

GOVERNANCE AT GRASS ROOTS LEVEL IN SINDH: A HISTORICAL PERSPECTIVE

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ABSTRACT

The history of governance at grass roots level in Sindh dates back to the B.C period. From Maurya Empire to Delhi Sultanate, Mughal dynasty and English period the system evolved gradually. Difference of local government system between the dynastic period and post-dynastic period is that under former state appointed persons to run the business at lower levels of shiqs, etc. whereas under latter the people began to participate in the governance at grass roots level. After the independence of Pakistan on 14th August 1947, the institutions of local government continued to survive under the civilian and non-civilian regimes in Cantonments and non-Cantonment Board areas. The system was enforced in Sindh either by the promulgation of the Ordinance/Order or by passing Act by the Provincial Assembly of Sindh.

Keywords: Act, Elections, Institutions, Local Government

LITERATURE REVIEW

Dayal N. Harjani Aka Daduzen has written a book entitled *Sindhi Roots & Rituals*. It is one of the important books written on Sindh which traces the history of Sindh beyond Maurya Empire (322 BC - 185 BC) Achaemenid-Persian rule (550 BC to 330 BC) of Sindh has also been made part of the book. It covers historical, religious and cultural aspects of Sindh from 550 BC to 1947 AD when Pakistan came into being.

Roxburgh Ellis has written book "Great Empires: The Mauryan Empire of India". The book contains rich material on different aspects of the Mauryan Empire including Roots, Building Height, Life in the Empire and its downfall etc.

Zahiruddin Babur laid the foundation of Mughal dynasty and survived till 1857 AD. Ramesh K Arora and Rajni Goyal have discussed various aspects of the dynasty in their book *Indian Public Administration: Issues and Institutions*. It also covers the Kautilya's concept of administration and administration under the British rule in the sub-continent.

Muhammad Abuzar Wajidi has written a book entitled *Local Government in Pakistan: A Case Study of KMC*. The author has discussed growth and functioning of local government system in Pakistan with special reference of Karachi Metropolitan Corporation. Evolution and Development of KMC has been discussed from 1846 to 1988. It helps a reader to understand the evolution of governance and its problems at grass roots level.

RESEARCH METHODOLOGY

The selection of proper source of research methodology confirms half way done. The topic of the article required descriptive and exploratory approach, thus, secondary source of research was adopted.

The works of various authors, official documents published and material available on internet have been referred to accomplish the task.

DISCUSSION

Governance at grass roots level has evolved with passage of time. Broadly, the local governance may be defined as formulation and execution of collective action for governing affairs at the local level. Thus, local governance covers direct and indirect roles of formal institutions of local government and governmental hierarchies, as well as, the roles of informal norms, networks, community organizations and neighbourhood associations in pursuing collective action by defining the framework for citizen, citizen-state interactions, collective decisions and delivery of local public services (Anwar, 2006).

Local Government is that part of the whole government of a nation or state which authorities are subordinates to the state authority. These authorities are elected independently of control by the state authority. Qualified persons or having property, in certain localities, which localities have been formed by communities having common interests and history (George, 1897).

Sindh is repository of the rich, healthy and one of the oldest civilizations of the world i.e. Indus Civilization. The two main marks of its identification are *Moen-Jo-Daro* situated in district Larkana, Sindh and *Harappa* located in Saheewal district of the Punjab. The ruins of *Moen-Jo-Daro* were discovered in 1922 AD by the then Director Archaeology, Sir John Marshal.

The discovery unearthed amazing city with master plan on modern design which was established 5000 years ago. It has well-developed drainage system, town planning, wide roads and streets and proper lighting system etc. The city was divided into two parts i.e. upper part and lower part. It indicates that governance at local level in Sindh dates back to B.C. period.

The ruins of Moen-jo-Daro contain Stupa which is symbol of Buddhism. Moreover, at that time Maurya Empire was ruling over the sub-continent including Sindh was under its suzerainty (Danyal, 2018). The Maurya Empire sustained its existence from 322 BC to 185 BC (Ellis, 2016). The great emperor of Maurya Empire, Ashoka converted to Buddhism between 261-260 BC and declared Buddhism as state religion (Vincent, 2018).

It has been claimed that the system of Local Government, institution of Panchayat, was not unknown to the people of the Indo-Pak sub-continent. The land experienced governance of various rulers but the concept of local self-government very largely remained unattended (Muhammad, 1976). In ancient Indo-Pakistan sub-continent the Panchayats of village distributed land, collected taxes and paid these to the control Government for the villages as a whole (Malik, 1978).

