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**LOCAL GOVERNANCE**

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## **LOCAL GOVERNANCE**

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## LOCAL GOVERNANCE

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Our Constitution provides a clear mandate for democratic decentralisation not only through the Directive Principles of State Policy which exhorts the State to promote Panchayati Raj Institutions but more specifically now through the 73rd and 74th Amendments of the Constitution which seek to create an institutional framework for ushering in grass roots democracy through the medium of genuinely self-governing local bodies in both urban and rural areas of the country. However, despite the constitutional mandate, the growth of self-governing local bodies as the third tier of governance in the country has been uneven, halting and slow.

Local democracy is sometimes treated as synonymous with 'decentralisation', but the two are in fact quite distinct. In particular, decentralisation is not necessarily conducive to local democracy. In fact, in situations of sharp local inequalities, decentralisation sometimes heightens the concentration of power, and discourages rather than fosters participation among the underprivileged. To illustrate, in some tribal areas where upper caste landlords and traders dominate village affairs, the devolution of power associated with the Panchayati Raj amendments has consolidated their hold and reinforced existing biases in the local power structure.

The world today is poised to leave its rural past behind. With cities being the main beneficiaries of globalisation, millions of people chasing jobs are migrating to cities, both large and small. For the first time in history, more than half the world's population of 3.3 billion is living in these urban complexes. Within the next two decades, five billion people, i.e. 80 per cent of the world's population will be living in cities. By contrast, the world's rural population is expected to decrease by 28 million during this same period.

Since most of this demographic growth will be in Asia and Africa, the crucial question is how Nation States will cope with this demographic transition, especially since most of this urban growth is going to be propelled by the poor. Are our policymakers and civil society with their ill-equipped managerial capacities equipped to deal with this mounting population growth? Satellite pictures show that together the urban sites now cover more than 2.8 per cent of the earth's landmass, an area slightly smaller than Japan. But because our cities are pulsating with a concentrated mass of people, we tend to see them as being larger than what they actually are. A recent UNFPA report on the status of world population has said that India does not even recognise peri-urban areas within its urban population and so understates the percentage of people who need to be funded in plans for urban areas. Peri-urbanisation refers to rapid unplanned settlement over large tracts of land in the precincts of manufacturing facilities on a city's periphery. Such areas lack clear administration, suffer from sanitation and water problems and are transitional zones between towns and the countryside.

The key question of course is just how sustainable our urban conglomerates are. The answer to this complex question lies in the kind of consumption patterns our city dwellers are going to adopt. If we continue to foolishly dip into our natural resources — to give a few glaring examples, Brazilian Amazon forests are being torn down to export wood to the United States and Europe, or closer home, lakhs of farmers and villagers are being displaced to build dams in order to provide electricity and water to our metropolis — we will have to pay a heavy price.

The interaction between urban and rural growth and sustainability is particularly critical for our future. Preventing environmental degradation and reducing vulnerability of the poor are key interventions that

will determine the quality of life in our cities. In India, we are having the worst of urban development in the form of unsustainable slum improvement. We are also having the worst of rural development in the form of ill-designed SEZs. We have made a mess in both because we have not asked what the people want; only what we want for ourselves.

To treat “rural” and “urban” poverty as somehow separate is to adopt a rather short-sighted view of the problem. Rural development supports urban development and vice versa. Another blinkered approach is to regard the urban poor as being a drain on the urban economy. Experts insist that the urban poor are essential to the economy and well-being of our cities. The majority may be working in the informal sector, but this sector is not a messy mix of marginalised activities as it tends to be viewed. Rather, it is a competitive and highly dynamic sector, which is well integrated into the urban and even the global economy.

Over half the urban population in most developing nations is being forced to live in slums, with China and India together having 37 per cent of the world’s slums. The 2001 census estimated the number of slum dwellers in India at 40.3 million that is about 14.2 per cent of the population.

The majority of those living in these slums are young people below the age of 18. Inter-personal rivalry and insecurity are rising amongst these young people who have been found to be the largest perpetrators of violence. (They are also its principal victims). As high prices of urban land affect the poor and the lower middle classes (whose population exceeds 50 per cent of the total) the most, it is incumbent upon government to stop all speculative increases in urban land prices. Towards this end, the Union/State and Local Self Governments need to undertake legal and administrative reforms.

The world sees India as potentially the biggest growth story, after China, in the coming decades. Some of the cities like Singapore, Kuala Lumpur and a few cities in China are now taking quantum leaps to become the greatest urban landscapes. Indian cities need to compete with them in a big way. If India is to meet the growing expectations of the global investors, one key test will be how it manages its rapid urbanisation. Everything else will flow from how well this is done. We need to create world class cities big and small which attract people from within and outside to participate in the economic social and cultural activity.

## **CORE PRINCIPLES OF LOCAL GOVERNANCE**

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- **Subsidiarity**

The central idea of subsidiarity is that citizens as sovereigns and stake-holders in a democracy are the final decision-makers. Citizens are also the consumers of all services provided by the State. The citizen-sovereign-consumer must exercise as much authority as practicable, and delegate upward the rest of the functions which require economies of scale, technological and managerial capacity or collective amenities.

The Oxford dictionary defines subsidiarity as, “a principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed at a more local level.”

The principle of subsidiarity stipulates: functions shall be carried out closest to citizens at the smallest unit of governance possible and delegated upwards only when the local unit cannot perform the task. The citizen delegates those functions he cannot perform, to the community, functions that the community cannot discharge are passed on to local governments in the smallest tiers, and so on, from smaller tiers to larger tiers, from local government to the State Governments, and from the States to the Union. In this scheme, the citizen and the community are the centre of governance. In place of traditional hierarchies, there will be ever-enlarging concentric circles of government and delegation is outward depending on necessity.

Application of the subsidiarity principle has three great advantages in practical terms.

- a) First, local decision-making improves efficiency, promotes self reliance at the local level, encourages competition and nurtures innovation. The demonstration effects of successful best practices will ensure rapid spread of good innovations and there will also be greater ownership of programmes and practices by the local communities.
- b) Second, democracy is based on three fundamental assumptions: all citizens are equal irrespective of station and birth; the citizen is the ultimate sovereign; and the citizen has the capacity to decide what is in his best interest. Only when these principles are put in practice can a democratic system derive its full legitimacy. Subsidiarity is the concrete expression of these foundations of a democratic society.
- c) Third, once decision-making and its consequences are integrally linked at the local level, people can better appreciate that hard choices need to be made. Such awareness promotes greater responsibility, enlightened citizenship and maturing of democracy.

- **Democratic Decentralisation**

While subsidiarity should be the overarching principle in restructuring governance, in practical constitutional terms it can be applied only through effective decentralisation.

Effective democratic decentralisation from States to Local Governments should be the cardinal principle of administrative reforms. Such a decentralisation should be influenced by four guiding norms.

- a) First, there should be a clear link in citizens' minds between their votes and the consequences in terms of the public good it promotes. We have a robust democracy with regular elections, constitutional freedoms and peaceful transfer of power.
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- b) Second, decentralisation tends to promote fiscal responsibility, provided there is a clear link between resource generation and outcomes in the form of better services. People will be encouraged to raise more resources only when there is a greater link between the taxes and user fees levied and the services that are delivered. This is possible only when service delivery is locally managed to the extent feasible and the citizens as stakeholders are directly empowered to raise resources and manage the functions. However, for this link to be established effectively between resources and the outcomes, local government must be perceived to be fully responsible for the services so that they have no alibis for non-performance. Only then can fiscal prudence, resource mobilisation and greater value of the public money spent be integral to democratic governance.
- c) Third, there is considerable asymmetry of power in our society. Only about 8 per cent of our work force is employed in the organised sector with a secure monthly wage and attendant privileges and over 70 per cent of these workers are employed in government at various levels and in public sector undertakings. This asymmetry of power is further accentuated by our hierarchical traditions combined with our colonial legacy. Any serious effort to make our governance apparatus an instrument of service to the people and a powerful tool to achieve national objectives needs to take into account these two cardinal factors plaguing our system – the asymmetry in power and the imbalance in its exercise.
- d) Fourth, in centralised structures, citizen participation and ownership are illusory despite national citizen sovereignty. The closer the government process is to the citizen, the greater the participation, stakes and understanding of the issues. Therefore, if democracy is to be real and meaningful, the locus of power should shift as close to the citizen as possible in order to facilitate direct participation, constant vigil and timely intervention.

In the ultimate analysis, all governance processes are about fulfilling the citizens' aspirations and needs. Whatever be the structure of governance, we have to face two great challenges in the coming decades. The first is the fulfillment of human potential, prevention of avoidable suffering and ensuring human dignity, access to speedy justice and opportunity to all Indians so that every citizen is a fulfilled and productive human being. The second is the rapid economic growth realising the nation's potential and allowing India to play her rightful role in the global arena in order to protect the vital interests of present and future generations and become an important actor in promoting global peace, stability and prosperity. We need to sharply focus the State's role and fashion instruments of governance as effective tools in our quest for these national goals. Decentralisation is a potent tool to counter the phenomenal asymmetry in the locus of power and the imbalance in the exercise of power.

Only in an effective and empowered local government can the positive power to promote public good be reinforced and the negative impulses to abuse authority curbed. Equally, ordinary citizens can hold public servants accountable in the face of the asymmetry of power exercised by the bureaucracy, only when such citizens who are directly affected by their actions are empowered to exercise oversight functions.

#### • **Delineation of Functions**

In a federal democracy, the roles and responsibilities of various tiers of government have to be clearly defined. In all federations, this is usually done through a constitutionally mandated scheme.

However, in respect of local governments there are two complications.

First, since all local government subjects by definition are also State subjects, there should be clear delineation of roles of the State and the local government, in respect of each of the subjects/functions, otherwise needless confusion and undue interference by the State will be the inevitable consequences. It



must be recognised that in several of these functions, States have a vital and legitimate role to play. For instance, while 'school education' should be a subject of devolution, the framing of the curriculum, setting of standards and conduct of common examinations should fall within the State's purview. Similarly, in healthcare, development of protocol, accreditation of hospitals and enforcing professional standards should necessarily fall within the State's purview and outside the competence of the local governments. Much of the confusion about devolution of functions to local governments has arisen for want of this role-clarity between the State and the local bodies.

Second, within local governments there is a need for clear functional delineation amongst the various tiers. For example, while school management can be entrusted to a Village Panchayat/parents committee, most staffing and academic matters would fall within the purview of the higher tiers of local government. Similarly, while a health sub-centre may be looked after by the Village Panchayat, the Primary Health Centre (PHC) should be managed by the Intermediate Panchayat, and the Community Health Centres and hospitals by the District Panchayat. By the same token, there is need to delineate the functions between a city/urban government and the smaller tier of a Ward Committee. The Ward Committee can be entrusted with sub-local functions like street lighting, local sanitation, management of local schools, management of local health centres etc.

