance mechanism. Local representative's share in power should become sacrosanct for growth and development.

#### **4.3.2 Second Respondent**

Our second respondent works at a Local government and community development (LG&CD) department in Punjab. He said that decentralized administrative structure envisioned under PLGA, 2019 is likely to solve major problems in local governments. Institutions and administration will be closer to the people. This legislation devolves a lot of powers to the local representatives and governance issues will be solved in this legislation.

Revenue generation capacity and specific allocation of funds is a step forward under this legislation. Financial capacity of local governments will improve under PLGA, 2019. Delay of funds had caused problems in implementation in the past.

Local government department has always cooperated with the local representatives. It has always strengthened the third tier of the government. Project appraisal and implementation structure will be more efficient under PLGA, 2019 due to greater accountability and checks.

Administrative structure and financial capacity are the positive aspects in PLGA, 2019. This act lacks in terms of more cooperative and coordinated structure among different relevant departments.

### **4.3.3 Third Respondent**

Our third respondent works in International Rescue Committee (World Bank) at a senior executive designation. He said that decentralization is advocated by almost all international agencies for good governance. Problems of governance are more acute and severe in Pakistan in terms of economic, administrative and policy implementation. Decentralized structure can solve these problems in more effective manner. Contestability and cooperation are vital for development and growth, pertinent to the scenario in Pakistan.

PLGA, 2019 advocated a very complex and complicated structure for local governments. Bureaucratic control and authoritative supervision of provincial governments is evident from the provisions of the legislation. Administrative structure was changed but this legislation remained silent on the administrative powers. The same old mantra of administrative checks on local representatives will continue.

This legislation if implemented is likely to be more stable than PLGA, 2013 in terms of availability of funds. Funds remained the main bone of contention for local governments in the past regimes. Mostly, they were provided to sympathetic and political agents of the political party present in central government. This despotic mechanism caused unequal distribution of funds. Finance Commission articulated in PLGA, 2019 draw its members from provincial government ministers and bureaucratic elites. Arbitrary distribution of funds is likely to continue under this Act, but specific percentage of provincial allocable fund should be given a big hand.

Operational mechanism advocated in PLGA, 2019 is also very complex and likely to face delays. Expeditious methods for problem solving are crucial in modern era. Two tier approval mechanism from LG&CD and provincial governments seems inefficient. Instead, there should have been a local representative's council to approve projects according to the allocated funds at disposal. Prime focus of legislation should have been toward service delivery and development rather than supervision and control over local representatives.



#### **4.3.4 Fourth Respondent**

Respondent said that PLGA, 2019 is more inclusive and accountable than previous legislations. PLGA, 2019 provides administrative autonomy to the local tier. This system provides exclusive rural urban governance keeping in view the revenue units of rural areas. In context of inclusion of common people system provide more representative and accountable. Comparatively PLGA, 2019 is more decentralized than PLGA, 2013.

Mechanism for revenue generation seems a bit ambitious. Revenue generation mechanism is likely to face problems under this legislation. Sources of revenue generation are not enough for financial capacity of local governments. Allocation of funds in time helps to initiate and complete projects in organized manner. However, it did not happen in the past regimes.

Local government department is an important institution pertinent to execution of development projects. The functioning mechanism is neither efficient nor stable because it provides an overlapping of local representatives and bureaucracy that has a challenge of either making consensus or a friction between the two.

Positive aspect in PLGA, 2019 is that it has strong accountability checks which were likely to improve service delivery mechanism. Major shortcoming in this Act, is its greater role of bureaucracy and project implementation mechanism.

Table 4.2 Narratives from Helicopter Interviews

<b>Experts</b>	<b>Major points</b>
<b>Administrative Powers</b>	<ol style="list-style-type: none"> <li>1. Highly centralized in terms of administrative powers</li> <li>2. Decentralized in terms of administrative structure.</li> <li>3. Lack of administrative autonomy is likely to increase interference from other government branches.</li> <li>4. Undue control and supervision of provincial governments</li> </ol>
<b>Financial Autonomy</b>	<ol style="list-style-type: none"> <li>1. Revenue generation capacity is lacking under this legislation.</li> <li>2. No method to mitigate disparities among districts. Unequal distribution of funds is likely to continue.</li> <li>3. Funds from provincial governments is likely to be the major source of finance for local government.</li> </ol>
<b>Operational Autonomy</b>	<ol style="list-style-type: none"> <li>1. Overlapping of local representatives and bureaucracy that has a challenge of either making consensus or a friction between the two.</li> <li>2. Functioning mechanism is not stable and efficient.</li> </ol>

## **4.4 Interview with Stakeholders**

### **4.4.1 First Interview**

Our first respondent is a general councilor in district Layyah.

