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Pakistan



Centre for Peace and  
Development Initiatives

# **AN ANALYSIS OF KP LOCAL GOVERNMENT ACT, 2013 AS AMENDED IN 2019**

Comments and suggestions for bringing improvement in the legislation and system for local governments in Khyber Pakhtunkhwa

April 2022

**Title:** An Analysis of KP Local Government Act, 2013 as amended in 2019

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## 1. Introduction

In general elections 2018, the public of Khyber Pakhtunkhwa (KP) again mandated Pakistan Tehreek-e-Insaf (PTI) to form a government and continue with the journey which was started in 2013. The PTI while announcing the election manifesto 2018, reemphasized its commitment to further refine local government structure and introduce a city government model where the directly elected Mayor will be responsible to deliver on all interrelated urban city matters. The PTI government in KP soon after its formation, started working on amendments to the legal framework for local governments in the province that was earlier enacted and enforced by itself in 2013<sup>1</sup>. The Local Government (Amendment) Bill containing substantial changes, was passed by the KP Assembly on 29<sup>th</sup> April and finally notified on 3<sup>rd</sup> May, 2019 after the formal assent of the KP Governor. The Amendment Act introduced important structural changes in the local government system, resulting in a significant impact on the construction, functioning and powers of the local governments in the province.

The analysis and recommendations in this document are mainly based on desk research on all existing documentation/legislation related to functions and structure of local governments in KP and amendments made in the Khyber Pakhtunkhwa Local Government Act, 2013 (KPLGA, 2013) in May 2019 and onwards, and other legislation<sup>2</sup> having any sort of impact on the role and functions of local governments. The Legal framework for local governments in other provinces after the 18th Constitution Amendment and related documents were also reviewed. During the analysis, the stipulation of Article 140A of the Constitution, gender & social inclusion, equal representation, the general perception of devolution as one of the elements of the decentralization process, and extension of the local government system to the merged tribal districts of formerly FATA<sup>3</sup> have been kept in view.

The purpose of the analysis is to identify the key changes introduced in the local government law through the KP Local Government (Amendment) Act, 2019 as well as subsequent amendments and their possible impact on the structure, role and functions of these institutions. The law is considered a living document that requires improvement with every passing moment. It is expected that this analysis will help to generate an informed debate, encompassing the main areas of improvement in the system and shall finally engage the parliamentarians to further improve the legal framework for an inclusive and empowered local government system in KP, in line with the command of Article 140A of the Constitution.

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<sup>1</sup> The KP Local Government Act, 2013 was enforced on November 7, 2013.

<sup>2</sup> The KP Regional and District Health Authorities Act, 2019; the KP Urban Areas Development Authorities Act, 2020; and the KP Land-Use and Building Control Act, 2021.

<sup>3</sup> Federally Administrative Tribal Areas were merged in KP Province by virtue of Twenty-fifth Constitution Amendment, 2018.



## 2. Key Amendments in the KP LGA, 2013

Key amendments introduced in May 2019 in the KPLGA, 2013 are summarized as under:

- For the purposes of uniformity, the provincial government shall give a policy framework for devolved functions and each local government shall act in accordance with such policy framework [Sec.3(3)]
- The district tier of local government is abolished. After amendment the Local Government System in KP will consist of two tiers: A Tehsil Local Government<sup>4</sup> in each Tehsil and City Local Governments in urban centers at divisional headquarters and a Village Council in rural areas, and a Neighborhood Council in urban areas [Sec.5].
- The number of Village Councils and Neighbourhood Councils (V&NC) in each District has been pre-determined and reflected in the Ninth Schedule of the Act<sup>5</sup>. The Election Commission of Pakistan (ECP) shall delimit village and neighbourhood councils<sup>6</sup>. [Sec.6].
- The title of “Nazim” is changed to “Chairman” and “Naib Nazim” to “Convenor”. The head of City Local Government will be called: “Mayor” [Sec.8] <sup>7</sup>.
- Soon after the commencement of the Act, Government shall re-constitute the existing Delimitation Authority into a Coordination Unit<sup>8</sup>. This Unit will *inter alia* coordinate with the ECP in matters of delimitation of V&NCs [Sec.10].
- The Tehsil Chairman/City Mayor will be directly elected on a party basis through an adult franchise, with the whole of the Tehsil as a single constituency. All V&NC chairmen will be ex-officio members of the respective Tehsil/City Council [Sec.21].
- Nine offices/social services<sup>9</sup> have been devolved at the Tehsil level [Sec.22].
- There shall be direct elections of V&NCs on a non-party basis<sup>10</sup> through adult franchise and joint electorate [Sec.27].

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<sup>4</sup> The provisions in the law relating to Tehsil Local Government shall mutatis mutandis apply to the City Local Government and any reference in this document to Chairman or Convenor, Tehsil Local Government and Tehsil Council shall be read as Mayor or Convenor, City Local Government and City Local Council.

<sup>5</sup> The Khyber Pakhtunkhwa Local Government Act, 2013 (As amended)

<sup>6</sup> During the previous local government elections held in 2015 delimitation of V & NCs, was done by the Provincial Delimitation Authority.

<sup>7</sup> Section 8 may be read with section 2 of the KPLG(Amendment) Act, 2019 dated 03.05.2019.

<sup>8</sup> This Unit stood notified by the Government on September 7, 2021 and it coordinated with the ECP in recent delimitation of V&NCs and election matters.

<sup>9</sup> (i) Primary and Secondary Education; (ii) Social Welfare; (iii) Sports and Youth Affairs; (iv) Agriculture (Extension, Livestock, On Farm Water Management, Soil Conservations, Fisheries); (v) Population Welfare; (vi) Municipal Services including water and sanitation; (vii) Rural Development; (viii) Public Health Engineering; and (ix) Coordination, Human Resource Management, Planning, Development, Finance and Budgeting functions for the devolved offices.

<sup>10</sup> Recent elections of V&NCs were however, held on party basis due to the Supreme Court Order dated November 30, 2021 (<https://tribune.com.pk/story/2331749/sc-upholds-phc-order-on-party-basis-ig-polls>).



- Budget of each local government shall include all development projects/ schemes by name before it is tabled for approval by the Council [Sec.34(6)]
- The Local Government Commission has been authorized to approve the budget of a local government in case a local council is failed to approve its budget within ten days of its presentation or rejects it with a simple majority of its total membership [ Sec. 35(7)].
- Pre-audit of local governments will be carried out by the District Accounts Officers<sup>11</sup> and internal audit is made mandatory for local governments [Sec. 36-37].
- The Local Government Finance Commission is reconstituted. The representation of Tehsil Chairmen/City Mayors in the Finance Commission is increased from 2 to 5. Districts in the province including merged districts are divided into five zones<sup>12</sup> for representation in the Finance Commission [Sec.52].
- The Local Government Commission is also reconstituted and a representative of the Finance Department KP Government is included as a member [Sec. 54].
- Government may provide guidelines and render advice for achieving the ends of the government policy and for promoting economic, social and environmental security of the province through District Administration<sup>13</sup> which shall act in the manner provided in this section [Sec.57(2)].
- Government may establish and maintain municipal wardens [Sec.70]<sup>14</sup>
- If Government decides that elections shall be held separately for V&NC and for the Chairman, Tehsil Council Government, it may request the Election Commission of Pakistan (ECP) to hold elections in two phases and the ECP shall hold the elections accordingly [Sec,79(1A)]<sup>15</sup>.
- Chairman of a Tehsil Local Government shall cease to hold office if she/he is impeached by two-third majority of the total number of members of the Tehsil/City Council [Sec.84].
- Mediation Councils shall be constituted for out of court arbitration, reconciliation, mediation and amicable settlement of disputes of civil nature in each V&NC. However, in the merged areas of the erstwhile FATA such Mediation Councils shall be established at the sub-division level [Sec. 118A]

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<sup>11</sup> This arrangement will probably continue till the time a setup is created at Tehsil level.

<sup>12</sup> For detail see Twelfth Schedule of the KPLGA, 2013.

<sup>13</sup> District Administration includes the Deputy Commissioner and district heads of provincial department.

<sup>14</sup> Earlier the local governments with the prior approval of the provincial government were authorized to established and maintain municipal warders.

<sup>15</sup> Inserted by KP Local Government (Third Amendment) Act, 2021 dated 24 September, 2021.



- The Schedule describing the offenses where fine can be imposed through ticketing is revised and the amount of fine against different offenses is significantly increased (Fifth Schedule).
- Eight Schedule prescribing land use framework; Ninth Schedule showing the number of V&NCs in every district; Tenth Schedule describing the municipal services and social services assigned to Tehsil/City Local Administration; Eleventh Schedule specifying the composition of local councils and mode of election; and Twelfth Schedule identifying zones of districts for representation in the Provincial Finance Commission, have been added.