- **Devolution in Real Terms**

The principles of subsidiarity and democratic decentralisation cannot be operationalised by mere creation of elaborate structures and periodic elections.

Devolution, to be real and meaningful, demands that local governments should be effectively empowered to frame regulations, take decisions and enforce their will within their legitimate sphere of action. Such empowerment should be clearly and unambiguously defined by the Constitution and State legislatures.

Even legislated empowerment remains illusory unless public servants entrusted with the discharge of responsibilities under the local governments sphere are fully and permanently under local government control, subject to protection of their service conditions. Only then is the responsibility of the local government commensurate with the authority.

Finally, fiscal devolution to the local governments must meet two standards: the local government must be able to effectively fulfill its obligation; there must be sufficient room for flexibility through untied resources, to establish priorities, devise new schemes and allocate funds. Equally important, there must be both opportunity and incentive to mobilise local resources through local taxes, cess and user fees, subject to norms of financial propriety and accountability.

While devolving funds to local governments, it needs to be ensured that issues of regional equity – inter-state as well intra-state – and minimum entitlement of citizens across the country, the rights guaranteed to citizens under the Constitution and the legitimate expectations of a better life and reasonable opportunity for vertical mobility to all children are similar across the country. Therefore, the devolution package to local governments must go beyond the per capita norms and should take into account certain benchmarks regarding quality of life and services.

Equally important is the building of capacity of local governments to discharge their functions effectively. Strengthening organisational and management capacity, constant training and human resource development activities, conversion of state agencies into expert manpower pools providing guidance and support on demand, strong federations, pooling of resources, talent and management practices, ability to attract expertise available outside government to meet the growing need for high quality human resources in public management are some of the crucial challenges in enhancing the capabilities of local governments.

Finally, real empowerment not only demands devolution and capacity building but strategies also need to be evolved to overcome the resistance of the state executives and governments as the compulsions of real politics often preclude the possibility of any serious measures to enable local governments to function as institutions of self governance.

- **Convergence**

In large, complex governance structures compartmentalisation is inevitable. But as governance is brought closer to the citizens, this fragmentation should yield place to convergence based on the recognition that the citizens' needs and concerns are indivisible. Even in an otherwise efficient and honest administration, isolated functioning of disparate government agencies and departments complicates the citizen's life immeasurably. Therefore, convergence must be a key principle in the organisation of local governments. There are following broad areas of convergence which need to be addressed.

- a) With rapid urbanisation and increasing need for peri-urban areas to be taken into account in city planning and development, there must be greater institutional convergence between rural and urban local governments.
- b) Second, as earlier stated, the parastatal bodies function totally independent from the local governments and are directly accountable to the State Government. Thus, the local governments are often divested of their important functions. Such proliferation of parastatals runs counter to the principle of subsidiarity and precludes effective citizens' participation in the management of these services. The citizen is compelled to deal with a multiplicity of authorities to access even the basic amenities and services. The local functions of all these authorities therefore need to devolve on local governments, even as institutional mechanisms need to be devised to benefit from expert guidance.
- c) Third, the citizen must be enabled to interact with all service providers through a single window as far as practicable. Increasingly, all over the world, several disparate services provided by different agencies of government, are available to citizens under one roof. For instance, the post office is a nodal agency for voter registration and many other services in some countries. Single window agency mechanism should be incorporated.

- **Citizen Centricity**

The citizen is the heart of a democratic system. Therefore all governance institutions, particularly local governments should be judged by the satisfaction of citizens and the direct empowerment of people.

Representative democracy is a necessary mode of organisation in government. While citizen sovereignty is acknowledged, it is impractical for citizens to participate in decision making in large structures. However, at the local community level, the citizen as stakeholder can directly participate in decision making, relatively easily. A Gram Sabha comprising all the adult residents of a village is a far more legitimate guardian of public interest. Similarly, in urban governance too, we need to create smaller structures for decentralised decision making with people's participation.

## **COMMON ISSUES IN LOCAL AND URBAN GOVERNANCE**

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### **A. Issues related to 11<sup>th</sup> and 12<sup>th</sup> schedule**

The 73rd and 74th Amendments of the Constitution, which aimed at a fundamental shift in the nature of governance, were passed in 1992 and came into effect in 1993 with great hope and anticipation. However, the past experience of over a decade shows that creating structures of elected local governments and ensuring regular elections do not necessarily guarantee effective local empowerment. While Panchayats, Nagarpalikas and Municipalities have come into existence and elections are being held, this has not always translated into real decentralisation of power. The Constitution left the issue of degree of empowerment and devolution to the State Legislature.

Clearly, there is need to empower local governments. Happily, an impressive political consensus on this issue among political parties across the spectrum exists. However, when it comes to action, many States seem to feel that the balance of convenience lies in favour of minimum local empowerment. Given this backdrop a strong constitutional provision mandating effective empowerment of local governments seems both desirable and necessary. However, there are difficulties in such an approach. First, the autonomy of States must be respected in bringing about major constitutional amendments. Second, the situation varies from State to State and the uniform approach [one shoe fits all] could be detrimental to the objective of local government. Third, the matters listed in the Eleventh and Twelfth Schedules could not be fully handled by the local governments even in the best of circumstances.

However, these lists are merely illustrative and in any case, there is need for further functional delineation between the State Government and local government in respect of most of these matters.

### **B. Representation of local government in Legislative Councils**

Presently, most of the States do not have Legislative Councils. After the enactment of the 73rd and 74th Constitutional Amendments, a third tier of Government has been created in the form of the local bodies. The Commission feels that this third tier of Government should also have a stake in making laws in the State Legislatures. Apart from constituting Legislative Councils (where they do not exist), the existing Legislative Councils may be recast as a council for local governments.

### **C. Flexibility in structure**

- The tiers of local government should be left for the State Legislature to decide. Even larger States, with generally smaller habitats mostly want to treat a group of villages as the polling unit of local government on the pattern of the countries in the West. In such a case again, Intermediate Panchayats may be redundant.
  - Members of Parliament and State Legislatures should not become members of local bodies. This would endow the local bodies with decision-making capabilities.
  - States should be free to decide the composition of Panchayats and the manner of election to suit their local conditions best. However, the Commission is of the view that in the States which opt for indirect membership of Intermediate Panchayat & District Panchayat, whereby the Chairpersons of the lower tiers became members of higher tiers, and there are no directly elected members, it is desirable to have the Chairperson directly elected. In other words, in each tier, either the members or the Chairperson should be directly elected so that the population will get proper representation.
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- The isolation of rural local governments from urban local governments has resulted in several unhappy consequences. First, there is an artificial divide between the rural and urban populations even in matters relating to common needs and aspirations. For instance, health care and education are the basic public services that should be available to all categories everywhere. Segmentation of these services is neither desirable nor feasible because there is a hierarchy of institutions, each feeding into the other and the geographical location of an institution, say district hospital, does not mean it caters to only the urban population in the district town.
- In a rapidly urbanising society, the boundaries between rural and urban territories keep shifting. In time, the population served by rural local governments will shrink quite significantly. In fact, the peri-urban areas around fast growing cities have hybrid characteristics of both village and town, and their special needs must to be addressed in an integrated manner. Further, the obvious need for coordination between rural and urban local governments at the district level gave rise to artificial institutions like District Planning Boards and District Development Review Committees in the pre-1993 era. This is now sanctified in the Constitution by the creation of DPCs under Article 243 Z D. Finally, in the public eye there is no single, undivided local government, representing all sections at the district level. The districts are over two centuries old and have come into their own as vibrant political, cultural, economic and administrative entities, with each having its own distinctive characteristics. Despite this, the artificial rural and urban separation meant that the people continue to view the Zila Parishad or the municipality as just another body and not the embodiment of the district in political terms. Not surprisingly, in most States, the District Collector continues to remain the real symbol of authority in the district.
- The DPCs prescribed in Article 243Z D are too weak and non-starters in many States. Therefore, the Commission is of the considered view, that there must be a single elected District Council with representatives from all rural and urban areas, that will function as a true local government for the entire district. In such a scheme, the District Council will be responsible for all the local functions, including those listed for them in the Eleventh and Twelfth Schedules. The DPC in its present form will be redundant, once a District Council comes into existence as envisaged by the Commission. Planning for the whole district – urban and rural – will become an integral part of the District Council's responsibility. The role of the District Collector/DM also needs to be reviewed in the context of the District Council and the District Government. There are two broad views that have emerged over the years on this issue. Strong advocates of local governments empowerment argue that the District Collector's institution is redundant in a democratic milieu with empowered and effective local governments and should, therefore, be dispensed with. Pragmatists argue that the Collector's institution served the country well for some two centuries and has been the pillar of stability and order in a diverse and turbulent society. Therefore, the institution of District Collector must remain in the current form for some more time. Eventually, the District Council should have its own Chief Officer. Meanwhile, as an interim mechanism, there is merit in utilising the strength of the Collector's institution to empower local governments. The Commission is of the considered view that a golden mean between these two positions is desirable and the District government must be empowered while fully utilising the institutional strength of the District Collector. The Commission believes that these two objectives can be realised, by making the District Collector function as the Chief Officer of the District Council. In such a case, the Collector's appointment should be in consultation with the District Council. The District Collector-cum-the Chief Officer would have dual responsibility and

would be fully accountable to the elected District Government on all local matters, and to the State Government on all regulatory matters not delegated to the District Government.

#### **D. Issues related to elections**

- Due to delay in delimitation of constituencies mainly in urban areas the elections get delay. Hence a delimitation commission in line of central delimitation commission should be formed or State election commission should be allotted the above said work.
- The reservation of constituencies should also be entrusted to SECs.
- In case of single-member constituencies, the rotation can be after at least 2 terms of 5 years each so that there is possibility of longevity of leadership and nurturing of constituencies.
- Second, instead of single-member constituencies, elections can be held to multi-member constituencies. Several seats can be combined in a territorial constituency in a manner that the number of seats allocation for each disadvantaged section remains the same in each election in that constituency. Elections can then be held by the List System so that parties get representation in proportion to votes obtained. Alternatively, members may be elected on the basis of votes obtained individually. In either case, the law should clearly specify the required number of members to be elected from each reserved category.
- In most States, DPCs/MPCs have not been constituted. As per Article 243 ZD, at least 80% of members of DPC shall be elected by and from amongst the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district. In case of MPCs, at least two-third of the members shall be elected by and from amongst the elected members of the Municipalities and Chairpersons of Panchayats in the Metropolitan area in proportion to the ratio between the population of the municipalities and of the Panchayats in that area (Article 243ZE). This process involves giving weightage to the votes proportional to the population and timely conduct of elections. The Commission, therefore, feels that the conduct of elections for the elected members of these bodies should also be entrusted to the SECs.