Talking about the major challenges faced by local representative's respondent said that financial capability, lack of administrative authority and lack of cooperation among the different departments of the government are important. These problems hinder the functional capacity of local governments. Major points drawn from the interview are given as follows.

#### **Administrative Autonomy**

- i) Provincial governments' interference negatively effects local governments.
- ii) Cooperation is needed with administrative departments of governments.

#### **Financial Autonomy**

- i) Provide Autonomy in taxes and revenue generation.
- ii) Revenue sufficiency would depend on area wise.
- iii) Delay in funds is the major cause of low performance

#### **Operational Autonomy**

- i) Project appraisal mechanism seems efficient.
- ii) Provincial and federal governments' officials' interference negatively effects functional capability in developmental projects.

#### **Comparatively with PLGA, 2013.**

- i) Better service delivery mechanism and more decentralization is envisioned in PLGA, 2019.

#### **Certain Positive and shortcomings of PLGA,2019**

- i) Public participation will improve and easy mechanism of problem solving.
- ii) Shortcomings would be better assessed after implementation as this legislation provides a new structure.

## **4.4.2 Second Interview**

Our second respondent was a Vice Chairman in district Layyah tehsil Karor.

In terms of major challenges respondent said that financial resources and administrative autonomy of local representatives are the major issues that needs to be addressed in future. Narratives drawn from the interview are given below as follows.

### **Administrative Autonomy**

- i) Provincial governments' official's interference stifles local government autonomy in administrative matters.
- ii) There is need for cooperation with LG&CD department for effective service delivery. Their discretionary power negatively affects projects.

### **Financial Autonomy**

- i) Delay of funds is a major problem since inception of third tier. Sewerage project in Chak no. 94/TDA tehsil & district Layyah is still pending due to non-availability of funds.
- ii) 28% of provincial allocable fund will improve the resources and will be enough for the functioning.

### **Operational Autonomy**

- i) Accessibility of state functionaries will improve under this legislation.
- ii) Lack of authority and funds hinder the development projects approval.
- iii) Operational mechanism is efficient and stable and also better than previous legislation.

### **Comparatively with PLGA, 2013**

- i) PLGA, 2019 envision greater decentralization and service delivery mechanism than PLGA,2013. Local representatives coming from more remote areas under this legislation will improve the effectiveness of local tier.

### **Certain Positive and shortcomings of PLGA,2019**

Accessibility of general public and fulfillment of their needs will improve under this legislation. Share of local governments is not specified exhaustively. Lower funds for more remote areas will exacerbate the problem of inequality.

### **4.4.3 Third Interview**

Our third respondent was a retired Chairman of local government in district Layyah. Respondent said that, under the local government structure in 2002, they had better resource allocation and funds for development. Recent two legislations were more centralized toward parliamentary and executive branch of the government. Local representatives are now under the constant supervision of administration, MPA's and MNA's. Interference from these officials hinder their functioning capacity and increases corruption in pursuit of funds.

#### **Administrative Autonomy**

- i) Lower administrative power than previous legislations especially LGO, 2002.
- ii) Provincial governments interferences mentioned in the Act will negatively impact the functioning.
- iii) Due to recent Supreme Court ruling Provincial governments will not be able to dissolve local governments arbitrarily.

#### **Financial Autonomy**

- i) Revenue generation capacity of local governments is not stable.
- ii) LGO, 2002 was far better in resource allocation than recent legislations.
- iii) Delay of funds cause agitation and frustration among public. Worker's performance also decreases due to non-availability of funds.

#### **Operational Autonomy**

- i) Project appraisal and approval mechanism is efficient to some extent.
- ii) Influence and interference of district administration and parliamentary negatively impact functioning. Funds availability is another issue related to operational mechanism of local governments.

#### **Comparatively with PLGA, 2013**

- i) There is only a structural change in PLGA, 2019 than previous Act. This Act does not devolve powers to the local tier. To some extent service delivery will improve under this Act. PLGA, 2019 is highly centralized than previous legislations especially LGO, 2002.

### **Certain Positive and shortcomings of PLGA,2019**

Assistance of district administration to Nazim is a positive initiative. Non-implementation, revenue generation capacity and political interference are the certain shortcomings of this Act.

#### **4.4.4 Fourth Interview**

Our fourth respondent is a councilor in district Narowal. Pertinent to the major challenges faced by local representatives, the respondent said that political interference is one of the major problems in this institution. Lack of cooperation from other related government departments due to lack of authority poses significant problems.

#### **Administrative Autonomy**

LG&CD stifles the functioning of local representatives. Government officials' discretion negatively impact the performance of local representatives.

