

Democratic Decentralization in Bangladesh: Agenda for Action

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Decentralization is being considered or attempted in an astonishing diversity of both developed and developing countries. Bangladesh has been experimenting with decentralization for a long period. After the independence successive regimes have undertaken numerous efforts through various legislations. Basically, this paper presents a comparative analysis of those legislations on local government System and their implication on democratic decentralization in Bangladesh. This article also offers policy agenda for action.

[Key Words: *Decentralization, Local Governance, Legislation, Bangladesh*]

1. Introduction

In recent years, both internationally and nationally, the issue of decentralization has come to the forefront of any discourse on development. This is more evident in the case of developing countries and Bangladesh is no exception to this. It has been observed that the development initiatives of the past decades at the national and more so local level could not achieve desired results of bringing about qualitative change in the lives especially of the people living in the rural areas (Hussain 2000). These development initiatives were mainly planned and implemented by the bureaucratic apparatus of the national government though some of these were also implemented by the local government institutions. But the local initiatives were insignificant compared to those of the national government and were again subjected to the control of the bureaucracy. Of many reasons, lack of decentralization in the true sense of the term ensuring effective peoples' participation in the decision making process at the local level has been cited as the most important reason for the failures of such development initiatives. As a result, it is now imperative to opt for decentralization system of governance and administration to bring about desired level of development especially at the sub- national and local level. Moreover, decentralization is necessary to accelerate the pace and spread the benefits of

growth, integrate diverse regions and use scarce resources more efficiently to promote development in poverty stricken or economically backward areas. Again the poorer sections of the population should be ensured of a larger share of government services and for that purpose means must be found to decentralize public service delivery and involve them in planning and decision making processes at local level (Rondinelli 1981:133-45).

Given these backgrounds, this paper tries to review the democratic decentralization in Bangladesh, analyzes the various legislations on local government system and their Implication on democratic decentralization and finally suggests some policy options to ensure democratic decartelization in Bangladesh. The paper is organized into a number of related parts. After an introduction the second part conceptualizes decentralization with its different forms. Part three presents the pattern of decentralization and structure of local government in Bangladesh. Part four offers a comparative analysis of various legislations on local government System and their Implication on democratic decentralization in Bangladesh. The fifth part deals with some areas of concern to ensure democratic decentralization in Bangladesh. Finally, part sixth provides conclusions and policy guidelines.

2. Decentralization and its Different forms

Decentralization can be usefully understood as a political process whereby administrative authority, public resources and responsibilities are transferred from central government agencies to lower-level organs of government or to non-governmental bodies, such as community-based organizations (CBOs), 'third party' non-governmental organizations (NGOs) or private sector actors (Crook and Manor 1998; Rondinelli et al. 1989:57-87; Meenakshisundaram 1999; World Bank 2000).

Various types and forms of decentralization are in practice around the world. These include political, administrative, fiscal, and market decentralization. However, there is clearly overlap in defining any of these terms rather it needs a comprehensive approach to understand them. All these types can also appear in different forms and combinations at different places.

2.1. Political Decentralization: Political decentralization intends to provide the citizens or their elected representatives more power in public decision-making. Political decentralization often requires constitutional or statutory reforms. Some of the examples of political decentralization are the development of pluralistic political parties, the strengthening of legislatures, creation of local political units, and the encouragement of effective public interest groups etc.

2.2. Administrative Decentralization: Administrative decentralization means redistribution of authority, responsibility and financial resources for providing public services among different levels of government. It is the transfer of responsibility for the planning, financing and management of certain public functions from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, or area-wide, regional or

functional authorities. Administrative decentralization has three major forms like deconcentration, delegation, and devolution.

Deconcentration: In which political, administrative and fiscal responsibilities are transferred to lower units within central line ministries or agencies (Crook and Manor 1998: 6–7; Rondinelli et al., 1989; Meenakshisundaram 1999).

Delegation: In which responsibilities are transferred to organisations that are 'outside the regular bureaucratic structure and are only indirectly controlled by the central government (Meenakshisundaram 1999).

Devolution: In which sub-national units of government are either created or strengthened in terms of political, administrative and fiscal power (Crook and Manor 1998, Rondinelli et al. 1989).