#### **E. Issues related to SEC**

- The State Election Commissioner should be appointed by the Governor on the recommendation of a collegium, comprising the Chief Minister, the Speaker of the State Legislative Assembly and the Leader of Opposition in the Legislative Assembly.
- An institutional mechanism should be created to bring the Election Commission of India and the SECs on a common platform for coordination, learning from each other's experiences and sharing of resources.

#### **F. Issues related to devolution of functions**

- There should be clear delineation of functions for each level of local government in the case of each subject matter law. This is not a one-time exercise and has to be done continuously while working out locally relevant socio-economic programmes, restructuring organisations and framing subject-matter laws.
- Each subject-matter law, which has functional elements that are best attended to at local levels, should have provision for appropriate devolution to such levels – either in the law or in subordinate legislation. All the relevant Union and State laws have to be reviewed urgently and suitably amended.

- In the case of new laws, it will be advisable to add a 'local government memorandum' (on the analogy of financial memorandum and memorandum of subordinate legislation) indicating whether any functions to be attended to by local governments are involved and if so, whether this has been provided for in the law.
- In case of urban local bodies, in addition to the functions listed in the Twelfth Schedule, the following should be devolved to urban local bodies:
  - a) School education;
  - b) Public health, including community health centres/area hospitals;
  - c) Traffic management and civic policing activities;
  - d) Urban environment management and heritage; and
  - e) Land management, including registration.

These, however, are only illustrative additional functions and more such functions could be devolved to urban local bodies by the respective States.

### **G. Issues in devolution of Funds**

Despite the important role that local bodies play in the democratic process and in meeting the basic requirements of the people, the financial resources generated by these bodies fall far short of their requirements.

The local bodies are heavily dependant on State Governments for financial inflows, even for routine functions because the proceeds of various buoyant taxes like State Excise, VAT and Motor Vehicles Tax are not available to them as they form part of the Consolidated Fund of the State. The major sources of income for local governments like property tax etc. are woefully inadequate to meet their obligations both due to their inherent nature and inefficiency in collecting them. This asymmetry between the taxation power and the responsibility to provide civic amenities necessitates transfer of funds from the State to the local governments either through untied grants or through a share in other State Taxes or as part of various development schemes.

### **H. Capacity Building for Self Governance**

The crucial issue of capacity building in urban and rural local bodies remains a largely neglected area in decentralised self governance. Beyond short term 'training' of personnel and elected elements of these bodies, little has so far been contemplated, and even in this sphere there has been limited initiative and fitful progress. As a result, there is capacity deficit within the Panchayat and Municipal Institutions.

An erroneous notion that capacity building relates only to training and imparting new skills to employees and improving their existing skills needs to be clarified. Capacity building is much more than training, and has two major components, namely:

- Individual development
- Organisational development.

Individual development involves the development of human resources including enhancement of an individual's knowledge, skills and access to information which enables them to improve their performance and that of their organisation. Organisational development on the other hand is about enabling an organisation to respond to two major challenges that it has to confront:

- External adaptation and survival
- Internal integration.

External adaptation and survival has to do with how the organisation copes with its constantly changing external environment. This involves addressing the issues of

- mission, strategies and goals
- means to achieve the goals which includes selection of appropriate management structures, processes, procedures, incentives and rewards system.
- measurement which involves establishing appropriate key result areas or criteria to determine how well individuals and teams are accomplishing their goals.

Internal integration is about establishing harmonious and effective working relationships in the organisation, which involves identifying means of communication to develop shared values, power and status of groups and individuals, and rewards and punishment for encouraging desirable behaviour and discouraging undesirable behaviour.

There is also another related aspect of capacity building, which deals with the development of institutional and legal framework to enable organisations to enhance their capacity to pursue their objective and goals by making the necessary legal and regulatory changes.

The task of building organisational capacities is more complex and demanding than the requirement of skills upgradation of an individual, partly on account of the hitherto complete neglect of this aspect and partly due to more complex initiatives required to achieve this goal. Organisational capacity building is, to a large extent, dependent on formulation of the appropriate recruitment and personnel policies and finding the right mix of 'in-house' provision of services and out-sourcing of functions. Organisational capacity building would include designing appropriate structures within the organisation, re-engineering internal processes, delegation of authority and responsibility, creation of an enabling legal framework, developing management information systems, institutionalising reward and punishment systems and adopting sound human resource management practices.

Training of elected representatives and personnel should be regarded as a continuing activity. Expenditure requirement on training may be taken into account by the State Finance Commissions while making recommendations.

### **I. Issues in Accountability**

Generally speaking, accountability of public institutions has focused almost wholly on two issues namely, (a) prevention of activities not specifically authorised by law or any subordinate legislation and (b) integrity of the public system or maintenance of financial propriety, which is often equated with adherence to financial rules. While these are important, there are other components also for which the local bodies are expected to be accountable. One of them is responsiveness. The activities of the local bodies must meet the felt needs of the people.

The other component is measurement of performance through which one can ascertain whether public resources have been utilised to derive maximum benefit. The basic parameters of measurement of performance are efficiency and effectiveness. Efficiency refers to the ratio of output (in terms of services provided or public goods produced) to cost. By comparing this ratio with certain technical standards or with other yardsticks one may determine how well a public institution is utilising resources or whether

it is doing 'more' with 'less' resources. Effectiveness refers to the degree to which the service provided or the public good produced by a public agency corresponds to the expected outcome of a programme, the expected outcome being derived from the felt needs of people. Lastly, fair play is an essential attribute of government in a democracy. Hence, local bodies should be held accountable for discharging their regulatory and developmental responsibilities in a fair manner and strictly in accordance with the spirit of rule of law. Thus, in designing the components of accountability of local bodies it is necessary to focus on the following:

- a) *Institutional mechanisms to ensure propriety*: propriety that includes integrity in the use of resources, objective and effective implementation of laws and regulations, elimination of rent-seeking tendencies of public officials/representatives and fair play in exercising administrative powers.
- b) *Measures to improve responsiveness of the local bodies to the people*.
- c) *Evaluation of local bodies by results or measuring their performance in terms of efficiency, effectiveness and other indicators*.

There is need for institutionalising a grievance redressal mechanism which would address complaints regarding elected functionaries and officials of the local bodies. This would provide a platform to the citizens for voicing their complaints and also bring out the deficiencies in the system for suitable remedial action.

In order to ensure efficient service delivery, accessibility and reach, there is need for improving the responsiveness of the local bodies to the citizens. Such responsiveness could be enhanced through:

- Delegation of functions
- In-house mechanism for redressal of grievances
- Social audit
- Transparency

Audit committees may be constituted by the State Governments at the district level to exercise oversight regarding the integrity of financial information, adequacy of internal controls, compliance with the applicable laws and ethical conduct of all persons involved in local bodies. These committees must have independence, access to all information, ability to communicate with technical experts, and accountability to the public. For Metropolitan Corporations, separate audit committees should be constituted. Once the District Councils come into existence, a special committee of the District Council may examine the audit reports and other financial statements of the local bodies within the district. Such committee may also be authorised to fix responsibility for financial lapses. In respect of the audit reports of the District Council itself, a special committee of the Legislative Council may discharge a similar function.

Information and Communication Technology provides tools which could be utilised by the local governments for simplifying cumbersome processes, reducing contact between the cutting edge functionaries and the citizens, enhancing accountability and transparency and providing single window service delivery for a variety of services.

Space technology should be harnessed by the local bodies to create an information base and for providing services such as tele medicine, tele education, disaster management, resource management, etc.



## ISSUES PARTICULAR TO RURAL GOVERNANCE

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- **Issues related to Gram Panchayat**

There is need for States to re-examine Gram Panchayat delimitation so as to aim for greater efficiency of scale in delivery of services. Though gains can be expected when small villages are clustered, the trade-off could be in terms of larger Gram Sabhas. The participation of the people is inversely proportional to the size of the Gram Sabha. For hilly regions, there may be justification for smaller Gram Panchayats on grounds of low population density, difficult terrain and weak communication links. But in the populous States of the plains too, Gram Panchayats generally are found to be small. The reason for this is perhaps historical, based on an idealised notion that there should be one Panchayat for each of the villages. Many of the Gram Panchayats are too small to function as autonomous institutions of local government. In order to be an economically viable administrative unit, capable of discharging multiple responsibilities, a Gram Panchayat needs to have a minimum population size.

Under Article 243-B of the Constitution – a Gram Sabha is defined as “a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of the Panchayat at the village level”. The Gram Sabha occupies a central place in the entire scheme of local governance because it is this body which provides an opportunity to the individual villager to participate in the local decision making processes. There is a direct relationship between proper functioning of the Gram Sabha and empowerment of the PRIs. The village plan which is dovetailed with the district plan through intermediate and apex tiers of the Panchayati Raj system emerges from this very institution.

As long as a Gram Panchayat is small, such a two level formation works well. But when the Gram Panchayat becomes large as in Kerala, West Bengal, Bihar and Assam the concept of subsidiarity gets diluted. Because of the size, the relationship between the people and the Gram Panchayat becomes too distant; the partnership between the two weakens and the Gram Panchayat assumes the role of a superior Weberian structure. Often the problems of the smaller habitations tend to get sidelined. The apparent solution to this problem lies in reducing the size of a Gram Panchayat. However, reducing the size of a Gram Panchayat below a certain critical limit has its own limitations in terms of capacity and administrative viability. If the Panchayat as a unit of self government is intended to be effective and efficient, it must have an optimum support structure and financial resources. Creation of an intermediate body-Ward Sabha - would facilitate greater peoples' participation and at the same time ensure administrative viability of the Gram Panchayat. Each Gram Panchayat area could be divided into several such Wards. A Ward Sabha would be in closer proximity with the people and would be in a position to prepare a comprehensive and realistic proposal for the ward as a whole with effective citizens' participation.

- **Issues related to personnel**

Staff is a resource that an organization must possess to perform its activities. Control over human resources is an important element of organisational autonomy. In this respect, Panchayats across our country present a disquieting picture. In most States, Panchayats do not have the power to recruit their staff and determine their salaries, allowances and other conditions of service. Besides, due to the lack of financial resources, the power to recruit staff, even if such power exists remains grossly under utilised or not utilised at all. The Panchayats, therefore, have to depend on the officials of the State Government for staff support. Running an organisation with deputationists suffers from two major weaknesses. First, frequent transfers do not allow development of a dedicated manpower. Secondly, the employees remain

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under the control of two authorities. This duality of control is one of the major obstacles in optimally coordinating the activities of various government functionaries in the rural areas. The Commission is of the view that Panchayats as the government at the local level, should have their own staff. They should have full powers with regard to recruitment and service conditions of their employees within a broad framework of State laws and certain standards.