## 3. Structure and Functions of Local Governments in KP and Local Elections after Amendments in 2019

### 3.1 Two Tiers of Local Governments

#### 3.1.1 Tehsil/City Local Governments

There shall be a Tehsil<sup>16</sup> Local Government and a City Local Government for the areas having urban characteristics<sup>17</sup>. The Tehsil Local Government shall consist of directly elected Chairman<sup>18</sup>, Tehsil Local Government and Tehsil Local Administration<sup>19</sup>. The Executive Authority of Tehsil Local Government shall vest in Chairman and he shall be responsible to ensure that the business of Tehsil Local Government is carried out in accordance with the provisions of the Act and other laws for the time being in force. The Chairman shall be assisted by Tehsil Local Administration to perform the functions<sup>20</sup> assigned to Tehsil Local Government.

There shall be a Tehsil Council consisting of all chairmen of V&NCs in the Tehsil and members elected on reserved seats for women, youth, peasants or workers<sup>21</sup> and minorities as ex-officio members of Tehsil Council, as determined<sup>22</sup> by the Government.

#### 3.1.2 Village and Neighbourhood Councils

There shall be a Village Council in one or more *muaziat*<sup>23</sup> or one or more census villages and a Neighborhood Council in an area with urban characteristics. The number of V&NCs in each District is given in the Ninth Schedule of the Act<sup>24</sup>. Every V&NC shall comprise of three general members, one woman, one youth, one peasant/worker and one minority member = (Total 7 including Chairman and Convenor).

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<sup>16</sup> Sub-district level.

<sup>17</sup> At divisional head quarter level only. In Peshawar there will be two City Local Governments.

<sup>18</sup> Head of City Local Government shall be called Mayor.

<sup>19</sup> Tehsil Local Administration includes the Assistant Commissioner, Tehsil Municipal Officer and heads of devolved offices.

<sup>20</sup> Tenth Schedule of the Act.

<sup>21</sup> Peasants in Village Councils and workers in Neighbourhood Councils.

<sup>22</sup> Notification dated November 14, 2019 of KP Government determined 33% seats for women and 5% for all other categories.

<sup>23</sup> Villages.

<sup>24</sup> Law stipulates 3633 villages councils and 579 neighbourhood councils (3633+579=4212) in KP. See Ninth Schedule of the Act, for district wise details of V& NCs.

## 3.2 Functions Assigned to Local Governments <sup>25</sup>

### 3.2.1 Municipal responsibilities assigned to Tehsil Local Government

- i. Regulations
- ii. Finance/Accounts
- iii. Infrastructure/Services
- iv. Municipal Services including Water and Sanitation

### 3.2.2 Offices devolved to Tehsil Local Government

- i. Primary and Secondary Education
- ii. Social Welfare
- iii. Sports and Youth Affairs
- iv. Agriculture (Extension, Livestock, On Farm Water Management, Soil Conservations, Fisheries)
- v. Population Welfare
- vi. Municipal Services including water and sanitation
- vii. Rural Development
- viii. Public Health Engineering
- ix. Coordination, Human Resource Management, Planning, Development, Finance and Budgeting functions for the devolved offices
- x. Any other office to be added by Government by Notification in the official Gazette

### 3.2.3 Functions assigned to Village and Neighbourhood Councils

- i. Implement and monitor village level development works;
- ii. Carry out village level sanitation and conservancy functions in village councils only;
- iii. Identify development needs of the area for use by Tehsil Local Government in prioritizing development plans for the tehsil;
- iv. Register births, deaths, marriages and divorces;
- v. Consider and approve annual budget, including scheme-wise annual development programme and provision for other functions performed by the local council;
- vi. Organize and sponsor village and neighbourhood level sports and cultural events;

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<sup>25</sup> For detail see sections 23, 23A, 23B, 24 and 25 for Tehsil Local Government, section 25A for additional functions of City Local Government.



- vii. Organize village level cattle fair and shows in its area;
- viii. Elect an Accounts Committee and review its recommendations on the annual statement of accounts and audit reports;
- ix. Monitor the performance of service providers including education, health, agriculture, water and sanitation and revenue through a Monitoring Committee constituted by it. The Monitoring Committee shall send its report to the respective Chairman, Tehsil Local Government for consideration and action through the respective Assistant Director, Local Government and Rural Development;
- x. Organize watch and ward in the area including protection from stray animals and animal trespass;
- xi. Collect, prepare, maintain and update basic data on social indicators;
- xii. Facilitate Tehsil Local Government in performance of its functions; and
- xiii. Perform any other task assigned by Government or Tehsil Local Government.

A mediation council for out of court arbitration, reconciliation, mediation and amicable settlement of disputes of civil nature in each village and neighbourhood council level and in the merged such as mediation council shall be established at the sub-division level.

### **3.3 Extension of Local Government System to the Areas of Former FATA**

In KP, the extension of the local government system to the areas of former FATA led to the establishment of additional 25 Tehsil Local Governments and 711 Village and Neighborhood Councils. These local governments shall be headed by the directly elected Chairmen/Mayors. Mediation councils shall be constituted at sub-divisional level in these areas, to facilitate speedy and affordable justice for out of court arbitration, reconciliation, mediation and amicable settlement of disputes of civil nature.

### **3.4 Relation with Government**

Provincial Government may provide guidelines and render advice for achieving the ends of the government policy and for promoting the economic, social and environmental security of the province through the district administration<sup>26</sup>. The district administration shall coordinate between government departments and local governments, and among local governments in cases where more than one local government in a district are involved. It shall carry out periodic inspections to ensure that the non-devolved offices perform their functions efficiently and effectively. It will review and report on the budget expenditure and utilization of the annual development

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<sup>26</sup> District administration is headed by the Deputy Commissioner and includes district heads of provincial departments.



programme of local governments, if required by the Government. It shall resolve disputes among Tehsil/City Local Governments in the district and help the Government in improving service delivery and shall perform any other task assigned by the Government for improved service delivery.

### 3.5 System of Local Elections

Under the new system, direct local elections will be held at the V&NC level and for the office of Chairman Tehsil Local Government and Mayor City Local Government.

Each V&NC shall be a multi-member ward for direct election of members ( general + reserved seats) to be held on a non-party basis through adult franchise and the joint electorate<sup>27</sup>. The candidates securing the highest and second highest number of votes in the election to the general seats of V&NC shall respectively be the Chairman and Convenor of V&NC.

Elections of Chairman Tehsil Local Government<sup>28</sup> shall be held on a party basis. Each tehsil shall be a single ward for the election of Chairman Tehsil Local Government. Members elected from amongst the categories of women, youth, peasants/ workers and minorities in V&NCs in a Tehsil obtaining the highest number of votes in the percentage of their respective category of reserved seats, shall be the ex-officio councillors of the respective Tehsil Council. A Number of such members shall, however be determined by the Government<sup>29</sup>.

The Election shall be conducted by the Election Commission of Pakistan (ECP). The Government has however, the option to request the ECP to hold elections separately for V&NCs and for the Chairmen, Tehsil Council Governments in two phases and the ECP shall hold the elections accordingly.

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<sup>27</sup> Recent elections of V&NCs have been held on party basis due to the Supreme Court order dated November 30, 2021. Formal amendment to this effect is yet to be made by the KP Assembly.

<sup>28</sup> Areas with urban characteristics shall have City Local Government headed by the mayor.

<sup>29</sup> See foot note 22 *supra*.



## 4. Conclusion and Recommendations

The first ever direct election of Chairman of Tehsil Local Government and Mayor of City Local Government is indeed a bold step towards effective representation. It shall give direly needed strength to the office of Chairman/Mayor to perform its functions in an effective manner. This will also improve the local governance. Mediation councils for out of court arbitration, reconciliation, mediation and amicable settlement of disputes of civil nature at each village and neighbourhood level will facilitate the public to resolve their petty issues at their door step with the help of their locally elected representatives. The amendments in KPLGA, 2013 have brought a significant change in the institutional arrangements for the delivery of public services by devolving the responsibility of service delivery from the district level down to the tehsil level. It might be a good idea to bring the delivery of public services closest to the citizens but will be quite challenging. This would require a new mechanism for coordination, processes, vertical and horizontal linkages and oversight.

Nevertheless, removal of district tier, oversight of locally elected representatives through district bureaucracy, taking back primary health care, inadequate powers in human resource management, less representation of women in the council, no coordination mechanism among tehsil local governments within a district and their relation with provincial offices and authorities at the district level, less intuitional capacity and inadequate infrastructure at Tehsil<sup>30</sup> level, the overriding authority of the Government, delay in subordinate legislation<sup>31</sup> would have a significant impact on the functionality of local governments under the present system.

The extension of the local government system to the areas of former FATA is indeed a significant step forward. It will facilitate the integration of merged areas with other settled areas of the province. Merger will bring positive change in all sectors of these areas. Recently elected local representatives from merged districts have joined their offices for the first time and shall have the opportunity to perform the functions assigned to them under the law. The extension of local governments will obviously strengthen democratic processes and institutions at the grassroots level and enable them to be responsive and accountable to citizens for effective and equitable service delivery. Local governments will also contribute to the much-desired urban planning in merged areas. The real impact will however, be visible once the local governments start working. Even though, a comprehensive strategy would essentially be required for building the institutional capacity of local governments in this area.