2.3. Fiscal Decentralization: Fiscal decentralization comprises the financial aspects of devolution to regional and local government. It is the currently fashionable term; the alternative descriptions "central-local (or intergovernmental) financial relations" and "fiscal federalism".

Fiscal decentralization covers two interrelated issues. The first is the division of spending responsibilities and revenue sources between levels of government (national, regional, local etc). The second is the amount of discretion given to regional and local governments to determine their expenditures and revenues (UNPAN).

2.4. Economic or Market Decentralization: Economic or Market Decentralization includes market liberalization, deregulation, privatization of state enterprises, and public-private partnerships. Generally Economic or Market decentralization usually takes two forms: privatization and deregulation. However it is the shift of responsibility for functions from the public to the parties outside the governmental structure, or the private sector. This is the form that allows functions which were previously monopolized and primarily held by government to be carried out by businesses, community groups, cooperatives, private voluntary associations, and other nongovernmental organizations (Darmawan 2008).

2.5. Democratic Decentralization and Democratic Local Governance:

Democratic decentralization is the development of reciprocal relationships between central and local governments and between local governments and citizens. It includes the power to develop and implement policy, the extension of democratic processes to lower levels of government, and measures to ensure that democracy is sustainable. Democratic decentralization incorporates both decentralization and democratic local governance (Barnett et al 1997).

Blair (2000:21-39) captures the essence of this important idea: (Democratic decentralization) can be defined as meaningful authority devolved to local units of governance that are accessible and accountable to the local citizenry, who enjoy full political rights and liberty. It thus differs from the vast majority of earlier efforts at decentralization in developing areas.

In that sense democratic local governance is autonomous levels of local government, vested with authority and resources, which function in a

democratic manner. These bodies are accountable and transparent, and involve citizens and the institutions of civil society in the decision-making process. Democratic local governance looks beyond local government administration and service delivery to institutions and structures that enable people to decide things and do things for them. It emphasizes the presence of mechanisms for fair political competition, transparency, and accountability, government processes that are open to the public, responsible to the public, and governed by the rule of law.

3. Decentralization in Bangladesh: An Analysis of Initiatives and Prospects for the Future

3.1. Administrative and Local Government System

Bangladesh beginning with the parliamentary form of government switched over to presidential form in the mid seventies and then again reverted to the parliamentary form with a unicameral legislature in the early 90's. The Constitution of the Republic provides for the separation of powers between the three branches of the government, i.e., executive, legislature and the judiciary (for details, please see the Constitution of the People's Republic of Bangladesh).

At each level of administration, except division, there are provisions of local government bodies or institutions. These are *Zila*, *Upazila*, and Union *Parishads*. Besides, there are also local government institutions for urban areas like city corporations and municipalities.

Administrative units have their own administrative set ups which are in reality the field level extensions of the national government. Different line agencies of the government have their field offices especially at the district and *Upazila* levels.

The Bangladesh Constitution has specifically made provisions for decentralization in the country. These are enshrined in different Articles of the Constitution. For example, Article 9 states that the State shall encourage local government institutions composed of the representatives of the areas concerned. Article 11 mentions that the Republic shall be a democracy in which effective participation by the people through their elected representatives in administration at all levels shall be ensured. On the other hand, Article 59 specifies that local government in every administrative unit of the Republic shall be entrusted to bodies composed of persons elected in accordance with law and Act of Parliament shall lay down the functions of the local government bodies which may include administration and the work of public officers, the maintenance of public order and the preparation and implementation of plans relating to public services and economic development. While Article 60 states that for the purpose of giving full effect to the provisions of the Article 59 parliament shall by law confer powers to local government bodies to impose taxes for local purposes, to prepare their budgets and to maintain funds (GoB 1998).

