

Comparative Analysis of Municipal Powers in Karachi

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Abstract

This study aims to draw a comparative analysis of the powers of local governments in Karachi. The subject of local government structure and its authority has become more important in the current local scenario. The findings of the study reveal that in past successive civilian governments in Pakistan did not pay attention to developing a solid local government system and instead preferred controlling districts and tehsils through the bureaucracy, with the absence of democracy and accountability at the local level. Instead of using this third tier of the government for the delivery of swift and better municipal services, they always made an effort to keep them weakened through legislation at different levels. The situation has now got worst in the biggest city and economic hub of Pakistan where people are deprived of basic facilities due to a handicapped system. The Mayor of the biggest city of Pakistan felt powerless as the provincial government through the Sindh Local Government Act 2013 deprived the Karachi Metropolitan Corporation of its main functions. The local bodies will have to be given the authority and essential powers. Only then these institutions can be made capable of providing basic services to the people.

Local government in the post-Partition phase

The local government history of South Asian region dates back to a hundred years with its origin in Madras, Kolkata and Bombay Presidency. In 1688, Citizen's Committees were formed in Madras under the British East India Company. In 1726, Municipal Corporations were established in Bombay and Kolkata under the Municipal Act of 1850. A Conservancy Board was set up in Karachi in 1846, whereas the Municipal Act was implemented in Rawalpindi and Lahore in 1867.

British viceroy Lord Ripon, after assuming the charge of Governor General in 1880, took important measures to promote local governments. For this reason Lord Ripon is called the author of the local self-government system in India. He gave recommendations for setting

up the system of local governments. The local government system was introduced in the subcontinent in 1882 when the District Board Act was enforced for rural areas. The Panchayat Act was put into effect in 1912. All these laws were made even better and authoritative with the Government of India Act, 1935. The British rulers organized and empowered the local government system in Karachi also, as they did in other cities of the subcontinent.

British army officer Charles Napier conquered Karachi in 1843. He developed a cantonment town here. Later, realizing its importance in the Afghan Battle, the British began developing this area for military logistics.¹ The city population began to increase when the Karachi Port became a trading centre. The British realized the importance of the city as a military cantonment and a port for exporting the produce of the Indus River basin hence they rapidly developed its harbor for shipping. The implementation of a municipal system in Karachi was allowed under the 1850 Municipal Act.

On 8th September 1852, the Bombay government permitted the implementation of a proper municipal system to provide basic amenities in Karachi. According to 1851 census the population of Karachi was noticed as 12,391.² Initially, this municipal commission was responsible for uplift works like education, health, water supply, disposal of sewage and arrangements of lights. In 1884, selection of half of the members of Karachi Municipality through the balloting procedure was introduced. For this, the rules of Karachi municipality were amended and the total number of members was set at 32, including 8 Europeans and 24 locals. Under this system, the first local government elections in the history of Karachi were held on 1st November 1884 and the new municipal administration came into being on 1st January 1885. In October 1910, the Karachi Municipality was made authorized to elect its president. At that point, the 36 member municipal committee had 24 elected and 12 nominated members. Sir Charles Mules, was elected the first President of the Karachi Municipality. A special Act, namely The Karachi Municipal Act, was implemented in 1933. On 1st November 1933, Karachi Municipality got the honor of the Municipal Corporation and Jamshed Nasarwanji Mehta, the creator of modern Karachi, was elected as the

¹ Muhammad Usman Damohi, *Karachi Tareekh kay Aainay main* (Karachi: Tawakkul Academy, 2013), 173.

² Khatri Abdul Ghafoor Kanda Kariya, *Karachi ki Kahani, Tarikh ki Zubani* (Karachi: Tawakkul Academy, 2013), 424.

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first Mayor of the city. Earlier in 1920, Jamshed Nasarwanji Mehta was elected as municipal counselor.³

The Karachi Municipality has been given the following names in different periods:

| | |
|---------------------------|------|
| The Conservancy Board | 1846 |
| The Municipal Commission | 1851 |
| The Municipality Board | 1925 |
| The Municipal Corporation | 1933 |

Post-Partition Phase

Initially, the municipal corporation worked under the command of the Mayor and the vice Mayor with 57 councilors.⁴ The municipality members increased gradually with the rise in city population. The municipal corporation was upgraded as the Metropolitan Corporation in 1976. Table 1 presents further details of this Corporation.

