



Analysis

# **Punjab Local Government Ordinance, 2021:**

**Comments and Suggestions to Make Local Governments More Inclusive and Empowered**

By

Centre for Peace and Development Initiatives (CPDI)

Islamabad, Pakistan

January 2022

# **Analysis**

## **Punjab Local Government Ordinance, 2021:**

**Comments and Suggestions to Make Local Governments More Inclusive and Empowered**

By

**Centre for Peace and Development Initiatives (CPDI)**

**Islamabad, Pakistan**

January 2022

## Table of Contents

1. Introduction .....	1
2. Importance of the Local Government.....	1
3. Need of Enhanced Constitutional Protection .....	2
4. Importance of Transferring more Functions to Local Governments .....	2
5. Equality of Representation .....	3
6. Gender and Social Inclusion.....	3
7. Annex I: Comments and Suggestions Regarding Key Aspects of the Punjab LG Ordinance 2021 .....	4

## 1. Introduction

The provincial governments in Pakistan have the constitutional obligation to establish local governments and devolve political, administrative and financial powers to them in accordance with Article 140 of the Constitution. But the provincial governments generally have remained reluctant in holding local government elections and establishing adequately empowered local governments. In recent years, however, the demand for strong local governments has grown, as evident from the court cases filed by the heads of local governments, who were prematurely deposed in 2019 through the enactment of a new law namely the Punjab Local Government Act 2019. The courts too have become assertive and have passed numerous judgments in favour of local government elections while, in case of Punjab, the Supreme Court even restored the dissolved local governments in 2021. In the meanwhile, delivery of key public services at local levels remains poor due to multiple factors including ineffective management, lack of resources and absence of elected leaders, who know the problems and are not only accessible but also accountable to people. Almost every expert one consults agrees that the local problems related to water supply, sanitation, sewerage, waste management, local roads maintenance and street lights would be hard to resolve without local governments.

In order to fulfil the promises made in its manifesto and the election campaign in 2018, the PTI government enacted a new law in 2019 and committed to hold the local government elections within a year. However, the promise has not been met and, instead, the Punjab Government has now substituted the 2019 Act with an entirely new legislation in the form of the Punjab Local Government Ordinance 2021. The Ordinance has been laid in the Assembly and will go through the enactment process over the coming days and weeks. In view of this, Centre for Peace and Development Initiative (CPDI) thought it appropriate to analyze the Ordinance in order to inform debate around its key aspects and engage the provincial law-makers with ideas and suggestions, which could help them in improving the legislation.

The analysis and the recommendations made by CPDI are based on desk research and a number of stakeholder consultations held both in-person and online. On December 16, 2021, CPDI organized a Twitter Space, which was attended by around 160 participants including experts, civil society activists, media persons and politicians. On December 29, 2021, CPDI organized a one-day seminar on Punjab Local Government Ordinance 2021 in Lahore, which involved members of the provincial assembly, heads of restored local governments, current/ former government officials, civil society leaders and media persons. Main objective of these consultations was to explore strengths, weakness and opportunities in the newly proposed law. The key aspects that were discussed during the consultations generally included the following:

## 2. Importance of the Local Government

Participants of discussions highlighted the importance of local governments not just for more effective and accountable service delivery at the local levels but also for consolidation of democracy and strengthening of political parties at the grass roots levels. They noted that Article 140-A of the Constitutions talks about local governments and, therefore, the

institutions to be established at the local levels must include characteristics of a 'government', which means that they should be much more empowered than the systems that existed prior to the insertion of Article 140-A. They emphasized the need of devolving greater powers and responsibilities to the local governments under the new law, so that the elected local government representatives can deliver without undue interference by the provincial authorities. It was noted that, without having local governments, problems of urbanization and modern living cannot be resolved or addressed.

### 3. Need of Enhanced Constitutional Protection

Many participants noted that the existing constitutional protection for local governments is inadequate, as it has failed to ensure uninterrupted existence of empowered local governments across Pakistan. It may be noted that, currently, Article 140-A makes it mandatory to establish local governments in the following words:

“140A. Local Government. - (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.

(2) Elections to the local governments shall be held by the Election Commission of Pakistan”.

It was suggested that the Federal Parliament must enhance constitutional protection of local governments through the following amendments:

1. Instead of having just one Article, a new chapter may be inserted in the Constitution to provide certain minimal requirements for the local governments to be established across Pakistan. These requirements may cover aspects like:

- Tenure of local governments;
- Functions which must necessarily be devolved;
- Powers of local governments, especially in terms of levying taxes and managing staff;
- Extent of power and authority that a provincial government may exercise over the local governments.

2. Existing Article 140-A should be amended to explicitly require the Federal Government to establish local governments within ICT.

3. The Constitution must provide that a provincial government shall not amend or enact any law, which may obstruct or cause delay in the conduct of next local government election in the ICT or in a province or a part of a province thereof.

### 4. Importance of Transferring more Functions to Local Governments

Most participants demanded transfer of larger number of functions to the local governments, which should also be adequately empowered and resourced to perform the devolved functions. They noted that the Punjab Local Government Ordinance 2021 currently makes the devolution of certain authorities and offices subject to issuance of notification by the Provincial Government. They suggested that all of these authorities

should be devolved at once or, at least, the law must provide mandatory timeframe within which these authorities and offices will be devolved. They also expressed concern on the provisions of Chapter XXVI, whereby provincial government and authorities will exercise extensive powers over the elected local governments including the powers to issue instructions and remove heads of local governments. They noted that the scope of such powers is quite extensive and these would be liable to be misused against the heads of local government belonging to political parties in opposition. It was suggested that if at all some of these powers are to be retained, the law must include protections to ensure that such powers will be used by independent and non-partisan bodies in a fair and transparent manner.

## 5. Equality of Representation

The Punjab Local Government Ordinance 2021 does not ensure the principle of equal representation, as allocation of seats in councils across local governments (i.e. Metropolitan Corporations and District Councils) is not based on any consistent formula. As a result, a general councilor in Lahore will proportionally represent much larger population than a councilor in a smaller district. Similarly, reserved seats for women are not based on any uniform formula across Metropolitan Corporations and District Councils. In general, the total number of seats in councils, especially in Metropolitan Corporations or districts with larger populations, is small, which means that a councilor will represent large population and may not be easily accessible. Many participants, therefore, recommended that total number of seats in councils may be increased and population must be made the denominator for allocation of seats in the Metropolitan Corporations and District Councils. It was also noted that all of the reserved seats will go to the party or the electoral group, which wins the office of the head of the local government, and this would mean that the opposition parties will have limited numbers among the councilors in the councils.

## 6. Gender and Social Inclusion

There was consensus among participants that at least 33 percent women representation must be ensured in all forums and at all levels, including councils, cabinets and provincial forums such as the Local Government Finance Commission. The Punjab Local Government Ordinance 2021 does not provide a uniform formula for representation in the Metropolitan Corporations and District Councils, whereas the mention of women among cabinets and deputy mayors or chairmen is conspicuous by its absence. It was also suggested that, where a minority population does not exist, the seat may be allocated to a woman peasant or a worker. Moreover, it was suggested that seats reserved for peasants, workers, youth and others must be equally divided among women and men, as otherwise women are typically excluded. Participants also demanded that the law must require political parties and electoral groups to ensure award of tickets to at least 10 percent women on general seats across councils.

A detailed analysis of the act is provided in annexure following this chapter.

## 7. Annex I: Comments and Suggestions Regarding Key Aspects of the Punjab LG Ordinance 2021

This draft includes comments and suggestions regarding some of the provisions in the Local Government Ordinance 2021. These may be further updated in the light of comments and feedback received from the participants of dialogues and consultative workshops that CPDI continues to conduct through different programs that it manages.

