GOVERNMENT OF INDIA

SECOND ADMINISTRATIVE REFORMS COMMISSION

SIXTH REPORT

LOCAL GOVERNANCE

An inspiring journey into the future

OCTOBER 2007

PREFACE

"In this structure composed of innumerable villages, there will be ever widening, never ascending, circles. Life will not be a pyramid with the apex sustained by the bottom. But, it will be an oceanic circle, whose centre will be the individual, always ready to perish for the village, the latter ready to perish for the circle of the villages, till at last the whole becomes one life composed of individuals, never aggressive in their arrogance, but ever humble, sharing the majesty of the oceanic circle of which they are integrated units. Therefore, the outermost circumference will not wield power to crush the inner circle, but will give strength to all within and will derive its own strength from it."

Mahatma Gandhi

In this report on Local Governance, the Administrative Reforms Commission has examined in detail the issues relating to rural and urban local governance in India with a special focus on the need for real democratic decentralisation in the country in order to usher in genuine grass roots democracy as envisaged by the founding fathers of our republic and as now specifically mandated by our Constitution. The Report examines these issues in three parts - the first part deals with common issues of local governance that are relevant for both rural and urban areas as well as the rural-urban continuum; the second deals with rural governance issues; and the third with urban governance.

What are the characteristics of good governance? An institutional set-up that ensures good governance usually has the following features:

1. **Participation**
   All men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

2. **Rule of Law**
   Legal frameworks should be fair and enforced impartially, particularly laws on human rights.

3. **Transparency**
   Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.

4. **Responsiveness**
   Institutions and processes try to serve all stakeholders.

5. **Consensus Orientation**
   Good governance mediates differing interests to reach a broad consensus on what is in the best interests of the group and where possible, on policies and procedures.

6. **Equity**
   All men and women have opportunities to improve or maintain their well-being.

7. **Effectiveness and Efficiency**
   Processes and institutions produce results that make the best use of resources.

8. **Accountability**
   Decision-makers in government, the private sector and civil society organisations are accountable to the public, as well as to the institutional stakeholders. This accountability differs depending on the organisation and whether the decision is internal or external to an organisation.

9. **Strategic Vision**
   Leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

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.

I was recently told about the observation of a visiting European who wondered how India is able to function without any local government worthy of the name. His bafflement is understandable. We have allowed local bodies to atrophy and starved them of funds to such an extent that while local government revenues accounted for 15% of the total government revenues in the USA in the year 2001, the corresponding figure in India was just 3%. Even after the passing of the 73rd and 74th Constitutional Amendments, the transfer of funds, functions and functionaries has been nominal in most States with notable exceptions such as Kerala. Throughout the seventies and eighties, a process of centralisation of even basic municipal functions such as water supply and sanitation into the hands of parastatals such as water boards and authorities has led to a massive decline in the role and status of local bodies which is only now sought to be reversed. Such reversal faces inevitable hurdles from the established institutional structures at the State Government and district levels.

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.

It is now well established that the constitutional division of subjects between the Union and the States has been overdrawn and that what matters is not the subjects but the functions under each subject. These should ideally be performed according to the principle that the central authority should have a subsidiary function performing only those tasks which cannot be performed effectively at the more immediate or local level. That is the decentralisation envisaged in the 73rd and 74th Constitutional Amendments which now needs to be implemented in full.

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.

Yet, India need not have slums. It is less densely populated than England, Japan, Holland and several other countries. If those nations have avoided slums, we should be able to do the same.

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. In fact, many reckon this to be the most important condition for turning Mumbai into a world financial centre that will act as an aggregator and executor of complex financial transactions from across the world.

In this Report, the Commission has tried to chalk out an agenda for reform of local governance in both urban and rural areas. At the outset, the core principles that underpin this agenda have been outlined. These principles include, inter-alia, democratic decentralisation as the centre-piece of governance reforms in the country; the principle of subsidiarity which means that what can best be done at the lower levels of government should not be centralised at higher levels; a clear delineation of functions entrusted to the local bodies; effective devolution in financial terms and convergence of services for the citizens as well as citizens centric governance structures.

