

## CONSTITUTIONAL AND LEGAL FRAMEWORKS FOR LOCAL SELF-GOVERNANCE: A COMPARATIVE STUDY OF SOUTH ASIAN DEMOCRACIES

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### Abstract

The article is a critical study of the constitutional and legislative frameworks of local self-government in the five South Asian democracies that include India, Pakistan, Bangladesh, Nepal, and Sri Lanka. The works assumed a comparative constitutional methodology in order to study the level of local government autonomy, fiscal decentralisation, democratic participation, and accountability. The law was analysed qualitatively through a doctrinal analysis of the constitutional documents, national and local legislations, judicial interpretation, as well as the policy reports. The results are that there exist vast inequities: India and Nepal have developed strong structures of local autonomy and fiscal decentralisation systems, and Pakistan, Bangladesh, and Sri Lanka are struggling with political centralization, unbalanced legal frameworks, and underperforming implementation. India and Nepal have well-developed systems of direct election of local bodies, which have increased engagement in democracy, and Sri Lanka has a more top-down system of governance, which discourages participation by people. Other than this, India and Nepal have adequate accountability institutions, such as, though not limited to, the judiciary, ombudsman institutions, and Pakistan, Bangladesh, and Sri Lanka are struggling to be transparent and accountable at their local governance levels. The paper also determines the need to reinforce the policies of decentralisation, fiscal autonomy, and enhanced accountability institutions as a way of enhancing local government and democratic participation in South Asia. The lessons learned can then be used to provide some useful recommendations on policy making and subsequent academic studies on the problem of decentralisation and governance in the region.

**Keywords:** Local Governance, Decentralization, Constitutional Framework, South Asia, Democratic Participation

### Introduction

The local self-governance is one of the pillars of the democratic theory, which embodies the ideas of participatory governance, subsidiarity, and decentralized decision-making. The idea to decentralize governance to various layers, including local communities, and not only the national one, has been widespread among political theorists and constitutional designers (Abimbola et al., 2019). Local self-government could be dated back to its historical origin in classical political thought, where Aristotle contended in favor of the polis as a means of bringing direct citizens' contribution to the common cause. The importance of the local institutions as the school of democracy was further elaborated by

recent democratic thinkers such as Tocqueville and Mill, who held the view of developing civic life and political responsibility (Myerson, 2021). The theory of modern governance has made local self-governance the most important tool because it is perceived to result in a more responsive state, socio-economic development, and democratic legitimacy (Javed and Mumtaz, 2024). The rationale behind both federal and unitary states having decentralisation is the principle of subsidiarity, which means that the decisions are made at the nearest or local level that would be able to deal with them (Henderson and Medeiros, 2021). Legal and constitutional systems that institutionalize local self-government thus constitute essential channels of bringing democratic principles into practice, which offer legal means of guaranteeing autonomy, accountability, and participation by citizens.

The case of South Asia is perhaps one of the most interesting places in which to study the constitutional and legal framework of local self-governance because of the overlapping histories of colonization, the differing political paths, and the similar developmental challenges they face (Whyle & Olivier, 2023). Numerous other countries, including India, Pakistan, Bangladesh, Nepal, and Sri Lanka, have gone through some sort of political transition since gaining independence, as they tried different forms of decentralisation in their constitutional orders (Brennan & Abimbola, 2023). Regardless of these similarities, their methods of local governance vary greatly as a result of historical contingencies, political ideologies, and the socio-economic situation. As an illustration, the 73rd and 74th Constitutional Amendments of India codified the institution of Panchayati Raj and urban local bodies, respectively, putting a constitutionally guaranteed three-tier system of government in place. After becoming a federal democratic republic in 2015, Nepal incorporated local self-government into the constitutional order of the country on a large scale and provided municipalities and rural councils with much authority (Pandey, 2022). Pakistan and Bangladesh, in their turn, have alternated between decentralization and centralization with a tendency to vary according to the political government and relations between civilians and the military (Riaz et al., 2024). Sri Lanka has a unitary system of a state, though it has a more centralised policy, even though the local authorities remain at a limited administrative level (Welikala, 2024). This is a fruitful territory of comparative constitutional study. Exploring the role of legal structures in either enabling or limiting decentralization can help answer more general questions of democratic consolidation, state capacity, and inclusive development (Khan et al., 2025). Moreover, as the region of South Asia has a demographic burden and developmental importance, the lessons of such experiences apply not only to the region but also to the discourse on constitutional design and local politics in the Global South.