No. of Section	Contents of Section	Comments
Section 8 & 9	<p><b>8. Notification of local areas of Metropolitan Corporations and District Councils.-</b> Subject to section 7, the Deputy Commissioner shall issue fresh notifications of demarcation of local areas of Metropolitan Corporations and District Councils in the districts of Sialkot, Gujrat, Bahawalpur, Dera Ghazi Khan, Faisalabad, Gujranwala, Multan, Rawalpindi, Sahiwal and Sargodha.</p> <p><b>9. Review of local areas of Metropolitan Corporations and District Councils.-</b> The Government may, through a notification in official gazette, increase or decrease the local areas of Metropolitan Corporations and District Councils.</p>	The Government or its officers like Deputy Commissioners can use such powers to gerrymander areas comprising Metropolitan Corporations or District Councils. Therefore, exercise of such powers should be based on clearly defined criteria about how urban or rural areas will be defined. Moreover, ECP may be given a role in hearing complaints, if any.
Section 13(1)(b) & (c)	<p><b>13. Local government structure.-</b> (1) A local government of a Metropolitan Corporation and a District Council shall consist of:...</p> <p>(b) two Deputy Mayors in Metropolitan Corporations;</p> <p>(c) one Deputy Mayor of each Tehsil in each District Council;</p>	<p>Lahore is a large district where no district council will exist. Therefore, at least to the extent of Lahore, the number of deputy mayors should be increased.</p> <p>Moreover, it may be provided that at least one of the deputy mayors in each Metropolitan Corporation and District Council will be a woman. This may be ensured by requiring each political party or electoral group to propose its panel accordingly.</p>
Section 13(2)	<p><b>13. Local government structure.-</b> (2) The local governments of Neighborhood Councils and Village Councils shall consist of:</p>	The total elected members of NC or VC, including those of chairperson and Vice Chairperson, will be

	<p>(a) Chairperson and Vice Chairperson;                  (b) five Councilors, elected to general seats;                  (c) one seat reserved for workers in a Neighborhood Council or for peasants in a Village Council;                  (d) one seat reserved for religious minorities;                  (e) two seats reserved for women;                  (f) one seat reserved for youth; and                  (g) and administration comprising such number of officers and officials, performing such duties and exercising such powers, as may be determined by the Secretary through a notification in the official Gazette.</p> <p>provided that in case there is no candidate in an electoral unit to contest election against the seat reserved for religious minority, such seat shall be deemed to be an additional seat reserved for worker or peasant, as the case may be.</p>	<p>12; out of which only 2 are reserved for women. Given our culture, it is more likely that only males will be nominated against seats reserved for workers/peasants, religious minorities and youth. Therefore, it may be provided that (a) each political party or electoral group will nominate at least one woman on its panel for general seats; (b) where the religious minority doesn't exist, the seat will be allocated to a woman worker or a woman peasant; and (c) the seats reserved for women may be increased from 2 to 3.</p> <p>Section 13(2)(g) leaves it exclusively to the Secretary to determine the duties and powers of the administration. It is proposed that at least some of key and more generic functions must be provided in the law.</p>
<p><b>Section 19(2)</b></p>	<p><b>19. Manner of exercise of authority by a local government.-</b> (2) A Deputy Mayor or a Vice Chairperson shall exercise such powers and perform such functions as may be delegated by the Head of the local government.</p>	<p>This section doesn't define any of the functions of the deputy mayor or vice chairperson and, as a result, it is likely that some deputy mayors or vice chairpersons may never be delegated any powers or functions, especially if differences appear between them. It is, therefore, proposed that the law should provide for at least minimal powers and functions for them; whereas others may be delegated by the mayors or chairpersons at their discretion. For example each deputy mayor may be required to</p>

		perform certain administrative functions in the tehsil/ area/ town from where he or she was elected.
<b>Section 21(3)</b>	<p><b>21. Functions and powers of Metropolitan Corporation and District Council.-</b> ... (3) The Metropolitan Corporation and a District Council may also:</p> <p>(a) review public service delivery of departments including Police and Revenue Administration; and</p> <p>(b) seek written response and clarification from district Head of such departments on queries of the local government regarding their performance, functions, operations:</p> <p>provided that after deliberations upon the departmental response, in the house, Head of local government may send a report along with recommendations for appropriate action, to the Deputy Commissioner:</p> <p>provided further that in case of failure of the Deputy Commissioner to redress the grievance of a local government, Head of a local government may send a reference to the Secretary for resolution of the matter.</p>	<p>Section 21(3) provides for an extremely limited role of the Metropolitan Corporation or the District Council in relation to the provincial public service delivery departments. In order to perform their functions, the Metropolitan Corporations and Districts Councils will need the support and cooperation of the police and revenue departments in many situations (e.g. anti-encroachment operations) and it is, therefore, important that they have the powers to get their cooperation. Moreover, if a Metropolitan Corporation or a District Council passes a resolution in relation to a provincial department, it must carry a lot of weight and must be implemented, except where there exists good justification not to do so.</p>
<b>Section 23</b>	<p><b>23. Functions and Powers in relation to the Authorities, Agencies and Companies in the Metropolitan Corporations.-</b> (1) Notwithstanding anything to the contrary contained in this Ordinance or any other law for the time being in force, the Government may by notification in the official Gazette entrust</p>	<p>Section 23 doesn't immediately devolve the mentioned authorities and companies to the local governments; nor does it require that such authorities will definitely be devolved at a later stage i.e. within a specified period of time. Instead, the</p>

	<p>the following companies, authorities and agencies providing municipal services and facilities in Metropolitan Corporations, to the respective Metropolitan Corporation:</p> <ul style="list-style-type: none"> <li>(i) Parks and Horticulture Authorities;</li> <li>(ii) Development Authorities;</li> <li>(iii) Water and Sanitation agencies;</li> <li>(iv) Traffic Engineering and Planning Agency; and</li> <li>(v) Waste Management Companies.</li> </ul> <p>(2) Subject to any specific direction and policy of the government, the Metropolitan Corporation shall perform the functions and powers in respect of the companies, authorities and agencies:</p> <ul style="list-style-type: none"> <li>(a) Administrative and financial control;</li> <li>(b) Approval of policies, taxes, fees etc.;</li> </ul> <p>(3) The Head of the respective Metropolitan Corporation or his nominated Deputy Mayor or a member of the Head's Cabinet shall be the ex-officio chairperson of the respective Authority, company or agency.</p>	<p>language of the section effectively suggests that devolution of such bodies will be subject to the official notification to be issued at the discretion of the provincial Government. Should this important decision be left to the discretion of the Government?</p> <p>It is proposed that that, if immediate devolution is not possible, the law must provide that devolution will be completed within a year after the local governments under the Act are constituted.</p>
<p><b>Section 24</b></p>	<p><b>24. Exercise of functions and powers in relation to the devolved district level offices of the Government Departments.-</b> (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, subject to the provisions of subsection (2), the Government may, by notification in the</p>	<p>Section 24 also doesn't immediately devolve the mentioned district level offices of the Government Departments; nor does it require that such functions/ powers will definitely be devolved at a later stage i.e. within a specified period of time.</p>

	<p>official Gazette, devolve following district level offices of the Government departments, on the local governments:</p> <ul style="list-style-type: none"> <li>(a) Health (Primary and Secondary);</li> <li>(b) Education (School Education and Literacy and Non-Formal Basic Education);</li> <li>(c) Social Welfare;</li> <li>(d) Population Welfare; and</li> <li>(e) Sports.</li> </ul> <p>(2) The Government may, through a notification published in the official Gazette, de-notify any devolved district level office of the Government Departments on the local governments.</p> <p>(3) The devolved offices shall be administrated, operated and managed at the district level, through the respective District Authority established under this Ordinance.</p> <p>(4) The respective District Authority shall exercise such authority within the district in accordance with the general policy of the Government.</p>	<p>Instead, the language of the section effectively suggests that devolution of such functions and powers will be subject to the official notification to be issued at the discretion of the provincial Government. Should this important decision be left to the discretion of the Government? It is proposed that that, if immediate devolution is not possible, the law must provide that devolution will be completed within a year after the local governments under the Act are constituted.</p>
<p><b>Sections 25 &amp; 26</b></p>	<p><b>25. District Authorities.-</b> For each devolved district level office of a Government Department, a separate District Authority shall be established by the Government in each district through a notification published in official Gazette, as follows:</p>	<p>Sections 25/26 provide that the ‘District authorities’, if devolved, will be managed by Boards headed by Mayors/Chairpersons. However, it may be noted that the officers working for the provincial Government</p>