3.2. Local Government in Bangladesh

Local government institutions are not new in Bangladesh. The local community based organizations existed from the ancient time (Khan 1996). But the local government system that we see today is the result of the British colonial initiatives. With the passage of time the local government system has undergone changes through various reform efforts. The initiative in this particular area began with the enactment of the Chawkidari Panchayet Act, 1870 to maintain peace at village level with local support and initiative. Later the Local Self-Government Act 1885, the Village Self-Government Act 1919, and the Bengal Municipal Act 1932 were enacted. Initially, three tier system of local government was introduced, namely, District Board in each District; Local Board in each Sub-Division and Union Committees for a group of villages. Later it was replaced by a two-tier system, Union Boards and District Boards (CARE-Bangladesh). But the local bodies thus established had limited powers, functions and resources with extensive control exercised by the bureaucracy. Other important aspect was that the local government bodies were never entrusted with noteworthy service delivery functions and those remained with the de-concentrated system of administration. This phenomenon continued throughout the colonial period. The overarching objective of retaining control over the affairs of the colony stood in the way of substantive decentralization and of turning them into real local self-governing bodies. During the Pakistani days under the Basic Democracies Order (BDO) 1959 a four-tier system - Divisional Council, District Council, Thana Council and Union Council was established. All the four levels were linked through the device of indirect elections. The District Councils and the Union Councils had executive responsibilities while the Thana and Divisional Councils had only co-ordination and consultative functions (Siddiqui 1994). The local government system under the BDO suffered from extensive bureaucratic control and was weak, and resource dependent.

In independent Bangladesh, a number of efforts have been made to reform the local government system. Soon after the independence, the local elected councils, established during the Pakistani days were dissolved. The structure of the Union Parishads underwent changes by the President's Order No. 22 of 1973. According to the Order, a nine member elected body was supposed to be established at Union level but eventually election was not held. The other three tiers were to work as before, but indirect election system of councils was discontinued. In 1975, the District Governor system was introduced. Under the system, the division and the sub-divisions as tiers of administration were abolished and each sub-division was upgraded into a district. The new districts were to be governed by District Governors supported by a council composed of local parliament members, national party members and government officials. The governor was to be, ex-officio, the chairman of the council and the district magistrate was to be, ex-officio, the secretary of the council (GoB 1975) However, after the change of government in 1975, the

District Governorship system was discarded and the old system was reintroduced. In 1976, a new local government Ordinance was introduced. The Divisional Councils were abolished and a three-tier local government system (Union Parishad, Thana Parishad and Zila Parishad) was to be introduced. At the village level, a new institution Swanirvar Gram Sarkar (Self-reliant Village Government) was established in 1980 which was later abolished. In 1982, with the introduction of the Thana Parishad and Thana Administration Reorganization Ordinance, 1982 the Upazila system was introduced. The important features of this effort were: (i) the abolition of the administrative unit called subdivision and their upgrading into districts; (ii) the upgrading of Thana and the assignment of greater authority to the Thana council renamed as Upazila Parishads. The Upazila system continued till the change of government in the early 90's.

In 1996, a new legislation was enacted to reintroduce the Upazila system. But election were not held at the UZP was not constituted. Only recently (2009), under a new legislation Upazila elections were held and the Parishads have been constituted though yet to function in full vigour. Currently, local government institutions that are operational in Bangladesh include Union Parishad, Upazila Parishad, Paurashavas and the City Corporations. However, though law exists for constituting local governments at district level but has not yet been constituted.

4. A comparative Analysis of Various Legislations on Local Government System and their Implication on Democratic Decentralization in Bangladesh

Union Parishad is the lowest tier of local government with the longest history of existence and continuity in Bangladesh. It underwent many changes at different points of time. According to the Local Government, Union Parishad Ordinance 1983, a Union Parishad consists of one chairman, nine elected members from three wards and three nominated women members. The Union Parishad Act, 1993 has brought about some changes in the composition of Union Parishad. The Union Parishad was divided into 9 wards and one member from each ward was to be elected by the voters of the concerned wards. Instead of nomination, the 3 women members were to be indirectly elected by the Chairman and members of the concerned Union Parishad.

Second Amendment (The Local Government (Union Parishad) (Second Amendment) Act 1997 provided for the direct election of three women in reserved seats. In the reformed system, the three women members elected from reserved seats each representing three wards. In addition to the reserved seats, women are also eligible to contest in the nine general seats. The UPs are to constitute 13 standing committees and women are to head one third of them and are further mandated to head the committee on women's and children's welfare, culture, and sports.