Although there is a rich literature on the subject of decentralisation and local governments in individual South Asian nations, comparative constitutionalism is a relatively under-researched area. The majority of studies conducted so far emphasize the issue of administrative decentralisation and service delivery performance or political engagement on the grassroots level (Uster et al., 2024). The constitutional and legal aspects of the local self-governance of various South Asian democracies are unsystematically discussed in many works, especially the way in which constitutional clauses influence institutional architecture, the distribution of authority, and the relationship between governments (Brennan and Abimbola, 2023). Furthermore, the literature is scant, which fills the gap between *de jure* commitments to the constitution and *de facto* governance practices. As an example, although constitutional changes can assure freedom to the local authorities, centralization of politics and bureaucracy usually results in violating the law in practice (Gupta & Pandey, 2024). Likewise, the fiscal empowerment of local governments, which is a crucial factor of their functional autonomy, is not studied properly in comparative constitutional scholarship. The present work attempts to fill these gaps by conducting a cross-country study of constitutional texts, enabling legislation, and judicial interpretations in order to offer a holistic view of how the conceptualization, institutionalization, and operationalization of local self-governance are achieved in South Asian democracies.

## **Objectives**

The general aim of the study is to provide a comparative constitutive and legal treatment of the local self-government of the democracies of the selected South Asians. It is forecasted that the work will contribute to the enhancement of the theoretical and policy-driven discussion on the question of decentralisation, governmental restructuring, and democratic enrichment by mapping out the provisions of constitutions, legal framework, and implementation processes. Finally, the paper also seeks to contribute to the academic literature on the importance of constitutional design in enhancing the local democracy and enhancing inclusive and participatory democracy across other political contexts.

## **Methodology**

### **Comparative Constitutional Analysis**

This paper made a comparative analysis of the legal framework of local self-governance in India, Pakistan, Bangladesh, Nepal, and Sri Lanka, which were chosen on the basis of their varied political systems and decentralisation experiences. India and Pakistan are characterized by federal systems that institutionalize local self-government. Bangladesh is a unitary state that has sought to pursue decentralisation recently. In 2015, Nepal became a federalist state, whereby local governance was introduced into the constitution. Sri Lanka is unitary, but it shows the effect of the provisions of the constitution on local governance. This comparative study explores autonomy, fiscal decentralisation, and democratic participation between federal and unitary systems in South Asia.

## **Research Design**

This study applied the qualitative and doctrinal study of the law to analyze the constitutional writings, legal records, and judicial decisions on the local self-governance of India, Pakistan, Bangladesh, Nepal, and Sri Lanka. It specifies in the interpretation of the provisions of the constitution, national and local laws, and judicial precedents, which stipulate the power of local governments. The legal framework and the rights of local governance were comprehensively dealt with by applying the primary sources that were studied to ascertain the legal amendments and ordinances and the legal principles related to them, the rights, and their place in the relations between the national, regional, and local authorities through the comparative legal framework. This approach depends upon the constitutional development through amendment, judicial interpretation, and national-level discussion, along with determining the conflicts and gaps that may impact local politics.

## **Data Sources**

The most important documents that will be used in the study are the constitutions of the individual countries on which the local self-government is legally based, such as the Constitution of India (1950), constitution of Pakistan (1973), Bangladesh (1972), Nepal (2015) and Sri Lanka (1978). The subnational governments are organized and functioning via legislative acts/amendments, including the 73rd and 74th Amendments to the Constitution of India (1992), the Local Government (Union Parishads) Act of Bangladesh (2009), and the Local Government Operations Act (2017). As illustrations of what influence the local self-government, the judicial rulings of the Supreme Courts and the High Courts, including the Federation of Pakistan vs. Local Government (Pakistan) and the Panchayat Raj case (India), were examined.

## **Analytical Framework**

To compare the constitutional and legal systems of local self-governance in five countries, the analytical framework of this study relied on several main criteria: autonomy of local governments, which measures the extent to which local bodies have constitutional recognition and autonomous powers, including political, fiscal, and executive power; fiscal powers and financial autonomy, which

measures the distribution of fiscal powers, the ability to raise taxes, and the sharing of revenues to assess how the financial decentralization supports or reinforces local governance; democratic participation, which assesses the extent of citizen involvement by analyzing the election of local representatives, participatory and accountability mechanisms, analyzing checks and balances that ensure local governments remain accountable, including transparency, oversight, judicial review, and citizens' ability to challenge local governance decisions in courts.