The Maurya Empire had well-developed tier of governance at local levels which is called Local Government in modern times. It came into existence in urban and rural areas having different design. Due to larger in size, cities and towns had different design of local

government in comparison to villages (Manju, 2021). Under the Delhi Sultanate (1192-1286 AD) well organized administrative system worked and survived from the center to the local levels (Sunil, 2017). *Shiqdar* headed the *Shiqs* where as *Parganas* were divided into village headed by *Amils*. Village officials assisted the *Khats* and *Patwaris* (Farooq, 2011).

The administrative system got further growth during the Mughal Empire (1526-1857 AD). The *Sarkars* were subdivided into *Parganas* or *Mahals*. Villages were below *Parganas* which were called *Mawdah* or *Dih*. *Mawdah* consisted of small *Hemlets* (Ramesh & Rajni, 1996). The authors further mention that *Shiqdar* was executive head of *Pargana* and was responsible for maintenance of law and order and criminal justice. Below him there was *Qanungo* who headed the *Patwaris*. *Village Panchayat* was responsible for village administration (p.28). These officials under the Delhi Sultanate and the Mughal dynasty were appointed by the state and there was no concept of elections in modern sense.

The present day Local Government system of Pakistan gets roots mainly from the system founded during the colonial period by British over Indo-Pakistan sub-continent. The British rule may be divided into two periods i.e. under East India Company and the King of England. Various laws were enacted by the English rulers in the sub-continent for laying foundations of the local government. These include but not limited to Conservancy Act 1842, 1864 Act by Bengal, 1865 Act by Madras, 1867 Act by the Punjab, 1868 Act by NWFP, Government of India Resolutions in Local Government in 1915 and 1918, Simon Commission Report 1927, the Government of India Act, 1919 and the Government of India Act, 1935.

The Government of India Act 1935 provided to establish federal structure in British Indo-Pakistan sub-continent. The federation comprised of British Indian provinces and British Indian states (Deepti.org). The Section 311 of the said Act interpreted Local Government as: “any such Governor in Council, Governor acting with ministers, Lieutenant-Governor in Council, Lieutenant Governor or Chief Commissioner as was at the relevant time a Local Government for the purposes of the Government of India Act or any Act repealed by that Act, but does not, save where the context otherwise requires, include any Local Government in Burma or Aden” (Government of India Act 1935, Eyre). The Act contained three Legislative Lists i.e. Federal Legislative List, Provincial Legislative List and Concurrent Legislative List. The Provincial Legislative List contained mention of Local Government. It provided, “Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration” (p.304). The Sections 2,173, 260, 271,288,296 and 300 also discussed Local Government. As the original document of the Government of India Act 1935 was lengthy one thus it was divided between the Government of India Act 1935 and the Government of India (Burma) Act 1935 (Deepti, p.2).

The institutions of Local Government came into existence in Sindh. Through the Acts VIII of 1938 and X of 1940, enacted in Sindh, nominations were abolished in local authorities and introduced joint-electoralates in borough municipalities (Sajajd & Nemat). The authors further mention that the Government of Sindh constituted a committee in 1941 aimed at evaluating the functioning of local bodies in the province and to recommend whether by means of local government or otherwise to improve the administrative machinery. It was proposed by the committee that the powers of the supervision and control should be vested with a separate commissioner for local self-government.

Pakistan came into being on 14th August 1947. The Government of India Act 1935 was adopted as interim constitution with some modifications. Pakistan began its journey being a federal state. After period of nine years, the Constituent Assembly of Pakistan passed first Constitution of the country in 1956. Article 106 of the said constitution provided for three Legislative Lists including the Provincial Legislative List. Entry 15 of the said List made mention of Local Government which provided, "Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, cantonment boards, mining settlement authorities and other local authorities for the purpose of local-self government or village administration" (Constitution 1956, www.factfocus.com). The Constitution proved short-lived when it was abrogated in 1958.

Prior to the Constitution 1956, the Constituent Assembly of Pakistan passed the Establishment of West Pakistan Act 1955 (nasir law). It merged the provinces, the Punjab, Sindh and the NWFP into one province i.e. West Pakistan.

On 7th October 1958 Martial Law was imposed in the country and Field Marshal General Muhammad Ayub Khan assumed the reigns of the country. He abrogated the 1956 Constitution. He is considered as pioneer of introducing Local Government System in Pakistan. He introduced comprehensive local government system. He held local governments as representative tier of the government (Nadeem & Ahsan, 2019).

General Ayub Khan, in pursuance of 1958 Proclamation, promulgated Basic Democracies Order 1959. It consisted of VI Parts, 100 Articles and VIII Schedules. It laid the foundation of self-government in the country.