	<ul style="list-style-type: none"> <li>(i) A District Health Authority for the devolved function of district level office of Primary and Secondary Healthcare Department;</li> <li>(ii) District Education Authority for the devolved function of district level offices of School Education Department and Literacy and Non-Formal Basic Education Department;</li> <li>(iii) District Social Welfare Authority for the devolved function of district level office of Social Welfare Department;</li> <li>(iv) District Population Control Authority for the devolved function of district level office of Population Welfare Department;</li> <li>(v) District Sports and Recreation Authority for the devolution function of district level office of Sports Department; and</li> <li>(vi) Any other District Authority established by the Government, for each district level office of a Government Department, which is notified to have been devolved on the local governments.</li> </ul> <p><b>26. Composition and Management of District Authorities.-</b> (1) The administration, operation and management of the respective District Authority shall vest in its Executive Board, comprising:</p>	<p>will be in majority and, hence, they will be in the position to decide.</p> <p>Q. Should not the local governments have greater say or role in the management of 'district authorities'?</p>
--	---	---

	<p>(a) The lord mayor of Lahore Metropolitan Corporation as the chairperson of all the district and his nominated deputy mayor or one of the member of the Head's Cabinet or the council as the vice chairperson of a District Authority, in Lahore district having qualification and experience as given in subsection (3) section 14 of this Ordinance: Provided that a vice chairperson of a District Authority in Lahore district shall not hold the office of vice chairperson of more than one District Authority;</p> <p>(b) The District Mayor of a district as the Chairperson of all the District Authorities in the District and his nominated Deputy Mayor or one of the Members of the Head's or the council as the vice chairperson of the District Authority, except district of Sialkot, Gujrat, Bahawalpur, Dera Ghazi Khan, Faisalabad Gujranwala, Multan, Rawalpindi, Sahiwal, and Sargodha, having qualification and Experience as given in subsection (3) of section 14 of this Ordinance:</p> <p style="padding-left: 40px;">Provided that a vice chairperson of a District authority shall not hold office of Vice Chairperson of more than one District Authority;</p> <p>(c) the district mayor of a district Council and City Mayor of Metropolitan Corporation, as the chairperson respectively in the districts of Sialkot, Gujrat, Bahawalpur, Dera Ghazi Khan, Faisalabad, Gujranwala, Multan, Rawalpindi, Sahiwal, and Sargodha, having qualification and Experience as given in subsection (3) of section 14 of this ordinance:</p>	
--	---	--

	<p>(d) Deputy Commissioner of the concerned District or his nominee not below BS-18 as member;</p> <p>(e) Chief Executive officer of the District Authority as member and secretary of the Executive Board;</p> <p>(f) Director or Deputy Director of the Directorate General as member;</p> <p>(g) A representative of the commissioner of the Division concerned not below BS-18 as member;</p> <p>(h) Two experts as members including one women having qualification and experience as given in subsection (3) of section 14 of this ordinance to be nominated by the Chairperson of the Authority;</p> <p>(i) District Attorney of the concerned district as member.</p> <p>(2) The District Authority shall be responsible for management and supervision of the respective devolved office and its public service delivery.</p> <p>(3) The District Authority shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property and enter into any contract and may sue and be sued in its name.</p> <p>(4) The Departmental District Head of each developed district level office of the respective Government Department shall be the ex-officio Chief Executive officer of the Authority.</p> <p>(5) The Chief Executive Officer shall be the Principal Accounting Officer of the Authority and shall perform such functions as are mentioned in this Ordinance or as may be prescribed or as may</p>	
--	--	--

	<p>be delegated by the District Authority or as the Government may assign.</p> <p>(6) The District office of each devolved district level office of the respective Government Department Shall be the secretariat of the respective District Authority.</p> <p>(7) The Authority shall receive its funds through one liner budget provision, directly from Finance Department.</p>	
<b>Section 26</b>	<p><b>Section 26. Composition and Management of District Authorities.-...</b></p> <p>(7) The Authority shall receive its funds through one liner budget provision, directly from Finance Department.</p>	<p>‘District authorities’, even if devolved, will receive funds from Finance Department, not from the local government.</p> <p>Should not the budget for such devolved authorities be routed through the respective Metropolitan Corporation or the District Council?</p>
<b>Section 27</b>	<p><b>27(3). Performance of function by the District Authorities.-</b> In the performance of their functions, the District Authorities shall also be bound and be guided by the policies and instructions issued, from time to time, by the Government.</p>	<p>Section 27(3) provides that, for performance, the ‘District authorities’ shall be bound and guided not just by policies but also by instructions of the provincial Government.</p> <p>It is suggested that the scope of ‘instructions’ should be defined, and not left open ended. Moreover, the scope of such ‘directions’ must be minimal in order to ensure that local governments would remain free of unnecessary interference.</p>

<p><b>Section 29</b></p>	<p><b>29. Delegation of functions to Village Councils and Neighborhood Councils.-</b> (1) A Metropolitan Corporation and a District Council may, by a mutual agreement, delegate one or more of its functions or one or more public services relating to any such function, to a Neighbourhood Council or a Village Council.</p> <p>(2) In the performance of a function or delivery of a public service delegated under subsection (1), the Neighbourhood Council or the Village Council, as the case may be, shall adhere to the general or specific direction of the local government delegating that function.</p>	<p>Section 29 must provide that, in case of delegation of functions, the local government delegating those functions will also provide the required resources.</p>
<p><b>Section 36(1)(k)</b></p>	<p><b>36. Duties and powers of Chief Officer.-</b> (1) In addition to any other duty assigned to him under the Ordinance or any other law for the time being in force, a Chief Officer shall:</p> <p>(k) perform such other duties as are assigned to him by the Government, Secretary, Head of a local government, Council or a committee or sub-committee of the Council.</p>	<p>Section 36 must clarify that, while assigning any function, the Government and the secretary will ensure that their instructions do not interfere with or undermine the authority of the relevant local government.</p>
<p><b>Section 40(7)</b></p>	<p><b>40. Meetings of the House.-</b> (7)The Government may, in the prescribed manner, grant observer status to teachers, physically disadvantaged persons, or any other category of individuals or organizations to represent stakeholders, to enable them to attend the proceedings of the House:</p> <p>provided that such observer shall have no right to vote or interfere in the proceedings of the House.</p>	<p>Why the power to grant observer status should exclusively be with the Government alone? It is proposed that the council should also be empowered to do so through a majority vote, keeping in view their local context and needs.</p>

	<p>provided further that such observer shall have no right to speak except with the prior permission granted by the Speaker before commencement of the meeting.</p>	
<b>Section 47(1)</b>	<p><b>47. Election Method.</b> - (1) Election of local governments shall be held on party basis through secret ballot on the basis of adult franchise, through Electronic Voting Machine (EVM) and I-voting, in the prescribed manner.</p>	<p>Section 47 provides that Local Government election must be held through EVMs. But the question is: Can ECP procure or deploy EVMs within next four months?</p> <p>If this provision remains, it may become an excuse to delay elections.</p>
<b>Section 53</b>	<p><b>53. Notification of election date and call up for election.</b>- (1) Through an order published in the official Gazette, the Election Commission shall, after consultation with the Secretary, fix a date or several dates for elections to one or more electoral units under this Ordinance:</p> <p>provided that firstly, the elections for Neighbourhood Councils and Village Councils shall be held and when the election process for the Neighbourhood Councils and Village Councils is completed in whole of the Province, only thereafter, the elections of Metropolitan Corporations and District Councils shall be conducted.</p>	<p>Section 53 provides that the Local Government elections will be held in two phases: (1) Village and Neighbourhood Councils; and (2) Metropolitan Corporations/District Councils.</p> <p>Q: Is it feasible or cost effective to hold two Local Government polls? It is proposed to ensure that election for all Local Government tiers will be held in one go.</p>
<b>Section 61(1)</b>	<p><b>61. Qualifications and disqualifications.</b> - (1) A person shall be eligible to be a candidate for the office of a Head of a local government, Deputy Mayor, Vice Chairperson, or a Councilor if:</p> <p>...</p>	<p>Section 61(1)(b) provides that the candidate for a head of Local Government seat must be Intermediate or equivalent. This requirement is discriminatory, and presumes that illiterate or less</p>