Table 1: KMC Council Members (1979 -2016)

| S. No. | Tenure | Council Head & Post | Members |
|--------|-----------|---|---------|
| 1 | 1979-1983 | Abdul Sattar Afghani (Mayor) | 166 |
| 2 | 1983-1987 | Abdul Sattar Afghani (Mayor) | 232 |
| 3 | 1988-1992 | Dr. Farooq Sattar (Mayor) | 77 |
| 4 | 2001-2005 | Muhammad Tariq Hasan (Naib Nazim) City District Government Karachi. | 255 |
| 5 | 2006-2010 | Nasreen Jalil (Naib Nazim) City District Government Karachi. | 255 |
| 6 | 2016-0000 | Wasim Akhtar (Mayor) | 308 |

Source: Council Department, KMC⁵

Basic Democracies Order

The first local government system in Pakistan was implemented under the Government of India Act, 1935. In 1947, both Pakistan and India started with same local government system that was introduced by the British rulers. General Ayub Khan, who enforced Martial Law in 1958,

³ Ajmal Kamal, *Karachi ki Kahani, Aaj*, Vol. 1 (Karachi: Aaj ke Kitabain, 2007), 290.

⁴ *Arakeen-e-Balidiat, KMC, Karachi* (Karachi: Publishing Monitors, 1980), 35.

⁵ KMC Council members' details and record are taken from Karachi Metropolitan Corporation Council Office.

introduced the system called 'Basic Democracies', through the Basic Democracies Ordinance in 1959. Ayub Khan described this system as an institution for political and social training of the people. Field Marshal Ayub Khan soon after declaring the local councils as basic democratic institutions in the 1962 constitution, assigned them the responsibility as both electoral and development bodies. He thus gave this system the status of an Electoral College. There were 80,000 basic democrats at that time. When Ayub Khan resigned from his post on 25th March 1969, Chief of Army Staff Gen. Yahya Khan became the new president. Under Martial Law he issued the order No. 24 to terminate all local council's chairmen, vice chairmen and councilors with the appointment of government officials. Zulfiqar Ali Bhutto after taking the reign of the government in December 1971, announced the termination of basic democracies system on 22 January 1971. Zulfiqar Ali Bhutto was as an architect of the Ayub Khan's local government concept; however, soon after assuming power, he promptly wrapped up the basic democracies system.⁶

Municipal regulations in Bhutto regime

Zulfiqar Ali Bhutto formed a special committee which in 1972, recommended the same system which existed before 1958 albeit with a few amendments and additions. These amendments were later implemented in 1972 after getting approval from the provincial assembly, however in Baluchistan the new act was enforced in 1975.

During Bhutto regime, the local government system was organized on new lines under the Local Government Ordinance 1972. All four provincial governments made new laws in this connection.

- i- Sindh Local Government Act 1973
- ii- NWFP Local Government Act 1972
- iii- Baluchistan Local Government Act 1975
- iv- Punjab Local Government Act 1975

The structure of local body elections was also improved besides the formation of rural councils, public municipal committees, people's town committees and people's *mohallah* committees to facilitate the people; however no municipal election could be held during the regime of the People's Party.

General Muhammad Zia-ul-Haq imposed Martial Law on 5th July 1977, when after the general elections under Bhutto regime there emerged chaotic situation in the country. General Zia then introduced a new local government system in Pakistan. An inter-provincial conference

⁶ *Nai Baat* (Daily), Karachi, 31 October 2018.

was held before the election which gave approval for local government structure, its responsibilities, financial powers and resources.⁷

Sindh Local Government Ordinance 1979

The local government elections were held on non-party basis after the Sindh Local Government Ordinance 1979 was promulgated. Under this law three local government elections were held in Sindh in 1979, 1983 and 1987.⁸ The Election for 150 general seats of KMC Council were held under the Sindh Local Government Ordinance 1979, and Abdul Sattar Afghani was elected as Mayor and Umer Yousuf Deda as deputy Mayor. KMC established its subsidiary body the Karachi Water & Sewerage Board in 1983.

Improved measures for water supply and sewerage, construction of roads, maintenance of street lights, removal of encroachments, regularization of *katchi abadies*, provision of recreation facilities including playgrounds and parks and sanitation had already highlighted the importance of elected civic body before the local government system was put into effect.⁹ For the second term of local bodies in Sindh, election of 202 KMC councilors were held on 29 September 1983. Mayor Abdul Sattar Afghani was reelected whereas Abdul Khaliq Allahwala secured the post of Deputy Mayor. The newly elected council then had 232 elected and 13 nominated members. KMC played the role of an authoritative body in this era as it continued efforts, pursuing the Sindh Government to get the right of motor vehicle tax and property tax recovery. All this, eventually turned into a serious tussle between the Sindh Government and KMC.

Karachi Metropolitan Corporation approved a total of 11 resolutions on this subject during 27th September till July 1986. In one of its resolutions KMC said that it will suspend the work of road construction and development till the time it gets the right of motor vehicle tax recovery. The KMC Council also approved a resolution which stated that: 'Today's meeting of KMC Council expresses grief on this decision of the Sindh Assembly that the motor vehicle tax should not be handed over to the Karachi Metropolitan Corporation'.¹⁰

⁷ Farzana Shahnaz, *Baladiyat ka Irtiqa* (Nizamat Nifaz Urdu & Karachi Metropolitan Corporation, 1997), 113.

⁸ Munawar Alam, *Sindh main Baladiyati Nizam Aur Intikhabat 1999* (Islamabad: Electoral Process Resource Center, 1999), 64.