The chapter III of the Part II dealt with the composition of the local councils. It established six tiers local councils structure ranging from Union Councils, Town and Union Committees, Thana Councils, Tehsil Councils, District Councils, Divisional Councils and Provincial Development Council (Gazette, 1959). Thana Council came into existence in the province of East Pakistan whereas the Tehsil Council in the province of West Pakistan.

Article 17 of the Order established Ward which was base to elect the members of the concerned Union Council. The Councils had authority to collect certain fees/taxes for revenue generation. Chapter II of Part IV provided for Local Taxation. Clause 1 of the article 60 contained that a District Council with the previous sanction of the

government and a Union Council with the previous sanction of the Commissioner, may levy in prescribed manner, all or any of the taxes, rates, tolls and fees mentioned in the Fifth Schedule (Gazette of Pakistan, p-385). The schedule had twenty nine taxes and fees etc. Entry No.28 of the schedule provided, "Any other tax which the Government is empowered to levy by law (p-403). The main functions of the basic democracies were to "oversee the judicial police and developmental functions pertaining to their areas" (Sabir Shah, 2015). The Union Council was basic tier of the system having specific functions.

Thana Council and Tehsil Council were established in the province of East Pakistan and West Pakistan respectively. Divisional Council performed advisory functions. The Union Council enjoyed functions including agriculture, small industry, community development and to increase food production in the union to maintain law and order through the rural police. It also enjoyed judicial powers to try minor civil and criminal cases through its conciliation courts. The Union Councils were responsible for planning and implementing rural public works programs for construction of roads, bridges and culverts, irrigation channels and embankments. They were empowered to levy taxes, impose rates, tolls and fees (Banglapedia).

The elections of local councils were held in 1960 in the two provinces, West Pakistan and East Pakistan. Eighty thousand members (40,000 in each province) were elected of all tiers of the system. These members were authorized to elect the President/Members of the Parliament (Sabir Shah). The local body institutions had two roles i.e. social activities in their constituencies and to be organized as electoral college [members of the Councils] of the election to the office of the president and elect members of the national and provincial assemblies (Muhammad, 2021). The author further mentions that General Ayub Khan was elected President of Pakistan on 15th February 1960 by electoral college consisted of 80000 members of the basic democratic institutions. He took oath of the presidential office on 17th February 1960.

President General Muhammad Ayub Khan resigned and entrusted power to General Muhammad Yahya Khan on 25th March 1969 who subsequently assumed office of President on 31st March 1969 (History.com). The President General Yahya Khan promulgated the West Pakistan (Dissolution) Order, 1970 on 30th March 1970 (Yasmeen & Khalid). It restored provincial status of Sindh, the Punjab and the NWFP (now KPK) and Balochistan was given status of a province.

Next step for establishment of local governance system in Sindh was taken in 1972. The Governor of Sindh promulgated Sindh People's Local Government Ordinance 1972 on 18th February 1972. It contained 3 chapters, 102 sections and X schedules. The section 4 (i) of the Ordinance repealed the Basic Democracies Order 1959 and the Municipal Administration Ordinance 1960 (Law, 1972:254).

The Ordinance provided for the establishment of Union Council, People's Municipal Committee, People's Town Committee, Municipal Corporations and District Council (p.254). The section 17 (3) of the

said Ordinance made it clear that rural areas of a district shall be jurisdiction of a District Council (p.258) “Members of all the Councils shall be elected on the basis of adult franchise through secret ballot” was provided in the section 21 (1) (p.259).

The Ordinance provided dedicated service namely Local Council service for the various tiers of the Councils. Section 63 (1) empowered every council to prepare a statement of estimated receipts and expenditure, popularly known as budget, before commencing of a financial year for that year in a prescribed year (p.272).

The schedule II of the said Ordinance provided functions to be performed by Karachi Metropolitan Corporation and People’s Municipalities (p.283). The schedule V provided for the functions of the People’s District Council (pp.302-304). The section 71 authorized the Corporation, People’s District Council, People’s Municipalities and People’s Town Committee to levy taxes, tolls, rates and fees in prescribed manner with previous sanction of the Government (p.311). Under section 91, a Council was empowered to make its bye laws not in consistent with the rules to be made by Government for carrying out the purpose of the Ordinance (p.279). Schedule XI of the Ordinance specified matters respecting with the Bye Laws may be made (p.315).

In July 1977, the Chief of Army Staff, General Muhammad Zia-ul-Haq imposed Martial Law in the country. After two years of take over and seven years of the promulgation of the Sindh People’s Local Government Ordinance 1972, the Governor of Sindh promulgated the Sindh Local Government Ordinance 1979. It repealed the 1972 Ordinance through section 120 (1) (p.740-AN).