An important issue in this aspect relates to government employees who are currently working in the PRIs. There is need to assess and review manpower requirements at each of the three levels. Based on the assessment so made, the existing staff should be distributed among the positions thus identified at these levels. Vacancies in some of the positions e.g. for primary school teachers, may be larger than the number of employees available on the rolls currently. There will be need for making fresh recruitment for such positions. On the other hand, outsourcing of services may make some posts redundant. Government employees working in these posts will have to be sent back to their parent organizations. The Commission is of the view that in all the States a detailed review of the staffing pattern on a zero based approach should be undertaken.

#### • **PRIs and the State Government**

Under various State Panchayati Raj Acts, the respective State Government or their nominated functionaries command considerable power with regard to review and revision of actions taken by PRIs. These controls are in the form of (a) power to suspend a resolution of the Panchayat, (b) power to inquire into the affairs of the Panchayat (c) power to remove elected Panchayat representatives under certain specified conditions, (d) power to inspect and issue directives, (e) provision for withdrawal of powers and functions from the Panchayat, (f) provision regarding approval of the budget of a Panchayat by the higher tier or a State authority, etc.

The Commission is of the view that it is also the responsibility of the State Government to ensure that the Panchayats carry out their activities in accordance with law within their autonomous domain. But it is also necessary to ensure that this 'responsibility' does not translate into regular supervision or control over the functioning of the Panchayats.

#### • **Position of Parastatals**

Parastatals are institutions/organizations which are wholly or partially owned and managed by government (either autonomous or quasi-governmental). They may be formed either under specific State enactments or under the Societies Registration Act. These bodies are generally formed for delivery of specific services, implementation of specific schemes or programmes sponsored by the State/Union Government/international donor agencies. Since activities of many of these organisations are in the matters in the Eleventh Schedule of the Constitution, their separate existence with considerable fund and staff at their disposal, is an impediment to effective functioning and empowerment of local government institutions.

Some of the important parastatals are District Rural Development Agency (DRDA), District Health Society (DHS), District Water and Sanitation Committee (DWSC) and the Fish Farmers Development Agency (FFDA). At the higher levels, some of the parastatals are the State Water & Sewerage Board, Khadi & Village Industries Commission (KVIC) and the State Primary Education Board. Their functions impinge directly on the local institutions.

The most important parastatal at the district level is the DRDA. Formed under the Societies Registration Act(s), it was created essentially as a semi-autonomous organisation to implement various programmes of livelihood development, wage & employment generation and social support activities of the Union and

State Governments at the district level. The aim was to create a structure which should have flexibility in areas of implementation of schemes, their monitoring and fund flow. Currently, the funds for most of the Centrally Sponsored Schemes; Sampoorna Grameen Rozgar Yojna (SGRY), Swarnjayanti Gram Swarozgar Yojna (SGSY), Indira Awaas Yojna (IAY) etc. are allotted to the DRDA from where it is distributed among implementing agencies at the block level. In many of these schemes, Panchayats, particularly Gram Panchayats, have implementational and monitoring responsibilities. The Commission is of the view that since the process of democratic decentralisation is now firmly established in the districts and Panchayats with elected representatives being in place at all the three levels, there is no justification for having a separate agency as the DRDA in the district. In some States like Kerala, Karnataka and West Bengal, the DRDAs have already been merged with the District Panchayats. It is necessary that other States should also take similar action.

- **PRIs and Management of Natural Resources**

The management of natural resources in the rural areas – land, water bodies and forestry and ecological concerns is of great importance to the villagers. Land records management including that of village commons is therefore, a pre-requisite for sustainable use of natural resources. Currently, this activity is in need of a complete overhaul. The Gram Panchayat being the most representative body at the village level, can play a crucial role in it. Forests play an important role in the life of rural people. With stringent and often heartless forest laws, even villages located in the interiors or on the periphery of forests have become alien in their own territory. There is need for providing more space to the PRIs in making plans for proper utilisation of these resources. Equally important are the village water bodies for enhancing rural livelihood. If managed properly, they can become a good source of revenue for the Village Panchayat. Involvement of people in the management and use of these natural assets would also ensure that the ecology is in safe hands. It is necessary that the local bodies are entrusted with the responsibility of conservation and development of these resources. This responsibility can be discharged by the Panchayats through a team of volunteers, who will work as ‘green guards’.

### **Functional devolution**

The spirit behind the proposed scheme for decentralization of rural governance as envisaged in the 73rd Amendment is reflected in Article 243 G and the Eleventh Schedule of the Constitution which seek to establish Panchayats as self-governing institutions entrusted with the preparation and implementation of plans for economic development and social justice. However, as observed earlier, in most parts of the country the intent of Article 243 G has been ignored by denying autonomous space to local bodies. Panchayats continue to function within the framework of what may be called a “permissive functional domain”, since very limited functional areas have been withdrawn from the line departments of State Governments and transferred to local bodies. Only minor civic functions have been exclusively assigned to the local self government bodies. All the other so-called development functions assigned to the different tiers of Panchayats are actually dealt with by the line departments of State Governments or parastatals. Resources as well as staff also remain under the control of the State Government. Therefore, effective devolution of functions as envisaged in the Constitution has not taken place.

In order to make devolution functional, the matters listed in the Eleventh Schedule of the Constitution need to be broken down into discrete activities, because it may not be appropriate to transfer all the activities within a broad function.

The State Government may retain some activities at a macro level. For example, in primary education, activities like designing syllabii, maintaining standards, preparation of text books etc. would have to be with the State Government, while tasks concerning management of schools may be with the Gram Panchayat or Zila Parishad. Without activity-mapping of a broad function or a subject, it is not possible to devise a workable devolution scheme for the local bodies.

The key objective of Article 243G of the Constitution is to ensure that Panchayats at all levels function as institutions of self-government rather than as implementing agencies. This is to be done through devolution of functions, funds and functionaries. This exercise has to cover the entire range of subjects as mentioned in the Eleventh Schedule of the Constitution. Most of the States have already assigned a majority of the important subjects to the Panchayats. Some of the States have even gone to the extent of devolving all the 29 subjects through the State Act itself. But, in practice such transfers have remained incomplete. Firstly, there has been lack of rational thinking as to which of the disaggregated activities, based on considerations of economies of scale, efficiency, capacity, enforceability and proximity, ought to be devolved. This has led to overlapping jurisdiction of different tiers of government. This situation seriously undermines accountability. Secondly, in many cases, while States assign responsibilities to local governments, they leave the performance of key activities and sub-activities necessary to deliver such devolved services with State line agencies.

**The devolution exercise has to proceed on the following key principles:**

- a) There should be exclusive functional jurisdiction or an independent sphere of action for each level of the Panchayat. The State Government should not exercise any control over this sphere, except giving general guidance. If any activity within this sphere is presently performed by any line department of the State Government, then that department should cease to perform the activity after devolution.
- b) There may be spheres of activity where the State Government and the Panchayats would work as equal partners.
- c) There may also be a sphere where Panchayat Institutions would act as agencies for implementing Union or State Government schemes/programmes. (The difference between the partnership mode and agency mode of functioning is that the scope of independence in discharging responsibility is more in the former case compared to the other).
- d) Panchayat at each level is an institution of local government. Hence there cannot be a hierarchical relationship between a higher level Panchayat and its lower level counterpart.

The World Bank document on “India- Inclusive Growth and Service delivery” suggests three important conclusions on rural service delivery once the activities have been properly delineated at appropriate levels. These are as follows:

- (i) *The same tier of government should not be responsible for operation and for (all) monitoring and evaluation.*
- (ii) *The capability and commitment of higher tiers of government to set standards for outputs and goals for outcomes and to monitor performance and evaluate the impact of alternatives should be strengthened by decentralization.*
- (iii) There is enormous scope for increasing local control of asset creation and operation.

### **Devolving Regulatory Functions to the Panchayats**

Since Panchayats are an integral part of the government at the local level, their activities cannot be confined solely to development programmes. If public convenience and effective enforcement of a law or regulation warrants decentralization of regulatory functions, it would be most appropriate to devolve such functions to the local bodies. There are many areas where the rationale for devolving regulatory powers to the local governments is very strong. To begin with tasks like issuing birth, death, caste and residence certificates, enforcing building byelaws, issuing of voter identity cards, enforcing regulations pertaining to weights and measures would be better performed by local governments.

The Gram Panchayats can play an effective role in community policing because of their close proximity with the people. In most of the developed countries, policing is a municipal job and there is no reason why it should not be so in India. The process of democratic decentralization cannot be complete without the gradual transfer of the functions and powers of the village police from the State Government officials in the village to the Village Panchayats.

Therefore, regulatory functions which can be devolved to the Panchayats should be identified and devolved on a continuous basis.

### **Financial functions**

A major portion of Part IX of the Constitution covering Articles 243C, 243D, 243E, 243 G and 243 K deals with structural empowerment of the PRIs but the real strength in terms of both autonomy and efficiency of these institutions is dependent on their financial position (including their capacity to generate own resources). In general, Panchayats in our country receive funds in the following ways:

- Grants from the Union Government based on the recommendations of the Central Finance Commission as per Article 280 of the Constitution
- Devolution from the State Government based on the recommendations of the State Finance Commission as per Article 243 I
- Loans/grants from the State Government
- Programme-specific allocation under Centrally Sponsored Schemes and Additional Central Assistance
- Internal Resource Generation (tax and non-tax).

Thus One can draw the following broad conclusions:

- Internal resource generation at the Panchayat level is weak.
- This is partly due to a thin tax domain and partly due to Panchayats' own reluctance in collecting revenue.
- Panchayats are heavily dependent on grants from Union and State Governments.
- A major portion of the grants both from Union as well as the State Governments is scheme specific. Panchayats have limited discretion and flexibility in incurring expenditure.
- In view of their own tight fiscal position, State Governments are not keen to devolve funds to Panchayats.
- In most of the critical Eleventh Schedule matters like primary education, healthcare, water supply, sanitation and minor irrigation even now, it is the State Government which is directly responsible for implementation of these programmes and hence expenditure. Overall, a situation has been created where Panchayats have responsibility but grossly inadequate resources.

For fiscal decentralization to be effective, finances should match expenditure assignments related to the transferred activities. This calls for a two fold approach – first demarcation of a fiscal domain for PRIs to tap resources directly both Tax and Non-tax and second devolution of funds from the Union and State Governments.