⁹ Farzana Shahnaz, *op. cit.*, 189.

¹⁰ KMC Resolution No.761 (passed in 1989), KMC record of Resolutions, 1989.

The KMC Council then approved its Resolution No.762 to stage a protest, asserting its legitimate right. On 14 February 1987, Mayor Karachi Abdul Sattar Afghani was arrested by police under section 144 when he was leading the councilor's procession outside the Sindh Assembly building. The elected council was then suspended and Saeed Ahmed Siddiqui was appointed as the administrator of KMC. Later in order to perform the municipal functions, the Local Government Ordinance 1979 was amended to accommodate the administrator and to establish the advisory council. KMC was suspended for a period of 182 days. After 97 days, the advisory committee with 234 members began working. On 4 November 1987, the new structure of KMC was announced under which KMC was divided into four municipal committees. Each municipal committee had to select one-third of its total members as KMC member through secret balloting and the Mayor and the Deputy Mayor had to be selected from among these members. 'The number of local bodies' members was set at 235 whereas the number of seats in district south municipal committee was 56 and in district west it was 39. Likewise the district central municipal committee had 65 and district east municipal committee had 75 members.¹¹ That is how a seat was added into the local government seats. These district municipal committees had to elect 78 members for the KMC. The local government elections were announced on non-party basis, however the political parties also fielded their candidates in the local government elections under different names.

On 30 November 1987, when local government elections were held for the third time, major political parties were eliminated to the extent of local politics in major Sindh cities including Karachi and Hyderabad. The minister for local government, who was a candidate of Muslim League, lost his own seat too. Jamat-e-Islami, the party which had strong control on local bodies in Karachi, lost to young leadership of MQM. The candidates of Muhajir Qaumi Movement secured a heavy majority. As per details it secured 5 seats in district south, 42 in district central, 136 in district east and 9 in district west. In the election of Mayor and Deputy Mayor held on 9 January, Dr Farooq Sattar and Abdul Razik Khan were elected as Mayor and Deputy Mayor respectively, unopposed. The local government leadership in Karachi was now controlled by the city youth who were committed to public welfare works, with this spirit the young leadership managed to call so many council meetings that became a record in the history of KMC.

¹¹ Farzana Shahnaz, *op. cit.*, 193.

“The city council passed resolution No. 83, regarding recovery of motor vehicle and property tax, approving its collection by the KMC. It also ensured real status of the Mayor to the existing Mayor Karachi, as per approval made on 29th May 1988.¹² Karachi Metropolitan Corporation also has this distinction that it laid the foundation of a medical and dental college with its own resources in Karachi. Today, this college is counted among major medical colleges of Karachi. The elected council of KMC was again suspended in July 1992, just after a month when an operation clean-up was launched by the federal government in Karachi in June 1992, and with that replaced the Mayor with an administrator, appointed by the government.¹³

After its suspension in July 1992, the Karachi Metropolitan Corporation continued to be run through administrators. During this period, People’s Party and Muslim League governed the country twice each; however, none of these parties ever paid attention to the local bodies’ elections.

Sindh Local Government Ordinance 2001

General Pervez Musharraf imposed Martial Law on 12th October 1999 after disqualifying the then prime minister Nawaz Sharif. After that a few basic measures were taken by the government and one of these was setting up of a National Reconstruction Bureau (NRB) which had been entrusted the task of designing a local government system. Then a new system was evolved and introduced through the Sindh Local Government Ordinance 2001 (SLGO). It holds that:

It is expedient to devolve political power and decentralize administrative and financial authority to accountable local governments for good governance, effective delivery of services and transparent decision making through institutionalized participation of the people at grass root level.¹⁴

In 2001, KMC was accorded the status of the City District Government led by a Nazim. Under the directive of Pervez Musharraf such a local government system was put into effect in which the district Nazim and Town Nazims were given powers much more than the past Mayors. Pervez Musharraf introduced the local government ordinance in 2000

through which a district government system was introduced for the first time in the history of Pakistan. Through this ordinance, powers were decentralized at the grassroots level, which enhanced efficiency and effectiveness. The district bureaucracy was made accountable to the elected representatives which gave strength to the local government system and boosted the development process.

Through Section 2, Sub-Section (xxii) of SLGO 2001, ‘municipal services’ include: water supply, sanitation, conservancy, removal and disposal of refuse, garbage, sewer or storm water, solid or liquid waste, drainage, public toilets, express-ways, bridges, flyovers, public roads, streets, footpaths, traffic signals, pavements and lighting thereof, public parks, gardens, arboriculture, landscaping, billboards, hoardings, firefighting, land use control, zoning, master planning, markets, housing, urban or rural infrastructure. All these functions were performed by the district Nazim and town Nazims under the new laws.¹⁵ With the availability of above municipal services, clear improvement was seen in the people’s lives. This long list also shows that municipal rules had never made local governments so authoritative in the past.

