

The Punjab Local Government Act 2013: A Critical Analysis
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Abstract

In 2010, with the approval of the 18th constitutional amendment, article 140- A, revived in its original form. It allows political, administrative and fiscal empowerment to local governments (LG) through provincial level legislation. In light of the 18th amendment, The Punjab Local Government Act (PLGA) 2013 passed by Government of Punjab to establish a local government system in the Province. Although the act is operational since 2013, yet it requires further analysis and appraisal to assess the rationality of the actions provided in this act. The qualitative research methodology adopted for this paper. A three-dimensional analysis of The PLGA -2013 conducted i.e. political, administrative and fiscal. This analysis indicates that the Punjab Local Government Act (PLGA) 2013 is an important shift in devolving the authority to strengthen the democratic system. Political parties, civil society, and international donor agencies on many counts have criticized the act itself. The PLGA 2013 does not provide autonomy to local government in its current form. The political, fiscal and administrative empowerment of the local government is a constitutional requirement. Introducing the health and education authorities controlled by the provincial government are not in line with the provision of the 18th amendment. Establishment of Provincial finance commission also squeezes the fiscal autonomy of local government. There is a need to revise the PLGA 2013 in the light of the 18th amendment to make sure an effective local government system in the Punjab Province. It is required from the elected representatives of the province to recalibrate their approach towards the LG.

Keywords: PLGA -2013, Local Government, 18th constitutional amendment, political, administrative and fiscal empowerment

Introduction

In recent times, the local government debated and discussed in broad discourses of the academic and practice literature. The information revolution in modern times is compelling a reappraisal of the state and

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citizens' roles and relations. This information age also urges to redefine the relationships of various hierarchies of government especially the objects beyond government. Therefore, a greater focus is on local governance. Many writers (Rigby, et.al. 2011) have expressed their opinion about the presence of networks particularly that are involved in ensuring the services delivery and improving the quality of life at the local level, must be treated as a single entity. Most probably, it is known as the local government. (Goss, 2001).

The scope of decentralized governance is to encourage public participation, transparency, and accountability at the local level. It ensures the *governability* of local communities (Boex and Yilmaz, 2010). Greater citizens' participation at the local; more strengthen governability while less participation weakens governability (Kelly, et.al, 2014). Improved local participation is necessary to enhance the responsiveness of the public sector at the local level. It contributes to ensuring the process of financial transactions and the allocation of funds transparent and accountable (Eaton, et.al, 2011). Participation of weaker sections of the community and equitable allocation of resources under the decentralized governance generates institutional provisions for deepening of democracy.

Constitution of the Islamic Republic of Pakistan also urges to decentralize the authority through local governments to ensure public services at local for convenience to dispose its business as well as citizen's satisfaction under the Article 37 (a) (Cheema and Khawaja, 2005). Similarly, Article-32 of the Constitution of Pakistan encourages local governments as "institutions composed of elected members of the local area, having a special representation of workers, peasants, and women" as mentioned in principles of policy (Hayat, 2008). Unfortunately, centralist practices in the past, but under article 10-A," of the Constitution, it is urged to decentralize public administration at from the provincial to local level through provincial legislation (SPU, 2007).

Inevitable for development at the local level and necessary for citizens' routine life, this tier of local level governance has suffered since its inception in Pakistan due to centralized control (Bhatti, 2013). Political contradiction and control over financial arrangements at higher level resulted in the inefficiency of governance systems (ICG, 2004). Most of the times military governments have used this tier to extend their regimes. Basic Democracies (the 1960s,) Local Bodies or Municipalities (1980s) and Devolution Plan (2000s,) are the prime realities faced by this tier of government to serve the ulterior motives of authoritative regimes of the military (Sherdil and Rana, 2008).

Therefore, constitutional provisions are quite clear about the LG system in the country under the light of the 18th amendment in Pakistan.

Establishment of LG in each province is a provincial subject (Khan, 2013). It dictates full authority to provincial legislatures over the perspective and scope of the local government system in their respective provinces. In short, Government of Punjab under the light of 18th amendment came up with an Act in August 2013 known as - The Punjab Local Government Act (PLGA 2013).

Literature Review

Local government is not a new subject but it is evolving conceptually with more democratic values and accountability mechanism for effective governance. Local government is a political mechanism at the grassroots level (Towne, 2011). Local government is an integrant of democracy across various dimensions, such as social, economic, geographic, legal and administrative ones (Schlozman, et.al, 2012). Localities are not simply areas or zones, but groups of people, living together as neighbors (Garrone and Marzano, 2015). The objective of local government is that it will check the danger of absolutism (Sidra, 2011). The LGs are entities to take responsibilities of the burden of public services. Practically, it is proved that a single entity at national level cannot undertake directly such performance (DFID, 2007).