#### **Financial Autonomy**

- a) Revenue generation and allocation criteria has been provided elaborately in PLGA, 2019. Financial capacity has been empowered to some extent in this legislation.
- b) Still the allocation of funds is far lower than effective performance.
- c) Revenue should be increased because expenditures exceed resources.

#### **Operational Autonomy**

- a) Political interference is problematic. Funds should be provided directly to the local representatives. Project approval mechanism is cumbersome.

#### **Comparatively with PLGA, 2013**

- a) Lower decentralization than PLGA, 2013 and significantly than LGO, 2002. PLGA, 2019 devolves power to some extent than PLGA, 2013
- b) Local government structure in 2013 and 2002 was far better than recent legislation.

### **Certain Positive and shortcomings of PLGA,2019**

- a) Basic services will be effectively provided due to shift from district to tehsil level of local government. Smaller units of LG will also create problems of more expenditure. Funds left for development projects will be insufficient.

### **4.4.5 Fifth Interview**

Our fifth respondent was a UC Chairman in district Narowal.

Respondent said that delay of funds hinders the service delivery mechanism. Water, sanitation and hygiene programs disturbs due to the lower funds available for local representatives. There is also a dire need for cooperation from local government and community development branch. They need to assist the local representatives for better problem solving and efficacious method for development.

### **Administrative Autonomy**

- i) Provincial governments' authoritative behavior to dissolve local governments create problems. Politics of fear hinders the effective functioning.
- ii) There is need for cooperation from the department of LG&CD.

### **Financial Autonomy**

- i) Revenue capacity will increase under PLGA, 2019.
- ii) Allocation of resources according to the provisions of Act will improve financial capacity.

### **Operational Autonomy**

- i) Project approval mechanism is difficult under PLGA, 2019.
- ii) Implementation of development projects is unlikely to improve under PLGA, 2019.

### **Comparatively with PLGA, 2013**

PLGA, 2019 has improved decentralization to some extent than PLGA, 2013.

### **Certain Positive and shortcomings of PLGA,2019**

Resource allocation has improved which is a positive step for financial autonomy. Spending autonomy will be negatively affected under PLGA, 2019.

#### **4.4.6 Sixth Interview**

Our sixth respondent was a Program manager working in a Non-Governmental Organization based in Rawalpindi. In terms of major problems local representatives and public face the respondent said that lack of awareness and training of local representatives is a major problem. On the other hand, they also face fiscal constraints, and the public suffers for even the basic necessities of life.

##### **Administrative Autonomy**

In terms of administrative autonomy, this legislation has a few shortcomings. Local representatives would not be empowered in an ideal sense under this Act. Provincial government will have a considerable control over the local government officials. Non-party representatives might be lacking political support and political background for bargaining and compromise.

##### **Financial Autonomy**

Revenue generation is meagre and local government would have to depend upon provincial government funds. Low financial capacity and lack of funds leave local representatives with nothing to work for.

##### **Operational Autonomy**

Project approval mechanism will face problems as this Act provide considerable discretion to provincial governments and officers of local government branch. Influence of parliamentarians on individuals elected on non-party basic will cause problems.

##### **Comparatively with PLGA, 2013**

PLGA, 2013 had a more devolution than PLGA, 2019. Changing the structure of local governments as in PLGA, 2019, will not devolve more power to local representatives.



### **Certain Positive and shortcomings of PLGA,2019**

Specific resource allocation and more remote structural setup is a positive aspect in PLGA, 2019. Moving toward more centralization will not solve problems of governance and inclusiveness should be a priority for policy makers.

#### **4.4.7 Seventh Interview**

Our seventh respondent was a member of provincial assembly Punjab (MPA). Apropos to the major issues faced by local representative's respondent said that Cooperation from administration officers of district and local government department is a major problem. Officers are not willing to cede power to elected representatives which causes problems for development.

#### **Administrative Autonomy**

PLGA, 2019 provide enough power to local representatives to implement development projects. Provincial government supervision and guideline is necessary for the local representatives for functioning otherwise they will become ineffective.

#### **Financial Autonomy**

28% allocation of provincial allocable fund will increase financial capacity of local government. Local governments will have enough resources and funds under PLGA, 2019.

#### **Operational Autonomy**

Service delivery mechanism will improve under this Act. Local governments would be able to appraise and implement projects according to the needs apropos to their area.

#### **Comparatively with PLGA, 2013**

PLGA, 2019 has a better structure and allocate more power comparatively to PLGA, 2013. Sanitation, water and provision of other basic necessities will improve under this Act.