The Section 2, Sub Section (vii) of SLGO 2001 said that ‘decentralize’ or ‘decentralized’ means conferment by the Government under this Ordinance of its administrative and financial authority for the operation, functioning and management of specified offices of the Provincial Government to the local governments.¹⁶ Under this section many provincial departments and bodies were given under the control of the city district government. The federal government also gave funds to the local governments of big cities of Pakistan, so they could pay attention to the basic amenities and municipal works in their respective city.

The City District Government Karachi was an authorized body which had Karachi Water & Sewerage Board, Karachi Building Control Authority, KDA, MDA, LDA and Master Plan department under its control. In the absence of the Commissionerate system; the bureaucracy, too, was under the City Nazim and 18 Town Nazims.¹⁷

Under the SLGO 2001, Naimatullah Khan Advocate became the first City Nazim in Karachi (2001-2005) followed by Syed Mustafa Kamal (2005-2010). The outcome of the working of local government system started appearing in these five years as the city saw rapid development which was acknowledged at local as well as international

¹² KMC, Resolution No.83, passed on 29 May 1989, KMC record of Resolutions 1989.

¹³ Farzana Shahnaz, *op. cit.*, 197.

¹⁴ Zaka Ali, *Sindh Local Government Ordinance 2001* (Karachi: Ideal Publishers, Karachi, 2006), 1.

¹⁵ Section 2, Sub Section (xxii), *Ibid.*, 7.

¹⁶ Section 2, Sub Section (vii), *Ibid.*, 3.

¹⁷ *Express* (daily), Karachi, 22 July 2019.

levels. The way Syed Mustafa Kamal had completed many uplift projects including overhead bridges, underpasses and city corridors, by using new vision and latest technology, was unprecedented in Pakistan. Indeed this success was due to the local government system introduced by Pervez Musharraf under which these Nazims were equipped with financial and administrative authority so they could carry out development works in accordance to their capability and competence.

During Pervez Musharraf regime, local government elections were held twice (2001, 2005). However, after the national assembly elections held in 2008 and with the resumption of democratic government the power again went in the hands of the Pakistan Peoples Party and the Muslim League. Soon after the completion of the tenure of city district government, the district government system of Pervez Musharraf was immediately wrapped up by the successor government. From 2009 to 2015, PPP and Muslim League never took interest in holding of local government elections, until the Supreme Court, on taking notice of this, directed the provincial governments to ensure that they hold local government elections in their provinces without delay. Though the directive was followed by provincial governments in 2016, the local government was stripped of the financial and administrative powers completely.

Legislation under local governments

This section would look at the legislations issued for local governments under different regimes since 1947.

Table 2: Details of legislation and elections from 1947 till 2016

| S. No. | Law | Government in Power | Period | Elections Held or Not |
|--------|---|-----------------------|-----------|----------------------------------|
| 1 | District Boards, Municipal Administration Act, Panchayat Act, Regulation Act. | Different governments | 1947 | No election |
| 2 | Basic Democracies Order 1959 | Gen. Ayub Khan | 1958-1969 | Election held twice (1959, 1964) |
| 3 | Electoral College Ordinance 1972 | Gen. Ayub Khan | 1960 | No Election held |
| 4 | People's Local Government Ordinance 1972 | Zulfikar Ali Bhutto | 1972 | No Election held |

| | | | | |
|----|--|------------------------------|---------|----------------------------------|
| 5 | People's Local Government Act 1975 | Zulfikar Ali Bhutto | 1975 | No Election held |
| 6 | Local Government Ordinance 1979 | Gen. Zia-ul-Haq | 1979 | Election held twice (1979, 1983) |
| 7 | Local Government Ordinance 1979 | Nawaz Sharif (Federal Govt.) | 1990-93 | No Election held |
| 8 | Punjab Local Government Act | Manzoor Ahmed Wattoo | 1995 | No Election held |
| 9 | Punjab Local Government Act 1996 | Sardar Arif Nakai | 1996 | No Election held |
| 10 | Punjab Local Government Act 1998 | Shahbaz Sharif | 1998 | No Election held |
| 11 | Local Government Ordinance 2001 | Gen. Pervez Musharraf | 2001 | Election held twice (2001, 2005) |
| 12 | Local Government Amendment Act 2005 | Gen. Pervez Musharraf | 2005 | No Election held |
| 13 | Local Government Act Amendment | Shahbaz Sharif | 2010 | No Election held |
| 14 | Local Government Act Amendment (Sindh) | Qaim Ali Shah | 2012 | No Election held |
| 15 | Balochistan Local Government Act | Nawab Aslam Raisani | 2010 | No Election held |
| 16 | Local Government Act 1979 | Qaim Ali Shah (Sindh) | 2010 | No Election held |
| 17 | People's Local Government Act (Sindh) | Qaim Ali Shah (Sindh) | 2011 | No Election held |
| 18 | KPK Local Government Act 2012 | ANP Government | 2012 | No Election held |
| 19 | KPK Local Government Act 2013 | Pervez Khattak | 2013 | Election held |
| 20 | Punjab Local | Shahbaz Sharif | 2013 | Election held |