From the perspective of devolution of power, the KPLGA 2013 in its present shape, rather restricts the local autonomy and space essentially required for a smooth functioning of local governments<sup>32</sup>. The overarching supremacy of the Government over the local governments

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<sup>30</sup> Tehsil structures are weak, understaff and less experienced in working independently as compared to district level.

<sup>31</sup> After amendments, most of the rules are yet to be revised and notified by the Government.

<sup>32</sup> The factor of overriding powers of the provincial governments in the local government system is relatively obvious in all provincial local government laws and KP is not an exception.



undermines the spirit of Article 140A of the Constitution. In its present form, the local governments could be termed as an extended arm of the provincial government rather than the third tier of Government. Law provides that Government may: issue a directive to the head of a local government, initiate and conduct an inquiry against a local government, suspend certain resolutions, frame model tax schedules, exclude any of the functions assigned to local government and outsource such functions to any authority, suspend or remove the directly elected head and member of a local government, and dissolve a local government and appoint an administrator.

Law devolves few offices to Tehsil Local Government as compared to the previous system. The responsibility of providing health services in the district, has been taken back and assigned to the regional and district health authorities under the KP Regional and District Health Authorities Act, 2019. Even the function of building control, land use and master planning, which historically belonged to local governments has been encroached upon by enacting the KP Land use and Building Control Act, 2021. The matter of identifying functions to be entrusted under the offices devolved to Tehsil Local Government is again left to the discretion of the executive.

It is generally believed that Article 140A of the Constitution provided the direly needed protections to elected local governments. However, at the same time this provision ostensibly, left to the provinces, to decide on the essential design and extent of devolving political, administrative and financial authority to the elected representatives of local governments. Due to the absence of defined parameters and core design elements in Article 140A, each province has devolved powers and authority to local governments as per its own understanding of Article 140A and the political landscape. Hence, significant differences are visible in the structure & role and mandate of local governments, local government election system, reserved seats for marginalized segments of the society, functional and fiscal assignment, oversight etc. among the provinces. Those who are in favour of empowered and inclusive local governments, generally think that the present arrangement is not in line with the universally established principles of decentralization and lacks effective representation. Removal of the district tier of local government in KP has not been taken well in view of the fact that all other provinces have retained this tier due to its importance. The Local Councils Association KP resisted the abolition of the district tier<sup>33</sup>. It had rather challenged the abolition of this tier in Peshawar High Court and the matter is pending for adjudication. Evidence of the impact of abolishing the district tier on the life of the ordinary citizens and service delivery will be more visible, once the local governments start working under the new arrangement.

There is now a growing realization that Article 140A does not give requisite guidance on the core design elements of local governments. There is as such no consensus among the political parties on the overall structure and role of local governments. Similar views were witnessed

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<sup>33</sup> <https://www.lcakup.org.pk/lca-kp-vows-to-resist-abolition-of-district-council-the-news/>

during a panel discussion on “Building Minimum Consensus on the Architecture of Local Government System in Pakistan” at Sustainable Development Policy Institute’s Twenty-fourth Sustainable Development Conference<sup>34</sup> held on 7 December 2021 in Islamabad. In another one-day seminar on the Punjab Local Government Ordinance, 2021 organized by the Centre for Peace and Development Initiatives (CPDI) on 29 December, 2021 in Lahore, many participants pointed out that the existing constitutional stipulation for local governments under Article 140A is inadequate, as it has failed to ensure uninterrupted existence of local governments across Pakistan. They suggested the insertion of a new chapter instead of one Article in the Constitution to provide certain minimum requirements for the local governments in Pakistan<sup>35</sup>. The consensus emerged at a Consultative Forum organized by the Pakistan Institute of Legislative Development and Transparency (PILDAT) on the subject of “Effective Local Governments” on 22 March, 2022 in Quetta also reflects that Constitution should be amended to define role, terms and responsibilities of the third tier of local governments like that of the role, domain and duration of national and provincial governments<sup>36</sup>. In a stakeholder’s dialogue on the Punjab Local Government Ordinance, 2021 organized by CPDI with the support of Friedrich Naumann Foundation (FNF) in Lahore on 29 March, 2022 the participants while recommending improvements in the Ordinance concluded that Article 140A of the Constitution does not provide sufficient advice on the essential design and implementation aspects of local bodies and issues related to the system.

More elaborate constitutional provision in place of Article 140A, outlining essential core design elements agreed upon by all the major political players, will be a step in the right direction to address the present weak arrangement and will stop the frequent revisiting of the framework for local governments by successive governments. The Council of Common Interest (CCI) can help to forge at least a minimum consensus among the federating units on the core design elements of a local government system. While framing a normative framework for local governments in Pakistan guidance may be sought from the judgment of the Honourable Supreme Court on Constitution Petition No. 24 of 2017 of Muttahida Qaumi Movement-Pakistan (MQMP) against the Sindh Local Government Act, 2013 recently announced on the 1<sup>st</sup> February, 2022.

Detailed analysis and comments on different provisions of the KPLGA, 2013 as amended from time to time is provided in **Annexure-I**.

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<sup>34</sup> <https://www.sdpi.org/sdpiweb/contents/files/Quick%20Glance%20Agenda%20SDC2021%20-%203%20Dec%202021-%20Titles%20Only-WEB.pdf> ( See Concurrent Session A-1 on 7<sup>th</sup> December, 2021.

<sup>35</sup> See details on <https://www.cpdipakistan.org/publications>

<sup>36</sup> See details on <https://e.thenews.com.pk/detail?id=69530>

## Annex I: Comments and Suggestions on Key Amendments made in KP Local Government Act, 2013 in May 2019

No. of Section	Contents of Section	Comments/Suggestions
<b>Sec. 3</b>	<p><b>3. Local governments to work within the provincial framework.</b></p> <p>(1) The local governments established under this Act shall function within the provincial framework and shall faithfully observe the federal and provincial laws.</p> <p>(2) In the performance of their functions, the local governments shall not impede or prejudice the exercise of the executive authority of Government.</p> <p>(3) For the purposes of uniformity, Government shall give policy framework for devolved functions and each local government shall act in accordance with such policy framework.</p>	<p>The Insertion of subsection 3 in this section has further curtailed the autonomy of local governments. Article 140A stipulates meaningful devolution of political, administrative and financial responsibility and authority to the elected representatives of the local governments. Once a function is devolved to local governments then they must have enough autonomy to perform that function in accordance with their local conditions, requirements as well as resources. The powers conferred by the provincial legislature cannot be steered through policy instruments given by the executive.</p>
<b>Sec. 5</b>	<p><b>5. Constitution of local governments.</b></p> <p>(1) Subject to other provisions of this Act, local governments constituted under this Act shall be:</p> <ul style="list-style-type: none"> <li>(a) a City Local Government;</li> <li>(b) a Tehsil Local Government for a Tehsil;</li> <li>(c) a Village Council for a village in the rural areas; and</li> <li>(e) a Neighbourhood Council for a Neighbourhood in areas with urban characteristics.</li> </ul>	<p>The District tier of local government is abolished. Out of 24 devolved offices<sup>37</sup> to district tier, 15 have been recentralized and taken back by the Government from the oversight/ management of locally elected representatives.</p> <p>The District is considered as a basic administrative unit in Pakistan. In other provinces this is the highest tier of local governments for rural areas. The concept of an empowered local government system cannot be meaningful without the district tier. More resources and infrastructure would be required at the Tehsil level as</p>

<sup>37</sup> See First Schedule of KPLGA, 2013 notified on 7 November, 2013 for District Government and the amended First Schedule notified on 3 May, 2019 for Tehsil Local Government.