	<p>(b) he, on the last day fixed for the filing of nomination papers for the election, is not less than twenty one years of age in case of a Councilor, and not less than twenty five years of age in case of a Head or Deputy Mayor or Vice Chairperson or Convener:</p> <p>provided that the age for a candidate for the seat reserved for youth shall not be less than eighteen years and more than thirty two years.</p> <p>provided that the qualification of the Head of a local government shall preferably be intermediate and equivalent.</p>	<p>literate persons are necessarily less qualified or less competent. This requirement is unreasonable, and is not likely to sustain judicial scrutiny.</p>
Section 61(2)	<p><b>61. Qualifications and disqualifications.-</b> (2) Without any prejudice to the provisions of subsection (1), no person shall be eligible to be a candidate or to hold the office of a Head of a local government, Deputy Mayor, Vice Chairperson, Speaker, or a Councilor, if: ...</p> <p>(c) he is under contract for work to be done or goods to be supplied to that local government or has otherwise any pecuniary interest in its affairs:</p>	<p>Section 61(2)(c) bars persons from contesting elections, who have a contract to do work for or provide goods to the Local Government. This condition is unreasonably exclusionary. There exist other and better ways to address conflict of interest situations. It is proposed that, instead of excluding such persons, there must be a requirement of disclosing conflict of interest in nomination forms, during election campaign and, if elected, during or prior to relevant proceedings/ meetings in the LG.</p>
Section 68	<p><b>68. Resignation by a Head of the local government, Deputy Mayor, Vice Chairperson, Speaker or Councillor.-</b> (1) Any Head of the local government, Deputy Mayor, Vice Chairperson, Speaker or Councillor may, at any time, resign from his office by writing under his hand to the respective Chief Officer, whereupon his</p>	<p>Why resignations should be submitted to the Chief Officer? It is proposed that, while resignations may be submitted to Chief Officer, the approving authority should be one of the elected ones e.g. speaker for</p>

	<p>resignation shall be deemed to have been accepted and effective forthwith.</p> <p>(2) The Chief Officer receiving a resignation under subsection (1) shall forthwith forward it to the Secretary.</p> <p>(3) The Secretary shall immediately send the copy of resignation to the Election Commission which shall, by notification to be issued within fifteen days from the date of receipt of resignation, declare the office of the resigning Head of the local government, Deputy Mayor, Vice Chairperson, Speaker or Councillor to be vacant from the date of receipt of resignation by the Chief Officer.</p> <p>(4) Notwithstanding the resignation of a Head of the local government, Deputy Mayor, Vice Chairperson, Speaker or Councillor under subsection (1), any proceedings for his removal under this ordinance, if already initiated, shall not abate as the same may result in his disqualification.</p>	<p>the mayor and councillors; and mayor for the speaker.</p>
<p><b>Section 69</b></p>	<p><b>69. Fresh elections in case of casual vacancy in the office of a Speaker.- (1)</b> If the office of the Speaker of a Council, other than a Neighborhood Council or a Village Council falls vacant during the term of the Council due to his removal on the basis of misconduct, disqualification or any other reason, the Election Commission shall hold a fresh election to the office of the Speaker of the Council.</p>	<p>Section 69 provides no time period within which ECP must hold bye-election on casually occurring vacant seats. It may be noted that Section 219 of the Elections Act 2017 doesn't apply to bye-elections, whereas section 228 of the Elections Act 2017 too provides no time limit. Therefore, it is suggested that this Ordinance must provide guidance in a manner that bye-elections are regularly held within a specified period of time, without any delay.</p>

	(2) The Speaker of Council elected through a fresh election under this section shall, unless removed earlier under this Ordinance, hold office only for the residual term of the Council.	It is also suggested that the Speaker should be allowed to continue until the first session of the next Council, where new Speaker will be elected?
<b>Section 71</b>	<b>71. Power of the Chief Minister to appoint administrator.-</b> On expiry of the term of a Council, or otherwise pending the constitution of a new local government or a Council, the Chief Minister shall, by an order published in the official Gazette, appoint any of its officers to perform such functions and exercise such powers and authority of the respective local government as may be specified in that order.	Section 71 empowers the Chief Minister to appoint administrators. This power is seriously problematic. There is a need to think of a better arrangement for the interim period, after a Local Government completes its terms .or when it doesn't exist for other reasons. The administrators do not represent people of the area, and vesting powers in them effectively creates a conflict of interest situation, as it creates incentives for the provincial government to keep delaying elections.
<b>Section 74 (d)</b>	<b>74. Charged expenditure.-</b> (1) The following expenditure shall be charged upon the Local Fund:  (d) such other expenditure of local government as may be directed by the Secretary.	Section 74 provides that expenditures directed by secretary of Local Government department will be treated as charged expenditure to Local Fund.  Question is: why?  It is suggested that the Secretary of the Department should have limited powers, if at all, over the elected Local Governments.
<b>Section 75(7)</b>	<b>75. Application of Local Fund.-</b> (7) Expenditure from the Fund of a local government on a new post or filling of an existing vacant post or total establishment expenditures, as the case may be, in a financial year shall not increase more than ten	Does this mean that even the vacant posts will not be filled, if it would mean increase in spending over the prescribed limit? Such a restriction will stifle performance of local governments. It is proposed that local governments should have the powers to

	<p>percent in total from the actual establishment expenditures of the previous year:</p> <p style="text-align: center;">provided that this subsection shall not apply to a general salary increase of existing schedule of establishment prescribed by the Government.</p>	<p>hire and fire, and be held accountable only for fairness, merit and performance.</p>
<b>Section 76(3)</b>	<p><b>76. Budget preparation.-</b> (3) The functionaries of a local government may re-appropriate budget in accordance with the powers of re-appropriation delegated to them by the local government, and at the end of the financial year, a revised budget shall be submitted to the local government for approval.</p>	<p>Should not the re-appropriation be approved by the Council, which is supposed to meet every month? Why should the powers of re-appropriation be delegated or post facto approval of revised budget be obtained from the Council at the end of the year?</p>
<b>Section 77</b>	<p><b>77. Approval of budget.-</b> (1) Before the commencement of the next financial year, the Head of local government shall present the budget for consideration and approval of the local government.</p> <p>(2) The local government may discuss the charged expenditure but shall not vote on such expenditure.</p> <p>(3) The budget of a local government shall, subject to quorum, be approved by simple majority and the local government shall not take up any other business during the budget session.</p> <p>(4) Secretary may review approved budget of a local government, and if found contrary to the budget rules, may require the local government to rectify it.</p>	<p>Section 77 provides no mechanism whereby citizens will be enabled to provide feedback on the draft budget i.e. prior to its approval. It is proposed that draft budget should be posted on the website for public comments before it is debated in the Council and voted upon.</p>

(5) A budget shall not be approved if the sums require to meet estimated expenditure including previous liabilities and commitments exceed the estimated receipts.

(6) In case a budget is not approved by a local government before the commencement of the financial year to which it relates, the local government shall spend money under various objects, on pro-rata basis in accordance with the budgetary provisions of the preceding financial year for a period not exceeding thirty days.

(7) A local government shall not spend funds or make commitments for any expenditure under any demand for grant or appropriation in excess of eight percent of the amount budgeted in the preceding year within the period of thirty days mentioned in subsection (6).

(8) In case, a local government fails to pass the budget within the extended period as specified in subsection (6), the Secretary shall prepare, approve and authenticate the budget of the local government for full year.

(9) After approval of the budget by a local government, the Head of local government shall authenticate under his signature a schedule specifying:

(a) grants made or deemed to have been made by the local government; and

(b) sums required to meet the expenditure charged upon the Local Fund.