Recently a new law Union Parishad Act 2009 replaced the old UP Ordinance of 1983. The new law has incorporated many unique provisions

which will help in turning the UPs as more effective organizations. The new Act has rightly recognized the importance of community participation and made provision for constituting Ward Shava in each ward. It further stipulates that at least two meetings should be organized and 1/20 would constitute the quorum of such Shava (for details, please see Article 4 of the Act). This arrangement will ensure transparency and accountability of the UPs. At the same time more direct contact with the UP and the community will be established and strengthened. Under the new Law the UP secretary has been made responsible to record the proceedings of the Savas and present them in the next meeting of the Savas. However, in view of the existing work load of the UP secretary how far he will be able to discharge function effectively in this particular area is to be seen in the future. Further, under the provisions of the new Law, the UPs if necessary, can seek opinion of the experts on various matters (Article 42 (12)). This will help the UPs in taking more informed decisions than before.

The Article 8 of the Act has declared the UPs as administrative unit which is very much in line with the provisions of the Constitution. This will help in strengthening the position of the UPs as local government institutions. In the same vein Article 10 (7) has ensured the control of the officials working within the jurisdiction of the UPs. This provision will help in ensuring better delivery of services at the local level as now the UP will be able to effectively oversee and monitor the activities of these officials. The Act also made the provision for the creation of a three member Chairman Panel of which one must be a women member. This will help in creating new leadership at the grassroots level. At the same time it will also help in further empowerment of the women in general and UP women members in particular. The Article 38 (6) stipulates that rules should be framed for the distribution of functions and responsibilities between the members elected from the general seats and the women reserved seats. This will have positive impact in removing confusion regarding their respective roles and responsibilities.

In Article 34 (1) a provision has been made to suspend the UP char and members on acceptance of criminal charges against them. This provision seems to be too harsh in the sense that the elected representative could be temporarily removed on this pretext and there would be the possibility of misuse of this provision against the interest of the UP and its elected representatives.

The other important innovation that has been incorporated in the new Act is the provision of the declaration of Citizen's Charter by the UPs. This unique feature will help people to know about their rights and at the same time the responsibilities of the UP towards the community (Article 49). The Article 50 says that the UPs will use modern technology to ensure good governance and the central government will extend assistance and cooperation in this particular area. If implemented, modern technology would be brought at the grassroots level.

Under the new law the tax base of the UPs has been expanded (Article 65 (4) by including new sources of revenue at the local level. Local institutions

like private schools, coaching centers, private hospitals etc., are required to seek registration from the UPs by paying required registration fee (Article 82 and 85). The right to have information that has been incorporated in the new Act is a milestone in ensuring free flow of information and transparency and accountability of the UP (Article 70).

Finally, the other noteworthy positive aspect of the new Act is that the UP Chair and members have been declared as the Public Servant. This particular provision will elevate the positions of the local representatives in the eyes of the local electorates and also recognition from the central government.

However, the New Act also appears to have certain limitations. The Article 73 (1) states that the central government in line with the policy of the central government can provide guidelines to the UP on financial management, personnel management, formulation of projects and selection of project beneficiaries etc. The guidelines will be mandatory for the UP. Such provision undermines the autonomy of the UPs in those spheres. It is apprehended that on certain occasions the central government in the name of providing guidelines might try to control the activities of the Parishads. According to the Article 39, the Official nominated by the Upazila Nirbahi Officer (UNO) will conduct inquiry into any allegation lodged against the UP. This provision keeps opportunity open for the central government bureaucracy to exercise control over the UPs in the name of inquiry (GoB 2009).

The Upazila system introduced in 1982 was abolished in 1991. But the system was reintroduced in 2009. According to the Upazila Parishad Act 2009 the UZP consists of a chairman, two-vice-chairpersons (one of them woman), chairmen of all Union Parishads (UP) and mayors of all municipalities under the UZP concerned. They are treated as elected members with voting rights in the Parishad. The officers of the nation building departments are also ex-officio members of the Parishad without voting right.

The Upazila Act 2009 has added some new provisions to further strengthen the Upazila Parishad. Changes were made with respect to the composition of the Parishad. Two positions of Vice Chairmen (one of them women) have been created (Article (6)). This will help in grooming up of leadership at this level. by keeping one position reserved for women will create further opportunity for their empowerment and more active participation in public life. Moreover, the mayors of the municipalities that would fall under the Upazila are also made elected members of the Parishad (Article 6 (Gha)).

The Article 12 of the Upazila Act has made provision for constituting Chairman Panel by the Vice Chairmen. This provision has removed the ambiguity and uncertainty about the exercise of role and function of the chairman in the absence of the elected one.