No. of Section	Contents of Section	Comments/Suggestions
		compared to the district level. Restoration of district tier may be reconsidered.
<p><b>Sec. 6</b></p>	<p><b>6. Number of village and neighbourhood councils, Delimitation and Principles of Delimitation.</b></p> <p>(5) Village and neighbourhood Councils shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, existing boundaries of administrative units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of village and neighbourhood councils:</p> <p>Provided that, as far as may be,</p> <p>(a) -----</p> <p>(e) the population of village and neighbourhood council, within a district, shall range between 5,000 to 15,000, calculated on the basis of last preceding population census, officially published and if the results of national population census are not officially published then the village council and neighbourhood council shall be delimited in accordance with the provisional results of national population census, 2017:</p> <p>Provided that in specific cases, the Election Commission of Pakistan may, for reasons to be recorded, waive any of the aforesaid conditions.</p>	<p>The variation in sizes of population among V&amp;NCs damages 'equality of the vote'. Clause (e) of section 6(5) allows the population range between 5,000 and 15,000 for V&amp;NCs. There can thus be substantial variation in the size of population among V&amp;NCs in a district. Article 25 of the International Covenant for Civil and Political Rights requires "equal suffrage" for citizens. The Venice Commission's Code of Good Practice in Electoral Matters while emphasizing equal voting power provides that the permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity). The Population of V&amp;NCs as far as possible should be uniform and variation in exceptional cases may not exceed 10%. This clause may therefore, be revisited.</p>
<p><b>Sec. 22</b></p>	<p><b>22. Devolution and grouping of offices.</b></p> <p>(1) On commencement of the Khyber Pakhtunkhwa Local Government (Amendment) Act, 2019, the administrative and the financial authority for the management of the offices of Government, specified in the First Schedule in a tehsil shall stand devolved to the Tehsil Local Government of that tehsil.</p>	<p>Since primary and secondary education has been devolved to Tehsil Local Government therefore, the Vocational Education, Special Education and Adult Education and Literacy being interrelated, may also be devolved to Tehsil Local Government. Community</p>



No. of Section	Contents of Section	Comments/Suggestions
		<p>Development is another sector where Tehsil Local Government could be a better choice as most of its functions are to be dealt at the community level, therefore, this function may also be assigned to it. Reviewing the development of an integrated system of water reservoirs, water sources, treatment plants, drainage, liquid and solid waste disposal, sanitation and other municipal services is one of the main functions of City Local Government under KPLGA, 2013 (As amended), therefore, Public Health &amp; Public Health Engineering may be devolved to City Local Government level. Moreover, Water and Sanitation Service Companies (WSSCs) need to be brought under the control of the respective elected Mayor of the City's Local Government. Their funds may also be routed through the respective City Local Government.</p> <p>The function of all public health facilities comes under the purview of Regional and District Authorities by virtue of the Regional and District Authorities Act, 2019. All the elected Chairmen of Tehsil Local Governments in the district should be given representation in the District Health Authority. This will make such authorities more inclusive and representative body.</p>
<p><b>Sec. 23A</b></p>	<p><b>23A. Functions and Powers of the Chairman, Tehsil Local Government.</b></p> <p>(1) The functions and powers of the Chairman, Tehsil Local Government shall be to-</p> <p>(a) -----</p> <p>(b) -----</p>	<p>Clause (f) of section 23A (1) has been deleted by the KP Land Use and Building Control Act, 2021. It is one of the traditional functions of local governments. There is a need to harmonize both the laws, keeping in view the stipulation of Article 140A of the Constitution as well as the judgment of the Honourable Supreme Court on Constitution Petition 24 of 2017 of MQM(P) announced on 1st February, 2022.</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p><sup>38</sup>[(f) <del>prepare spatial plans for the tehsil including plans for land use and zoning and disseminate these plans for public enquiry;</del></p> <p>(p) perform any other function assigned by the Government and the Department.</p>	<p>Clause(p) of section 23A (1) stipulates that Chairmen/Mayor have to perform any other function assigned by the Government and the Local Government Department. It subordinates the directly elected head of a local government to the provincial bureaucracy which is against the spirit of Article 140A of the Constitution. This provision may be revisited. Only mutually agreed additional functions may be performed by a Tehsil Local Government and that too subject to provision of additional resources.</p> <p>Following clauses may be added to authorize the Chairman of Tehsil Council to:</p> <p>(a) hold public meetings and hearings (<i>Khuli Kacheris</i>) or make use of digital platform to solicit feedback from general public of the area on service delivery being provided by the Tehsil Local Government and take measures to improve the delivery of services; and</p> <p>(b) constitute citizen advisory boards to solicit advice to improve any services being delivered by the Tehsil Local Government. These boards may comprise of citizens of diverse background, including women and socially excluded groups, and those having relevant expertise.</p> <p>Law does not stipulate the functions and powers of the Convenor of the Council. A Convenor <i>inter alia</i> shall:</p> <p>(a) convene meetings of the council as required under this Act, rules and bye-laws framed thereunder;</p> <p>(b) preside over, and ensure orderly conduct of meetings of the council;</p>

<sup>38</sup> Deleted by KP Land Use and Building Control Act, 2021.



No. of Section	Contents of Section	Comments/Suggestions
		<p>(c) maintain record of meetings of the council; (e) conduct the election of the committees of the Council and monitor their performance; and</p> <p>(d) direct a member to abstain from or withdraw immediately from a meeting where in his opinion the conduct of such councillor during the meeting is obstructing the proceedings of the Council.</p> <p>Within three months of its first meeting every Council shall frame bye-laws with regard to conduct its proceedings. The Government may frame model bye-laws for Tehsil Councils for the sake of uniformity.</p> <p>Rules of Business for each tier may be notified for the smooth functioning. Role and function of each office and powers of functionaries may clearly be defined in these rules.</p>
<p><b>Sec 23B</b></p>	<p><b>23B. Approval of private housing schemes.</b></p> <p>(14) In case the proposed site of the private housing scheme to be applied for, simultaneously falls within territorial limits and jurisdiction of any Development Authority, notwithstanding anything contained in any law governing such Development Authority and the rules or regulations made there under, the application for grant of approval of such scheme shall be governed under this section:</p> <p>Provided that in case the proposed site of the private housing scheme falls within the territorial limits of a Development Authority, the powers of the Chairman, Tehsil Local Government, shall be exercised by the Director General or the Chief Executive of such Development Authority by whatever name described and the powers of Tehsil Council shall be exercised by the board or the governing authority, as the case may be, of such Development Authority.</p>	<p>Sub-section:(14) may be revisited in view of the judgment of the Honourable Supreme Court on Constitution Petition 24 of 2017 of MQM(P) announced on 1<sup>st</sup> February, 2022. The power to approve a private housing scheme should be exercise by the elected representatives of Tehsil/City Councils. Moreover, in view of above-mentioned judgement of the Hon'ble Supreme Court, Urban Development Authorities established under the KP Urban Areas Development Authorities Act, 2020 may brought under the respective City Local Government.</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p><b>CHAPTER –V: TEHSIL LOCAL GOVERNMENT</b></p>	<p>After section 23B, insertion of following provisions in Chapter-V may be considered for efficient delivery of service:</p> <p><b>23C.Public-Private Partnership</b></p> <p>A Tehsil Local Government may in the prescribed manner, enter into Public-Private Partnership with any private party, for the provision of one or more of such public services which relate to a function assigned to it under this Act. <i>(Though the Seventh Schedule of the Act, provides framing of rules on PPP, yet an enabling provision to this effect is also required in the law).</i></p> <p><b>23D. Establishment of joint authorities.</b></p> <p>(1) Two or more adjoining Tehsil Local Governments may, in the prescribed manner, establish a joint authority for the provision of one or more of such public services which relate to a function assigned to them under this Act.</p> <p>(2) The concerned Tehsil Local Governments may constitute a Joint Committee to oversee the functions of the joint authority.</p> <p><b>23E. Quality and accessibility of public services.</b></p> <p>(1) All public services provided by a Tehsil Local Government shall meet the quality standards fixed under the or expected by the Local Government Commission.</p>



No. of Section	Contents of Section	Comments/Suggestions
		(2) Each public service provided by a Tehsil Local Government shall be accessible to all such persons for whom that service is intended.
Sec.25A	<p><b>25A. Functions of Mayor, City Local Government and City Local Council.</b></p> <p>(1) In addition to the functions specified in sections 23(A) and 25(A)], the Mayor, City Local Government shall perform the following functions, namely:</p> <p style="padding-left: 40px;"><sup>39</sup>[(a) review implementation of laws, rules and regulations governing land use, housing, markets, zoning, roads, traffic, tax, infrastructure and public utilities;]</p> <p style="padding-left: 40px;">(b) approve proposals for public transport and mass transit systems, construction of express ways, fly-overs, bridges, roads, under passes, and inter-town streets;</p> <p style="padding-left: 40px;"><sup>40</sup>[(c) <del>perform the functions of approval of such macro municipal plans as may be notified by City Local Government;</del>]</p> <p style="padding-left: 40px;">(d) -----</p> <p style="padding-left: 40px;">(e) -----</p> <p>(2) In addition to section specified in section 25, the City Local Council shall perform the following additional functions, namely:</p>	<p>With a view to averting any conflict between Mayor and City Council, section 25A may be revisited and functions &amp; powers of Mayor City Local Government and City Council may be bifurcated as has been done in the case of functions and powers of Chairman Tehsil Local Government vide section 23A and functions and powers of Tehsil Council vide section 25.</p> <p>Clause (c) of section 25A (1) and entry 2 (<i>Zoning, master planning, and buildings</i>) in the Seventh Schedule Part II to frame bye-laws, have been deleted by the KP Land Use and Building Control Act, 2021. Historically this function belongs to local governments and should remain with them. This clause may be revisited in view of the judgment of the Honourable Supreme Court on Constitution Petition 24 of 2017 of MQM(P) announced on 1<sup>st</sup> February, 2022.</p> <p>Clause(a) of subsection (2) of section 25A has been deleted under KP Land Use and Building Control Act, 2021.</p> <p>There is obvious overlapping between the functions of Building Control Authority and Tehsil/City Local Government. Both laws have the provision of overriding other laws. Legislation later in time shall prevail in case of conflict of provisions in two laws. Therefore, both the laws need to be harmonized, keeping in view the stipulation of Article 140A of the Constitution as well as</p>

<sup>39</sup> Substituted by KP Land Use and Building Control Act, 2021.