| | | | | |
|----|---|-----------------|-----------|------------------|
| | Government Act 2013 | | | |
| 21 | Balochistan Local Government Act 2010 | Dr. Abdul Malik | 2013 | Election held |
| 22 | Sindh Local Government Act 2010 | Murad Ali Shah | 2010 | No Election held |
| 23 | Sindh Local Government Act 2013 | Murad Ali Shah | 2013 | Election held |
| 24 | Islamabad Capital Territory Local Government Act 2012 | Nawaz Sharif | 2013-2015 | Election held |
| 25 | Cantonment Boards Election Rules 2015 | Nawaz Sharif | 2015 | Election held |

So far, many amendments have been made in the local government rules for all four provinces with the most amendments in Punjab and the least in the rules for cantonment boards and Islamabad.¹⁸

In 2008, Pakistan People's Party formed its government in the center and Sindh. At that time the basic point of negotiation between the PPP and MQM was more about the local government system and Mayor's powers than for the joining or not joining of provincial government by Muttahida Qaumi Movement. A long session of negotiations started between MQM and PPP in which the local government system in Karachi and Hyderabad was the basic and key point. In fact, it was the local government powers, which became the main reason for political tussle between the two parties. MQM wanted an authoritative local government system like 2001 but PPP was not ready to give such powers to local bodies.

After long discussions and with the consensus made on the local government system among both parties, the Sindh assembly approved the local government amendment bill on 15th February 2010. Through this Act approval was given for holding local government elections on party basis.¹⁹ Whereas before this it was stated in the Section 153 of the Sindh Local Government Ordinance 2001 that the local government

elections shall be held on non-party basis.²⁰ This bill, which was presented by PPP, the ruling party, was supported by the Muttahida Qaumi Movement, Awami National Party, Muslim League Functional and National Peoples Party. The bill said that: 'Local government elections would be held on party basis, however any person can also compete in the elections as an individual'.²¹

An amendment was made in sub-section of section 179 (a) of the Sindh Local Government Ordinance 2001. The amended bill was approved by the Sindh Assembly on 15th February 2010 under which the date of local bodies' election was extended up to 9 months.²² Under this law Nazims of Karachi and Hyderabad continued working on their post.

Sindh People's Local Government Ordinance 2012

In July 2011, on getting no positive sign of Muttahida Qaumi Movement's return as the coalition partner, the government again implemented the Commissionerate as well as local government system of 1979 in Sindh. With this the old divisions including Karachi were also restored. Under the previous system a total of five divisions existed in Sindh including Karachi, Hyderabad, Mirpurkhas, Sukkur and Larkana. Chief Minister Sindh said that with this ordinance in place, the local government law of 1979 has also been restored; however all those measures that have been taken under the local government system 2001 would have the legal protection under the law. Under the 1979 law, municipal corporation, district council, town committees and union councils existed whereas under the 2001 law, city governments, district governments, town and union councils were established and many departments had gone under the control of the city and district governments. According to PPP, the restoration of old local government system was an old demand of the people because they got no benefit from the local government system 2001 and that the commissionerate system was the best system with which the people were familiar, too.²³

In September 2012, consensus developed again between the Pakistan Peoples Party and Muttahida Qaumi Movement on the local government system, so the Sindh People's Local Government Ordinance was promulgated on 22nd October 2012, under which Karachi, Hyderabad, Mirpurkhas, Sukkur and Larkana city were given the status

²⁰ Section 153, *Sindh Local Government Ordinance 2001*.

²¹ *Jang* (daily), Karachi, 12 August 2013.

²² Section 179, Sub-section (a) (xxxvii) of amended bill 2001.

²³ *Jang* (daily), Karachi, 12 August 2013.

¹⁸ Muhammad Zahid Islam, *Nya Pakistan, Muqami Hakumatun ki Mustaqbil ki Tajaweez* (Lahore: Sangat Development Foundation, 2018), 35.

¹⁹ Section 153, *Sindh Local Government Amendment Act 2010*.

of a metropolitan corporation.²⁴ Recommendation was made for electing the Mayor and deputy Mayor in these cities and establishment of Zila Council in remaining 18 districts of Sindh. With the promulgation of this system Awami National Party, National People's Party and Muslim League Functional decided to part ways with the government and called this decision as a conspiracy against Sindh. These parties, along with the nationalists, played a key role in paving the way for launching tough opposition against the Peoples Party. Meanwhile, strikes and protests were held in Sindh. Nationalist's parties believed that Sindh cannot afford to have two different systems. Acceding to this demand of the opposition, Peoples Party then scrapped the Sindh People's Local Government Ordinance (SPLGO) 2012, and restored the Sindh Local Government Ordinance 1979. It was said that: 'this bill of 2013,²⁵ shall be called as the cancellation of Sindh People's Local Government Ordinance 2012 and the restoration of the Sindh Local Government Ordinance 1979.

