

Local government and Pakistan's reluctant political elite

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*The 18th Amendment to the Constitution of Pakistan made provisions for substantial devolution of power to provincial and local government. However, **Asmat Kakar** writes that provinces have been slow to establish local institutions, dragging their heels on holding elections and on handing over the necessary funds and power for the new bodies to function effectively. He makes suggestions as to the steps which need to be taken to strengthen democracy in Pakistan.*



Six years after the ratification of 18th Amendment, provincial governments in Pakistan remain reluctant to transfer significant powers, responsibilities and resources to the local governments. In his last [interview about Pakistan](#) outgoing UNDP country director to Pakistan Marc-Andre Franche expressed disappointment with the standard of local government laws in the various provinces, indicating that only Khyber Pakhtunkhwa gives any 'real powers' and 'real money' to the local governments. Franche insisted that elections alone are not sufficient, substantive fiscal resources and power must be devolved to make this level of government effective.

With the ratification of [Constitution \(18th Amendment\) Act](#) in April 2010 Pakistan has moved towards provincial autonomy under a federal canopy in order to shrink the prospect of an authoritarian or excessively centralised government and empower provinces. The amendment introduced changes to the 1973 Constitution of Pakistan and redefined the structural contours of the country through paradigm shift from highly centralised to a largely decentralised federation. Through this new constitutional framework, Pakistan has underpinned a multi-tier governance system by transferring greater authority, resources and responsibilities related to many public and social services to the federating units including Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh.

Provisions of the 18th Amendment

The 18th Amendment has divided the prerogatives of Pakistan's multi-tier governance at the federal, inter-provincial and provincial levels by reviewing the Federal Legislative List Part I and Part II and repealing Concurrent Legislative List. Afterward, the statutory and policymaking authorities of the central and regional governments were demarcated by handing over exclusive control of 53 items to the central government, 18 items to the [Council of Common Interests](#) (CCI) and all remaining items to the regional governments. Further restructuring of functions at the [district, tehsil and union council levels](#) has been devolved to the regional governments in accordance with the policy framework articulated in Article 140 (A) of the Constitution. As of now, in accordance with the 18th Amendment, 17 ministries including education, social welfare and special education, health, environment, culture, minority affairs, youth affairs, women's development, sports, zakat and usher, population welfare, labour and manpower, tourism, mining, and local government and rural development have been abolished at federal level and devolved to regional governments.

Through the addition of Article 140 (A), 18th Amendment clearly 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." This led to the provision of legislative, institutional, planning and policy spaces to provinces to make the system of governance context-specific, for better provision of services at the grassroots level.

Local government elections and the transfer of power

There were no local government elections for almost four years after the promulgation of 18th Amendment in April

2010. Balochistan did eventually conduct protracted elections – the first phase began 7 December 2013 but the final phase was only completed on 28 January 2015. Lack of political will among ruling elites in the other three provinces delayed local government elections for even longer. After a series of judicial proceedings, Khyber Pakhtunkhwa eventually held local government elections on 30 May 2015, and Punjab and Sindh has their elections 20 September 2015 on the orders of Supreme Court of Pakistan.

However, the devolution to local government has not yet been realised. As an extension of the Local Government Ordinance 1979, the current local government laws in Balochistan, Punjab and Sindh do not transfer enough powers and resources to the districts and downward authorities. There are many instances where political elite has shown reluctance at substantive devolution of powers and resources to local government, many of which stem from the ambivalence of those in the national and provincial assemblies.

Last year, owing to long delays in powers and funds transfer to local governments, the Supreme Court's three judge bench (comprising Chief Justice Anwar Zaheer Jamali, Justice Hani Muslim and Justice Afzal Khan) heard the contempt of court petition against Prime Minister for not implementing the Supreme Court's judgement to transfer powers and resources to local governments in accordance with the provisions of Constitution. The resulting [SC order to speed up the transfer of powers](#) explicitly questioned why there were delays despite the fact that elections had been held and local governments established for more than a year.

Barriers to decentralisation

There is a perception that there is lack of political Pakistan's political elite; they are reluctant to strengthen local governments which they fear will undermine their electoral hegemony in their respective constituencies and pave the way for a rise of new political opposition. Dr Ishtiaq Ahmad, speaking on the topic of "Democracy at the Grass Root Level" in a conference titled *Devolution of Power to Local Governments: Challenges and Reforms* organised by Islamabad Policy Research Institute (IPRI), [identified](#) a "lack of political will as an important reason for not establishing local government system and quoted the example of unanimous resolution passed by assembly to postpone local bodies' elections"

The UNDP (2015) [report](#) Analysis: *Five Years Of The 18th Constitutional Amendment: Federalist Imperatives On Public Policy And Planning* highlights that decentralisation in Pakistan was initiated with the following goals: to reinforce provincial autonomy accordant with primary intent of the Constitution of 1973, moving decision making process closer to people and greater participation of public in decision making process, democratisation of decision making process and increasing accountability and efficiency of local governments. However, according to Pakistan Institute of Development and Transparency's (PILDAT) (2017) [report](#) assessing the quality of democracy in Pakistan democracy weakened in 2016 as compared to the previous year. The barriers created by members of provincial and national assemblies are therefore playing a significant role in undermining the essentials of democracy and objectives of the 18th Amendment.

The PILDAT study mentions the reluctance of the provincial governments, and their role in delaying the institutionalisation of functional local governments. For instance the Election Commission of Pakistan literally had to force the provincial governments of Punjab and Sindh to issue the schedule for local government elections on indirect seats.

Conclusion

The political parties showed courage by taking the first step toward institutionalising public participation through ratification of Constitution (18th Amendment) Act, 2010. Current local government structures now need to be given the freedom to build upon it and ensure public participation in true spirit. This will in turn play a significant role in strengthening democratic system and the institution of a more substantive, pro-people democracy in Pakistan.

Achieving this will require taking certain robust steps. Provincial governments should ensure complete transfer powers related to services such as education, health and policing and funds as per Article 140 (A) of the Constitution so that local bodies can involve in decision making process and provide better service delivery. Provincial governments should also constitute their own Provincial Finance Commission, akin to the National Financial Commission, where district should get funds from the divisible pool according to their population, area and underdevelopment. Capacity development and training programs should be introduced so that local government representatives are able to deliver according to people's choices and requirements. Finally, political parties should incorporate local government into their manifestos, support the installation of robust local institutions, and resist delaying the implementation of the 18th Amendment's provisions.

The Constitution of Pakistan will be discussed at the Pakistan @ 70: LSE Pakistan Summit in Karachi on 10-11 April 2017. Registration for the conference is now open – secure your free ticket [here](#). Click [here](#) for more information.

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