<sup>40</sup> Deleted vide *ibid*.



No. of Section	Contents of Section	Comments/Suggestions
	<p><del><sup>41</sup>[(a) -approve or return any application for grant of No Objective Certificate for establishment and development of any private housing scheme, within their respective territorial jurisdiction, in the manner so applicable to the Tehsil Council mutatis mutandis under this section;]</del></p> <p><sup>42</sup>[(a-i)] approve master plans, zoning, land use plans, including classification and reclassification of land, environment control, urban design, urban renewal and ecological balances;</p> <p>(b) approve development schemes for beautification of areas along rivers, canals, streams; and</p> <p>(c) review development of integrated system of water reservoirs, water sources, treatment plants, drainage, liquid and solid waste disposal, sanitation and other municipal services</p>	<p>the judgment of the Honourable Supreme Court on Constitution Petition 24 of 2017 of MQM(P) announced on 1st February, 2022.</p>

<sup>41</sup> Deleted by KP Land Use and Building Control Act, 2021.

<sup>42</sup> Renumbered by KP Local Government (Second Amendment) Act, 2020.

No. of Section	Contents of Section	Comments/Suggestions														
<p><b>Sec,27</b></p>	<p><b>27. Composition of Village Council and Neighbourhood Council.</b></p> <p>(1) Every village council and neighbourhood council, shall comprise of members as provided in Part-II of Eleventh Schedule to this Act.</p> <p style="text-align: center;">Part-II</p> <p style="text-align: center;">(Village and neighbourhood Council)</p> <table border="1" data-bbox="457 526 1222 964"> <thead> <tr> <th>Member</th> <th>No.</th> </tr> </thead> <tbody> <tr> <td>General</td> <td>3</td> </tr> <tr> <td>Woman</td> <td>1</td> </tr> <tr> <td>Youth</td> <td>1</td> </tr> <tr> <td>Peasant or Worker</td> <td>1</td> </tr> <tr> <td>Minority</td> <td>1</td> </tr> <tr> <td>Total</td> <td>7</td> </tr> </tbody> </table>	Member	No.	General	3	Woman	1	Youth	1	Peasant or Worker	1	Minority	1	Total	7	<p>One-size-fits-all approach has been adopted instead of determining general seats on the basis of population. Prior to amendments made in 2019, every V&amp;NC, was supposed to have ten to fifteen following members: -</p> <p>(a) five to ten members, determined on the basis of population, elected to general seats.</p> <p>(b) two members elected to seats reserved for women.</p> <p>(c) one member elected to seat reserved for peasants and workers.</p> <p>(d) one member elected to seat reserved for youth.</p> <p>(e) one member elected to seat reserved for non-Muslims.</p> <p>Number of general seats ought to be determined on the basis of population to give fair representation. The present composition of V&amp;NC may be revisited.</p> <p>Article 34 of the Constitution reflects the state's commitment to ensure full participation of women in all spheres of national life. Population of women in KP is 49.37 % as per Population Census 2017. Ideally representation of women in local governments should be keeping in view ratio of their population in the province. At least there should be 2 seats for women in V&amp;NC and where the religious minority doesn't exist, the seat may go to a woman worker or a woman peasant. In case if number of seats for general members is determined on the basis of population, then women may be given at least thirty three percent of total number of general members in every V&amp;NC, subject to minimum two seats.</p>
Member	No.															
General	3															
Woman	1															
Youth	1															
Peasant or Worker	1															
Minority	1															
Total	7															
<p><b>Sec. 29</b></p>	<p><b>29. Functions of the Village Council or Neighbourhood Council.</b></p> <p>(1) Functions of the village council and neighbourhood Council, as the</p>	<p>Following functions may be considered to make the role of V&amp;NC more meaningful:</p>														



No. of Section	Contents of Section	Comments/Suggestions
	<p>case may be, shall be to, -</p> <ul style="list-style-type: none"> <li>(i) implement and monitor village level development works;</li> <li>(ii) carry out village level sanitation and conservancy functions in village councils only;</li> <li>(iii) identify development needs of the area for use by Tehsil Local Government in prioritizing development plans for the tehsil;</li> <li>(iv) register births, deaths, marriages and divorces;</li> <li>(v) consider and approve annual budget, including scheme-wise annual development programme and provision for other functions performed by the local council;</li> <li>(vi) organize and sponsor village and neighbourhood level sports and cultural events;</li> <li>(vii) organize village level cattle fair and shows in its area;</li> <li>(viii) elect an Accounts Committee and review its recommendations on the annual statement of accounts and audit reports;</li> <li>(ix) monitor the performance of service providers including education, health, agriculture, water and sanitation and revenue through a Monitoring Committee constituted by it. The Monitoring Committee shall send its report to the respective Chairman, Tehsil Local Government for consideration and action through the respective Assistant Director, Local Government and Rural Development;</li> <li>(x) organize watch and ward in the area including protection from stray animals and animal trespass;</li> </ul>	<ul style="list-style-type: none"> <li>I. prevent and report encroachments on public ways, public streets and public places etc.;</li> <li>II. mobilize voluntary resources, including physical labour and manpower, property and cash contributions for municipal and welfare activities in the local area including provision of education and arrangement of marriages of deserving poor and needy residents;</li> <li>III. mobilise the community involvement in maintenance of public streets, play grounds, parks, public places etc.;</li> <li>IV. promote plantation of trees and environment protection;</li> <li>V. report instances of domestic violence and crime against children and women to concerned authorities;</li> <li>VI. report outbreak of diseases in local area to concerned authorities; and</li> <li>VII. launch public awareness campaigns on any matter of public interest.</li> </ul>