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The Punjab Local Government act has been challenged more than a couple of times in high court and Supreme Court due to some undemocratic features in it. A number of research studies have been conducted to evaluate the content of the PLGA 2013. For example, the analysis presented by United Nation Development Program, urges to revise the LG Act 2013 in the light of commitments made under the 18th Constitutional amendment (UNDP, 2013). Pakistan Institute of Parliamentary Services (PIPS) also presented concerns and fears about the limitations and scope of the LG Act 2013 in its current form (PIPS 2014). Institute of Parliamentary Performance in Pakistan demanded for the revision of existing legislation on LG in Punjab as per the spirit of Article 140-A of the Constitution (IP3, 2014).

Research Objectives

There are three main objectives to analyze PLGA 2013. The objectives of the study described here below:

- i. To analyze the political empowerment of local government in the light of provisions made in PLGA 2013.
- ii. To analyze the administrative empowerment of local government as committed in PLGA 2013.
- iii. To analyze the fiscal empowerment of local government in Punjab with reference to PLGA 2013.

Research Methodology

Critical Discourse Analysis (CDA) adopted as a research approach to present a detailed analysis of The Punjab Local Government Act-2013. In this reference, two research techniques including archival review and key informant interviews adopted to address the specific objectives of this research article. The archival review comprised of an in-depth and comprehensive analysis of all the relevant provisions, documents and research work already done in academia, at the government level, and by independent research institutes. The interviews administered with governance specialists to collect reliable information. Interviews conducted from key Government (Provincial level) Officials, Departmental Heads and Respective Authorities.

Analysis of PLGA 2013- Punjab

Political Empowerment of Local Government

The substance and structure of the PLG Act 2013 propagated on the design of the Local Bodies system under the ordinance of 1979. It was a centralized and controlled system of local government. According to the view of the representatives of the Punjab Assembly, “PLGA 2013 is not going to empower elected local government representatives”. With the formulation of a local government commission, they claim that political and administrative power lies with the provincial government instead of the local government. Similarly, the functions of the district council chairperson limited to the construction of streets, removal of encroachment and controlling sanitary workers.

Under Article 33 (The clause mandatory), that “every member of the local government should have to declare his/her assets within thirty days of the local government election before the first meeting of the Local Council held. It seems quite fine but there it lacks a clear mechanism of accountability. Similarly, there are no guidelines for the election commission to make it binding. Similarly, the act fails to address, how the

local people, a citizen or a voter will be able to file a petition to put pressure on the elected representative to declare his/her assets. Importantly, it also lacks the basic procedure of accountability for elected representative if they are involved in any kind of overspending or misconduct.

The literacy, planning, information technology, community development, law, and taxation authorities transferred back to the provincial governments. Most of the respondents of the Key informant interviews argued that it is the violation of Article 140-A of the Constitution of Pakistan. Article 140- A states that the administrative, political and financial power should be transferred to the local government.

Additional Secretary Local Government Punjab holds the opinion that Punjab is also following the model adopted by Khyber Pakhtunkhwa Province. Means, both of the provinces have taken positive aspects of the Local Government Ordinance 1979 and 2001. In certain instances, the PLGA 2013 is even worse than local government systems of the dictatorial era. In simplest words, it is 'controlled' plan for local governance with power rest in the provincial government. The PLGA 2013 has retained certain schedules of the Local Government Ordinance (LGO) 2001. It also includes select details of implementation.

It is also difficult for citizens to access information of public interest as their right and right to hold their representative in local governments accountable as it is practiced at the provincial and federal level. The issues of holding an inquiry about the 'corruption, misconduct, bribery, and misuse of public funds of the respective local council is almost unclear. These issues cannot be resolved by setting forth an institutional mechanism, specifically for the affectees or common citizens. Inquiry cases are becoming a risk. It is becoming a political controversy instead of than of unfair or misappropriating of funds. It demands a very transparent system at the local level to put in place.

Even there are still inadequacies that are to be revised further. For example, the clause 14 (1) states that the "*The elected representative of the Local government to further elect the local representatives of worker's technocrats, women, peasants, youth in the prescribed manner,*". In a society where minorities have been facing serious problems of life, such legislation will raise concerns about their effective representation. The situation demands further consciousness and care in all areas of concern and at each step.

Administrative Structure and Local Government Empowerment in Punjab

As for as designation and responsibilities are concerned, these are Chairmen and Vice-Chairmen at union council level, Mayors and Deputy Mayors at the Municipal Corporations level to lead the Councils, Municipal Committees, and Metropolitan Corporations by replacing Nazims and Naib Nazims as was the case with the former structure of local governance. Abolishing the merger, rural-urban divide, has also been introduced. It is fear that with expanding towns and urbanities though haphazardly will create confusion and discomfort in the near future, as various settlements increasingly will be no more rural. Not addressing the changing demographic 'Zila or District' is yet defined as "a revenue district as notified under the Punjab Land Revenue Act (XVII of 1967) excluding urban areas".