The Ordinance consisted of 15 chapters, 120 sections and VIII schedules. The legal document provided definitions of 82 terms in comparison to 63 terms mentioned in the Ordinance 1972. Section 78 (i) of the said Ordinance created Councils Unified Grades service comprising such posts in councils in such scales of pay and appointments to be made by such authority and in such manner and on such terms and conditions as may be prescribed as provided under section 78 (2) (p.740-AF) (Law, 1979). In order to carry out the purpose of the provisions of the Ordinance the Government [of Sindh] was empowered to make rules (section 103 (1) whereas Council and if required by Government was to make bye laws not in consistent with the rules to be made under this Ordinance (section 104 (1) (p.740-AK).

The Ordinances 1972 and 1979 provided different tiers of establishing and functioning local government system from Union Council level to Metropolitan Corporation but for the purpose of generality all were called Council. Section 3 (15) of the Ordinance 1979 provided “Council means a Corporation, Municipal Committee, Town Committee, District Council, Taluka Council or Union Council as the case may be (p.740-F).

In 1999, then Chief of Army Staff, General Pervez Musharraf assumed the power of the country and became Chief Executive. During his reign new Local Government System was introduced in the country. The Governor of Sindh promulgated the Sindh Local Government Ordinance 2001 which contained XIX chapters, 198 sections and XI Schedules. It provided for local areas and local

governments, District Government, Zila Council, Taluka and Town Municipal Administration, Taluka and Town Councils, Union Administration, Union Council, Village and Neighborhood Councils, Local Government Finance, Provincial Finance Commissions and Fiscal Transfers, Relationship between the Provincial and the District Government, District Service and Local Government Elections etc. (Pioneer, 2005).

The lowest tier of the system was Union Council and the highest was the District Government. Each tier was given its own respective jurisdiction and powers. Clause 1 of section 13 of the Ordinance provides that the Zila Nazim and District Administration were to compose the District Government. The Commissionerate system was abolished and each district was given District Coordination Officer who was head of all District Group of Offices (pp-22-23). On the analogy of the National Finance Commission (Section 160 of the Constitution, 1973) the Ordinance provided articles from 120A to 120K for the Constitution of the Provincial Finance Commission and Fiscal Transfers (pp.115-123).

Section 140A created District service. Section 141 and schedules Fourth and Eight contained list of offences liable to be punishment by way of imprisonment, fine, seizure, forfeiture and confiscation etc. (p.138). The Councils were empowered to levy taxes under Sections 39, 54, 67 and 88.

The Sindh Local Government Ordinance 2001 remained in field till 2012 when the provincial Assembly of Sindh passed Sindh Local Government Act 2012. The Ordinances promulgated during the reign of the President Musharraf were given legal validity when the parliament (Majlis-e-Shoora) passed the seventeenth amendment.

The Majlis-e-Shoora [parliament] passed eighteenth amendment to the constitution of Pakistan, 1973 in 2010. It amended about 102 articles of the constitution. Under article 160 of the Constitution 1973, the President of Pakistan granted 7th National Finance Commission Award in 2010. The Award provided “Grant-in-Aid to Sindh, equivalent to 0.66% of the net Provincial Divisible Pool as compensation for losses on account of abolition of OZ&T” (Ministry, 2010). The amount received in this regard is transferred to the concerned Councils by the Government of Sindh.

The Provincial Assembly of Sindh passed the Sindh Peoples Local Government Act 2012. It consisted of XXI chapters, 212 sections and I schedule. Section 211 of the Act repealed the legal instruments including the Sindh (Repeal of the Sindh Local Government Ordinance, 2001), Revival of the Sindh Local Government Ordinance, 1979) Act 2011, Sindh Act No. XXIV, the Sindh Local Government Ordinance, 1979 (Ordinance XII of 1979) and the Sindh Peoples Local Government Ordinance, 2012 (Ordinance No. VIII).

In subsequent year 2013, the Provincial Assembly of Sindh passed the Sindh Local Government Act 2013. It took effect in 2015. The Act extended saving to some legal documents and one was repealed. The section 160 (1) provides, “the Sindh Local Government Ordinance, 1979 revived through the Sindh (Repeal of the Sindh

Peoples Local Government Act, 2012 and Revival of the Sindh Local Government Ordinance, 1979) Act 2013 is hereby repealed”.