No. of Section	Contents of Section	Comments/Suggestions
	<ul style="list-style-type: none"> <li>(xi) collect, prepare, maintain and update basic data on social indicators;</li> <li>(xii) facilitate Tehsil Local Government in performance of its functions; and</li> <li>(xiii) perform any other task assigned by Government or Tehsil Local Government</li> </ul>	
<b>Sec. 30</b>	<p><b>30. Establishment of Local Funds and Public Accounts.</b></p> <p>(1) There shall be established a district fund, a tehsil fund, village fund and Neighbourhood fund, as the case may be, for each respective local government.</p>	<p>The KP LGA, 2013 after amendment does not recognize the District Tier of local government but this section stipulates the establishment of district fund. This anomaly needs to be addressed if the district tier is not restored.</p>
<b>Sec. 32</b>	<p><b>32. Charged expenditure.</b></p> <p>(1) The following expenditure shall be charged on the Fund of local government, that is to say:</p> <ul style="list-style-type: none"> <li>(a) -----</li> <li>(d) annual contribution for human resource development at the rate of two percent of the development grant.</li> </ul>	<p>Clause (d) of section 32 declares annual contribution for human resource development as charged expenditure on the fund of local government. With a view of ensuring transparency, it must be incumbent upon the KP Local Governance School to publish an annual report on the human resource development of local governments in the province, clearly reflecting the details of utilization of contribution by local governments. Such annual report must be placed on the website of the Local Governance School besides, sharing with all local governments for their feedback.</p>
<b>Sec. 35</b>	<p><b>35. Presentation of budget, approval and effect of refusal by the local council.</b></p> <p>(1) Within thirty days of the commencement of a financial year, each Chairman shall, present the budget of that year for consideration and approval of the respective local council.</p> <p>(2) The budget of a local government shall be approved by simple majority of the members of the respective local council present and voting. Provided that in case of tie, the Chairman shall have a casting</p>	<p>The Annual budget for the next financial year must be approved by the respective council before the commencement of the next financial year and in case it is not approved by the council before the commencement of the financial year to which it relates, the local government may spend money under various objects, on pro-rata basis in accordance with the budgetary provisions of the</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p>vote.</p> <p>(3) The Chairman shall authenticate by his signature a schedule specifying the:</p> <p style="padding-left: 40px;">(a) grants made or deemed to have been made by the local council; and</p> <p style="padding-left: 40px;">(b) the several sums required to meet the expenditure charged upon the Fund of the local government.</p> <p>(4) The schedule so authenticated shall be laid before the local council, but shall not be open to discussion or vote thereon.</p> <p>(5) The schedule so authenticated shall be communicated to the respective local government officials, accounts officials and Government.</p> <p>(6) At any time before the expiry of the financial year to which budget relates, a revised budget for the year may, if necessary, be prepared and sanctioned and such revised budget shall be subject to the provisions of this section.</p> <p>(7) In case a budget is not approved by the local council, in terms of sub-section (2), within ten (10) days of its presentation or the council rejects the budget with a simple majority of its total membership, the Chairman shall submit the budget to the Local Government Commission through the Department for consideration and the Local Government Commission shall convey the approval within thirty days. The decision of the Local Government Commission shall be final.</p> <p>(8) The Local Government Commission or, as the case may be, the committee notified for the purpose by it shall review and approve, with or without amendments, a budget for the local government and the budget so approved shall be considered a budget approved in terms of sub-section (2).</p>	<p>preceding financial year till the time it is approved but this period may not exceed thirty days.</p> <p>A local government may grant to the Community Based Organization (CBO) in its local areas, up to eighty percent of the budgeted amount of an approved community based development scheme against twenty percent contribution by the CBO, in the manner prescribed. An enabling provision for community participation and ownership incentive system by every local government may, therefore, be inserted in the Act.</p> <p>Though Seventh Schedule of the Act, provides framing of rules on remuneration and allowances of elected officials, yet an enabling provision to this effect is required in the law.</p> <p>The draft budget, soon after its presentation to the Council, shall be forwarded to a special committee of the Council, which shall examine the budget with the assistance of co-opted expert(s) and also consult stakeholders through a public hearing or digital platform and submit its report to the Convenor within seven days. The Convenor shall place this report before the Council in the special meeting called to approve the budget. The Council must debate the budget for at least 2 days, giving all members adequate opportunity to participate in the debate, and then it may be voted upon and approved.</p> <p>Budget Rules may also be notified containing budget calendar and spelling steps required in framing the annual and revised budget. Ideally the process of framing budget may start in March and finalize by mid-June of financial year,</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p>(9) The budget proposed by the Chairman shall be deemed duly approved, if the Local Government Commission fails to respond in terms of sub-section (8).</p> <p>(10) No other business shall be taken up by a local council during the budget session.</p> <p>(11) A local council shall not be empowered to approve a budget if the sums required to meet estimated expenditures exceed the estimated receipts.</p> <p><b>Explanation:</b> For the purposes of this section, the term “estimated expenditure” includes previous liabilities and commitments.</p> <p>(12) In the absence of local council, whatsoever the reason may be, the respective principal accounting officer shall prepare the budget and submit it to the Local Government Commission, through the Department, for consideration of approval.</p>	
<p><b>Sec. 36</b></p>	<p><b>36. Accounts.</b></p> <p>(1) The accounts of receipts and expenditure of local governments shall be kept in such form and in accordance with such principles and methods as the Auditor - General of Pakistan may prescribe.</p> <p>(2) The district account officer shall maintain the accounts of local governments within the districts and pre audit all payments from the funds mentioned in sub-section (1) of section 30 before approving disbursement of monies.</p> <p>(3) The district account officer shall, monthly and annually consolidate the accounts of local governments in the districts separately for receipts from the Government and local resources and send the copy to Government, Accountant General and the Department.</p> <p><b>Explanation:</b> The financial and accounting system before the</p>	<p>See comments against section 30 above.</p> <p>Subsection: (3) may be revisited to ensure transparency. A provision therefore, be incorporated for preparation of quarterly accounts.</p> <p>Subsection: (4) envisages publication of annual accounts for public information. It is suggested that a provision may be inserted to prepare statement of accounts on quarterly basis as well and all such report may be published and disseminated for general information and public feedback through digital platform as well.</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p>commencement of the Khyber Pakhtunkhwa Local Government (Amendment) Act, 2019, shall remain in practice till the establishment of a new financial and accounting system for the purpose of section 36 and 37 under the Khyber Pakhtunkhwa Local Government (Amendment) Act, 2019.</p> <p>(4) Local governments shall publish annual accounts for public information.</p>	
	<p><b>CHAPTER – IX</b> <b>LOCAL GOVERNMENT PROPERTY</b></p>	<p>A provision may be added in this chapter authorizing local governments to ensure their property whether movable or immovable in which they have an insurable interest, against any contingency which may result in the imposition of any liability or loss to the local government.</p> <p>A provision may be added to allow a local government to dispose of its immovable properties in exceptional circumstances in a prescribed manner, after the previous sanction of the Government.</p>
<p><b>Sec. 43</b></p>	<p><b>43. Model Tax Schedule.</b></p> <p>Government may frame Model Tax Schedules and when such schedules have been framed a local government shall be guided by them in levying a tax.</p>	<p>Such provisions encroach upon the fiscal autonomy of local governments and may therefore, be omitted.</p> <p>Local governments may be authorized to write off their irrecoverable taxes etc. in the prescribed manner.</p>
<p><b>Sec. 44</b></p>	<p><b>44. Rating Areas and Property Tax.</b></p> <p>(1) On commencement of this Act, every tehsil shall be rating area within the meaning of the Khyber Pakhtunkhwa Urban Immovable Property Tax Act, 1958 (W.P. Act V of 1958).</p> <p>(2) The rate of property tax in an area within a tehsil shall be subject to approval of respective Tehsil Council:</p>	<p>As per the Third Schedule of KPLGA, 2013 it is a local tax and falls within the domain of local governments. Therefore, powers of determining, extending and curtailing rating area, power of assessment of tax, determining the rate of tax and its recovery needs to be brought under the domain of local governments. Application of two laws at the same time one by the</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p>Provided that in the areas within a tehsil where rate has not been determined, the areas shall be deemed to be exempted from property tax till determination of the rate.</p> <p>(3) Unless varied under sub-section (2) above, the existing rates in the areas within a tehsil shall remain in force.</p> <p><b>Explanation:</b> For the purpose of this section the “rate” shall mean the tax leviable under the Khyber Pakhtunkhwa Urban Immovable Property Tax Act, 1958 (W.P. Act V of 1958).</p>	<p>Government and the other by local governments is a hurdle in the way of reaping the full potential of this tax. The Present arrangement lacks revenue-service linkage. This dichotomy needs to be addressed. Across the world it is considered a local tax and local governments are fully empowered to manage this tax on their end. Till the time it is done, the collection agency should, at least share the details of the target and recovery of this tax with the respective local government on a quarterly basis. The local government should reconcile such details with the amount received through KP Finance Department.</p>
<p><b>Sec.52</b></p>	<p><b>52. Composition of the Finance Commission.</b></p> <p>(1) The Finance Commission shall consist of the following members:</p> <p>(a) Minister for Finance Department, who shall be the Chairman of the Finance Commission;</p> <p>(b) Minister for Local Government, Elections and Rural Development Department who shall be the Co-Chairman of the Finance Commission];</p> <p>(c) two members of the Provincial Assembly of Khyber Pakhtunkhwa, one each nominated by the Chief Minister and Leader of Opposition in the said Assembly;</p> <p>(d) Secretary to Government, Finance Department;</p> <p>(e) Secretary to Government, Planning and Development Department;</p> <p>(f) Secretary to Government, Local Government, Elections and Rural Development Department;</p> <p>(i) Secretary to Government, Law, Parliamentary Affairs and Human Rights Department; and</p> <p>(j) *****</p>	<p>Two eminently qualified and experienced technocrats in local government finance including a woman may be included in the composition of the Finance Commission. Criteria of eligibility for the appointment of technocrat members and their premature removal may be defined in the law. It must be an independent and non-partisan process to appoint and remove members.</p> <p>The Composition of the Commission is dominated by the officers and representatives of the Government. Either decisions of the Commission are to be taken with consensus to avoid a partisan approach or the number of independent and opposition members is increased to have a more balanced composition.</p>



No. of Section	Contents of Section	Comments/Suggestions
	<p>(k) five Chairmen, Tehsil Local Government one each representing a Zone as detailed in Twelfth Schedule, elected by Chairmen, Tehsil Local Government in the respective Zone:</p>	
<b>Sec. 53</b>	<p><b>53. Functions of the Finance Commission.</b></p> <p>(1) The Finance Commission shall make recommendations to the Government on:</p> <p>(a) the amount of grant for local governments out of the proceeds of Provincial Consolidated Fund in a financial year in addition to the grant in lieu of Octroi and Zilla Tax:</p> <p style="padding-left: 40px;">Provided that in addition to the establishment charges budgeted for the devolved functions and transfers in lieu of Octroi and Zilla Taxes, the development grant for local governments shall be so determined that it is not less than thirty percent of the total development budget of the province in the respective year:</p> <p>Provided further that Government may allocate certain amount from the thirty per cent (30%) grant to a public interest fund to be administered by Government and to be used by public functionaries for the development of local government;</p>	<p>The provincial allocable amount may constitute not less than thirty (30) per centum of the general revenue receipts of the province in the relevant financial year and grants in lieu of Octroi and Zilla Tax may be included in it. Such clear stipulations will give more certainty and predictability in fiscal transfers to local governments.</p> <p>There may be preferably single line transfer to local governments. I will enable them to decide how to apportion it as per their needs and priority?</p> <p>The Second provision may be omitted as it is in violation of Article 140A which envisages financial devolution.</p>
<b>Sec.54</b>	<p><b>54. Local Government Commission.</b></p> <p>(1) Government shall appoint a Local Government Commission, which shall consist of-</p> <p>(a) Minister for Local Government, Elections and Rural Development Department, who shall be the Chairman of the Local Government Commission;</p> <p>(b) two members of the Provincial Assembly, one each nominated by the Chief Minister and Leader of Opposition in the Provincial Assembly;</p> <p>(c) two eminent qualified and experienced technocrats including a woman selected by</p>	<p>The Criteria of eligibility for the appointment of technocrat members and their premature removal may be defined in the law. It must be an independent and non-partisan process to appoint and remove members.</p> <p>The Composition of the Commission is dominated by the officers and representatives of the Government. Either decisions of the Commission are to be taken with consensus to avoid a partisan approach or the number of independent and opposition members is increased to have a more balanced composition.</p>