### **Certain Positive and shortcomings of PLGA,2019**

Resource allocation and service delivery mechanism is a positive change in this legislation. Elections on non-party basis is a major short coming in this Act.

#### **4.4.8 Eighth Interview**

Our 8<sup>th</sup> respondent is a student of development studies and also works as a freelancer. In the interview he talked, candidly about the local governments in Pakistan. He said that administrative autonomy is one of the main problems that stifles the local governments functioning. PLGA, 2019 lacks significantly in terms of administrative autonomy. Local representatives will remain political agents of parliamentarians in their respective areas. Influence of chief officer and deputy commissioner in development project is the main reason of delay in projects and cost overrun. The provision of specific amount mentioned in this Act, is a step forward but this amount is very low for a densely populated area like Punjab. No major development project would be possible to implement due to lower availability of funds. Operational mechanism envisaged under this legislation is very cumbersome. Project appraisal and its approval is likely to face delays and problems of redtapism. Comparatively this Act, is better structurally than PLGA,2013. Shortcomings in this Act are becoming evident day by day even before its implementation.

#### **4.4.9 Ninth Interview**

Our 9<sup>th</sup> respondent was a resident of Rawalpindi city Punjab. He said that sanitation and water issues are prevalent in their residential area. Municipal corporations show up in their area once in a blue moon. In the past with local representatives, we used to have better access to state machinery. Water and sanitation issues were solved expediently. Now, there is no one to complain to, about the persistent sanitation problems in their residence. He said that it does not matter, how inefficient and disorganized were the local governments in the past. They were easily accessible and used to do their best for our interests. Local governments need to be restored as soon as possible.

#### **4.4.10 Tenth Interview**

Our 10<sup>th</sup> respondent was a social worker in a local community of Layyah and also working in education department. Major narratives drawn from the interview are given below as follows.

##### **Administrative Autonomy**

In terms of administrative autonomy envisaged in PLGA, 2019 he said that in early years of any institution supervision is necessary for its sustainability. As efficient local tier is yet to be developed in Pakistan some administrative control of central government is necessary. Over the time period this legislation will need to be evolved according to the local needs for more administrative control by local representatives.

##### **Financial Autonomy**

Specific amount allocation for local representatives is an appreciable step taken in PLGA, 2019. The provision of funds for local government needs to be improved in future for development.

##### **Operational Autonomy**

Supervision of provincial governments should not hinder the functioning of local representatives. Operational structure seems workable unless undue interferences of state officials disrupt the functioning.

##### **Comparatively with PLGA, 2013**

This legislation (PLGA,2019) envisions a new structure for local government which is applaud able. In terms of decentralization PLGA, 2013 was more decentralized.

##### **Certain Positive and shortcomings of PLGA,2019**

In PLGA, 2019 specific financial allocation and new structure is a positive initiative. This legislation lacks in terms of expedient and expeditious project appraisal mechanism.

## 4.5 Argumentative Sites

- i) Women though 49% of population their representation in different tiers is not more than 16%. PLGA, 2019 does not ensure the participation of women. At least 33% of the representation should have been ensured in the act through reserved seats (Women in struggle for empowerment; WISE conference, Executive Director Bushra Khaliq 30<sup>th</sup> June, 2019). Zahid Islam new act was containing a lot of bureaucratic interferences and oversight. This phenomenon hinders the empowerment of local tier. In matter of multi-member method of voting, speakers argued that this phenomenon will empower the political parties rather than individuals or local representatives.
- ii) Youth seats has been abolished and the age limit for candidates is 21 years. This process excludes a major portion of Punjab's population from participation in local initiatives especially youth aged between 18-21 years.
- iii) Governor of Punjab Chaudhary Sarwar, speaking at a press conference on 4<sup>th</sup> May 2019, said that Punjab Local Government act 2019 is drafted under the vision of Prime Minister Imran Khan to empower local governments. Direct transaction of development funds provided to the village and neighborhood councils is historic incident. Basic education and health units will be under the control of elected representatives under the new local government Act.
- iv) Elections on non-party basis is disservice to the democracy.
- v) Chief Minister of Punjab Usman Buzdar in a public meeting in Narowal on May 3<sup>rd</sup>, 2019 said that this act will empower the masses at the grass root level and representatives will be accountable to the public. He also added that old local government structure was full of flaws.
- vi) Pakistan institute of legislative development and transparency (PILDAT) executive director Ahmed Bilal Mehboob speaking in his organization's civic education virtual forum in July 2019 censured Punjab local government Act, 2019. He argued that it is impressive that this legislation ensures 26% of development funds for local government. The implementation of this act will be very difficult because bureaucracy and provincial legislatures will not cede power to the local representatives. He argued that local government election on non-party basis is against the norms of democracy.