In February 2013, the Muttahida Qauma Movement quit the federal and provincial government while citing other reasons beside the local government elections and municipal powers. In July 2013, the local government system 1979 was restored and the zila council, taluka council and union councils were established in place of city governments and towns. The bill said that Karachi shall have a metropolitan corporation and five district councils. People's party then approved a new law in Sindh Assembly which was named as the Sindh Local Government Act 2013 and is presently in effect in Sindh.²⁶

The Sindh Local Government Act 2013

The Sindh Local Government Act 2013 said that there shall be the Metropolitan Corporation in Karachi and Municipal Corporation in all 13 districts of Sindh. Minister for local government shall be the chairman of local government commission. It was said in the section 112 of the Sindh Local Government Act 2013 that: 'The provincial finance commission shall be constituted which would also have the Mayor of the metropolitan corporation as its member'.²⁷ The Karachi Mayor seems complaining about this that the meeting of the provincial finance commission was never called by the government.

²⁴ *Sindh Peoples' Local Government Ordinance 2012.*

²⁵ *Pakistan* (daily), Karachi, 22 February 2013.

²⁶ Muhammad Zahid Islam, *op. cit.*, 176.

²⁷ Section 12, *Sindh Local Government Act 2013.*

The metropolitan corporation has been authorised to collect 13 kinds of taxes. The head of the metropolitan corporation is Mayor and the municipal corporation is led by the chairman whereas the local government commission will be headed by the minister for local government. The senior MQM leader, Sardar Ahmed opposing the local government act 2013 said that the local government system should be in accordance with the section 140-A of the constitution, which it is not. This bill is contrary to the constitution. This act has the division of urban and rural areas that illustrates the colonial system.²⁸ The minister for law and parliamentary affairs Dr. Sikandar Ali Mendhro said that the Sindh People's Local Government Act 2012 cannot be reinstated. In short, a new local government law was put into effect in Sindh after reviewing the local government laws that were introduced in the province since 1901 till 2012.

Former Mayor Karachi Farooq Sattar called the Sindh Local Government Act (2012) as unconstitutional and the replica of 1979 municipal system which though assign responsibilities to local government but not gives powers to exercise their authority. Sindh Local Government Act was also contrary to the article 140-A of the constitution. "The article 140-A (2) of the constitution impose this responsibility on the Election Commission to conduct the local bodies elections. Under the article 32 and 140-A (2), the federal and provincial governments are bound to hold election in the federal areas and the province respectively.²⁹ With the promulgation of the Sindh Local Government Act 2013, many such departments were taken away which were previously running under the control of the city district government and the Mayor Karachi was left with quite limited authority.

Though the Sindh Local Government Act 2013 was applicable in all local bodies in Sindh, however, the municipal organizations of Karachi enjoy central position in the provincial local government structure with having more revenue and expenditure among all municipal bodies in the province.³⁰ The Section 74(b) of the Sindh Local Government Act 2013, said: 'Transfer the management and control of any institution or service maintained by Government to a Council'.³¹ That is why the Mayor Karachi demands transfer of civic bodies and powers to the KMC. He said that under the Section 74(b) of the Sindh Local Government Act 2013, the Government of Sindh should transfer

²⁸ Muhammad Zahid Islam, *op. cit.*, 178.

²⁹ *Ibid.*, 179.

³⁰ *Jang* (daily), Karachi, 12 August 2013.

³¹ Section 74(b), *Sindh Local Government Act 2013.*

the control of six departments, including solid waste management, water & sewerage board, building control authority, Karachi development authority, master plan, development and town planning and urban transport and mass transit to KMC. The Sindh Government is not ready to give the financial and administrative authority to KMC.

The Local governments are meant to run the local affairs through local people and this principle is based on the understanding that local problems can be solved by people living in the area in a better way. The local bodies will have to be given the authority and essential powers only then these institutions can be made capable of providing basic services to the people. It is written in the article 140-A of the constitution of Pakistan that:

- (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.³²

The Article 32 of the constitution says that: 'The State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women'.³³ Mayor Karachi said neither there is any law that is above the constitution nor any ordinance or act. [However] the Sindh Local Government Act 2013 is contrary to the article 140-A of the constitution of Pakistan.³⁴

Under the Sindh Local Government Act 2013, the rural areas in Sindh province have 23 districts and 1064 union councils with a ward system for union council. But Karachi has only 6 district municipal corporations. In urban areas of Karachi, there were formed 10 corporations with 434 union committees, and a metropolitan corporation. Each town would have 139 town committees which comprised of union committees. A district council was established in rural areas of Karachi, which comprised of all the elected chairmen of union councils.