The Act contains XVII chapters, 161 sections and VIII schedules. The section 3 of the Act contains meaning of one hundred terms used in the Act. Section 3 (xvi) of the Act provides meaning of a corporation which includes Metropolitan Corporation, District Municipal Corporation or Municipal Corporation (Sindh, 2015). The meaning of the “Council” provides a Corporation, Municipal Committee, Town Committee, District Council (Urban Committee) or Union Council, as the case may be, in section 3 (xvii) (p-464). The principle of adult franchise was introduced through secret ballot in such manner as may be prescribed as provided in section 32 (a) of the Act (p.486).

The section 72 of the Act provides for the functions of the Council and says Corporation, District Municipal Corporation, Municipal Committee and Town Committee shall perform functions enumerated in schedule II whereas the functions mentioned in schedule III shall be performed by district Council. The functions of the Union Council are written in schedule IV (p.502). However, the section 74 (a) and (b) makes provision for the Government [of Sindh] to take over the management and control of any institution or service maintained by a Council and transfer the same from it to a Council (p.503).

The section 85 contains provisions for naming or renaming of city, municipality, town, village, public place or public way etc in certain guidelines. The Councils were given financial autonomy to generate revenue by levying taxes, toll or fees mentioned in schedule V in a prescribed manner (Section 96(1) (p.516). Government also reserved right of framing Model Tax Schedule and if such schedule has been prepared by a Council then the Government shall provide guidance in levying a tax, toll or fee (Section-97) (p.516).

The Act permitted a Council to prepare and sanction statement of expenditure and receipts, in common terms called Budget, under section 110(1). However, a Council is bound to forward a copy of the budget to the government (p.522).

Like Sindh Local Government Ordinance 2001, the section 113 (1) of the Act provides for constituting Provincial Finance Commission to make recommendations to the Government “on formula for resources distribution among the Councils and matters relating to finances of the Councils referred to the Commission” (p.525). The Provincial Finance Commission consisted of Minister for Finance as chairperson, Minister for Local Government as vice-chairperson, two members of Provincial Assembly Sindh, Finance Secretary, Secretary Planning & Development Department, Secretary Local Government, Mayor of Metropolitan Corporation, Mayor of a Corporation and Chairman of District Council and Municipal Committee to be nominated by a Government and two professional members from the private sector to be nominated by Government as members of the Commission (p.523-524).

Law, made either through Act or Ordinance, provides broad legal provisions for guidance and enactment. Such law extends certain

authority to make rules or bye laws for carrying out the purpose of that Act or the Ordinance which is called subordinate legislation. Sections 138 and 139 of the Sindh Local Government Act 2013 have provided that the Government may make rules and bye-laws “for all or any of the matters enumerated in schedule VII and all matters incidental, consequential and supplemental thereof”. However, the section 139 of the Act empowers a Council to make bye-laws (p.540). The Government could delegate any of its powers or rules provided in the Act to any of its officer or a Council (p.541).

Since 2001 four Provincial Finance Commission Awards have been issued and implemented in the province of Sindh. These awards include 2002 implemented in the financial year 2002-2003, 2004 implemented in the financial years 2003-04 and 2004-2005, 2006-07 for interim period of one financial year and 2007-08 which remained in force till the termination of system of the local government in 2009 (Finance Department). A formula was designed for the distribution of PFC Award. The formula covered fiscal need (55%) (Comprises of population 40%), development needs (10%) and area (5%), fiscal capacity (35%) and fiscal effort and performance (10%). The fiscal capacity covered composite index comprises of three indicators reflecting service infrastructure in health, education, and road sectors. Remaining 10% was proposed to allocate on the performance of district government.

The Provincial Assembly of Sindh passed the Sindh Local Government (Amendment) Act 2021 which was notified on 24th December 2021. It amended 10 sections and five schedules of the Sindh Local Government Act 2013 (Provincial, 2021). The new legal document added schedule IX to the Act 2013 which deals with the relations between elected Councils and Provincial Departments working in their respective administrative boundaries. The new added schedule covered Education, Primary Health, Secondary Health, Law & Order, Agriculture and Livestock, Empowerment of Women, Religious Affairs & Minority Affairs, Sports and Empowerment of Persons with Disabilities (pp.21-L-21-N).

CONCLUSION

The governance at grass roots level in Sindh has roots in B.C. era. Its evolution continued during the subsequent periods in Indo-Pak subcontinent including Sindh. However, the system of local governance, introduced by the colonial rulers in British subcontinent, paved the way for the construction of present system of local governance level in Pakistan including the province of Sindh. It provided people an opportunity to learn governance for solving their problems at local level. It also empowered people to learn how to run the business of the democratic institutions. The system improved working relationship between the provincial and local governments which ultimately benefitted the people.

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