## Results

### Autonomy of Local Governments

The level of autonomy given to local governments varies in the five countries, which depicts the disparity in the constitution design. India and Nepal have powerful constitutional guarantees, with India having the 73rd and 74th Amendments (1992) that have institutionalised local governance and Nepal having a federal constitution developed in 2015 that gives broad powers to local councils. In comparison, limited autonomy is given in Pakistan and Bangladesh, whereby the structure in Pakistan is influenced by the military, and the reform process in Bangladesh is slow due to the interference of the central government. The unitary state of Sri Lanka has little autonomy in terms of administrative decentralisation, wherein the local governments serve as administrative units of the central government. A comparison of the local government autonomy in India, Pakistan, Bangladesh, Nepal, and Sri Lanka is given in Table 1. It describes the constitutional provisions of each of the countries, the major legal tools, and the degree of autonomy of local governments, which is high in India and Nepal and low in Sri Lanka.

**Table 1. Level of local government autonomy across the five countries**

Country	Constitutional Provision for Local Autonomy	Key Legal Instruments	Autonomy Level
India	Three-tier system of Panchayats & Urban Bodies	73rd and 74th Constitutional Amendments	High
Pakistan	Local Government Acts (variable)	Various Local Government Ordinances	Medium
Bangladesh	Union Parishads and Local Government Acts	Local Government (Union Parishads) Act	Medium
Nepal	Federal Constitution (2015)	Local Government Operations Act (2017)	High
Sri Lanka	Limited Local Governance	Pradeshiya Sabha Act	Low

### Fiscal Powers and Financial Autonomy

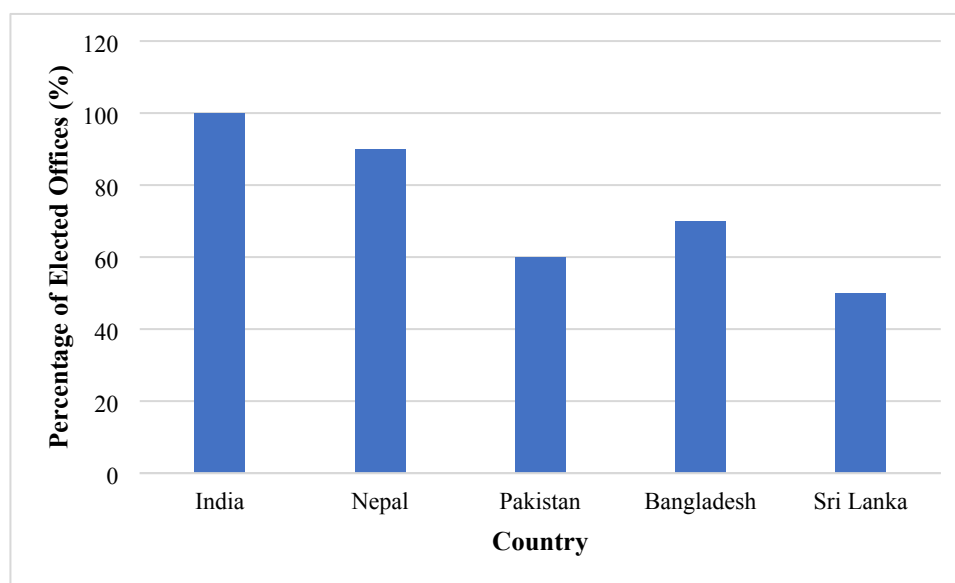
India and Nepal have high fiscal decentralisation, in which India grants local bodies some part of the central taxes via finance commissions, even though the central grants are still strongly dependent. Nepal has given its local governments time to have a lot of control in the generation of revenue, yet it experiences problems with financial management. Conversely, Pakistan, Bangladesh, and Sri Lanka have more centralised fiscal control, which erodes the monetary autonomy of local governments over whose fiscally devolved policies they nevertheless strive. Table 2 draws a comparison between the fiscal powers of the local governments in the five countries. It brings to the fore the revenue-generating mechanisms such as taxes and grants, and evaluates the level of fiscal autonomy. The principal fiscal legislation in the respective countries (including the Finance Commission Awards to the Pradeshiya Sabha Act of Sri Lanka) is also enumerated in the table.