In the Indian context, the concept and practice of local government taxation have not progressed much since the early days of the British rule. Most of the revenue accrual comes from taxation of property and profession with minor supplement coming from non-tax receipts like rent from property and fees for services. It is high time that a national consensus emerges on broadening and deepening the revenue base of local governments. The Commission is of the view that a comprehensive exercise needs to be taken up in this sector on a priority basis. The exercise will have to simultaneously look into four major aspects of resource mobilisation viz. (i) potential for taxation (ii) fixation of realistic tax rates (iii) widening of tax base and (iv) improved collection. This could be one of the terms of reference for the Thirteenth Finance Commission.

### **Resource generated by panchayats**

The taxation power of the Panchayats essentially flow from Article 243 H.

State Panchayati Raj Acts have given most of the taxation powers to Village Panchayats. The revenue domain of the intermediate and District Panchayats (both tax as well as non-tax) has been kept much smaller and remains confined to secondary areas like ferry services, markets, water and conservancy services, registration of vehicles, cess on stamp duty and a few others. A study of various State Legislations indicates that a number of taxes, duties, tolls and fees come under the jurisdiction of the Village Panchayats. These interalia include octroi, property/house tax, profession tax, land tax/cess, taxes/tolls on vehicles, entertainment tax/fees, license fees, tax on non-agriculture land, fee on registration of cattle, sanitation/drainage/conservancy tax, water rate/tax, lighting rate/tax, education cess and tax on fairs and festivals.

In order to widen their tax base the PRIs will need to explore additional sources of revenue. The Indian economy has done well during the past few years. Sectors like transport, tourism and infrastructure have grown remarkably and a part of this growth has also percolated to the rural sector. Rural bodies need to look beyond the traditional areas of lands and buildings and augment their resources by operating in newly emerging sectors through innovative tax/non-tax measures e.g. fee on tourist vehicles, special amenities, restaurant, theatre, cyber café etc. Among the classical items of tax collection – imposition of profession tax, cattle registration fee and vehicle registration fee are the three notable areas which have not been exploited optimally by the Panchayats.

The local community represented by the local Panchayat should have prime right over the income from royalty accrued to the State Government for mining in that area. Equally important is the fact that the financial, ecological and health impact of mining activities is felt maximum in areas where such mines are located and hence the local inhabitants must be adequately compensated. State Finance Commissions should bear this in mind while finalising devolution of grants to the rural local bodies.

Further all common property resources vested in the Village Panchayats should be identified, listed and made productive for revenue generation.

State Governments should by law expand the tax domain of Panchayats. Simultaneously it should be made obligatory for the Panchayats to levy taxes in this tax domain.

At the higher level, the local bodies could be encouraged to run/ manage utilities such as transport, water supply and power distribution on a sound financial basis and viability.

### **Incentivising Better Performance**

One of the effective and fair tools to improve revenue collection of the local bodies is to incentivise their efforts. Panchayats which have shown positive results must be suitably rewarded.

### **Transparency/Transfer/Allocation of Funds**

With regard to devolution of funds to the local bodies from higher tiers of government, the Commission holds the view that such transfers need to be unconditional so that the PRIs are able to take care of the local priorities. The approximate quantum of funds to be transferred for a block of five years should be indicated to the local bodies in advance so that the Panchayats can set minimum standards for delivery of services and for attainment of certain minimum levels in poverty reduction, education, healthcare etc. for the period of the allocation. This is an enormous task as setting standards and attainment levels and costing them would be intricate and challenging. But such an exercise is necessary for ensuring results-based performance by the PRIs. Funds should be devolved according to a formula and their predictability and assuredness should be ensured through bringing out a separate budget document for transfer of funds to local governments.

Apart from the quantum of funds devolved to the PRIs and the procedure for its release, it is also important to ensure objectivity and transparency in its allocation. Problems of regional disparity and development of backward areas deserve special attention. The State Finance Commission should try to evolve an index of backwardness for devolution of funds to PRIs. The recommendations of the SFC need to be substantially guided by such a backwardness index. Recommendations in this regard have been made at para 3.5.2.18 of this Report.

Allocations available to Panchayats are function specific and could be divided into five broad categories (a) livelihood activities like agriculture, land conservation, minor irrigation, animal husbandry, social forestry, small scale industries etc., (b) infrastructure creation like drinking water facility, road, communication etc., (c) social sector activities like education and health, (d) poverty reduction programmes, (e) miscellaneous activities like public distribution, public asset maintenance, rural electrification etc.

There is a view that one of the essential conditions of the PRIs' financial empowerment is that they should be given untied funds to meet contingencies and mid-term requirements. A good beginning has been made in this direction by launching the Backward Regions Grant Fund (BRGF).

### **Budget Procedure and Transfer of Funds**

Transfer of funds are presently made to PRIs under a number of budget heads, often in packets of small allotments. There may be a demand for a particular segment of the beneficiary (e.g. special component plan for Schedule Casts) where allocation may come from a number of separate budget heads. Such a complicated procedure for allocation makes the accounting boundaries confusing. Even for an auditor, examining such diverse allocations becomes a difficult task. The Commission is of the view that the budget indexing and accounting procedure for allocation of funds by the State Government to PRIs needs to be simplified and made user and audit-friendly. The Panchayats also need to maintain their accounts with transparency at a low cost. Therefore, there should be a separate Panchayat sector line in the state budget.

The State budget under each head should be divided into State-wise allocation and District-wise allocation. The allocation for each district should be shown separately in the district-wise allocation. District allocations under various heads should be brought together which will evolve into a district budget. This district budget can have amounts under:

Control of departments at State level, for valid reasons based on established principles

- i. Schemes transferred to the Zila Parishad for execution
- ii. Devolved funds at the disposal of Panchayats

### **PRIs and Access to Credit**

Over the years, the demands of the rural sector have shifted from the basics – food, shelter and safety to quality life requirements – potable water, power for irrigation, education, improved healthcare services, physical infrastructure and agricultural inputs and services. The fund requirement for all these is enormous. Apart from making efforts to increase revenue realisation (both tax and non-tax), Panchayats may also need to borrow from banks/financial institutions. The borrowing may be for improvement in delivery of services. Simultaneously, they also need to collect user charges from citizens to pay off their debt. In 1963, the Santhanam Committee on Centre-State relations had suggested that PRIs should be given powers to borrow or raise loans (the commercial banks were then reluctant to lend to the rural sector). The Committee suggested that Local Government Finance Corporations should be established in the States for this purpose. Many of the State Governments did set up such bodies. Whenever, Panchayati Raj Institutions had projects that seemed to be of a remunerative nature, they could approach such agencies for funds. Some of the Panchayats did take advantage of this facility and set up small projects, but their efforts towards collection of user charges were very unsatisfactory and most of them went into default.

The flow of funds for all public development schemes in rural areas should be exclusively routed through Panchayats. Local Area Development Authorities, Regional Development Boards and other organization having similar functions should immediately be wound up and their functions and assets transferred to the appropriate level of the Panchayat.

### **Assessment of Centrally Sponsored Schemes (CSSs)**

Centrally Sponsored Schemes account for the largest number of special purpose grants extended by the Union Government to States under Article 282.

The responsibility for implementation of most of these programmes under the broad guidelines of the Union Government, lies with the State Governments, the allocations to the States being mostly in the form of grants.

A critical assessment of the performance of Centrally Sponsored Schemes reveals the following deficiencies:

- Most of the schemes exist in silos planned and implemented as stand alone schemes without any horizontal convergence or vertical integration, resulting in multiple district plans, unrelated to each other, often mutually conflicting, prepared without any integrated vision or perspective.
- The schemes are often rigidly designed and do not provide flexibility required for adaptation according to the differential development needs at the local level.
- There is no consistent approach in the design of delivery mechanisms. Often independent structures are created for each scheme resulting in a multiplicity of such structures at the local level with no interaction or co-ordination among them.
- Professional support to the design, implementation and monitoring of these schemes is quite weak at the national, state and local levels. Often line departments with a generalist approach control the implementation process without having the necessary competence or capability.
- Often, there is too much effort on micro management without any mechanism to understand the local situation and respond to it effectively.



- In spite of stated objectives of quality of outputs and visible outcomes, many programmes remain expenditure oriented.

Most of the Centrally Sponsored Schemes deal with matters earmarked for Panchayats under Article 243 G and the Eleventh Schedule of the Constitution. It is, accordingly, essential that the centrality of Panchayats is recognized in fulfilling the objectives of these programmes. While some of the schemes do give a crucial role to the PRIs in their implementation, some bypass them and create separate structures. Even the schemes which allow the participation of Panchayats, often do not give them enough flexibility in decision making. Such flexibility is essential to take care of the local specificities, which strait-jacketed schemes designed from above cannot accommodate

The design of Centrally Sponsored Schemes should necessarily incorporate the following four vital ingredients:

- At the stage of conceptualisation, care needs to be taken to ensure that the Panchayats feel assured that the scheme has been designed for local welfare.
- There must be clear provisions for assigning implementation responsibilities to the PRIs particularly to the Village Panchayats.
- Schemes should not be over structured with rigid guidelines and should leave enough flexibility in decision making at the implementation level.
- Enough scope should be given to the Panchayats so that they could integrate such schemes within the framework of their areas' holistic development plans.

### **Media**

- A multi-pronged approach using different modes of communication like the print media, the visual media, electronic media, folk art and plays etc. should be adopted to disseminate information and create awareness about Panchayati Raj. It should be ensured that there is a convergence in approach to achieve synergies and maximise reach.
- The Union Ministry of Information and Broadcasting should devise a mechanism in consultation with the Union Ministry of Panchayati Raj, Ministry of Rural Development and Ministry of Agriculture and other concerned Ministries for effectively implementing this activity.
- Rural broadcasting should become a full-fledged independent activity of the All India Radio. Rural broadcasting units should be based in the districts and the broadcasts should be primarily in the local language(s) prevalent in the district. These programmes should focus on issues related to Panchayati Raj Institutions, rural development, agriculture, Right to Information and relevant ones on public health, sanitation, education etc.

### **Use of ICT**

- Steps should be taken to set up Information and Communication Technology (ICT) and Space Technology enabled Resource Centres at the Village and Intermediate Panchayat levels for local resource mapping and generation of local information base. These Resource Centres should also be used for documenting local traditional knowledge and heritage.
- Capacity building should be attempted at the local level by shifting the currently available post school generalistic education to a skill and technology based system having focus on farm & animal husbandry practices, computer applications, commercial cropping and soil and water management.