Representation of women, workers and peasants is far below, and this act did nothing to ensure for their participation.

- vii)** Pakistan Muslim League (Nawaz) filed a constitutional petition in Lahore High court challenging the section 3 of Punjab local government act as unconstitutional and against the article 140(a). This petition was dismissed by the Lahore high court. Provincial legislatures belonging to Pakistan Muslim league Nawaz in their debates in media channels and press conferences vehemently criticized this act. They argued that this act was passed without consultation with the stakeholders. It is not right to dismiss the elected representatives arbitrarily.
- viii)** Opinions in newspapers, articles and electronic media debates also criticized the legislation for its many flaws. Many scholars criticized it for being highly centralized and not devolving power to the local representatives. The key flaws mentioned by the writers was lack of political will, bureaucratic interferences and training of local representatives. Legislation should ensure as much autonomy for local representatives as possible. Centralized structures of governance are not efficient as advocated by the international organizations.
- ix)** Democracy reporting international (2020) briefing paper 109 PLGA 2019; Assessment argued that the Act has few flaws.
  - (a) Lack of focus on human rights protection. Chapter II make local governments responsible for development, communication and representation. Act could have included human rights along the lines of constitution of Pakistan.
  - (b) Lack of political offices and coordination problems. The Act does not provide political offices for local representatives. State machinery and institutions are mainly concentrated in districts. Tehsils are usually away from the district administrations. The coordination among the administrative and local representatives would be problem for effective functioning of local government.
  - (c) The problems of over bureaucratic oversight. Provisions in the Act takes a complicated route and local representatives will be bound to work under the strict control of provincial governments' structure. There are a lot of ambiguities in the act provides leverage to the bureaucracy. Procedural difficulties will hinder the less qualified representatives to understand and act upon the Act. Chief Officer is more

powerful than the Nazism in terms of financial and procedural autonomy. The act draws no specific lines between the spheres of Nazism and chief officer.

#### **4.6 Analysis of Policy Effects**

Classic Public Policy Cycle follow the gradual steps as follows.

- 1) Problem Recognition
- 2) Agenda Setting
- 3) Policy Formulation
- 4) Decision Making
- 5) Policy Implementation
- 6) Policy evaluation & Termination

If we follow the policy cycle pertinent to PLGA 2019. There remain a lot of deficiencies in the policy cycle. As advocated by international donor agencies and academic scholar's governance is the most important factor for growth and local governments are imperative for this mechanism. In terms of agenda setting stakeholders have not been taken onboard. Aspiration and expectations of civil society and general public is not incorporated in the complexities of this legislation. Debates and seminars about, how to improve local governments were totally discarded. This policy document in terms of its formulation remained controversial and highly centralized. It did not incorporate the demands of local representatives. This lack of political will is evident from the non-implementation of this Act. Policy evaluation of this structure would be possible only after its implementation. This Act is still just a piece of paper yet waiting for its implementation. We will try to analyze the major policy changes under this legislation

Punjab Local Government Act, 2019 brought significant changes in the governance structure, at least, in terms of legislation. Province of Punjab used to have only one metropolitan corporation that, was the provincial capital Lahore. Now, every fourth district of Punjab will be a metropolitan corporation. The composition of local government will be

- a) Metropolitan Corporations (9)
- b) Municipal Corporations (16)
- c) Municipal Committees (134)
- d) Town Committees (160)

e) Tehsil Committees (136)

In PLGA, 2013 there used to be 36 district committees in the province. This policy will compose more institutions in remote areas as the structure has been shifted from district to tehsil level. Panchayats and neighborhood councils Act was first envisaged as a separate entity for the less populated and remote areas. After the promulgation of PLG(Amendment) Ordinance, 2021, the whole structure of local self-governance will be under the same umbrella.

Another major policy effect which would be seen after the implementation is the more centralized governance mechanism. Apropos the concept of devolution, this legislation is more centralized rather than decentralized. Local governments will have to follow the guidelines of provincial governments. Interference from parliamentarians and administrative officers is likely to increase under this legislation.

In terms of financial power this Act, allocates almost 28% of provincial allocable fund. On the other hand, project appraisal and approval mechanism has too much unnecessary supervision and control. It seems from the provisions of this Act that, with more availability of funds, spending autonomy has been curtailed. This phenomenon will exacerbate the problem and situation can even go from bad to worse.

Operational and functioning mechanism has a lot of deficiencies. Local representatives are usually the people with low levels of education especially in rural areas. This Act does not provide any mechanism for their training and policy implementation guidelines. Policy implementation will be again negatively affected by this like all previous local governments.