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	<p>Government for a period of three years;</p> <p>(d) Secretary to Government, Law, Parliamentary Affairs and Human Rights Department;</p> <p>(e) Secretary to Government, Local Government, Elections and Rural Development Department; and</p> <p>(f) a representative of the Finance Department for matters relating to budget of Local Government.</p>	
<b>Sec.55</b>	<p><b>55. Functions of the Local Government Commission.</b></p> <p>(1) Functions of the Local Government Commission shall be to:</p> <p>(a) conduct annual inspections of local governments and submit reports to the Government;</p> <p>(b) commission a third-party performance and financial audit of all or any local government where it feels it necessary and in public interest;</p> <p>(c) -----</p>	<p>The following function may also be added:</p> <p>“Fix minimum standard of provision of public service by the Tehsil Local Government;” See comments against Chapter V above.</p>
<b>Sec. 57</b>	<p><b>57. Relations of Government with Local Government.</b></p> <p>(1) Local government] shall carry out its functions in accordance with provisions of this Act and the rules made there under.</p> <p>(2) Government may provide guidelines and render advice for achieving the ends of the Government policy and for promoting economic, social and environmental security of the province through District Administration who shall act in the following manner:</p> <p>(a) coordinate between Government departments and local governments;</p> <p>(b) coordinate among local governments in cases where more than one local government in a district are involved;</p> <p>(c) coordinate/ carryout periodic inspections to ensure</p>	<p>This section gives enormous powers in the hands of the Government and civil bureaucracy which undermines the authority and desired autonomy meant for local governments. Hence, it needs to be revisited.</p>



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	<p>that the non-devolved offices perform their functions efficiently and effectively;</p> <p>(d) dispute resolution among Tehsil Local Governments within the districts;</p> <p>(e) where required to do so by the Government or a Government department, report on the performance of the devolved offices in the district;</p> <p>(f) where required to do so by the Government, or a government department, report and review of budget expenditure and Annual Development Program utilization; and</p> <p>(g) any other task assigned by the Government for improved service delivery.</p> <p>(3) The Chief Minister, may issue directives in public interest to a chairman for implementation and if he fails to comply with the directions, the Chief Minister may require the Department or a Commissioner to take such action as the situation may necessitate.</p>	
<p><b>Sec.67</b></p>	<p><b>67. Appointment and control of Enforcement Officers etc.</b></p> <p>(1) Government shall designate Enforcement Officers and their Controlling Authority for the offences specified in Fourth and Fifth Schedules.</p> <p>(2) ----</p> <p>(3) ----</p> <p>(4) Chairman, Tehsil Local Government may requisition a police contingent for assistance in enforcement effort of Tehsil Local Government.</p>	<p>This provision is against the principle of subsidiarity which is one of the essential building blocks of decentralization. It advocates those public responsibilities ought to be exercised by those elected public representatives, who are closest to the citizens. Prior to this amendment respective Council on the motion of the head of local government was empowered to designate their officers as Enforcement Officers. This provision may therefore, be revised accordingly.</p>



No. of Section	Contents of Section	Comments/Suggestions
<p><b>Sec.70</b></p>	<p><b>70. Municipal Wardens.</b></p> <p>(1) Government may establish and maintain municipal wardens.</p> <p>(2) Government may, notwithstanding anything contained in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act. No II of 2017), or in any other law, specify the duties which the municipal wardens may be required to perform.</p>	<p>Since local governments have to share the burden of establishing and maintaining municipal wardens therefore, such decisions should be taken by them as per their needs and resources. Before this amendment in section 70, Tehsil Municipal Administration was authorized to establish and maintain municipal wardens with the prior approval of the Government. This provision may be revised accordingly.</p> <p>The following provision may be inserted for an effective enforcement system:</p> <p>“The Chairman may requisition and keep a Police contingent on deputation or payment of charges.”</p>
<p><b>Sec.71</b></p>	<p><b>71. General Powers of Enforcement Officers.</b></p> <p>(1) In case of any serious threat to the public health, safety or welfare or danger to life and property, or where violation of any rule or bye-law is being committed, the Enforcement Officer may, in his area of jurisdiction, in addition to imposition of fine or initiating prosecution under this Act-</p> <ul style="list-style-type: none"> <li>(a) suspend any work;</li> <li>(b) seize the goods;</li> <li>(c) seal the premises;</li> <li>(d) demolish or remove work; or</li> <li>(e) issue directions for taking corrective measures within a specified time.</li> </ul> <p>(2) An Enforcement Officer shall not enter any dwelling unit without permission of the occupier or search warrant from a court competent jurisdiction.</p>	<p>A provision may be added to ensure that a citizen or resident of a local area shall have the right to bring a legal suit or seek any other legal remedy against a local government, its elected officials and functionaries for violating his rights under any law for the time being in force before a competent court of law and other grievances addressing forums.</p>



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	<p><b>CHAPTER - XIV</b> <b>LOCAL COUNCIL ELECTIONS</b></p>	<p>Chapter – XIV on local council elections of KPLGA, 2013 needs to be harmonized with the Election Act, 2017 and Election Rules, 2017.</p> <p>Under Article 140A of the Constitution, it is the mandate of the Election Commission of Pakistan (ECP) to conduct local government elections. Therefore, Chapter XIII (Conduct of Election to Local Governments) of the Election Act, 2017 exclusively deals with local governments. Moreover, Chapter IV (Electoral Rolls), Chapter IX (Election disputes), Chapter X (Offences, Penalties and Procedures), Chapter XII (Allocation of Symbols) as far as possible are applied on local government elections.</p> <p>Comments against sections 77,88,89,90,91 and 95 have been jotted down keeping in view the above provisions of the Election Act, 2017. The provisions of the Election Act, 2017 being federal legislation, would have precedence over the similar provisions of KPLGA, 2013. It is therefore, suggested that all such provisions in KPLGA, 2013 may be omitted after careful scrutiny and in consultation with ECP.</p>
<p><b>Sec. 77</b></p>	<p><b>77. Preparation of Electoral Rolls.</b></p> <p>(1) A person shall be entitled to be enrolled as a voter if he-</p> <p>(a) is a citizen of Pakistan;</p> <p>(b) is not less than eighteen years of age; and</p> <p>(c) fulfils such other conditions as the Election Commission may specify.</p> <p>(2) The electoral rolls for the local council elections shall be prepared or adopted by the Election Commission in the manner it may deem appropriate and the electoral rolls shall not be invalid by reason of any erroneous description therein of any person listed or of an</p>	<p>Chapter IV of the Election Act, 2017 deals with Electoral Rolls. Under section 23 ECP shall prepare the electoral rolls for election to the National Assembly, Provincial Assemblies as well as local governments and shall revise such rolls periodically in the prescribed manner. This section may be omitted in view of section 23 of the Election Act, 2017.</p>



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	<p>omission of the name of any person entitled to be enrolled or of inclusion of the name of any person not so entitled.</p> <p>(3) Every person whose name is entered in the electoral roll for a local council, and no person whose name is not so entered, shall be entitled to cast a vote at an election to the local council.</p>	
<p><b>Sec. 79</b></p>	<p><b>79. Term of office, first meeting and conduct of business in Local Council.</b></p> <p>(1) The term of office of a local council shall be four years commencing on the date on which it holds its first meeting:</p> <p>Provided that the first meeting shall be held not later than fifteen days from the day on which the names of its members are notified.</p> <p>(1A) Notwithstanding anything contained in sub-section (1),</p> <p>If Government decides that elections shall be held separately for village council and neighbourhood council and for the Chairman, Tehsil Council Government, it may request the Election Commission of Pakistan to hold elections in two phases and the Election Commission of Pakistan shall hold the elections accordingly.</p> <p>(1B) If the elections of village council and neighbourhood council are held in the first stance, under sub-section (1A), then the Tehsil Council shall be constituted whenever election are held for Chairman, Tehsil Local Government:</p> <p>Provided that the tenure of such Chairman, Tehsil Local Government shall be four years irrespective of the fact that members of Tehsil Council have already completed their tenure of four years in capacity of members of their respective village council or neighbourhood council.</p>	<p>The Chairmen of V&amp;NC and members on reserved seats are ex-officio members of respective Tehsil/City Council. Council is considered an integral part of local government and performs certain important functions including approval and revision of the budget. How can a Tehsil Local Government function without its Council?</p> <p>The ECP conducted the elections of V&amp;NC and the head of Tehsil/City Local Government on the same day. It rather decided to conduct the election of 17 districts in the first phase in 17 districts and the remaining 18 districts in 2<sup>nd</sup> phase.</p> <p>Subsections (1A) and (1B) may be revised in view of the ground realities.</p>