## URBAN GOVERNANCE

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Urban governance is a complex issue and poses a formidable challenge in today's public management in our country. For those living in India's metropolitan areas, daily living can be chaotic and trying, the unfortunate result of poor urban planning, creaking infrastructure and ineffectual governance. In smaller towns, at the intersection of rural and urban India, the situation is often worse – inadequate facilities, no urban identity and limited resources, both human and financial, to develop and maintain basic urban services.

Urbanisation and economic development have a strong positive correlation which is indicated by the fact that a country with a high per capita income is also likely to have a high degree of urbanisation. However, some of the largest urban agglomerations are in poorer countries and this is mainly because of increasing population density in these countries and the incapacity of their rural economies to prevent rural to urban migration.

The economic advantages provided by urban areas are many. Generally, the industrial, commercial and service sectors tend to concentrate in and around urban areas. These areas provide a larger concentration of material, labour, infrastructure and services related inputs on the one hand, and also the market in the form of consumers, on the other.

As India progresses towards becoming a developed state, the share of industry and services – urban oriented sectors – in our Gross Domestic Product (GDP) will increase. Agriculture now accounts for only a fifth of our GDP and its share is declining. It is therefore necessary that without taking away from the essential need to support agriculture and rural development, Indian policy-makers also focus attention on urban growth, planning and provisioning.

While the largest metros have reached gigantic proportions, the second tier cities, including many State capitals, have reached a stage of development where they are not far behind. The establishment of new urban areas near an existing town, both as an influx from rural areas and as a shifting out from a dense city centre, results in continuous and contiguous urban areas, creating agglomerations which are difficult to define. In India, the size of a city can grow substantially with the notifying of outlying areas as a part of the city. There are 27 statutory cities with over one million population each, accounting for 73 million

One of the paradoxes in urban India is the visible disparity between private wealth and poverty of infrastructure. Consumerism is booming, the economy is growing, and land values are rising. And yet, governments at the local and state level are not able to leverage urban strengths to raise resources to build infrastructure, which is not keeping pace with the rising population and aspirations. As a result, the urban dream that attracts vast numbers to the cities is becoming a nightmare.

### Structure of Urban Governance

The structures required for civic governance are complex. Certainly, there is no single model which suits all towns and cities given the vast diversity in their geographical location, size and cultural and historical backgrounds. However, it is possible to identify certain common basic structural features which could be suitably modified to suit local conditions.

It would be useful to find a broadly common approach to the internal structure of our urban local governments and to the arrangement of external but supporting institutions. There has to be linkage

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between various organisations and institutions with the intention of maximising what might be called civic efficiency. In fact, administrative efficiency, democratic functioning and interactive responsiveness would require a suitable mix of a hierarchical and a matrix system.

The Constitution does not lay down the parameters for categorising the urban local bodies into Nagar Panchayat, Municipal Council and Municipal Corporation and allows each State to decide, for example, what should be the criteria for classifying an urban centre as a town municipal council, city municipal council or a municipal corporation. This prevents a uniform pattern of categorisation across the States. The Commission recognises the fact that the situation in the States varies and that there is a wide range of structures and systems. The Commission would recommend a categorisation which might be useful for two reasons. First, it would reduce the lack of clarity that exists in understanding the nature of the urban bodies across the States. Secondly, it would help in adoption of a structured approach leading to a more systematic national planning process and in the devolution of funds through National and State Finance Commissions.

The existing system has two important lacunae. First, there is very little role that the average citizen plays in his/her own governance. The second is that the elected representatives as well as the officials are not sufficiently accountable and this often undermines both efficiency and transparency.

In rural areas, the proximity and small size of the Village Panchayat facilitates greater participation by the citizens, whereas in urban areas, especially in bigger towns and cities such participation becomes difficult. It is necessary to create a level of public participation which would be the equivalent of the Gram Panchayat in an urban milieu.

The Gram Sabha - "*a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level*" - gives every rural citizen the opportunity to participate in local issues. In contrast, the Ward (or Wards) Committees, proposed for urban bodies have not yet been constituted in some States. And even where constituted, they are hampered by the combination of various factors like the nomination process, limited citizen representation and an ambiguous mandate. The Constitution makes creation of such Ward Committees mandatory in all cities exceeding a population of 3 lakhs. The intent clearly is to create a decentralised governance structure to ensure citizen participation and local decision making. There are Ward Committees combining several wards (in some cases 10 or more) in many large cities. Thus, the population served by a Ward Committee may exceed three to five lakhs in some cases. Such a perfunctory creation of decentralised structures clearly violates the letter and spirit of the Constitution. In any case, it is necessary to accept the direction

in which demography and habitation trends are moving and push to continue the steps initiated by the 74th Amendment towards citizens' participation in urban affairs. It is towards this end that the following structure is proposed for urban local bodies.

The three tiers of urban local body governance should be as follows:

- a. Municipal Council/Corporation (by whatever name it is called);
- b. Ward Committees; and
- c. Area Committees or Sabhas.

However, in Town Panchayats, there should be no need to have three tiers, given the small size and population of these local bodies.

An Area Sabha would cover the citizens who are voters in one or more polling stations, but preferably not covering more than, say, 2500 voters, where 1000 to 1200 is the size of the electorate for each polling station (booth) as decided by the Election Commission of India. Including an average number of children in the area, the maximum population of a Sabha could be in the region of 4000 - 5000 residents, though this may vary according to the local situation. The footprint of these polling stations could define the boundaries of the Area Sabha.

The Area Sabha will perform functions similar to Gram Sabha such as prioritising developmental activities and identifying beneficiaries under various schemes.

In such a system, every registered voter of a polling booth, with boundaries as defined by the Election Commission, would be a member of that Area Sabha. The Area Sabha would offer a reasonable sense of belonging, inclusion and participation. Each Area Sabha would elect, once in five years, a small Committee of Representatives. The Committee of Representatives would elect one person who would chair the meetings of the Area Sabha and would represent the Area Sabha in the relevant Ward Committee. The Area Sabha, based on polling station(s) offers a fair and legitimate opportunity to all citizens and a uniform mode of representation. Above all, it would facilitate local citizens' participation. The election of the Committee of Representatives should be held by the State Election Commission along with the election of Councillors and their term should be coterminus with that of the Councillors.

The present system of having a Ward Committee for more than one ward is not logical and must be given up. Thus, there must be a Ward Committee for every ward, each effectively representing one local political boundary. There should be direct election of the Ward Councillor or Corporator who would be the Chairperson of the Ward Committee. He would of course represent the Ward in the Municipal Council. Thus the Corporator/Councillor will have two roles – a representative role in the city council, and an executive role in the Ward Committee. The Chairpersons of the Area Sabhas included in the wards would constitute the Ward Committee. The Commission is of the view that in smaller towns also, with populations of less than 3 lakhs, it is necessary to have formal mechanisms for citizen participation and local decision making through Ward Committees.

The Ward Committee members must have regular meetings with the citizens they represent, through Area Sabhas, to review programmes, their planning and implementation. There must also be regular meetings of the Committee with elected members from Area Sabhas. The Committee must have legitimate functions and appropriate financial devolution.

Suggestive functional and financial devolution to the Ward Committees is as follows

- a. The Ward Committee shall be empowered to exercise control over all such activities, which could be handled at the ward level such as street lighting, sanitation, water supply, drainage, road maintenance, maintenance of school buildings, maintenance of local hospitals/dispensaries, local markets, parks, playgrounds, etc.
- b. The employees, in respect of all functions entrusted to the Ward Committee, shall function under the Committee and shall be held accountable to the Committee. The salaries to all such employees shall be authorised/paid by the Committee on the basis of their performance.
- c. The funds allocated to those functions entrusted to the Ward Committee shall be transferred en-bloc to the Ward Committee.
- d. The budget adopted by the ward committee in respect to the functions allotted to it shall be taken into account in formulating the overall municipal budget.

- e. The meetings of the Ward Committee shall be widely publicised to ensure maximum presence and participation of the residents of the ward.
- f. The Ward Committees should be given a share of the property taxes collected from the ward, depending on the economic profile of the locality.
- g. The Ward Committee may raise funds through other sources.

While the structure proposed would provide for the participation of residents, there is an increasing recognition that in urban areas, it is not only the individual voter who needs to be involved, but also non-residential stakeholders

such as businesses. This is a unique urban problem, since in rural areas, the place of residence and work is often the same. In urban areas, there are pockets that are predominantly commercial. These non-residential stakeholders could be given some representation at the Ward Committee level, preferably through their business associations. The limit for such positions may be restricted to a proportion of the seats in the Ward Committee.

Just as there is delineation of functions among the different tiers in rural local governance, similar delineation would have to be done in case of urban local bodies also. While doing so, the principle of subsidiarity should be followed. A process of activity mapping similar to the one taken up for PRIs should be carried out for all ULBs.

Zonal offices with all administrative powers delegated to them may be set up **immediately in Metropolitan Corporations and Municipal Corporations and become the main point of contact for people in respect of services and amenities. One zone for every five lakh (or less) population could be considered. Similar zonal offices should also be set up in other big cities within the next three years.**

### **The Office of the Mayor/Chairperson**

Article 243 R(2)(b) provides that the legislature of a State may, by law, provide the manner of election of the Chairperson of a municipality. The Chairperson's role and functions, however, have not been clearly defined. While there is no reference to the Mayor of a big city in the Constitution, 'Chairperson' is clearly a generic term, and should be deemed to include the Mayor.

The Chairperson/Mayor in urban local government in most States enjoys primarily a ceremonial status. In most cases, the Commissioner, appointed by the State Government, has all the executive powers. Despite the fact that decades ago, in 1924, Netaji Subhas Chandra Bose was appointed as the chief executive officer of the Calcutta Municipal Corporation by the elected Council and the Mayor, during the colonial era in 1924 (see Box 5.3), today, in independent India, it is not envisaged that a municipal commissioner can be appointed by the Council, and the Chairperson/ Mayor would have real executive authority. This dilution of the role of the Mayor/Chairperson is clearly violative of the spirit of self-governance and local empowerment. In general, the Chairperson/Mayor chairs the council meetings and has only a peripheral role in urban governance. However, in Kolkata, the Chairperson and Mayor are two separate functionaries, the former chairing the Corporation meetings, and the Mayor-in-Council exercising certain executive functions.

The manner of election and term of office of the Mayor/Chairperson varies from State to State. In most major States, the Chairperson is indirectly elected by the elected Councillors. Madhya Pradesh, Tamil Nadu and Uttar Pradesh are the exceptions, where the Chairperson is directly elected by the voters of the city.