Women representation in all affairs of country is considered vital for growth and development. PLGA,2013 provided 33% women representation in its structure. Under PLGA, 2019 the women representation is likely to decrease less than 20%. Instead of taking a step forward this policy change has taken two steps back. Representation of youth, peasants and workers is also very low, and this legislation does not safeguard their representation in governance mechanism. It seems international standards for women and other marginalized segments representation were not regarded under this legislation. This structure will create more bottlenecks for women representation in Punjab.

#### **4.7 Key Incidents**

During the course of research two incidents regarding the Punjab Local Government Act, 2019 occurred. First one was the promulgation of Punjab Local Government (Amendment) Ordinance 2021 dated 3<sup>rd</sup> February 2021. It followed with the third amendment ordinance dated 13<sup>th</sup> April 2021.

The second major development regarding the Punjab Local Government Act 2019 was the decision of Supreme Court of Pakistan in the constitutional petition no.48 of 2019 and no.7 of 2020.

##### **(i) Punjab Local Government Ordinance 2021**

Ordinance promulgated on 3<sup>rd</sup> February 2021 repealed the Village Panchayat and Neighborhood Councils Act 2019 under section 312(3). According to this ordinance the village and neighborhoods councils now will be constituted under the Punjab Local Government Act 2019. As envisioned in 2019 the panchayats and neighborhoods councils are now not a separate entity and organization. It is now easier for the government to administer the rural and urban population and local governments with the same legislation and criteria. Problems of demarcation and constituting panchayats separately will be solved by this ordinance. Village councils has been decreased from 25238 to 8000. This ordinance mostly impacted the electoral process of local government and incorporated the panchayats and neighborhood councils under the PLGA, 2019. The major substitutions, removals and changes in the ordinance are discussed as follows.

In section 2 the following changes has been inserted.

- I) In clause (ii) of sub-clause (iii) the word “chairperson of tehsil council” has been replaced with Chairman of tehsil council, village council and neighborhood council.
- II) In the clause (ss) the words “sub-section (2) of section-3 of this Act, has been replaced with expression “section-15”. According to this local government means the local governments constituted under section 15. Statutory period of 21 months for establishing local governments has been removed.
- III) Neighborhood means local area of neighborhood council has been added to incorporate neighborhood councils in the local government.



- IV) Neighborhood Council inserted in the Local Government Act, 2019 due to repeal of Punjab Village Panchayats & Neighborhood Councils Act, 2019. Neighborhood has been included as an urban local area.
- V) Panchayats will be constituted under section 214 of this act. Now the panchayats will be constituted by the village council.
- VI) Section 3 (2): The time limit for completion of transition period and establishment of new local governments has been abolished.
- VII) In section 9(3) the limit of population for constituting Municipal Corporation & Town Committee has been enhanced from 20 to 50 thousand.
- VIII) Village council has been inserted in section 15. Town councils have been included in the Metropolitan Corporation. Town committees having population less than 50 thousand have been abolished and merged into respective Tehsil Councils.
- IX) In section 20 the detail of Councilors in Village and Neighborhood Councils have separately been provided. Representation of women, peasants and minorities has been assured in this section.
- X) According to section 83(a), the elections of Village Council and Neighborhood Council shall be held directly on non-party basis through secret ballot on the basis of adult franchise in the prescribed manner. Further the method of casting of votes in village and neighborhood councils has been clarified.
- XI) Convener will be elected by the Councilors other than the Councilors of Village & Neighborhood Councils
- XII) Range of population for town committees has been removed in First schedule.

**(ii) Supreme Court Ruling**

Three-member bench under the Chief Justice Gulzar Ahmed in its short order declared the section 3 of Punjab Local Government Act 2019 as ultra vires to the constitution. All local governments existing in Punjab prior to the promulgation of the Act were restored by the court to complete its term of office in accordance with the law. Both of the constitutional petitions were disposed of with the same relief. There is need for introspection for legislatures because this order clearly states that section 3 is ultra vires to the constitution.

Dissolution of existing local governments was unconstitutional and invalid. This court ruling will empower the local governments in future and mitigate the despotic dissolutions in future.

Pertinent to the following ruling of Supreme Court, the question arises that why the petition of PMLN was dismissed in Lahore High court in May 2019 challenging the same section of Punjab Local Government Act 2019. If the petition should have been accepted at that time, then Province of Punjab would not have been without any local government structure for more than 2 years. It is true that judicial and legislative pillars of state have a significant influence on the local government structure. But something is better than nothing in terms of institutions especially.