**Table 2. Fiscal powers of local governments in the selected countries**

Country	Revenue Generation Mechanisms	Degree of Fiscal Autonomy	Key Fiscal Legislation
India	Taxes, grants from the central government	High	Finance Commission Awards
Pakistan	Local taxes, grants, and revenue sharing	Medium	Local Government Ordinance (2001)
Bangladesh	Local taxes, development funds	Medium	Local Government (Union Parishads) Act
Nepal	Taxes, local service fees	High	Local Government Operations Act (2017)
Sri Lanka	Local taxes, central government grants	Low	Pradeshiya Sabha Act

### Democratic Participation

India and Nepal have established strong local body electoral systems, with India ensuring direct elections at every level and with Nepal having a federal system, which ensures empowerment at the grassroots. Conversely, Pakistan and Bangladesh directly elect some local governments but are blocked by politics, e.g., the military in Pakistan and the centralized government in Bangladesh. The participation in decision-making of the citizens in Sri Lanka is minimal since local bodies are administrative entities that rarely have autonomy in decision-making. The Democratic Participation in Local Governance, as shown in Figure 1, compares the percentages between the elected and appointed offices in five countries in South Asia. India has the highest percentage of elected offices at 100 percent, and Nepal at 90 percent, with Pakistan at 60 percent, Bangladesh at 70 percent, and Sri Lanka at 50 percent, indicating the extent of citizen participation in local governments.



**Figure 1: Democratic Participation in Local Governance**

### Accountability Mechanisms

Local governments have very different accountability mechanisms in the five countries. In India and Nepal, the accountability systems are robust, such as the judicial system, ombudsman institutions,

and local audit systems, and the local entities stay accountable. In Pakistan and Bangladesh, the systems are weaker, and Pakistan has no institutional checks, and Bangladesh is confronted with uneven accountability owing to political interference. Sri Lanka lacks accountability, which depends on poor citizen control and the central government's powers to audit and evaluate. A comparison of accountability mechanisms of the local governments in India, Pakistan, Bangladesh, Nepal, and Sri Lanka is presented in Table 3. It includes the main mechanisms (judicial oversight, local audits, ombudsman institutions, and evaluation of their effectiveness, high in India and Nepal, low in Sri Lanka).

**Table 3. The accountability mechanisms across the given countries**

Country	Key Accountability Mechanisms	Effectiveness of Mechanisms
India	Judicial oversight, audit systems, ombudsman institutions	High
Pakistan	Judicial oversight, local audits (inconsistent)	Medium
Bangladesh	Local audits, political oversight	Medium
Nepal	Judicial review, local audits, and accountability commissions	High
Sri Lanka	Central oversight, limited audits	Low

### Discussion

Findings of this research indicate that the constitutional and legal provisions of the local self-governance in the five South Asian nations examined are widely differentiated in India, Pakistan, Bangladesh, Nepal, and Sri Lanka. The analysis, which relies on major criteria, including local government autonomy, fiscal decentralisation, democratic participation, and accountability mechanisms, demonstrates the heterogeneity of the degree of empowerment of local governments and the mechanisms to hold them to account.

The results reveal that India and Nepal are the countries that provide the largest scale of local autonomy. One of the strongest legal systems of local governance is the 73rd and 74th Constitutional Amendments of India (1992), which established a three-tier framework of Panchayats and urban local governments, complete with constitutionally guaranteed powers and functions. Equally, Nepal, post the 2015 federal transition, has enshrined in its constitution comprehensive local autonomy, giving the local authorities executive, legislative, and fiscal powers. This unitary to federal transformation in Nepal is a vital move towards decentralisation, where local bodies can have a greater influence on their own matters (Pandey, 2022). Pakistan and Bangladesh, on the other hand, have less local autonomy. Local governments in both countries are, in principle, recognized by law, but both countries have historically been inconsistent with their legal frameworks due to political transitions, military rule, and central government domination (Riaz et al., 2024). The decentralisation and centralization of the local government system have been cyclic in Pakistan, limiting the ability of the local governments to establish sustainable autonomy. In the same way, in Bangladesh, the autonomy of the local governments has been compromised through the central government still retaining its control over the local government, restricting the real autonomy of the local government (Gupta & Pandey, 2024). Finally, Sri Lanka, whose design of state is unitary, provides the least freedom to its local governments. Although the administrative decentralisation is provided, the central government still has significant control over the local authorities, and there is a limited area of political decision-making or financial autonomy.