The term of office of the Mayor/Chairperson is five years in Andhra Pradesh, Kerala, Madhya Pradesh, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. However, in Assam, Delhi, Haryana, Himachal Pradesh, and Karnataka, the term of the Chairperson is only one year, and the Councillors elect a new Chairperson every year by rotation. In Gujarat and Maharashtra, the term of office of the Chairperson is two-and-a-half years.

Several factors need to be considered in deciding whether the Mayor should be directly or indirectly elected.

**Stability:** An indirectly elected Mayor survives in office so long as he enjoys the support of the majority in the Council. Such a system is prone to “horse-trading” and the Mayor’s authority is weakened, undermining the quality of administration. A popularly elected Mayor has a fixed tenure and cannot ordinarily be removed from office by the

**Councillors:** Given the rapid urbanisation and the complex challenges confronted by cities, a long-term vision and stability of leadership are vital to promote good governance.

**Accountability:** One concern in respect of a directly elected Mayor/Chairperson is that abuse of authority by the Mayor with a fixed tenure cannot be easily checked. However, there are two mechanisms which can ensure that the executive Mayor with a fixed term of office does not transgress the prescribed limits. First, the Council will have the powers to approve the budget, frame regulations and major policies and exercise oversight. In a well-designed city government, the Council and Mayor, both enjoy greater authority and act as checks against each other. Second, in a city government, institutional checks, strong public opinion, and the free press are the best guarantors of fairness and efficacy.

**Cohesion:** With an indirectly elected Mayor, by definition, the Mayor survives in office as long as he enjoys majority support in the Council. Therefore, there will be no logjam between the Council and Executive Mayor. But when a Mayor is elected by popular vote and the Council members are elected by a separate ballot, it is possible that the Mayor and a majority in the Council may belong to two different parties. This may lead to lack of cohesion between the two, causing delays and even paralysis. However, when the Executive Mayor is elected directly and a clean separation of powers is institutionalised, there are several inherent mechanisms to promote harmony. First, when the Mayor and Council are elected simultaneously, it is common for the Mayor’s Party to be the majority party in the Council or at least the largest group. Second, with clear separation of powers, the roles of both the Mayor and Council are clearly defined. Each acts as a check against the other, but cannot stop legitimate exercise of power. Third, in the event of a Council led by the opposing party, the Mayor has to exercise leadership to carry the Council with him. Such an effort to be bipartisan will actually strengthen city government and ensure implementation of long-term policies without disruption with each election. Fourth, an independent Ombudsman, as envisaged in the Commission’s Report on ‘Ethics in Governance’ as well as in this Report, will act as an effective check against abuse of authority at all levels.

**Representation:** When a Councillor elected to represent a ward is elected as the Mayor indirectly, often it is difficult to enlarge his/her vision for the whole city. Leadership of a growing and complex city requires a holistic vision and a broader perspective. Also, the direct popular mandate gives the Mayor the legitimacy to represent and speak for the whole city. Direct election of a Mayor will encompass the whole city and this will help develop a broader vision for the city instead of catering to segmented, sub-local issues which concern the residents while electing the local Councillor.

**Reservation with Empowerment:** A large percentage of offices in local governments are reserved for the Scheduled Castes, Scheduled Tribes, women, and in many States for the Backward Classes. In such a situation, if a Mayor is indirectly elected, and the office is reserved for a specific category, the majority

party may not have a suitable candidate elected as a Councillor. There are many instances when the minority party Councillor had to be elected as the Chairperson, because the majority party had no member elected from that category. Even when such a member is elected as a Councillor from the majority party, the best leadership in that community may not be willing to contest for a Councillor's office. But if the Mayor is directly elected, the party will have to put up its best candidate in the city from that category and there is likely to be better leadership that emerges. The reservation of offices will thus lead to real political empowerment of the disadvantaged sections in a direct election.

**Leadership Development:** In the pre-independence era, great freedom fighters provided leadership to the local governments. Chitta Ranjan Das (1870-1925), endearingly called 'Deshbandhu', became the first Mayor of the Calcutta Municipal Corporation. "Netaji" Subhas Chandra Bose was elected the Mayor of Calcutta in 1930. In major democracies, local government leadership, in particular city leadership, is often the stepping stone to State and National level office. The former Mayor of New York City, Rudolph Guiliani is presently a leading Republican candidate for the Presidency in the United States in 2008. The Mayors of Paris, Buenos Aires, Rio de Janeiro and London are major national figures, often holding national offices. In China, the Mayor of Shanghai is a powerful figure in the national ruling elite. In our own country, as mentioned above, several major national leaders in the freedom struggle acquired experience and rose to prominence through local government leadership. Therefore direct election of the Mayor, which promotes strong visible leadership in cities, is an important source of recruitment of talent into public life and leadership development.

The Commission is of the considered view that it is desirable to choose the Mayors/Chairpersons through popular mandate in a direct election. Such a Mayor should have a fixed tenure of five years. The Council should have powers of budget approval, oversight and framing regulations and major policies.

#### ***Role of the Mayor/Chairperson***

There are three issues which need to be resolved regarding the Mayor's role. First, should there be a separate Chairperson to chair the meetings of the Council and a Mayor to head the executive branch of the city government? Kolkata city has such an arrangement at present. This is in keeping with the broad notion of separation of powers and is somewhat similar to the way our National and State Legislatures have their own presiding officers, while the executive government is headed by the Prime Minister/ Chief Minister. However, the Commission is of the view that such separation of the functions of Chairperson and Mayor at the city and local level is unnecessary and cumbersome. In all rural local governments, the Chairperson is also the executive authority. The Mayor acting as Chairperson will facilitate harmonious functioning between the council and the executive. In a local government, the focus of authority should be unified and clearly defined. Only then can people make informed choices while voting. The Commission therefore recommends that the elected Mayor should function as both the Chief Executive and the Chairperson of the Council.

**Second, who should be the Chief Executive** - the elected Mayor or the appointed Commissioner? The Commission is of the firm view that executive power must be exercised by the elected Mayor/Chairperson because basic democratic legitimacy demands that power is exercised by the elected executive. The whole logic of local government empowerment is to facilitate people's participation and democratic governance as close to the people as possible. Only when the elected executive exercises real authority can people understand the link between their vote and the consequences of such a vote in terms of provision of public goods and services. Such a clear link also ensures fusion of authority and accountability. If the elected local government has no real authority and if executive powers are vested in an unelected official appointed by the State government, then local governance is reduced to mere symbolism. The Commission is of the view that the Mayor/Chairperson should be the Chief Executive of a city or urban government,

and the city government should have the power to appoint all officials including the Commissioner and to hold them to account.

Third, in large cities, how should the Mayor's executive authority be exercised? In smaller towns and cities, the elected Mayor can directly fulfil all executive responsibilities. But as cities grow larger, with vast population and an array of departments and complex functions, the Mayor needs the support and help of a group of persons to exercise executive authority under his overall control and direction. Therefore, some form of cabinet system with functionaries appointed by the Mayor exercising authority on his behalf in various departments of the executive branch is desirable. In systems where the chief executive is directly elected, and separation of powers is practised, the cabinet is often drawn from outside the legislature. But in a city government, the imperatives of separation of powers should be tempered by the need for greater harmony between the elected council and the Mayor. It is therefore desirable to draw the Mayor's cabinet or committee to discharge executive functions from the elected council. The Commission recommends that a Mayor's 'cabinet', chosen by the elected Mayor from among the councillors, should be constituted in all municipal corporations. The size of this cabinet should not exceed ten per cent of the strength of the council, or fifteen, whichever is higher. Such a cabinet will function directly under the control and supervision of the Mayor, and the final authority on any executive matter shall vest in the Mayor.

### Finances

There is often a mis-match between functional responsibilities and resource generation capability of local governments. Such mis-match is generally the result of inadequate delegation of taxation powers or a matter of administrative convenience – some taxes are more efficiently collected if they are administered by a higher tier of government. Therefore, the lower tiers of governance would depend on the higher tier for actual devolution. The Union Government with its nation-wide jurisdiction is better placed to administer taxes like Income Tax, Customs & Excise Duty and the local government with its intimate knowledge of local conditions is best suited to administer taxes like the Property Tax. The taxes administered by the Union Government are elastic, buoyant and have a wider base. Therefore, appropriate transfer of funds from the Union Government to the State Government, Union Government to the Local Government and State Government to the Local Government becomes necessary. Keeping these factors in view, provision was originally made in the form of Article 280 of the Constitution for ensuring fair and equitable transfer of resources from the Union to the States. Following the 73rd and 74th Amendments, Article 243I of the Constitution now makes similar arrangements for transfer of resources from States to Local Governments through State Finance Commissions.

Besides devolution of funds on the recommendations of the SFCs, there are several schemes of Union and State Governments, under which funds are released to the local bodies. In order to provide reforms linked central assistance for development of infrastructure, the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), was launched in 2005, in 63 cities. For cities/towns that remain outside this Mission, the Ministry of Urban Development has launched another scheme – Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT).

The ULBs have generally been authorised to levy and appropriate several taxes. These are property tax, taxes on advertisements, tax on animals, Entertainment Tax etc. The principal State taxes of which a share is given to the ULBs are the Profession Tax, Stamp Duty, Entertainment Tax, and Motor Vehicle Tax. It is tempting to suggest that some of these taxes be collected and retained by the municipalities. However, given the existing lack of capacity at the ground level in municipal administration, there is a fear that lack of efforts in the collection of these taxes could lead to a breakdown of municipal services. Besides, tax efficiency might demand the collection of taxes at the State level. Moreover, transfer of all



these taxes entirely to the urban (and rural) local bodies may also have an adverse impact on financing of the State Plans.

The Commission is of the view that creating a separate tax domain for local governments, by amending the Constitution, is not practicable. However, States should ensure that the law gives sufficient powers to the local bodies regarding taxes that are more appropriately collected at local levels.

**Widening the Tax Base:** It is estimated that only about 60%-70% of the properties in urban areas are actually assessed. There are several reasons for low coverage. The boundaries of municipal bodies are not expanded to keep pace with the urban sprawl; as a result, a large number of properties fall outside the legal jurisdiction of the municipal bodies. In larger cities, where City Development Authorities are in existence, the areas developed by such authorities and the buildings constructed in such areas are not assessed till such time these areas are technically 'handed over' to municipal bodies. In actual practice, this may take several years. State laws often provide for exemption to a number of categories of buildings such as those belonging to religious or charitable institutions, which often include almost all private educational and medical institutions. Unauthorised constructions which are quite common in almost all cities in India are not normally taxed by the municipal authorities for fear that levy of property tax on these buildings would strengthen the demand for regularisation. A large number of properties belonging to the Union and State Governments are not taxed because of the provisions of Article 285. Local Governments provide services to the occupants of such properties and there are costs attached in providing these services like solid waste management, maintenance of approach roads and general civic amenities. Therefore, Local Governments should be empowered to collect 'service charges' in respect of these properties. Similarly, properties belonging to the municipal government which have been given on lease are not taxed. Such properties, though in possession of occupants for a long time, often generate very small incomes for the local government. Unsatisfactory standards of records of title of property, is a reason for poor tax collection efficiency. Last but not the least, collusion between the assessing authorities and property owners is also one of the reasons for properties escaping the tax net.