	<p>(10) The budget authenticated under subsection (8) shall be laid before the local government but shall not be open to discussion or vote.</p> <p>(11) The authenticated budget shall be communicated to the local government functionaries, accounts officials and the Secretary.</p> <p>(12) At any time before the expiry of the financial year to which the budget relates, a revised budget for the year may, if necessary, be prepared and such revised budget shall be approved in the manner as that of annual budget.</p>	
<p><b>Section 77(3)</b></p>	<p><b>77. Approval of budget.-</b> (3) The budget of a local government shall, subject to quorum, be approved by simple majority and the local government shall not take up any other business during the budget session.</p>	<p>Section 77(3) provides no minimum timeframe, which must be available to the Council for budget debate before the voting on the budget takes place. It also does not prescribe guideline for the procedure, not even in broader terms. It is proposed that the Act should provide that draft budget, after its presentation in the Council, will be forwarded to a special committee of the Council, which shall consult stakeholders and submit its report within 5 days. After the receipt of committee’s report, the Council shall debate the budget for at least 2 days, giving all parties and electoral groups adequate opportunity to participate in the debate, and then it may be voted upon and approved.</p>

<p><b>Section 80(6), (7), (8)</b></p>	<p><b>80. Accounts.-</b> (6) The Chief Officer shall pre-audit all the payments from the Local Fund of the Neighbourhood Council and Village Council.</p> <p>(7) The Accountant General and the District Accounts Officer shall pre-audit all the payments from the Local Funds of the devolved offices managed under the respective District Local Government Authority.</p> <p>(8) A local government shall not withdraw or disburse money from the Local Fund unless it is pre-audited in the prescribed manner.</p>	<p>Will the pre-audit function add any value, especially when the final responsibility in any case lies with the principal accounting officer, Existing pre-audit system is marred with corruption, where no bill gets passed without payment of certain percentage of each bill as a bribe. It only adds to corruption and inefficiency, instead of fixing any problem.</p>
<p><b>Section 80(10)</b></p>	<p><b>80. Accounts.-</b> (10) A copy of the annual statement of accounts shall be displayed at a conspicuous place in the office of the local government for public inspection, and all objections or suggestions concerning such accounts received from the public shall be considered by the local government and appropriate decision shall be taken.</p>	<p>It is suggested that statements of accounts should be published on quarterly basis (not just annually), and not just be displayed in the office of the local government but should be published online and through social media.</p>
<p><b>81(3)</b></p>	<p><b>81. Audit.-</b> (3) The audit report of the Auditor-General shall be considered by the Public Accounts Committee of the Provincial Assembly of the Punjab.</p>	<p>Why not to establish Public Accounts Committees of the Council for the consideration of audit reports? The Public Accounts Committee of the Punjab Assembly is already overwhelmed with reports; and it will not be able to do justice with the audit reports relating to the local governments. Therefore, devolving this responsibility to a committee will not only be cost effective and efficient but will also help in building requisite capacities at local levels.</p>

<p><b>Section 82(1)</b></p>	<p><b>82. Local government debt.-</b> (1) A local government shall not incur any debt without previous approval of the Government.</p>	<p>Local governments should be allowed to incur debt up to a certain limit, subject to the prior approval of the Council. The Provincial Government's approval may be required only when loan is needed over and above the prescribed limit.</p>
<p><b>Section 83</b></p>	<p><b>83. Local Government Finance Commission.-</b> (1) The Government shall constitute the Punjab Local Government Finance Commission to perform such functions under this Ordinance.</p> <p>(2) The Finance Commission shall comprise of members including the Chairperson as under:</p> <p>(a) Minister in charge of Finance Department of the Government, who shall also be the Chairperson of the Finance Commission;</p> <p>(b) Minister in charge of the Department, who shall be the co-Chairperson of the Finance Commission;</p> <p>(c) four members of the Provincial Assembly of the Punjab, out of whom two shall be appointed by the leader of the house and the other two by the leader of the opposition in the Assembly;</p> <p>(d) Secretary to the government, Finance Department, who shall be the Secretary of the Finance Commission;</p> <p>(e) Secretary of the Department;</p> <p>(f) Secretary to the Government, Planning and Development Department;</p>	<p>Section 83 provides for a Commission, which shall be dominated by the representatives or officers of the provincial government. As a result, it is likely that the Commission will decide matters in a partisan manner and, therefore, the local governments headed by the opposition parties may not be treated fairly. It is suggested that number of independent members and representatives of opposition parties is increased, and the procedure of appointment is made consultative and consensus oriented. The discretionary nomination powers (e.g. section 83(2)(g)) should be done away with).</p> <p>Section 83(2)(h) provides that four heads of Local Governments will be nominated by Chief Minister as members of Finance Commission. Question is why it should be done at the CM's discretion? It is suggested that, since elections are to be held on political party basis, the representation of heads of Local Governments must be from major parties. Otherwise, it is likely that the CM will always appoint persons belonging to his own political party.</p>

	<p>(g) Four experts including one woman, one local governments and local government finance appointed in terms of section 86 of this Ordinance; and</p> <p>(h) four Heads of the local government to be nominated by the Chief Minister.</p> <p>(3) In case of absence of the chairperson for any reason, the co-chairperson shall chair the Finance Commission and in case he is also absent, the present members shall elect one of them to chair the Finance Commission for the Duration of his absence.</p> <p>(4) The Finance Commission may co-opt any other person for advice in relation to a particular matter under its consideration; however, the co-opted member shall have no right of vote.</p> <p>(5) No proceedings or act of the Finance Commission shall be invalid merely on ground of existence of a vacancy or defect in composition of the Finance Commission.</p> <p>(6) The members of the Finance Commission shall be paid such remuneration and other allowances as the Government may determine from time to time.</p> <p>(7) The remuneration and other allowances of a member of the Finance Commission shall not be varied to his disadvantage during his term in office.</p>	<p>Moreover, the representation of women members should be increased. It can be done by providing that (a) half of representatives of the provincial assembly will be women; and (b) Chairperson of the Provincial Commission on the Status of Women and Secretary of Women Development Department will be ex-officio members of the Commission.</p>
<p><b>Section 84 (4)</b></p>	<p><b>84. Term of office and premature removal of certain members.-</b></p> <p>(4) The Chief Minister may, after due notice and inquiry in the prescribed manner, remove any member of the</p>	<p>There should be independent and non-partisan process to remove members to ensure fairness and exclude possibility of political victimization.</p>

	Finance Commission, not being the member referred to in subsection (1), during the tenure of his office on ground of inefficiency, misconduct, misuse of office or inability to perform functions on account of bad health or physical or mental incapacity.	
<b>Section 99 (2)</b>	<b>99. Authority of local government to levy taxes etc. –</b> (2) For the purpose of subsection (1), every local government shall, among other things, abide by the direction of the Finance Commission.	Any such powers to be vested in the provincial authorities must be minimal and clearly defined.
<b>Section 100 (10)</b>	<b>100. Procedure for imposition, revision or abolishment of a local tax etc.-</b> (10) Without prejudice to other provisions of this section, a proposal presented by a Head of the local government under subsection (8) which is not rejected or revised by the council with two-third majority, shall be deemed to have been approved.	This provision undermines the authority of the Council.
<b>Section 103</b>	<b>103. Power of the Finance Commission in case of unfair local taxes etc.-</b> (1) If at any time, on a representation made to it for this purpose or otherwise, it appears to the Finance Commission that the incidence of a tax, fee, rate, rent, toll or other charge imposed under this Ordinance is unfair or excessive or that levy of a tax, fee, rate, rent, toll, rent or other charges or of any part thereof is injurious to the interests of the general public, the Finance Commission may through an order require the concerned local government to take, within a prescribed period, measures to remove the objection.	It is suggested that the Finance. Commission should not be vested with such vast powers, unless it is reconstituted to ensure that it would act in a non-partisan and fair manner.