#### **4.8 Analysis of Practices in Particular area**

This step of analysis tries to see the meaning of policy of what is to be said and what is to be practiced. After being promulgated in May 2019, the Policy is yet to be implemented till date. So, we will try to assess the history of local governments and practices in this particular area.

From historical perspective military regimes empower local governments for their legitimacy and to counter political segments. This phenomenon creates an image of democracy and sometimes stimulate development due to inclusiveness of large proportion of public in governance mechanism. On the other hand, due to unequal distribution of resources deprivation among different areas increases. Some areas become more developed than others.

In case of civilian's regimes in Pakistan, Parliamentarians remain unwilling to cede power to representatives of local governments. For reelection in the next term, they want to remain in limelight of development projects and wants to take credit for any positive change. Lack of political will for decentralization stifles the functioning of local governments.

Then there comes, the executive branch of the government. Which is highly centralized in its structure and organization? They remain unwilling to follow the guidelines of elected representatives. LG structure of 2002 caused uproar in bureaucratic ranks due to the supervisory position of elected representatives in district councils.

Local governments in Pakistan have been arbitrarily created and disbanded for political gains since 1950's. Usually, they remained inefficient and disorganized to solve the problems of general public. The question "does decentralized governance strengthens democracy?" is still

arguable and confrontational in Pakistan even in 21<sup>st</sup> century. Associational politics, status quo and elites have become the norm in policy arena. Pakistan is still adamant on exclusion rather than inclusion.

#### **4.9 Interpretation**

- i)** Punjab Local Government Act, 2019 is **more decentralized in administrative structure but less decentralized in administrative autonomy**. Almost all stakeholders and experts pointed out that there is need for cooperation with local government department for effectual service delivery. Under PLGA, 2019 some key administrative positive aspects pointed out by stakeholders, experts and researcher are as follows.
  - a)** More decentralized structure of local government. Shift from district to tehsil level
  - b)** Greater accountability, supervision of local governments.
  - c)** Participation of general public is likely to increase.

Some administrative laps pointed out by stakeholders and researcher are as follows.

- a)** Parliamentarians' interference is likely to increase.
  - b)** Authoritative and undue control of Provincial government
  - c)** No voice and say of local representatives in government departments.
  - d)** Role of bureaucracy has been increased.
- ii)** Under PLGA, 2019 allocation of specific amount from provincial allocable funds that is 28% is a step forward but the problem of delay of funds is likely to prevail. Many stakeholders pointed out that financial capacity of local government suffer from delay of funds, and it is one of the major problems that needs to be addressed. Usually, expenditures are greater than revenue at disposal. Some stakeholders pointed out that, **28% allocation** would be enough for revenue if implemented. While others argued that for such a large province this allocation will not result in major development projects. This allocation will have to improve in the long term. Financial powers should have been delegated to head of local government rather than chief officer.
- iii)** Project appraisal and service delivery is likely to improve in this legislation in case provincial government and bureaucracy do not interfere unnecessarily. Project

appraisal mechanism seems efficient, but project approval mechanism is very complicated and cumbersome. Spending autonomy has been curtailed under PLGA, 2019. Parliamentarians' interference hinders the functioning of local governments. Rather than control, contestability and cooperation should have been envisaged in the Act.

- iv)** Experts and stake holders pointed out that PLGA, 2019 seems more decentralized than PLGA, 2013 because of tehsil level structural mechanism. With respect to LGO, 2002 it is more centralized. PLGA, 2019 is likely to face implementation problems because of new structure.
- v)** Certain positive areas envisioned in PLGA, 2019 pointed out by experts, stake holders and researcher are as follows.
  - a) Participation of public is likely to increase under this legislation.
  - b) Accessibility and service delivery is likely to improve under PLGA, 2019.
  - c) Specific allocation from Provincial allocable fund.
  - d) More decentralized administrative structure for local government.
- vi)** Certain shortcomings pointed out by experts, stakeholders and researcher are as follows.
  - a) Administrative autonomy has been curtailed significantly.
  - b) Revenue generation capacity and spending autonomy.
  - c) Elections on non-party basis are against the norms of democracy.
  - d) More supervision and control of provincial government and bureaucracy. Explicit statements like to follow the guidelines of provincial government are discouraging.
  - e) Lower level of women representation.
  - f) Lower representation of youth, peasants and workers.

## **Chapter 5. Conclusion and Recommendations**

### **5.1 Conclusion**

Punjab local government Act, 2019 articulated a new local government structure. The policy for new local governments is yet on paper and waits its implementation. Administrative structure has been made more decentralized by shifting the institutional setup from districts to tehsils. On the other hand, the powers of local representatives have been curtailed to a greater extent. It is more of a centralized local government setup rather than autonomous and empowered. The only noble thing in financial autonomy has been the specific allocation of 28%. Operational mechanism in PLGA, 2019 is very complicated that is likely to cause friction among different departments and tiers of government. All the previous problems are likely to prevail under this legislation if a significant overhauling is not done timely in this legislation. This study reveals that local governments remain unstable and powerless. Authoritative and arbitrary dissolution of local governments is against the norms of democracy.