Under the new Law, experts can now be co-opted in the standing committees of the Upazila Parishad (Article 29 (4)). By using this provision now the services of the experts in required field may be utilized. This window

will provide the Parishad with opportunities to better plan and implement development initiatives.

The most contentious and debated issue of this act is the clauses 1 and 2 of Article 25 that state that concerned MPs will act as advisors to the UZPs that fall under their constituencies. Further, that their advices should be treated as mandatory.

Besides, it is also mentioned that the UZPs must not communicate with the government directly without prior notice to the concerned MPs. Moreover, the clause 27 (kha) of the Act made the provision that after each session of the UZP, minutes of the session must be sent to respective MPs within 14 days (GoB, 2009). In essence, these provisions of the Act have made UZPs accountable to their respective MPs and subject to their control which is against the principle of democratic decentralization and governance.

The current Upazila Act has provided the Chairman the authority to write the 'Annual performance report' of officials working under the Parishad. However, their higher line officials will write their 'Annual Confidential Report'. Here it needs to be mentioned that the later is considered to be the most important document for career progression of the government officials. It implies that the real control of the assigned officials of the central government has remained with the line agencies of the government like before.

In Bangladesh, for urban areas there are two types of local governments: municipalities and city corporations. In 2009, new Acts for these two types of local bodies were enacted by the Parliament. The following new forward looking provisions have been included in the Act relating to the Paurashavas or Municipalities in Bangladesh. These are:

Municipalities have been declared as administrative units. This has fulfilled the constitutional provision. The positions of two Deputy Mayors have been created. This will provide opportunity for leadership training and development. Further, the Deputy Mayors are to constitute a Mayor Panel so that in the absence of the elected Mayor one could act as the Mayor without causing any misunderstanding and dispute.

Article 14 (1) made the provision of constituting Ward Committee with the residents of the wards and the elected Councilor is to act as the Chairman of this committee. This has created an opportunity of the local population to participate the running the affairs of the wards. The other important aspect is the provision of keeping 40% membership reserved for the women. This will enable the womenfolk to become active participants of the ward councils thus constituted.

The other important provision has been the Citizen Charter (Article 54). Now the municipalities are by law bound to prepare a charter describing what services the citizens should receive from the Paurashavas. This will greatly benefit the urban dweller in awareness development and demanding services from these institutions.

The Article 112 has ensured the right to information of the citizens. This will greatly help in ensuring free flow of information and also ensure transparency of the operations and functions of the Paurashavas in Bangladesh.

5. Areas of Concern

5.1. Control Mechanism

Under the existing system, local government bodies, are subject to various controls from higher level authorities, specially the central government. Union Parishads are subject to a dual control and supervision exercised by both Upazila Parishad and the central government in different matters. In the case of Upazila Parishad the advisory role of local MPs is serving the purpose of control mechanism. Some of these are the national government formulates detailed rules relating to conduct of business, assessment of taxes, preparation of budget, making of contracts, appointment local government employees etc. The national government also controls the personnel system of local government bodies, particularly the appointment of the Chief Executive Officer in City Corporations and Pourashavas as well as other officials. The Central Government also controls the functional jurisdiction of local bodies. Besides designated functions (as mentioned in the statutes), the government can assign any other function to a local bodies. Moreover, inter-institutional disputes within local areas are settled by the central government.

In city corporations there are multiple agencies offering services to the citizens. Often there is serious lack of coordination amongst them and between the local government body and service delivering central government agencies. In the field of finance, government supervision and control is wide and strict. In addition to financial control in general, the central government also retains power of reducing or enhancing grant-in-aid to local bodies, even to city corporations like Dhaka. The central government can also order an inquiry into the affairs of a local body generally or into any particular affair either on its own initiative or on an application made by any person to the government; and it has also the power to dissolve a local body on charge of gross inefficiency, abuse of power, or inability to meet financial obligations. However, instances of such action in Bangladesh have been rare in recent time.

The above scenario projects that the present system of local government in Bangladesh operates under considerable control mechanism retained by the central government (UNESCAP).