	<p>(2) If a local government fails to comply with the order of the Finance Commission under subsection (1) to their satisfaction within the prescribed period, the Secretary may suspend the levy of the objectionable tax, fee, rate, rent, toll or other charge or of such part thereof until the objection is removed.</p> <p>(3) Any resident of the relevant local area or a person or entity affected by the imposition or levy of a tax, fee, rate rent, toll or other charges may make a representation to the Finance Commission under subsection (1).</p>	
<b>Section 115 (3)</b>	<p><b>115. Records pertaining to valuation, assessment and collection of local tax etc.-</b></p> <p>(3) The Chief Officer shall cause to be displayed at a conspicuous place in the office of the local government a copy of all records authenticated under subsection (2) above for public inspection and shall, on an application by any person, also cause to be furnished to him a copy thereof or any extract thereof on payment of such reasonable fee as may, from time to time, be fixed by the Council.</p>	Such records should be widely published through website and social media on monthly and quarterly basis. Displaying physical copies in the offices will be inadequate in this age of information technology.
<b>Section 134</b>	<p><b>134. Certain limitations to apply in bringing a resolution for removal of a Head of local government and Speaker.-</b> No resolution for the removal of a Head of the local government, Deputy Mayor, Vice Chairman, or a Speaker shall be proposed or approved by the Council unless a period of twelve months has elapsed after the assumption of office by him or where a period</p>	The period of 12 months within which resolution for removal can't be moved is too long; and must be reduced to 6 months.

	<p>of twelve months in remaining in completion of the term of the Council.</p>	
<p><b>Section 135</b></p>	<p><b>135. Oversight through committees of the Council.-</b> (1) A Council may constitute such monitoring committees as it deems appropriate to oversee and report upon the performance of local government in its various functions and ancillary matters.</p> <p>(2) Among other things, such committees shall report upon:</p> <ul style="list-style-type: none"> <li>(a) achievement of any targets set out by the Head of the local government or the Council;</li> <li>(b) degree of responsiveness of the local government to citizens needs; and</li> <li>(c) access to and quality of public services delivered by the local government.</li> </ul> <p>(3) Upon consideration of report submitted by a committee, the Council may, through a resolution passed with simple majority of votes of Councillors present and voting, require the Head of the local government to take such action as it considers appropriate to effect improvement or remedy a defect or irregularity.</p> <p>(4) During its work, a monitoring committee shall not intrude or interfere in or control the work of any office of the local government.</p>	<p>Section 135 does not mention the types and membership of committees, which may be constituted. Moreover, the role of committees of the council should not be limited to monitoring, but may also be engaged in (a) reviewing and developing recommendations on annual budget, proposals about levies/ taxes and the annual development plan, (b) review and settlement of audit paras, and (c) community engagement.</p> <p>It may also be provided that each committee will have representation of women and opposition parties in proportion to their share in the total membership of the council.</p>

	<p>(5) A member of the monitoring committee involved in violation of any provision of subsection (4) shall be removed from the monitoring committee by the respective Council.</p>	
<p><b>Section 139</b></p>	<p><b>139. Right to Information.</b> - (1) Subject to such Reasonable restrictions as may be prescribed, every resident may seek any information which is in the possession of the respective local government.</p> <p>(2) It shall be the duty of the local government to provide full and correct information referred to in subsection (1) within fourteen days of receipt of every request.</p> <p>(3) Such information, which the Secretary may from time to time direct, shall as far as possible, be displayed at a prominent place within the premises of the office of the local government for access by the citizen.</p>	<p>Punjab already has the Punjab Transparency and Right to Information Act 2013, which applies to the local governments as well. Therefore, it must be clarified that this section will not in any way be interpreted to restrict the scope of the Punjab Transparency and Right to Information Act 2013; and that the overriding effect provided in this Act will not apply to the Punjab Transparency and Right to Information Act 2013.</p>
<p><b>Chapter XXVI</b> <b>Oversight by the Government</b></p>	<p><b>146. Supervision of local governments.-</b> (1) The Chief Minister may, from time to time, give policy directions and fix objectives for the effective, transparent and efficient undertaking of functions by a local government.</p> <p>(2) The Minister in charge of the department may, by a general or special order, direct a local government to take any measure in the public interest, where situation demands immediate action.</p> <p>(3) The Secretary shall exercise supervision and general control over the governments to ensure that they always act in the public interest and perform their function strictly in accordance with the</p>	<p>Chapter XXVI vests far too many powers in the hands of the provincial Government and bureaucracy. It is in violation of the letter and spirit of Article 140-A of Constitution. In the presence of this chapter, we don't have Local Governments as third tier of Government.</p> <p>Local governments are directly elected by the people and, therefore, should not be suspended or removed by provincial government or its officers. If at all, the mechanism of suspension or removal is to be provided, it must ensure independent and non-</p>

<p>provisions of this ordinance and all other relevant laws for the time being in force.</p> <p>(4) The Secretary may direct office of Directorate General Inspections or Directorate General of the Department to probe into any matter relating to the functions of the Local Government Service and the Directorate General of the Department and submit a fact finding report with specific recommendations to deal with the matter.</p> <p>(5) The Secretary may issue standing instructions on general matters relating to the work of local governments which shall be consistent with this ordinance and rules made thereunder.</p> <p><b>147. Power to call for information.</b> - (1) Chief Minister, Minister or Secretary may, through a general or specific order, require a Chief Officer to provide him, by such time or at such Intervals as is specified in the order:</p> <p>(a) any record pertaining to the proceedings of the council, a committee or sub-committee of the council or any other meeting of the local government;</p> <p>(b) a resolution of the council or any record pertaining to such resolution;</p> <p>(c) a bye-law promulgated by the local government or any record pertaining to such bye-law;</p> <p>(d) an order or instruction of the Head, Deputy Mayor, Vice Chairperson, Speaker, Councilor, or any officer or servant of the</p>	<p>partisan exercise of scrutiny and authority. Forums like the Directorate General Inspections or the Directorate General of the Department are under the CM and are not likely to be independent and fair in the exercise of powers and authority vested in their offices.</p>
---	--

local government and record pertaining to such order or instruction;

(e) a document, return, statement, estimate, statistics or other information regarding any matter pertaining to or under the control of the local government;

(f) a report on any matter pertaining to or under the control of a local government; and

(g) a copy of a document in his charge or under the control of a local government.

(2) It shall be duty of the Head, Deputy Mayor, Vice Chairperson, Speaker, Councilor, officer and servant of the local government to provide such information, documents and record to the Chief Officer as he may require and otherwise assist him for the purposes of this section.

**148. Power of the Secretary to suspend and set aside certain resolutions or orders of local government.** - (1) The Secretary may, by a speaking order in writing, suspended a resolution or order of a local government if he finds that the resolution or order:

(a) is not conformity with this Ordinance or with the rules or bye-laws made thereunder or any other law for the time being in force;

(b) is prejudicial to the public interest; or

(c) is likely to lead to a breach of peace or to cause injury or annoyance to the public or any class or body of a person.

(2) A copy of the order under subsection (1) shall be sent to the respective Head of the local government who shall consider the matter afresh

(3) The local government shall, after taking the matter into consideration, pass a resolution or an order afresh and send a copy thereof together with a copy of the proceedings relating to that resolution or order to the Secretary.

(4) the Secretary may, after considering the resolution or the order passed by the local government under subsection (3) and the proceedings related to that resolution, either cancel, modify or confirm the order passed by him under subsection (1) or to take such other action in respect of the matter including setting aside of the resolution or order, if it is considered just or expedient having regards to the circumstances of the case.

(5) Any resolution or order passed by a local government or any act or thing done or intended to be done by a local government which is revoked or prohibited by the Secretary shall cease to have effect from the date of setting aside of the resolution or order.

(6) A local government or any person aggrieved from the order under subsection (4) may within thirty days, file an appeal before the commission.

(7) The Commission shall decide the appeal before within ninety days.

**149. Procedure where Head of the local government fails to show cause or to take action on direction under the Ordinance.**

– (1) If within the period specified in an order under section 148, any measure or arrangement directed thereunder has not been duly taken or made, or cause has not been shown as aforesaid, the Minister in charge of the Department may, by a written order:

(a) withhold transfer of all moneys or such portion of moneys receivable by that local government from the provincial allocable amount as it deems appropriate till such time as the measures or arrangements directed are duly taken or made; or

(b) impose a fine on the local government not exceeding two per centum of the moneys receivable by the local government from the provincial allocable amount during the relevant financial year.