The research also indicates that the fiscal independence of the local governments has been subject to large disparities. In India and Nepal, there is a reasonably good mechanism of fiscal decentralisation, and both countries permit the local bodies to raise revenues in the form of taxes and charges, in addition to grants provided by the central governments. The Finance Commission of India has

assigned a share of central taxes to the local governments, giving them some degree of financial autonomy, but a high degree of reliance on grants of central funds. Local governments in Nepal enjoy the power to make local taxes and can also make revenue by way of local service charges. Nevertheless, there is still a problem with the effective use of such resources (Javed and Mumtaz, 2024).

Conversely, Pakistan and Bangladesh have a serious limitation of fiscal decentralisation. Although Pakistan has, theoretically, implemented local government systems, which have fiscal devolution, the practical fiscal freedom of local bodies cannot be achieved due to the minimal ability to generate revenues and dependence on allocations by the central government. Even though Bangladesh has tried to decentralise, it still restricts the fiscal autonomy of local governments, thereby impairing their abilities to satisfy local demands and finance basic services (Henderson and Medeiros, 2021). The level of fiscal centralization is also reported to be high in Sri Lanka, as local governments are highly reliant on central government grants as sources of funding. There is also a lack of a robust revenue-sharing agreement between central and local authorities, which further limits the fiscal freedom of the local authorities (Welikala, 2024).

India and Nepal have the most elaborate local office direct election systems in terms of their political participation in democracy. India ascertains that every tier of local government, be it Panchayats or urban institutions, is elected by the populace and enhances strong democratic participation at the lower level. The same model applies to Nepal, where the local governments have been empowered with direct elections that took place after 2015, which has ensured the participation of the local citizens in decision-making processes (Pandey, 2022). Pakistan, Bangladesh, and Sri Lanka have weaker versions of democratic participation. Although in these nations, local bodies conduct direct elections on some of the posts, political centralization tends to undermine the effectiveness of the elections. The nature of local elections in Pakistan has also been influenced by politics in the country, such as military domination and replacement of civilian regimes, which at times result in the uneven practice of local electoral systems. Similarly, the capacity of the central government of Bangladesh to influence the local elections results in a decrease of democracy in the sense of accountability (Uster et al., 2024). In Sri Lanka, there is little political participation of the citizens in the decision-making process because the local bodies are mostly administrative, with limited political power and little decision-making power of the citizens. Finally, the analysis also shows that the highest accountability practices are present in India and Nepal (Waddington et al., 2019). The two countries have also established mechanisms of judicial review, ombudsman institutions, and local audit, to maintain the accountability of the local governments to citizens as well as to the higher government authority. The processes help to increase openness and prevent corruption at the local level, which raises the legitimacy of the local government (Tejedo-Romero et al., 2022). Pakistan, Bangladesh, and Sri Lanka, on the contrary, have weaker accountability systems. In Pakistan, there are accountability measures that exist, but are more often sabotaged by political interference and lack of compliance in some instances. Political interference that leads to poor accountability is also a challenge in Bangladesh, which lowers the capacity of local control (Riaz et al., 2024). Low levels of decentralisation also contributed to the weak accountability systems in Sri Lanka due to the fact that the high levels of control implemented by the central government over the local bodies are its primary cause (Welikala, 2024).