The Commission is of the view that the Union Government should pursue the matter with the States to ensure that all States switch over to either the 'unit area' or 'capital value' method in a time bound manner. The categories of properties exempted from property tax need to be revisited and minimised. In order to ensure that unauthorised constructions do not escape the tax net, State laws should stipulate that levy of tax on any property would not confer any right of ownership in case the property has been constructed in violation of any law. Steps are already being taken under JNNURM for reforms of the property tax regime including use of GIS for the purposes of mapping of all properties in order to improve the efficiency of collection of property tax. Property tax details for all properties should be placed in the public domain to avoid any type of collusion between the assessing authority and the property owner. State laws should also provide for tax on properties belonging to the municipal authorities, but which are given on lease. Similarly, the law should provide for levy of service charge on properties belonging to the Union and State Governments.

The following principles should be followed while administering all **taxes**:

- i. The manner of determination of tax should be made totally transparent and objective;**
- ii. As far as possible, all levies may be based on self declaration of the tax payer but this should be accompanied by stringent penalties in case of fraud or suppression of facts by the tax payer;**
- iii. The cost of tax collection and of compliance should be reduced to a minimum;**
- iv. There should be an independent unit under the Chief Executive to monitor the collection of all taxes; and**

- v. **The appeal against orders of assessing officers should lie with an independent quasi-judicial authority.**
- b. Article 276(2) of the Constitution may be amended to enhance the upper ceiling on Profession Tax and this ceiling should be reviewed periodically.

### **Types of Services Provided by Urban Local Bodies**

Deficiencies in urban infrastructure are a major bottleneck for economic growth. The stress created by inadequate services and facilities compounded by weak governance adversely affects the quality of life of all citizens. Urban services can be broadly classified into three categories:

- a. Regulatory services;
- b. Infrastructural services and
- c. Social services

The Commission believes that improvements in the availability and accessibility of these services would result in qualitative improvement in the daily lives of urban citizens.

### **Regulatory Services**

These broadly cover :

- i. Granting permissions for creation of residential and commercial space based on pre-determined plans;
- ii. Issuing licenses to carry on commercial activities which are not harmful to society;
- iii. Ensuring adherence to norms of social and civic behaviour as determined by the authorities acting on behalf of all citizens; and
- iv. Regulating and maintaining public health, and the environment of the urban area.

In all these regulatory measures, improving the quality of services would require adherence to certain fundamental principles - (a) simplification, (b) transparency, (c) objectivity, (d) convergence and (e) speedy disposal.

- a. **\*A time-bound programme for updating and simplification of all regulatory provisions relating to the ULBs should be made mandatory. Each State Government should create a task force to examine and suggest simplification of procedures in local governments. This task force could also suggest steps to be taken to reduce discretion and bring objectivity in the field offices of local governments. The city municipal corporations could undertake such an exercise on their own.**
- b. **All service providers in cities should be brought under one umbrella by establishing 'one stop service centres'. This could be completed within two years in all cities. Call centres, electronic kiosks, web based services and other tools of modern technology should be used by all ULBs to bring speed, transparency and accountability into delivery of services to the citizens.**
- c. Citizens' charters in all Urban Local Bodies should specify time limits for approvals relating to regulatory services such as licenses and permits and these should be scrupulously adhered to. The charter should also specify the relief available to the citizens in case of non adherence.
- d. **A system of self certification by registered architects for issue of building permits should be introduced in all ULBs with immediate effect, to start with, for individual residential units.**

## Infrastructure Services

Urban infrastructure generally covers what may be described as 'amenities', such as (a) drinking water, (b) sanitation and sewerage, (c) solid waste management and (d) urban transport management. With economic development, citizens demand better access to these services and improvements in the standards of these services. The basic approach of

Government towards the provision of these services should be: (a) creating an accountable and responsive institutional framework for provision of these services; (b) full cost recovery for such services; (c) the preparation of benchmark norms for these facilities; and (d) the need for equity in this effort.

The committee recommended that:

- Urban Local Bodies should be given responsibility for water supply and distribution in their territorial jurisdictions whether based on their own source or on collaborative arrangements with parastatals and other service providers.
- Metropolitan Corporations may be given responsibility for the entire water supply programme from development to distribution. For other urban local bodies, a phased transfer of responsibilities for management of the distribution networks within their territorial jurisdiction while leaving source development to the parastatal agency would appear to be the most feasible approach.
- State Finance Commissions may be entrusted with the task of developing suitable normative parameters for different classes of local governments for arriving at optimum tariff structure.
- Municipal bodies must focus on increasing operational efficiencies – through reduction in pilferage, improving efficiency of staff and use of technology.
- The municipal bodies should meter all water connection within a time frame. Installing a hierarchy of metering system could help in identifying pilferage. Payment of water charges should be made hassle free through use of Information Technology. As far as possible all water connections should be metered, and if necessary targeted subsidy should be provided to the poorest sections.
- Infrastructure development plans for water supply should be integrated with the CDPs.
- Municipal bye-laws should provide incentives for adoption of water harvesting measures and recycling of waste water for non-potable purposes. In larger cities, non-potable water (recycled treated water) should be used for industries.
- Sanitation, as a matter of hygiene and public health, must be given due priority and emphasis in all urban areas. In all towns, advance action for laying down adequate infrastructure should be taken to avoid insufficiency of services.
- Each municipal body should prepare a time bound programme for providing sewerage facilities in slum areas. This should be brought into action through appropriate allocation in the annual budget. Local bodies may impose a cess on the property tax or development charges in order to raise resources for expansion and capacity enhancement of the existing sewerage systems. In order to motivate the local governments to generate additional resources for sewerage management, matching grants may be provided by the Union and State Governments.
- Community participation and co-production of services should be encouraged by municipal bodies. This should be supplemented by awareness generation.

- A separate user charge should be introduced in all municipalities, even as a minimum levy, for sanitation and sewerage, as distinct from water charges. State Finance Commissions may be entrusted with the task of developing suitable normative parameters for different classes of local governments for arriving at optimum user charges.
- In all towns and cities with a population above one lakh, the possibility of taking up public private partnership projects for collection and disposal of garbage may be explored. This should, however, be preceded by development of capacity of the municipal bodies to manage such contracts.
- Municipal bye-laws/rules should provide for segregation of waste into definite categories based on its manner of final disposal.
- Special solid waste management charges should be levied on units generating high amount of solid waste.

### **Services for Human Development**

**India has one of the largest education systems in the world. Still, a very significant number of children either remain out of school or drop out without completing even primary education. Thus to improve the situation the committee recommended to:**

- There has to be a shift in emphasis in the crucial service delivery sectors of education and health from centralised control to decentralised action, from accountability to the State department to accountability to the local communities and from employment guarantee to service guarantee.
- It is necessary that all schools are made functionally self-sufficient, in as much as basic facilities and classroom requirements are provided in all urban schools within the next two years.
- The municipalities, especially the larger ones, should seek the help of NGOs, the corporate sector and individual volunteers for assistance in running schools. Indeed, it would be useful to initiate a voluntary service element in our social sector to improve service delivery.
- The trend in urban areas to shift towards private healthcare needs to be seen as an opportunity by the City authorities to concentrate on public health as distinct from clinical services, and on preventive and not only curative aspects of health care.
- Institution specific standards should be prescribed for schools and hospitals and third party assessments carried out to monitor performance in service delivery. Performance based incentives should be prescribed at all levels by breaking salary ceilings to guarantee service outcomes and linking permanence in service to performance.
- Recruitment for hospitals and schools should be made to an institution/Society, moving away from non accountable State level recruitment.
- Local bodies should ensure convergence among health systems, sanitation facilities and drinking water facilities. Primary level public health institutions in urban areas should be managed by the urban local bodies.
- For all services provided by local governments there is need to develop a set of performance indicators. The concerned Ministry should lay down broad guidelines for this purpose. Thereafter, the State Governments could lay down norms for this purpose.
- The concerned Ministry should maintain a State-wise database about the performance of various service delivery systems. Similarly, the State should have a database for such services covering all municipal bodies.

**To improve the transport services following steps can be taken**

- Urban Transport Authorities, to be called Unified Metropolitan Transport Authorities in the Metropolitan Corporations, should be set up in cities with population over one million within one year, for coordinated planning and implementation of urban transport solutions with overriding priority to public transport.
- UMTAs/UTAs should be given statutory powers to regulate all modes of public transport, decide on complementary routes for each operator, and fix fares as well as service standards, etc. In addition, UMTAs/UTAs should be given financial powers and resources to give or recommend financial support, where necessary, to operators on unviable routes.
- Integration of land use with transport planning should be made mandatory for all ULBs as well as planning bodies such as the DPCs and MPCs.
- Demand for transportation in cities should be managed by adopting demand control measures like:
  - i. Imposition of congestion levies;
  - ii. Pedestrianisation of certain zones; and
  - iii. Reserving access to certain areas only through public transport.

**Steps needed to improve the urban poverty are:**

- An exhaustive survey to identify the urban poor should be carried out within one year. The parameters to be used for such identification should be simple and easily comprehensible, allowing objective measurement without the use of discretion. The basic parameters should be spelt out at the national level. The identification should be based on a door-to-door survey with the survey teams including at least one person from the Area Sabha concerned. The urban poor so identified may be issued multi-utility identity cards for availing benefits under all poverty alleviation programmes.
- After identifying the urban poor through surveys, a mission mode approach would need to be adopted for alleviating urban poverty in a time-bound and systematic manner. The urban local bodies may also have their own poverty alleviation schemes with adequate backward and forward linkages converging with the other poverty alleviation schemes.
- The thrust of the urban poverty alleviation schemes should be on upgradation of skills and training. Training institutes may be set up on the lines of RUDSETIs for imparting training to the urban poor for self employment. These institutes could also help in developing wage employment related skills.
- In case of setting up of micro-enterprises, the urban poverty alleviation schemes should be flexible in selecting projects and providing financial assistance.
- To maximise the benefits of micro-finance, formation of Self-Help Groups (SHGs) needs to be encouraged. Institutions and NGOs with good track record should be encouraged to promote SHGs for availing micro-finance.

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