An Analysis of Local Government in Pakistan

Definition and Introduction:

- **Local government** is a form of public administration which in a majority of contexts, exists as the lowest tier of administration within a given state.
  
  OR
  
  - An administrative body for a small geographic area, such as a city, town, county, or state.
  - The term is used to contrast with offices at state level, which are referred to as the central government, national government, or (where appropriate) federal government.
  - A local government will typically only have control over their specific geographical region, and cannot pass or enforce laws that will affect a wider area. Local governments can elect officials, enact taxes, and do many other things that a national government would do, just on a smaller scale.
  
  - Local governments generally act within powers delegated to them by legislation or directives of the higher level of government.
  
  - In federal states (e.g. Pakistan), local government generally comprises the third tier (or sometimes fourth) of government e.g. in Pakistan, Federal Govt > Provincial Govt > Local Govt.

Analytical Overview of Local Government in Pakistan

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

Historical Overview

- The Constitution of Pakistan establishes the state as a federal parliamentary republic.
- The state of Pakistan comprises of four provinces: Punjab (95 million), Sindh (41.3 million), Balochistan (8.8 million) and Khyber Pakhtunkhwa (23.3 million).
- Administratively, the country is divided into Districts, Tehsils (sub-districts) and Union Councils, with each Union Council comprising a number of villages.
- However, a universally acceptable form of the federation that guarantees a balanced distribution of power among the federating units, including the local governments, remains an elusive goal in the country.

Factors behind the apathy of LG:

Two Major Factors;

- First, it was not until 1958 (11 years after Pakistan's independence) that political leaders and parties agreed on a constitution, which was subsequently amended twice.
- Second, the military took the country's reins at several critical junctures and experimented with various forms of local government, primarily surrogates for a parliamentary form of democracy.

Context and Key Questions

- The revival of local governments continues to be debated.
- However, the 18th Amendment to the Constitution of Pakistan has made it mandatory.
- Article 140(A) of the Constitution explicitly states, "Each Province shall, by law, establish a local government system and devolve political, administrative, and financial responsibility and authority to the elected representatives of the local governments."
- Moreover, sub-clause 2 of the same article stipulates that "Election to the local governments shall be held by the Election Commission of Pakistan."
Post 18th Amendment Scenario:

- Since the country's political transition in 2008 and, particularly, after the passage of the 18th Constitutional Amendment, the following trends are visible;

  i. First, the provincial leaderships have reluctantly passed the LG laws and taken steps to hold local elections.

  ii. Second, the provinces have shown a preference for, and a considerable degree of unanimity in, restoring the Commissioner system, whereby the provincial governments manage local government functions directly through the provincial bureaucracy, rather than continuing with the devolution reforms elected by the previous LG Act of 2001.

  iii. Third, demographic changes, and an unprecedented rate of urbanisation, have made local governments a necessity and not simply a choice.

  iv. Fourth, there is growing awareness among civil society, media and policy analysts that local governments are a must for efficient and accountable governance.

  v. Finally, a series of landmark decisions and persistent interventions by the higher judiciary have made it impossible for the provincial governments to hold up the local government elections.

These trends raise several questions;

- Why have the provincial governments been reluctant to revive the local governments?
- What has caused the return to the Commissionerate system?
- Why do three provinces (Punjab, Sindh, Balochistan) still lack a political consensus on the main characteristics of the LG laws?
- What can be done to ensure that the revival of the LG Acts improves governance, service delivery and citizens' participation at the local level?

Basic Democracies Order 1959

- In 1958, the military assumed power and chose to install local governments through the Basic Democracies Order (1959). Political situation in the country was then dispersed, divisive and cumbersome.
- The military rulers found it appropriate to address the issue of 'provincial autonomy' through centralisation, while seeking legitimacy through ‘local governments’.
- The Basic Demands system was created as a substitute for universal suffrage (right to vote) and served as an electoral college to elect the president and the legislative assemblies.

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

**Rural Areas:**
- In rural areas, the first tier of government was the Union Council (UC) that consisted of a group of villages and performed 37 functions.
- Each UC elected a chairman from amongst its members who also served as a member of the Tehsil (sub-district) Council (TC).
- The TC had no executive functions or taxation powers, and its purpose was to coordinate the activities of UCs under its jurisdiction.

**District Council:**
- The next level was the District Council (DC).
- The electoral college of which included chairmen of all UCs, TCs and MCs, removing the distinction between urban and rural areas.
- The DC had 28 obligatory and 70 optional functions, as well as the power to levy taxes. Its basic purpose was to coordinate the activities of all the councils and committees under its jurisdiction.
Local Government Orders 1969 and 1979

- Subsequent military regimes (1969-71 and 1977-88), adopted the same model of promoting local government while maintaining centralised control at the federal level.
- Thus, rather than a federal principle, the local government came to be identified with the military regimes as an instrument of delegitimising the party system and provincial autonomy, while trivialising political processes and power sharing at multiple levels (federal, provincial and local).
- The Local Government Order 1979 expanded the local governments and empowered the Deputy Commissioners.
- This ordinance created four levels of municipal government in the urban areas: Town Committees, Municipal Committees, Municipal Corporations and Metropolitan Corporations.

Local Government Ordinance 2001

- The Local Government Ordinance (LGO) 2001 removed the urban-rural divide and established local government at three levels: Union Council, Tehsil/Taluka Council and District Council levels.
- The Union was the basic unit and the Union Nazims (mayor) and Naib (deputy) Nazims, directly elected by the voters, became members of the District and Tehsil Councils, respectively.
- It devolved administrative, financial and development powers to the elected officials in the local councils and all the government departments became accountable to the District Council.
- The LGO changed the political and social landscape by bringing more than 150,000 people into the political arena and creating more than 6,000 councils.
- Another important feature of the LGO 2001 was its allocation of reserved seats for women (33 percent), minorities, professionals and peasants.