5.2. Extent of Public Participation

The Constitution of Bangladesh categorically emphasizes the need for establishing local government with a representative character (Chapter 3, Article 59). It also implies direct participation of the people in constituting the local body and in managing the affairs of such bodies. However, in the years following the adoption of the Constitution, the spirit of people's participation in local bodies was not always adequately maintained. Frequent changes in the local government structure are partly responsible for this. The extent and quality of people's participation have also not been up to the desired level. The best

mechanism of participation is the opportunity to elect the local government institutions. But elections were and are not held at regular intervals. For urban local bodies however, the record is better. The election of women representatives for long has indirect. The first election of the Union Parishad with such direct election of women was held in 1997. There are provisions in the local government statutes to ensure local community's participation in their affairs and activities. For example, citizen's can be co-opted to different committees including standing committees. But in reality the local government representatives are also not very much interested to co-opt local citizen's to those committees. Besides, the local communities can also play role in the planning and budget formulation of local bodies.

5.3. Financial Resources

Financial resources of local government institutions in general include receivables from three sources, own revenues, shared revenues, and transfer from central government. Own revenues consist of the holding tax (homestead), trade and business license, registry and other minor fees. Transfer from central government includes the grant allocation to different local bodies. But in Bangladesh the clear cut principle of national resource sharing between the central and local government has not yet been set or approved.

6. Conclusions and Agenda for Action

In view of the above, we need to take concerted efforts to overcome constraints and limitations. It is perceived that if following efforts are mooted and concrete actions are taken then establishment of democratic decentralized local government system would become a reality in Bangladesh in the shortest possible time. These are discussed below.

6.1. Formulate a comprehensive national decentralization policy and Implementation Plan This will encompass political, administrative, fiscal, economic and market decentralization with an implementation plan in line with the policy with specific time frame

6.2. Freeing Local government from Multifarious Control

In the foregoing discussion we have mentioned that the local government bodies are subjected to control from multifarious quarters. The honourable Parliament Members are to act as Adviser to the Zila (not yet formed) and Upazila Parishads. This particular provision renders these bodies to act at the wishes of the MPs which are against the principle of decentralization. As a result, the given autonomy of cannot be exercised for obvious reasons.

In addition, the central government through its functionaries and retained powers exercises control over these bodies. Again, the employees of the local bodies are appointed and responsible to the central government. In this area also they lack autonomy. Time to time, the central government by issuing circulars provides directions to the local bodies. These on many occasions seriously limit the autonomy of these institutions.

If local government institutions are to emerge as decentralized bodies in the real sense of the term, then the current role of the MPs with respect to the

Local bodies need to be redefined in the sense that they should cease to be advisers of these bodies. However, there is no denying of the fact that the MPs have a very important role in the development of their constituencies. For this purpose, a special MP's Development Fund may be created by the central government to take up development projects of local nature at the initiative of the concerned MPs. This arrangement will free the local government institutions from the perceived interferences of the MPs.

To minimize bureaucratic control and interference, the government should consider establishing a local government service for Upazila and Union Parishad as has been proposed for Municipalities, Paurashavas and Zila Parishads. This will help these bodies to effectively control their employees. Again, the scope and limitation with respect to issue of government circular should be determined. So that these do not undermine the autonomy of the local government bodies that have been provided to them by law.

6.3. Resource sharing based on agreed principle

The local bodies have been entrusted with varied functions. Discharge of these functions and responsibilities require financial resources. But the resource base of the local bodies is poor in the country. As a result, there should be resource sharing between the central and local government bodies. For this purpose a resource sharing formula needs to be devised based on the principle of expenditure responsibility.

6.4. Complete Transfer of Functions of Local Nature and Importance along with needed financial resources

Some of the functions like primary education, primary healthcare and agriculture as a starting point could be completely transferred to the appropriate local government bodies along with financial provisioning.

6.5. Establishment of Zila Parishads as Elected Local Bodies

Initiatives need to be undertaken to constitute the Zila Parishads as per the existing Enactment.

6.6. Formulation of National Development Plan with the Participation of the Local Government Institutions

Local government bodies' participation in national development planning process needs to be ensured. In such case, they will be able to provide area specific inputs to the planning process.

6.7. Special measures for backward regions and indigenous population

Such measure would include greater financial allocation and more affirmative actions for ensuring their increased participation in the development process.

6.8. Establishment of Local Government Commission

A local government with adequate powers and functions needs to be created to take up issues concerning local government institutions.

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