**150. Power of the Secretary to take action on his own. – (1)**

Where in view of the circumstances of the local government or the immediate nature of the arrangement or measure, the secretary is of the opinion that the arrangements or measures should be made or taken, he may, by an order, directed the head of the local government, to make such arrangement or take such measure within a specified period.

(2) Where the Head of a local government fails to act within the period specified under subsection (1) or the cause shown by him,

in the opinion of the Secretary, is unsatisfactory, the secretary may by an order appoint any of his subordinate officer to take the action so directed.

(3) The Secretary or an officer appointed under subsection (2) may for the purpose of taking the action directed, exercise all powers and authority conferred upon the local governments or an officer of the local government by or under this Ordinance which are specified in that behalf in the order issued under subsection (2).

**151. Suspension or dissolution of a local government.-** (1) Without any prejudice to other provisions of this Ordinance, where, in view of the appertaining circumstances, the Chief Minister is of the opinion that a local government may be suspended for any of the following reasons:

(a) the Council has been unable to meet its statutory obligations for the last two financial years: or

(b) the local government becomes insolvent and remains so for a period of one financial year

(2) The Chief Minister shall, through an order direct the respective Head of the local government to show cause within a specified period as to why proceedings for suspension of the local government shall not be initiated.

(3) Where the Head of the local government fails to show cause within the specified or the cause shown by him is, in the opinion of the Chief Minister, unsatisfactory, the Chief Minister may suspend it for a specified period, which shall in no circumstances exceed six months and shall make a reference to the Commission for an inquiry as to whether such reason or reasons exist and the local government should be dissolved.

(4) Where, as a result of an inquiry under subsection (3), after hearing all the stakeholders, the Commission views that one or more reasons mentioned in this section exist and the local government may be dissolved, the Chief Minister shall, by an order published in the official Gazette, dissolve that local government.

**152. Effect of suspension or dissolution of a local government.-**

(1) Without any prejudice to other provisions of this Ordinance, consequent to an order under section 151 of this Ordinance:

(a) all elected officials of the suspended or dissolved local government shall stand suspended or dissolved forthwith;

(b) all powers, duties and functions of the local government shall, during the period of suspension or dissolution, be exercised and performed by such of its officer or authority as the Secretary may appoint in this behalf; and

(c) all funds and properties vested in the local government shall, during the period of suspension or dissolution, vest in the officer

	<p>or authority referred to in clause (b) above as a trust for the purpose of this Ordinance.</p> <p>(2) Where, at the time of dissolution, the remaining term in office of the council is in excess of one hundred and twenty days, the Election Commission shall order fresh elections in the respective local area in terms of section 47 or 48 of this Ordinance, so far as possible, and if, at the time of such dissolution, the remaining term in office of the council is less than one hundred and twenty days, the officer or authority referred to in clause (b) of subsection (1) above shall continue to exercise powers and perform duties and functions of the local government and its funds and properties shall continue to vest in him till an elected council resumes office.</p> <p><b>153. Reinstatement of suspended local government.</b>- A local government, if not earlier reinstated by the Chief Minister, shall stand reinstated into office immediately on the expiry of period of suspension.</p>	
<p><b>Section 155</b></p>	<p><b>155. Chairperson and members of the Commission.</b>- (1) The Commission shall comprise of eleven members including the Chairperson as under:</p> <p>(a) Minister in charge of the Department, who shall also be the Chairperson of the Commission;</p>	<p>The Commission shall predominantly consist of representatives or officers of the provincial government, which will give the ruling party in the province substantial power over the decision making, even in relations to local governments headed by the opposition parties. It is, therefore, proposed that its non-partisan character is ensured</p>

	<p>(b) four members of Provincial Assembly of the Punjab, of whom two shall be appointed by the leader of the house and the other two by the leader of the opposition in the Assembly;</p> <p>(c) the Secretary of the Department who shall also be the Secretary of the Commission;</p> <p>(d) Secretary to the Government, Law and Parliamentary Affairs Department;</p> <p>(e) Four expert members including one woman, to be appointed by the Chief Minister, in terms of section 158 of this Ordinance.</p> <p>(2) In the case of absence of the Minister for any reason, the members shall elect one of the members present at the meeting to be the Chairperson for the duration of his absence.</p> <p>(3) The Commission may co-opt any other person for advice in relation to a particular matter under its consideration; however, the co-opted members shall have no right of vote.</p> <p>(4) No proceedings or act of the Commission shall be invalid merely on the ground of existence of a vacancy or defect in composition of the Commission.</p> <p>(5) The members of the Commission shall be paid such remuneration as the Government may, from time to time,</p>	<p>through (a) increase in the number of independent members and representatives of opposition parties; and (b) consultative and consensus oriented process for appointment of members.</p> <p>Moreover, there is a need to increase membership of women by providing that at least half of independent members and members of provincial assembly will be women.</p>
--	---	---

	determine and the honorarium of a member shall not be varied to his disadvantage during his term in office.	
<b>Section 168 (4)</b>	<p><b>168. Approval of annual development plan.-</b></p> <p>(4) Without any prejudice to other provisions of this section, the annual development plan presented by the Head of the local government under subsection (3) which is not rejected or revised by the Council with two-third majority, should be deemed to have been approved.</p>	This provision undermines the role of the Council.
<b>Section 169</b>	<p><b>169. Secretary to certify annual development plan if not approved by a local government.-</b> (1) In case where annual development plan of a local government is not approved under section 168 of this Ordinance within thirty days of the commencement of the financial year to which it pertains, the Secretary may, after due notice to the relevant Head of the local government and having regards to the needs of that local area, cause such annual development plan to be prepared on its own and may also certify it.</p> <p>(2) The annual development plan certified under subsection (1) shall be deemed to be the approved annual development plan of the local government for that financial year.</p>	This section empowers the Secretary at the cost of elected local government, which is against the letter and spirit of Article 140-A of the Constitution. One alternate option to break the impasse could be that, if the budget is not approved by the Council, it will be presented to a specially convened meeting of all the chairmen of Village Councils or Neighbourhood Councils falling in the area of that metropolitan corporation or district council for approval.
<b>Sections 185-188</b>	<p><b>185. Chief Officer, other officers and servants of local governments.-</b> (1) Every local government shall have such number of Chief officers from amongst the officers of prescribed service and such number and description of other officers and servants as the Secretary may from time to time determine.</p>	Sections 185-188 undermine Local Governments, as these empower the Secretary to make all officer level postings and transfers in local governments. In the presence of these sections, heads of LGs will have limited authority over officers working under them.

	<p>(2) All officers of a local government shall be appointed by the Secretary in the prescribed manner.</p> <p>(3) All servants of a local government shall be appointed by that local government in that prescribed manner and subject to such general directions and conditions as the Secretary may, from time to time, consider appropriate.</p> <p><b>186. Security of tenure for the Chief Officer and other officers.-</b> All Chief Officers and such other officers of the local governments that may be specified by the Secretary from time to time, shall ordinarily hold office for a period of not less than two years.</p> <p><b>187. Local Government Service.-</b> The Local Government Service constituted under Act XIII of 2019 shall continue, and be called the Local Government Service and their terms and conditions of service shall be governed under the Punjab Civil Servants Act, 1974 (VIII of 1974) and the rules made thereunder.</p> <p><b>188. Service cadre for servants of the local governments.- (1)</b> There shall be a separate cadre for the servants of the local government called the Local Council Service.</p>	
<p><b>Section 190</b></p>	<p><b>190. Composition of the Board.- (1)</b> The Board shall consist of following ex-officio members:</p> <p>(a) The Secretary as Chairperson;</p>	<p>Section 190 does not provide for any representation of LGs in the Punjab Local Government Board. It is despite the fact that (a) under Section 191(2) of the Act, all expenditures of the Board are to be contributed by the LGs; and (b) the Board will be</p>