Military and Civil Service Involvement in Local Governments

- The military regimes in Pakistan have generally favoured reliance on local government for at least three reasons:
  i. First, political exclusion of the incumbents by changing the rules of the game;
  ii. Second, alliance with the bureaucracy to manage the centralised and hierarchical structures; and,
  iii. Third, creating a political elite by introducing new politicians through the local government laws.
  ➢ The impact of the three local government laws and elections has been different on civil servants.
Basic Democracy act and Civil Servants:

- The BD (Basic Democracy act) 1959 revived and consolidated the prestigious Civil Service of Pakistan (CSP),
- The District and the Deputy Commissioners became the lynchpins of the regime and pursued politics of patronage and the development goals of the regime.
- Under the military regime of Field Marshal Ayub Khan (1958-69), the military governed and the CSP ruled.
- That also led to the creation of a new set of political elites, who became members of the 80,000-strong BD system (later raised to an electoral college of 120,000).
- However, with the downfall of the military regime, the CSP also came under criticism.
- The 1969 mass movement and protests also tarnished the glory and image of the bureaucracy in general, but particularly the CSP.

Civil Services Reforms and Civil Servants:

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

General Zia-ul-Haq and Civil Servants:

- The regime revitalised the districts, while delegitimising politics at the national and provincial levels.
- During this period, the CSP and the DMG were able to rehabilitate their positions both in the policy arena and in the districts.

General Musharraf and Civil Servants:

- When General Musharraf seized power in October 1999, the military regime sought the international community's support by promising a return to democracy, improved governance, and reforms in the social and economic sectors.
The local government plan emphasised the 1973 Constitution by invoking the separation of the executive and judiciary.

It sought to reduce the role of the CSP, particularly the DMG, by restructuring the civil service at the district level and subordinating it to the elected representatives.

The offices of Division Commissioner and District Commissioner (DC) were abolished and their roles and functions were distributed to the District Government headed by the elected mayor (Nazim) and including a District Coordination Officer (DCO) who reported to the Nazim.

The magisterial powers of the DC were withdrawn and given to the judiciary and police.

The role of police oversight formerly held by the DC was abolished and the responsibility of law and order was entrusted to the Nazims.

Analysis of Local Governments Acts Of 2013

- In accordance with the 18th Amendment to the Constitution, the provincial assembly of Balochistan passed the LG Act in 2010.
- The provincial assemblies of Punjab, Sindh and Khyber Pakhtunkhwa passed their LG Acts in 2013. Despite a lack of enthusiasm, and due consultation during the formulation stage, the passage of the LG Acts is a significant milestone.
- However, the credibility of these laws is affected by the fact that certain parts of the LG Acts of Punjab, Sindh and Khyber Pakhtunkhwa have been challenged by the opposition parties in various courts.
- One striking feature of all four LG Acts, in comparison with the LGO 2001, is that none of the Acts devolves sufficient functions and powers to the local governments.
- All four provincial governments have retained the authority to suspend or remove the heads of an elected local government.
- The functioning of the Local Government Fund is managed by the Finance Department and Finance Minister of the province.

Structure and Constituency Delimitation

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

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

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

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

The Balochistan LG Act authorises the provincial government to define and delimit the number of wards. The Khyber Pakhtunkhwa LG Act also provides for a Delimitation Authority, which bodes well for the local governments provided the composition and membership is balanced and allows broader representation and participation.

However, the delimitation of constituencies carried out under the auspices of the Sindh and Punjab governments has been recently declared illegal following judgments handed down by the Sindh and Lahore High Courts, respectively.

In Punjab, Sindh and Balochistan, the police are not under the local government.

However, in Khyber Pakhtunkhwa the Village and Neighbourhood Councils have powers to supervise the police and make recommendations to the district government.

Recommendations:

- For a strong federation to work, the provincial assemblies must recognise that autonomous local governments are essential for improved governance and service delivery.
- They also need to create laws that better clarify the division of power and functions between the provincial and local governments.
- It is hoped that the LG Acts will evolve over time as the local governments come into being and the province-local government relations play out and attain a new balance of power.
- Therefore, the federal government should explore supporting inter-provincial coordination and experience sharing to define guiding principles for local government reform. Such an initiative would lend greater legitimacy to local government and strengthen the federation.
- With the advent of local governments, there is also a need to put civil service reform back on the agenda.
• The provinces could, for example, consider the establishment of the District Cadre Service and strengthen the Provincial Public Service Commissions.

• Finally, the role of the Election Commission of Pakistan and the higher judiciary in upholding the spirit of the Constitution bodes well for the credibility and continuity of local governments.

• The complementary role played by civil society, academia, media and business groups will also raise the level of awareness about the necessity of local government for improving governance.

Concluding Thoughts

• The LG Acts for each province, in their current form, provide limited autonomy to the local councils in terms of fiscal management and control over service delivery, revenue, tax and police departments.

• If the local elections are to have any real meaning, provincial governments will need to ensure that newly elected local councils have sufficient resources and authority to address service delivery and development challenges in local communities.

• At present, however, provincial governments’ policies seem to be to 'centralise' for the purposes of political expediency, rather than acting in the true spirit of the 18th amendment and empowering local government structures.

Sources:
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