There was a provision for reserve seats as well; and the quota was fixed at 33 per cent for women, cent for non-Muslim, 5 per cent for youth, and 5 per cent for laborers or peasants, who were to be indirectly

elected in the prescribed manner.³⁵ Each district of Karachi was to have a district municipal corporation comprising of all vice-chairmen of urban union committees, besides reserve seats for women (33 per cent), non-Muslims (5 per cent), and laborer or peasants (5 per cent).

Performing municipal service was mandatory for all local governments in Sindh. The district councils were bound to perform 43 essential and 25 optional functions, including education, social welfare, public health and works and some common functions which would be assigned especially by the government whereas the development functions would include the district development planning, implementation on federal grants and issuance of directives to provincial public and health for annual projects. For income, the District Council was dependent upon the grants provided by the provincial finance commission and additional grants from provincial consolidated funds (equal to 1990) in lieu of the Octroi Zila Tax. The district council also has the authority to impose tax on transfer of property, local roads and bridges. Karachi Metropolitan Corporation will have the authority to levy tax.

The powers of local bodies were limited in the Sindh Local Government Act 2013. In the initial phase a change was made in the SLGA before the election of the Mayor and the deputy Mayor under which a bill was passed to conduct the election of the Mayor and the deputy Mayor through 'secret balloting' so that results could be changed under 'secret balloting'. MQM filed an appeal against this amendment in the Sindh High Court and the Court giving its verdict directed the provincial government that the election of the Mayor and the deputy Mayor shall be held through 'show of hands' only. The demand was accepted by the Sindh Government, when it approved the SLGA Amendment Act 2016 on 4 February 2016,³⁶ and the words 'secret balloting' were changed in Section (c) of the Act.

Regarding sharing the income, it was decided that: 'The Metropolitan Corporation shall give share of the taxes, rates, toll or fees collected by it to the District Municipal Corporation in such proportion as may be determined by Government'.³⁷ Whereas the local councils were authorized to levy local tax on rents, ushr and cultivated land. The local governments shall perform their functions within the provincial framework. The provincial government has lot of control on local governments, such as on announcement of vacant seats, dissolving the

³² Irshad Ahmed Cheema, *Constitution of Islamic Republic of Pakistan*, 2018, 110.

³³ *Ibid.*, 47.

³⁴ Hasan Askari, *Almiya-e-Karachi, Mazi, Haal, Mustaqbil* (Karachi: Askari Publishers, 2018) 75.

³⁵ Section 18(3) (b), *Sindh Local Government Act 2013*.

³⁶ Section 18(3) c, *Ibid.*

³⁷ Section 96 (2), *Ibid.*

local council, delimitation of local areas, amalgamation of local areas and local councils and the same government can also terminate any head of the local body.³⁸ The provincial government now also have the power of sanctioning the budget of KMC. As this is said in the SLGA 2013 that: 'If in the opinion of Government, the budget prepared and sanctioned by Council is in violation of provisions of this Act, Government may by order, modify it, and the budget so modified shall be deemed to be the sanctioned budget of the Council'.³⁹ In this way, after local government elections, the Sindh government cut off the wings of the metropolitan corporation of the biggest city of the country.

Sindh Government has already taken control of Water & Sewerage Board, Building Control Authority and city cleaning system (through the Solid Waste Management Board). The Karachi Development Authority is also not with KMC and now it is controlled by the Sindh Government. The MDA and LDA were already in the control of the Sindh Government.⁴⁰ The former City Nazim Karachi, Mustafa Kamal, said that due to unclear division of authority in solid waste management board, the civic bodies have got this opportunity to put the blame of their own failure on one another. The basic public problem was concentration of resources and authority on one place. The problems will remain unsolved if complete resources and powers are not transferred to the local bodies' representatives.

The city which was once called the city of lights has now become a heap of garbage. The sewerage system has become obsolete. In many areas, people are suffering immensely due to sewage overflow. The other main problems include the water supply, sewerage system, public transport, electric supply and load-shedding, condition of roads and bridges, storm water drainage, traffic management, faulty public health care system, spread of slums, steady increase in crimes, and unavailability of sports and recreation facilities. After the 18th Amendment in the constitution, provinces have all authority except that of defense, currency and foreign policy, however, the Sindh government, instead of devolving powers to lower level, has grabbed the basic functions of local bodies also.

Sindh government has divided functions of KMC into six district municipal corporations, whereas cleaning of roads and removal of garbage and its disposal was also given to the solid waste management board under the control of the local government ministry. The Sindh

³⁸ Muhammad Zahid Islam, *op. cit.*, p. 179.

³⁹ Section 110 (3), *Sindh Local Government Act 2013*.

⁴⁰ *Express* (daily), Karachi, 27 January 2016.

government has also taken the advertisement /hoardings department, education and health sector from KMC and handed over these functions to the six district municipal corporations.⁴¹ Moreover, it may be noted that the Karachi Metropolitan Corporation performs the construction and maintenance of 30 major roads of the city but it has been deprived of its biggest source of income—the local taxes (advertisement hoardings). The second major source of revenue for KMC Master Plan department was already given to the Sindh Building Control Authority. Consequently, under the new local government laws, Mayor Karachi would have no authority.