The study is informed by the earlier studies of decentralisation and local governance in the South Asian region, yet it generalises the study by using multiple countries concurrently. The theme of decentralisation in separate countries has already been discussed in the literature (such as India (Javed and Mumtaz, 2024) and Pakistan (Uster et al., 2024) and Bangladesh (Gupta and Pandey, 2024)). Few comparative studies have been conducted, however. The comparative nature of the research allows to better visualize how the constitutional systems, laws, and the decisions of the courts interact to ascertain the realities of the local government of different systems of politics in South Asia (Šipulová et al., 2023). India is an illustration of a nation where research has indicated that the 73rd

Amendments and the 74th Amendments of local self-governance, particularly in autonomy and democratic participation, have made a significant contribution. In this paper, these amendments are confirmed as successful, but amendment also shows that fiscal decentralization still struggles to overcome hurdles in the form of local governments remaining over-dependent on central grants (Véron et al., 2024). Similarly, the evidence is similar to previous studies on federalism transition in Nepal, whereby the new constitution has given the local governments power to control, although financial independence remains a point of concern. On the other hand, the outcomes of Pakistan and Bangladesh support the literature claims concerning centralization of power and the absence of independence of local governments in the two nations (Henderson and Medeiros, 2021). All this highlights the fragility of the local governance structures in the weaker countries, where institutions lack strong checks and balances.

This research study has some significant implications for academic research and policy-making in South Asia. Academically, the research study is a contribution to the literature in the sense that it offers a comparative analysis of local self-governance in various South Asian democracies. The study deepens the insights into the influence of constitutional form and political processes and legislative systems on local governance and offers a basis to conduct future research on the topic of decentralisation in other states (Sakthivel & Dar, 2023). In policy terms, the results confirm that tighter policies of decentralising the country should be introduced in such countries as Pakistan, Bangladesh, and Sri Lanka, where the local governments still struggle with the issues of autonomy, fiscal decentralisation, and accountability (Mangrio & Satti, 2024). Specifically, the paper argues that politicians must consider fiscal empowerment of local governments, so that they can have enough funds to implement their operations without depending on central governments (Sima et al., 2023). It will also be important to make accountability mechanisms stronger by using independent oversight institutions and local audits, and a judicial review process to guarantee transparency and prevent local-level corruption (Paschke et al., 2018). Moreover, the research demonstrates the significance of citizen involvement in the local government. The democratic fabric of these countries can be fortified by enhancing direct elections when it comes to the local bodies, political autonomy, and engaging the civil society in the local decision-making processes.

### **Limitations**

The research is not without limitations, such as that it follows a comparative approach and does an analysis of five South Asian countries that are not representative of other countries or regions with diverse systems of governance. The legal documents and constitutional documents have also served a significant premise of the analysis, which may not always reflect the realities on the ground of local governance. While the study is concerning formal structures, it does not explore the discourses of informal structures and cultural forces that may influence local government. The essay is also founded on second-hand materials, and this will limit the first-hand information or what is occurring. The political environment of these countries will likely vary, and it can affect the stability and extrapolation of the outcomes in the future.

### **Future Directions**

The research can also have further regional comparisons in the future by taking it to other South Asian countries or even foreign case studies to bring in more complete facts about the issue of decentralisation. It would also be easier to see how constitutional provisions function in reality through an empirical examination of local government action, local government participation, and local government accountability. Research could also be conducted into the role of informal sources of governance, culture, and local politics that tend to affect the manner in which decentralisation reforms are operationalized. Lastly, the study of the effects of technological change on local governance, e-governance, or online participation can create new opportunities to strengthen democratic local governance.

## Conclusion

This paper identifies the different constitutional and legal provisions of local self-governance in South Asia and demonstrates the role that the provisions played in the autonomy, fiscal decentralisation, voter participation, and accountability of the local governments. With India and Nepal having developed a good local government structure, direct election, high degree of autonomy, and good fiscal decentralisation, countries like Pakistan, Bangladesh, and Sri Lanka still lack the challenge of political centralization, inconsistent legal practices, and poor implementation. The findings lead to the significance of the constitutional framework to the functioning of the local governments, as well as the quality of democratic government at the local level. The article observes the importance of fiscal independence in local government, and it remains a central issue in several states. While India and Nepal have done better in this regard, Pakistan, Bangladesh, and Sri Lanka are looking back on centralized financial authority, and this disables the capacity of local governments to respond to the needs of people in a responsible manner. Moreover, the report indicates that there needs to be improvement in countries where the quality of the institutional system is low, including Sri Lanka and Pakistan, in order to attain transparency and eradicate corruption. Its policy implications are that there is a need to enhance the democratic participation and the process of reform in local government in South Asia, but with a strong emphasis on local electoral autonomy and good policies of decentralization. The current work is rather relevant to the upcoming reformation, which is aimed at the improvement of the democratic status of the local government and the struggle against the pressing threats to the local self-government in the region.

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