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<p><b>Sec.81</b></p>	<p><b>81. Casual vacancy.</b></p> <p>(1) If at any time, the office of a Chairman, Tehsil Local Government falls vacant by reason of death, resignation, removal or any other reason, the concerned Tehsil Council shall within ten (10) days, elect one of its members as officiating Chairman, Tehsil Local Government till appointment of new Chairman, Tehsil Local Government:</p> <p>Provided that the new Chairman, Tehsil Local Government shall be elected in accordance with the provisions of this Act and the rules made thereunder, within a period of ninety (90) days from the date such vacancy is notified and the new Chairman, Tehsil Local Government shall hold office for the residue of such term:</p> <p>Provided further that if, at any time, the office of Chairman, Tehsil Local Government falls vacant by reason of completion of his tenure, under section 79 of this Act, or by reason of his death, resignation, or removal, or due to any other reason, the concerned Tehsil Council does not exist to elect an officiating Chairman, Government shall appoint an officer to perform the functions of the Chairman, Tehsil Local Government till the election of new Chairman and establishment of a new local government system in accordance with this sub-section.</p> <p>(2) -----</p>	<p>Second proviso may be revisited in view of comments against section 79.</p>
<p><b>Sec. 82</b></p>	<p><b>82. Resignation.</b></p> <p>(1) A member of a local council may resign his office by tendering resignation in writing to the respective Chairman.</p> <p>(2) A Chairman, Tehsil Local Government may resign his office by tendering resignation in writing addressed to the Chief Minister.</p> <p>(3)The resignations so tendered shall deem to be accepted and effective forthwith.</p>	<p>Subsection (4) of section 82 may be amended to bring LG Department in the loop as well.</p>



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	(4) Copies of all resignations shall be forwarded to the Election Commission.	
<b>Sec.88</b>	<p><b>88. Corrupt practice.</b></p> <p>A person guilty of bribery, personating, or undue influence shall be punishable for an offence of corrupt practice with imprisonment for a term which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.</p>	Section 167 of the Election Act, 2017 provides how to deal with corrupt practice. See suggestion against Chapter XIV above.
<b>Sec. 89</b>	<p><b>89. Bribery.</b></p> <p>A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf-</p> <p>(a) receives, agrees or contracts for any gratification for voting or refraining from voting or for being or refraining from being a candidate at, or withdrawing or retiring from, an election;</p> <p>(b) -----</p>	Section 168 of the Election Act, 2017 defines bribery. See suggestion against Chapter XIV above.
<b>Sec. 90</b>	<p><b>90. Personating.</b></p> <p>A person is guilty of personating, if he votes or applies for a ballot paper for voting as some other person whether that other person is living or dead or fictitious.</p>	Section 169 of the Election Act, 2017 deals with personation during the election. See suggestion against Chapter XIV above.
<b>Sec. 91</b>	<p><b>91. Undue influence.</b></p> <p>A person is guilty of undue influence, if he-</p> <p>(a) in order to compel any person to vote, refrain from voting, or to induce or compel any person to withdraw his candidature at an election, directly or indirectly, by himself or by any other person on his behalf-</p> <p>(b) -----</p>	Section 170 of the Election Act, 2017 deals with undue influence. See suggestion against Chapter XIV above.



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Sec 95.	<p><b>95. Tampering with papers.</b></p> <p>A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, if he:</p> <p>(a) fraudulently defaces or destroys any nomination paper or ballot paper;</p> <p>(b) -----</p>	<p>Section 172 of the Election Act, 2017 deals with the offense of tampering with paper. See suggestion against Chapter XIV above.</p>
Sec.109	<p><b>109. Complaint Cell.</b></p> <p>Every local government, village council and neighbourhood council shall set up a complaint cell for redressal of grievances within the ambit of their responsibilities under this Act.</p>	<p>V&amp;NC is also a local government hence may not be mentioned separately in this section. The provision of using internet-based applications by the local governments for efficient management and redressal of complaints may be inserted in this section.</p>
Sec.113	<p><b>113. Bye-laws.</b></p> <p>(1) A local council] may, in their ambit of responsibilities, make bye-laws to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the matters specified in Part -II of the Seventh Schedule:</p> <p>Provided that the Government may make model bye- laws on any, some or all of relevant subjects for the sake of uniformity.</p>	<p>Subsection (1) may be substituted as under:</p> <p>“(1) A Local Government may, subject to previous publication and by notification in the Official Gazette, make bye-laws, not inconsistent with this Act and the rules, for carrying out the purposes of this Act.”</p> <p>After subsection (2) following subsection may be added:</p> <p>“(3) The bye-laws made by a local government may come into force from the date the bye-laws are published in the Official Gazette.”</p>
Sec. 115A	<p><b>115A. Outsourcing of functions.</b></p> <p>Government may, by notification exclude any of the functions assigned to the City Local Government or Tehsil Local Government, as the case may be, and outsource these functions to any authority,</p>	<p>This provision infringes upon the autonomy of local governments as enshrined under Article 140A. How a</p>



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	<p>firm or company on such terms and conditions as it may determine in accordance with the existing laws or rules in force in the province.</p>	<p>function assigned by the elected legislature through enactment, could be excluded by the executive?</p> <p>This provision may be revisited keeping in view the judgment of the Honourable Supreme Court on Constitution Petition No. 24 of 2017 of MQM(P) against the Sindh Local Government Act, 2013 announced on 1<sup>st</sup> February, 2022.</p>
<p><b>Sec.117</b></p>	<p><b>117. General powers of local governments, etc.</b></p> <p>(1) Every local government shall perform its functions conferred by or under this Act.</p> <p>(2) Government shall specify general powers and standard procedures to guide local governments in performance of their functions.</p>	<p>General powers may be made the part of law.</p> <p>Standard procedures could be notified in the form of rules by the Government.</p>
<p><b>Sec.118</b></p>	<p><b>118. Local Council Board.</b></p> <p>(1) The Local Council Board established, under the Khyber Pakhtunkhwa Local Government Ordinance, 1979 shall continue to perform the functions of the management, control and administration of the Local Council Service and Servants of Local Councils.</p> <p>(2) For the purpose of this Act, the Local Council Board shall exercise all the powers and functions in respect of field formations working under its administrative control, including their service structure, service rules, sanction for the creation and abolition of posts, approval, consent, no objection certificates, vetting, advices, guidelines, instructions, performance management, trainings, fund investment, appointments, transfer, posting and disciplinary action under the prescribed rules and policy.</p> <p>(3) The Local Council Board shall, shall provide for service structure of the Local Council Service and the Servants of Local Councils including specification of posts to be filled through Khyber</p>	<p>The Composition of the Local Council Board may be specified in the law and it should be inclusive in gender terms. Elected heads of local governments may be given appropriate representation in the Board. The Board may conduct its business in the prescribed manner.</p> <p>Subsection (3) may be revisited to give due space to local governments as administrative devolution under Article 140A authorizes the local governments to manage their human resource.</p> <p>Local governments may therefore, be allowed to determine their own staff, in line with their local needs to ensure effective management. The Government may at the best, prescribe common standards for qualification and recruitment of human resource by local governments. These standards should allow the recruitment and</p>



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	Pakhtunkhwa Public Service Commission.	<p>retention of high-quality staff on the basis of best performance, professional competence and relevant experience as well as gender equality.</p> <p>Adequate training opportunities, good remuneration and career prospects should be ensured for the employees of local governments to enable local governments to provide high-quality public services to the citizens of their local areas.</p>
<b>Sec. 120A</b>	<p><b>120A. Dissolution of Local Governments.</b></p> <p>(1) Soon after the completion of the tenure of all the district councils, Tehsil Councils, town councils, village councils and neighbourhood councils in the province shall stand dissolved and as a consequence thereof all District Nazimeen, Tehsil Nazimeen, Town Nazimeen, village council Nazimeen and neighbourhood council Nazimeen shall cease to hold their respective offices.</p> <p>(2) The Department shall authorize officers to perform administrative functions of respective Nazimeen till the installation of local governments under this Act.</p> <p>(3) All administrative actions required for giving effect to the provisions of this Act and transition to the local government system set up there under shall be completed within six months of the commencement of the Khyber Pakhtunkhwa Local Government (Amendment) Act, 2019.</p>	<p>This provision may be omitted, keeping in view the Judgement of the Honourable Supreme Court in Constitution Petition No. 48 of 2019 announced on 25 March, 2021 against the dissolution of local governments in the Punjab province. The outgoing head of local government may hand over the charge to the newly elected head of local government. During local government elections Government may allow the only day to day expenditure and ban all such development activities which could influence the electioneering. This was witnessed in the Punjab province in 1991 when before local government elections these institutions were not dissolved and the newly elected heads of local governments took charge of the office from the out-going elected heads of local governments in January, 1992. The transition was smooth.</p>

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