

DEVOLUTION:

Missing Clarity on Structures and Systems of Governance

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It has by now almost become an article of faith that the most potent framework for bringing government close, and accountable, to the citizenry so as to address their more pressing needs for improving the quality of their lives is the devolution of authority manifested in local governments. This structure has finally been encapsulated in Article 140-A of the Constitution.

However, with continuous resistance from provincial legislators and governments, the formation of empowered local governments remains an unfulfilled objective/desire.

Moreover, much of the debate on it tends to be rhetorical, sweeping and general in nature: seasoned with a dash of romanticism about the outcomes, with specifics starkly missing on a host of linked elements. The generally perceived objective of the devolution framework is to devolve power such that those residing in say Sahiwal, Punjab will not have to come to Lahore (the provincial capital) to get their grievances redressed. Such an underlying model is conceptually flawed in that it assumes that those residing in Lahore have no such complaints and can access government to get such matters attended to. Such an approach is more than likely to create the same centralised, hierarchical administrative structures and governance systems that prevail at the provincial level, resulting in the establishment of mini provincial governments at the local level.

This article attempts to raise questions that would require clarity on what would be a viable and sustainable structure and the allied systems of governance and the possible constraints to the realisation of the laudable objectives and hopes associated with

devolution. It then proceeds to discuss one aspect, fiscal decentralisation, in greater detail.

a) What should be the manner of representative formation and the rules for formulation of local governments? And, as in the case of the Federal and provincial governments, should safeguards on tenure and ensuring timely elections be built into Article 140-A? What opportunities, if any, can be enshrined in this structure for citizen groups to participate in decision making and in the planning, design and implementation of service delivery programs and accompanying interventions?

b) What functions, fiscal and administrative powers and processes should be devolved? What should be the nature and extent of delegation, decentralisation and localisation of functions? For example, what should localisation mean? Of-course, they should have autonomy on allocations with priorities anchored in local exigencies and the urgency with which they should be addressed. But then if the local need for say drinking water is more persistent, having been long-neglected, and resource flows are barely adequate to provide for, and managing it, should it be at the expense of a national priority like schooling and primary health care or should the latter objective be incentivised through a matching grant criteria or built into the resource flow criteria from the provincial pool?

c) Should devolution, say as a starting point (owing to capability considerations), be restricted to basic social and economic services like school level education, primary health care, water supply, sanitation

and solid waste disposal? Or should they also cover some responsibilities discharged by the police and the agency maintaining local land records? And then what should be the functions and authorities of lower formations/tiers (like say union councils)?

d) Can one size fits all be a desirable and rational approach? To illustrate, a widely held view is that local governments should be formed along some arbitrary, administratively determined, district boundaries. But then should large cities be treated differently, e.g. Karachi with 7 districts and 6 Cantonments? Would it be that politically straightforward to propose that Karachi (with the majority of its non-Sindhi population) be made a vibrant, independent, autonomous and sustainable City Government: fully empowered, well-resourced, well equipped with the relevant skill mix to take on a more active role in the provision of services beyond their basic category to include say some curative health facilities and the management of the operations of agencies like the development and the water and sanitation authorities? Could such a decision then be marketed and also executed? A similar issue would be confronted in the case of Quetta with its majority Pashtun population (including the Afghans who have now settled there).

Moreover, should cantonments continue to be administered by the Army or should they be absorbed in the structure of the local government? In other words, clarity would be required on what would constitute the boundaries of the city in the static and dynamic senses.

e) Which tier of government should have ownership rights over 'government owned' land (including that used for government offices and housing of its employees), the gas-wells, etc. in the geographical area?

f) What should be the manner of recruitment of their employees and the determination of skillsets for professional inputs (with selection of professionals on merit employing criteria for assessing eligibility for the respective roles and positions and parameters for evaluating performance)? Mimicking the employee skill mix and compensation and retirement benefits structure of the provincial government, without a serious rationalisation of the administrative structure from the efficiency and cost effectiveness facets of service delivery, will merely lead to a speedy bankruptcy of these institutions. Or should these governments embrace the culture at the federal and provincial levels of elected representatives also holding executive positions? Also, how would these functionaries be accountable to the local government if they are employees of the provincial government or Federally controlled agencies and serving on secondment?

g) Finally, with the transfer of some of the functions to the local governments the size of the provincial would also have to be pruned – easier said than done – to check duplication as is the situation today at the Federal level after the 18th Amendment.

FISCAL DECENTRALISATION: POTENTIAL FOR RESOURCE MOBILISATION AND INCENTIVISING PERFORMANCE

Fiscal decentralisation and local government finance in Pakistan has to be located within the context of federalism in general. The reality is that despite being ostensibly a federation Pakistan has a highly centralised structure, characterised by the constitutional assignment of powers and the political administration and fiscal systems.

The Constitution gives the Federal Government the power to levy the most productive taxes under the present conditions for resource mobilization: taxes on non-agricultural incomes, taxes on import, production or excise duties and sales taxes on goods. The provinces are empowered to levy agriculture income tax, sales tax on services, levies on property transfers and property tax (it shares the collections from the last mentioned revenue base with the respective local government). Once collected, these taxes are then shared between the federal government and the provinces (under the NFC Award) and between the provinces and local governments (under the PFC Award), based on pre-determined shares - for predictability of transfers.

The vertical, structural imbalance between the centralisation of revenue raising and borrowing powers and the assignment of relatively greater expenditure responsibilities to lower level governments is part and parcel of the centripetal features of the Pakistani style of federalism. Given this vertical imbalance, transfers inevitably must play a key role in achieving horizontal equity across provinces and local governments.

Under the existing constitutional and legal frameworks that endow powers to impose taxes, the bulk of the funds intended for local governments come from the provincial pool. One question going forward would be which taxes should they be empowered to levy directly (for example property tax and on transfers of property) or say by piggy backing on provincial tax bases?

For the determination of the PFC Award what could be the possible criteria and weights to be attached to each criterion? The possible criteria could include

population, a backwardness index (say by employing ranking based on health, literacy, education, access to drinking water, employment, infrastructural deficiency and tax effort) using the Multiple Indicator Cluster Survey. A rational horizontal distribution would adopt population as a dominant criterion followed by area (since there is a minimum unit cost for producing a certain standard of service), tax effort and some indicators of backwardness.

The next question would be if they can be protected from the negative impact of the fiscal imprudence of a provincial government? And whether their own efforts at resource mobilisation should be more vigorous to cover any shortfalls. And to this end, and for reducing the vertical gap, should agricultural income tax and property tax be devolved and supplemented by conditional grants for local action on provincial priorities? And then beyond transfers under the PFC should there be provisions for grants and awards for local governments performing well based on the results of surveys like MICS or a Citizen Report Card; and/or linked to agreed outputs/outcomes?

Finally, should they be allowed to take on external obligations in foreign currencies? And if they are able to borrow domestically on the strength of their cash flows, should these liabilities be allowed to be covered by provincial or sovereign guarantees or in their formative years be allowed to offer assets as collateral?

The discussion above has attempted to highlight the structural, governance and systemic characteristics that require clarity and, for illustrative purposes, proposes some policy actions and instruments to enhance the predictability and robustness of revenue sources and possible incentives for encouraging performance of local governments aimed at achieving the objectives associated with devolution.

However, in view of the centripetal features of our structures and systems of governance it is not that obvious how a predatory state with its bloated size and entitlement culture, particularly in a constrained environment of a sluggishly growing economy, would willingly share these extractive powers with other agencies and power centres.

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