	<p>(b) An officer of the Pakistan Administrative Service or the Provincial Management Service appointed by the Chief Minister as Secretary of the Board;</p> <p>(c) A representative of Finance Department not below the rank of Additional Secretary;</p> <p>(d) A representative of regulations Wing of Services and General Administration Department not below the rank of Additional Secretary;</p> <p>(e) A representative of Law Department, not below the rank of Additional Secretary.</p>	<p>dealing with matters of officers, who work for the LGs. It is also suggested that the Board should be inclusive in gender terms.</p>
<p><b>193(3) (b)</b></p>	<p><b>193. Punjab local Government Appeals Tribunal.-</b> (3) The Tribunal shall consist of:</p> <p>(b) four eminent, qualified and experienced technocrat members, including at least one women, who are not more than sixty five years of age on the date of appointment, as follows:</p> <p>(i) member Judicial, who has been a District and Sessions Judge or Additional District and Sessions Judge or a Senior Civil Judge;</p> <p>(ii) Member Service, who has been an officer in the Provincial Service of the Punjab of the rank of Secretary to the Government or equivalent and has performed quasi-judicial functions or functions relating to service matters of civil servants and the local government servants;</p> <p>(iii) Member Municipal Administration, who has been an officer in the Local Government Service in Basic Pay Scale – 20</p>	<p>It is suggested that, out of the four technocrat members, at least two should be women.</p>

	<p>and has performed the functions relating to local government administration and municipal services; and</p> <p>(iv) Member legal, who has been a legal practitioner having at least 15 years experience of legal practice in the area of local government laws and possessing practicing license as an Advocate Supreme Court.</p>	
<p><b>Section 198</b></p>	<p><b>198. Removal of the Chairperson or a Member.-</b> (1) The Government may remove the Chairperson or relieve a Member, during the tenure of his office, on the ground of misconduct or, physical or mental incapacity.</p> <p>(2) The Government shall, before removing or relieving the Chairperson or the Member, provide and opportunity of hearing to the Chairperson or the Member.</p> <p>(3) The Chairperson of the Member may, within fifteen days from the date of the order of removal or relieving, prefer an appeal before the High Court.</p> <p>(4) The appeal mentioned in subsection (3) shall be heard and decided by a Division Bench of the High Court within thirty days and if the High Court fails to decide the appeal within thirty days of filing the appeal, the appeal shall abate and the decision of the Government shall become final.</p>	<p>Section 198 may be amended with the purpose of limiting discretion of Government in removing chairperson or a member. Such a power must be exercised by a neutral forum in order to minimize possibility of partisan decision making.</p>
<p><b>Section 211</b></p>	<p><b>211. Training of functionaries of local governments.-</b> (1) A local government shall, in annual budget, allocate funds for the training of various elected officials and non-elected functionaries for the local government.</p>	<p>Section 211 empowers Secretary of the LG Department to decide where and for how long the trainings through funds allocated by the LGs will be conducted.</p>

	<p>(2) The training shall be attended virtually or otherwise at the place and for the duration, as the Secretary may direct.</p>	<p>Question is why the power to make such a decision be with the Secretary? Why LGs should not be empowered to decide it on their own within a pre-defined framework provided by the department?</p> <p>It is suggested that centralization of powers in the hands of the Secretary LG Department or the Provincial Government must be avoided, as it is in violation of the letter and spirit of Article 140-A of the Constitution and the Court orders declaring local governments as third tier of governance.</p>																										
<p><b>Section 215</b></p>	<p><b>215. Amendment in the Schedule.-</b> The Government may, by notification in the official Gazette amend any Schedule.</p>	<p>This section leaves too many powers to the discretion of the Provincial Government. It must be omitted.</p>																										
<p><b>First Schedule</b></p> <p><b>Seats of Councillors in metropolitan Corporations and District Councils</b></p>	<table border="1"> <thead> <tr> <th rowspan="2">S #</th> <th rowspan="2">Population Size per latest Census</th> <th colspan="6">Reserved Seats Councillors</th> <th rowspan="2">General Councillors</th> <th rowspan="2">Total</th> </tr> <tr> <th>Minorities</th> <th>Women</th> <th>Workers/Peasants</th> <th>Youth</th> <th>Traders</th> <th>Disabled</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>More than 1,00,00,000</td> <td>4</td> <td>16</td> <td>9</td> <td>8</td> <td>3</td> <td>2</td> <td>28</td> <td>70</td> </tr> </tbody> </table>	S #	Population Size per latest Census	Reserved Seats Councillors						General Councillors	Total	Minorities	Women	Workers/Peasants	Youth	Traders	Disabled	1	More than 1,00,00,000	4	16	9	8	3	2	28	70	<p>First Schedule provides number of seats of councilors in Local Governments i.e. 35 for districts with up to 0.5 million and 70 for more than 10 million population. Thus, a councilor in large cities will represent much larger population than in small districts.</p> <p>It provides for 1-4 reserved seats for minorities in the Local Government councils i.e. 4 out of 70 in districts with over 10 million population. Shouldn't large</p>
S #	Population Size per latest Census			Reserved Seats Councillors								General Councillors	Total															
		Minorities	Women	Workers/Peasants	Youth	Traders	Disabled																					
1	More than 1,00,00,000	4	16	9	8	3	2	28	70																			

2	Not less than 50,00,000 and up to 1,00,00,000	3	15	8	7	3	2	25	63
3	Not less than 11,00,000 and up to 50,00,000	2	14	7	6	3	2	22	56
4	Not less than 8,00,000 and up to 11,00,000	2	13	6	5	2	1	20	49
5	Not less than 500,000 and up to 8,00,000	2	12	5	4	1	1	17	42
6	Up to 500,000	1	11	4	3	1	1	14	35

districts have more councilors, including from minority in districts with relatively larger minority populations?

It provides 11-16 reserved seats for women in Local Government councils i.e. 11 in districts with up to 0.5 million and 16 in districts with over 10 million population. This means over 31% reserved seats in smaller districts but only 23% in district with over 10 million population.

It provides for 1-3 reserved seats for traders. Why? Isn't the concept of reserved seats meant for the disadvantaged communities?

It is recommended that a uniform population-based formula is adopted for determining the number of seats in LGs across districts. Moreover, the number of reserved seats too should be based on a specified percentage (e.g. 33%), which must be consistent across districts.

Another aspect that needs further consideration is that, as per the current scheme, all of the reserved seats will belong to the panel of the head of the LG.

				This means that opposition parties will have no share among the reserved seats and, hence, will always at a disadvantage in the council.
<p><b>Second Schedule</b></p> <p><b>Composition of Head's Cabinet for Metropolitan Corporations and District Councils</b></p>	<p><b>Sr. No.</b></p> <p>(1)</p>	<p><b>Range of Population of Local area to determine the number of Members of a Head's Cabinet</b></p> <p>(2)</p>	<p><b>Total allocated members of Head's Cabinet</b></p> <p>(3)</p>	<p>This schedule may be amended to provide that at least 1/3<sup>rd</sup> members of the cabinet will be women.</p>
	1	10,000,001 and above	12	
	2	1,000,001 to 10,000,000	9	
	3	Upto to 1,000,000	6	
	4	Upto to 500,000	3	
	<p><b>Explanation 1:</b> The number of female members shall be at least One for local governments having population less than ten million and Two for local governments having population ten million and above.</p> <p><b>Explanation 2:</b> The number of technocrat members shall be one third of total number of Head's Cabinet.</p>			

Centre for Peace and Development Initiatives (CPDI) is an independent, non-partisan and a not-for-profit civil society organization working on issues of peace and development in Pakistan. It is registered Under Section 42 of the Companies Ordinance, 1984 (XLVII of 1984). It was established in September 2003 by a group of concerned citizens who realized that there was a need to approach the issue of peace and development in an integrated manner. CPDI is a first initiative of its kind in Pakistan. It seeks to inform and influence public policies and civil society initiatives through research-based advocacy and capacity building in order to promote citizenship, build peace and achieve inclusive and sustainable development. Areas of special sectoral focus include promotion of peace and tolerance, rule of law, transparency and access to information, budget watch, media watch, election watch and legislative watch and development.



Centre for Peace and  
Development Initiatives

+92 51 831 27 94, 831 27 95

+92 51 844 36 33

info@cpdi-pakistan.org

/cpdi.pakistan

/cpdi\_pakistan

/cpdi\_pak

A Company setup under Section 42 of the Companies Ordinance, 1984

[www.cpdi-pakistan.org](http://www.cpdi-pakistan.org)