World Bank advocates cooperation, commitment and coordination (3C's) for effective policy cycle. Lack of cooperation and commitment for empowered local governments are the major issues of present day. Effective and efficient local government structure is imperative for development and growth especially in Pakistan. Pertinent to Punjab, there is need for commitment among civil society and policy makers to articulate legislation that includes rather than excludes. Political system should be based on absolute majority rather than bare majority. Participation and consensus among different stakeholders will stimulate growth and development in local as well as national perspective.

### **5.2 Recommendations**

1. Instead of federal voluntary forces, Pakistan should focus on empowered and stable local government structure. This phenomenon will induce participation, cooperation, and collaboration at a broad level.
2. In Pakistan at all levels of governments expenditures exceeds revenue. Local government institutions are also not an exception in this sense. At least, 40% of provincial allocable

fund should allocated to local governments for effective mechanism and service delivery. Local governments should also be empowered in terms of revenue generation capacity.

3. Rural urban divide for administration and local governments is an archaic concept and should be done away with.
4. Instead of complications and undue checks on operational structure. The local government structure should be expeditious and expedient for problem solving.
5. Tehsil tier should be considered as districts. The focus of the changes made in PLGA, 2019 will be on the tehsils rather than the districts. So, the institutions and departments should be devolved to the tehsils. There should be 140 districts in Punjab than 36 districts. This will make the mechanism of governance effective and mitigate ambiguities.
6. Discretion of provincial government in terms of approval of projects, financial allocation and operational checks should be curtailed.
7. Financial powers for projects should be delegated to heads of local governments rather than chief officers of local government department.
8. Role of bureaucracy should be for assistance and cooperation and not for supervision and control of elected representatives.
9. As per the provisions in the Constitution provincial governments should ensure transfer of funds to local governments for effective functioning.
10. Women empowerment and participation is one of the main drivers for growth and development. Almost less than 20% of women representation is an alarming sign for the nation. Women seats should be increased in local government institutions.

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## Annexure

### Questionnaire for Interviews;

As part of my research for MPhil degree at Pakistan Institute of Development Economics, I am conducting a survey that studies the “**Devolution**” in **Punjab Local Government Act, 2019**. Your participation in the questionnaire will be highly appreciated. Any information obtained in connection with this study that can be identified with you will remain **confidential**.

#### Research Topic

**Devolution: A Far Cry or an Imminent Reality; A Critical Evaluation of Punjab Local Government Act, 2019.**

Respondent’s Details:

Name \_\_\_\_\_

Designation \_\_\_\_\_

Department \_\_\_\_\_

Location \_\_\_\_\_

Education \_\_\_\_\_

#### Questions:

1. Have you studied Punjab Local Government Act, 2019?
2. Does Punjab local government Act, 2019 encompass administrative autonomy for local representatives?
3. To what extent interference of provincial government impact the functioning of local government? Do you think, such issues would be resolved under the new LGA, 2019?
4. What do you think about the role of department of local government and community development (LG&CD)? Does it empower or stifle the local tier functioning?

5. Do you think project appraisal and approval mechanism envisioned in PLGA 2019 is efficient and stable?
6. Does this legislation will improve service delivery mechanism as compared to the PLGA, 2013?
7. Are these sources of revenue generation enough for financial capacity of different tiers of local government?
8. How do you assess the composition of local government revenue generation under the new proposed Act, 2019? Do you think the PLGA 2019, promises a better, stable, and efficient revenue generation mechanism for the local governments?
9. To what extent delay of funds impact the quality of service delivery? Kindly share some of your experiences during the last regime.
10. What are the major challenges faced by local representatives? Kindly elaborate your responses in terms of
  - a. financial resources
  - b. Resource generation capability
  - c. Spending autonomy
  - d. administrative authority
  - e. Cooperation from relevant government departments like education, health, civil administration etc.
  - f. Political interference
  - g. Any other
11. What kind of problems they face in implementation of development projects? Do you think, such issues might be resolved under the mechanism promised in the new PLGA, 2019?
12. Does Punjab Local Government Act, 2019 envision greater decentralization than previous legislations?
13. Would you like to highlight certain shortcomings of the new LGA, 2019?
14. Would you like to highlight certain positive initiatives promised under the new LGA 2019?