In the past, the Mayor or Karachi Nazim used to be the chairman of the Karachi Water & Sewerage Board and they also managed the Building Control Authority. However, now the Mayor has only the function of road construction and maintenance, managing big hospitals and Karachi Medical & Dental College, Karachi Zoo, Safari Park, City Aquarium, Sports Complex, Art Gallery, Museum, Metropolitan Library, Fire Fighting, Civil Defense, Traffic Engineering, removal of encroachments and few other affairs. Due to not having any big source of income, Karachi Metropolitan Corporation is now dependent on Sindh government funds. Had they not taken away the Octroi Zila Tax, the Karachi Metropolitan Corporation would have spread the network of development works instead of looking for funds from the Sindh government for payment of staff salary.⁴² According to the daily *Express*, Sindh Government annually release Rs.392 million and grant Rs.500 million in terms of the Octroi Zila Tax.⁴³ These entire funds are spent on the salaries and other expenditures of more than 24,000 KMC employees.

Table 3: Amount KMC Receives as OZT Share and Grant in Aid
(Amount in Rs: Million)

| Financial Year | Octroi Zila Tax | Grant-in-Aid | Additional Grant for Salary | Total |
|----------------|-----------------|--------------|-----------------------------|------------|
| 2011-12 | 3,923.496 | 3,153.600 | | 7,077.096 |
| 2012-13 | 3,923.496 | 5,000.000 | | 8,923.496 |
| 2013-14 | 3,923.496 | 6,985.000 | | 10,908.496 |
| 2014-15 | 4,250.455 | 5,600.000 | | 9,850.455 |

⁴¹ Hasan Askari, *op. cit.*, 28.

⁴² *Ibid.*, 128.

⁴³ Government of Sindh, Finance Department, Letter No. FD. SO (LF-1)/2(1))ZT/D.C/LMC/2018-19, dated 30 May 2019.

| | | | | |
|---------|-----------|-----------|----------|------------|
| 2015-16 | 3,838.950 | 6,250.000 | | 10,088.950 |
| 2016-17 | 1,911.414 | 4,050.000 | | 5,961.414 |
| 2017-18 | 1,771.387 | 3,430.000 | 9,10.000 | 6,111.387 |
| 2018-19 | 1,920.646 | 5,160.000 | | 7,080.646 |

(Source: Finance Department, KMC)

It can be judged by the Table 3 the amount KMC has received year by year as OZT and Grant-in-Aid. The amount given now was not even enough for payment of the salary of KMC staff and other dues.⁴⁴ According to World Bank Report, Karachi needs 10 million dollar for next ten years. The city problems cannot be solved if it does not get resources.⁴⁵ KMC revenue can increase if it gets the devolved departments again and if the *octroi* funds are not released regularly. KMC can do many projects on its own but it should be provided with amounts in various heads including the betterment tax and commercialization charges. Mayor Karachi has said: 'KMC gets Rs. 4.5 billion under the annual development program which is not enough for such a big city. The share of Octroi Zila Tax comes to Rs.12 billion but we are given less than Rs 6 billion'.⁴⁶ Every union council has lot of problems and the local government representatives have no authority. The elected representatives have no control on the water supply and sewerage system, sanitation and provision of other basic amenities, in such conditions it would be better not to have this system.⁴⁷

In the year 2019, USA, China, Japan, Germany, UK, India, France, Brazil, Italy and Canada have been counted as the first 10 developed countries. The main reason for this is the continuation of democratic institutions and keeping the local government system remain strong, functional and authoritative.⁴⁸ It only needs seriousness, realization and commitment for getting Karachi rid of the multi-faceted, all around crisis.⁴⁹

Conclusion

We need to make our local bodies powerful and implement Article 140-A of the constitution in its true spirit, with making constitutional

amendment in Article 140-B. This amendment should include that the local government elections should be held along with the national and provincial elections. In order to give the legal and constitutional safeguard to municipal affairs a local legislator list should be prepared through which all local affairs like water supply, drainage of sewage, garbage removal, sanitation, health, education, transport, street lights, environment, playgrounds and parks, should be given constitutional protection so that provincial government could not interfere in these matters. This would ensure solution of host of problems of municipal services as well as ensure smooth and effective all-round functioning of the local bodies system at least in the urban centres and especially the mega cities.

⁴⁴ Government of Sindh, Finance Department record.

⁴⁵ These figures are taken from Finance Department, budget books, Karachi Metropolitan Corporation.

⁴⁶ *Nawa-i-Waqt* (daily), Karachi, 24 December 2018.

⁴⁷ *Ausaf* (daily), Karachi, 9 April 2019.

⁴⁸ *Nai Baat* (daily), Karachi, 3 September 2018.

⁴⁹ *Ibid.*, 8 September 2019.