The role of Deputy Commissioner is still quite influential according to the law. It carries sufficient authority in case of arbitration, disputes and the appointment of Secretary. It is hinted in the following words, that where ever there is an issue of the council or more than one council, depending upon the population density. If there is a dispute in this regard, the decision of the DC of the District will be final. Local government boards that constituted under PLGO 1979 are still functional. The appointed officials of the local government boards reflect to control the offices centrally. Restoration of symbols of colonial-era '(Deputy Commissioner' and 'Commissioner) offices reporting directly to Chief Secretary or Secretary of Punjab is another example of controlling the elected representatives through the bureaucracy.

The undemocratic practices like Sarpanches or Sardar as the members of the Local Councils are still persistent. The point of the query is that the ratio of elected members is getting thinner in all the tiers of Local Councils. It may be either a Local Council or Town Council; the Government of Punjab has the authority to appoint government servants as its member. How many Civil Servants will be going to be the members of the local council, is not clear? In section 27 (2-d) of the same, The PLGA 2013 raises a conflict that it disqualifies any of the government officials to be a member of Local Council (Intikhab Hanif 2012). All of the above it is quite clear that it remains squeezed administrative power in the hands of the Metropolises' and Municipals elected representatives.

Basic health and primary education devolved at provincial level after the 18th amendment in Pakistan. In developing countries, these authorities further devolved to the Local Governments or Councils in some of the cases. However, against the spirit of democracy and violation of Article 140-A, health and education are still retained by the provincial

government. There are still several overlaps and pending clarities in the PLGA 2013.

The PLGA 2013 provides the power to the Provincial Government to constitute district health and district education authority in each district. Keeping in mind the proposed plan under the 140- A and 18th amendment the provincial government was going to formulate PLGA 2013 to devolve the important functions of health, education to local councils. Practically, the act goes further and it seems as the government is going to shift the very limited functions to these education and health ‘authorities. Keeping a tight control, the provincial government is going to exercise the power by politically electing the heads of these authorities. It even reflects that the government is not going to trust local governments or hindering local bodies to have oversight or to have responsibility.

Fiscal Empowerment of Local Government

For the autonomy of local government, financial empowerment is like a litmus test for devolution. Fiscal empowerment means the authority to collect taxes, independently managing and planning development affairs of services on the ground and the local needs (UNDP, 2012). The PLGA 2013 seems to hold almost all these authorities with the Provincial Government. By reading through clause 119 (Chapter XVI), it states, The Government of Punjab will nominate a Commission to be known as “Provincial Local Government Commission (PLGC)”. It will consist of persons of good character, professional integrity and excellent track record of civil service.” It is easy for the one to assess how far the Local Government is supposed to be an independent body for managing its fiscal matters.

The Board consists of a chairperson and at least three or above five members to be nominated by the Provincial Government. It also says, “The Secretary for LG & CD department will also be the Commission Secretary and will (Article 119, Sub-section 3) play the role of, “Planning Commission to advise and methods and evolving organization for local councils and techniques for the efficient local councils, etc. Under the Jurisdiction of Government of Punjab, there will be constituted a Local Board Fund (LBF). It will surely manage and control all the local development, planning, government servants, and management too. Local Councils will have to pursue the approval of their all projects and development plans from the district planning and Development Department (DPDD). Keeping in view our experiences, one can see how far, they might be fiscally autonomous.

Punjab Government is going to control the Punjab Local Government Fund (PLGF) entirely. Practically, Local Councils contributes financially

to work through the local affairs of the Board. They might not be going to own authority over its administration or governance. All the revenue, rents, receipts, and service are there in place but it is also witnessed that the Punjab Government will control, dispense, prioritize and audit all the funds. With the passage of time, it will transfer autonomy to the local Councils and when to empower these is never known? Financial and fiscal authority, what is evident, is completely in the hands of Punjab Provincial Government.

Conclusion

The analysis of the PLGA 2013 reflects the local government created as an extension of the Punjab government. In other words, it is not created a self-sufficient tier of the devolved governance system. By the inception of the 18th amendment, the autonomy of the provinces is sustained. Autonomy means a practice of performing public services by the federating units independently. It is actually a process of transferring power to the provinces to deal with the business of government efficiently and promptly to minimize and alleviate the grievances of the citizens. Similarly, it is true for the provinces to establish local governments to extend services to the citizens at their doorstep. The PLGA 2013 should be revised on these premises. In true sense the PLGA 2013 allows, Local Government Commission (LGC) and Provincial Finance Commission (PFC) to control Local Government. Practically, both institutions lack the adequate capacity for this role. It must be ensured that local governance grievances only take place via political channels” (WB, 2010). This analysis is not an end in itself. It opens new avenues and opportunities for the appraisals of the PLGA 2013. The PLGA 2013 must be analyzed on the basis of other variables by incorporating framework analysis or cost-benefit analysis (CBA).

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