Based on these principles, the Report first looks at the present constitutional scheme relating to local bodies and what has already been achieved as well as what remains to be done. On the basis of this analysis, it is proposed that a framework law at the national level may be prescribed for local bodies with the consent of the States in order that devolution of functions as well as funds and functionaries becomes mandatory and not optional. This section also deals with the issues relating to capacity building for self-governance, the need for assigning the functions of decentralised planning to a single agency at the local and regional levels, the mechanisms required for ensuring transparency and accountability such as well defined audit mechanisms as well as the need for

constitution of an Ombudsman to take care of complaints against local bodies. The question of creating a third tier of representative government at the district level without doing away with the historical institutional strengths represented by the office of the District Collector is also extensively examined and our recommendation on this issue represents the golden mean between the strident positions that are often taken on this issue.

Thereafter, in the section on rural governance, issues relating to the role of Ward Sabhas, giving Panchayati Raj Institutions greater autonomy in personnel management and in the management of local resources are discussed in detail. The question of 'activity mapping' to ensure clear cut transfer of functions to the Panchayati Raj Institutions (PRIs) as well as the critical issue of fiscal decentralisation are also analysed in detail in this section. Finally, the need to give the PRIs the central role in the implementation of centrally sponsored schemes while, at the same time, increasing the proportion of untied funds made available to them for carrying out their statutory functions are also highlighted.

In the area of urban governance, the trends in urbanisation in India, the need for clear cut demarcation of the functional domain of Urban Local Governments (ULBs) and the need to make the Mayor a directly elected CEO of the ULBs are examined along with examples of international best practices. How municipal finances can be revitalised is also covered in detail in this section. In the area of infrastructure and service provision, the need to clearly make all infrastructure service providers accountable to the concerned ULBs is clearly prescribed. The importance of the emerging mega cities in the country and need for special institutional mechanisms to tackle their specific problems are also emphasised. The opportunity of creating 25 to 30 world class mega cities in India by using the JNNURM Scheme is also highlighted. Finally, the need for creating a symbiotic relationship between the ULBs and State Governments and how this can be achieved is examined and recommendations made.

In conclusion, I would like to extend our gratitude to Sri Mani Shankar Aiyar, Minister for Panchayati Raj, Government of India; Shri V.N. Kaul, Comptroller and Auditor General of India and Shri N. Gopalaswamy, Chief Election Commissioner of India for their valuable inputs and suggestions which were of immense help to the ARC in formulating its recommendations on various issues relating to Local Governance in India.

M. Veerappa Moily

New Delhi
October 22, 2007

(M. Veerappa Moily)
Chairman

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Administrative Reforms and Public Grievances

Resolution

New Delhi, the 31st August, 2005

No. K-11022/9/2004-RC. — The President is pleased to set up a Commission of Inquiry to be called the second Administrative Reforms Commission (ARC) to prepare a detailed blueprint for revamping the public administration system.

2. The Commission will consist of the following :

(i) Shri Veerappa Moily - Chairperson

(ii) Shri V. Ramachandran - Member

(iii) Dr. A.P. Mukherjee - Member

(iv) Dr. A.H. Kalro - Member

(v) Dr. Jayaprakash Narayan - Member

(vi) Smt. Vineeta Rai - Member-Secretary

3. The Commission will suggest measures to achieve a proactive, responsive, accountable, sustainable and efficient administration for the country at all levels of the government. The Commission will, inter alia, consider the following :

(i) Organisational structure of the Government of India

(ii) Ethics in governance

(iii) Refurbishing of Personnel Administration

(iv) Strengthening of Financial Management Systems

(v) Steps to ensure effective administration at the State level

(vi) Steps to ensure effective District Administration

(vii) Local Self-Government/Panchayati Raj Institutions

(viii) Social Capital, Trust and Participative public service delivery

(ix) Citizen-centric administration

(x) Promoting e-governance

(xi) Issues of Federal Polity

(xii) Crisis Management

(xiii) Public Order

Some of the issues to be examined under each head are given in the Terms of Reference attached as a Schedule to this Resolution.

4. The Commission may exclude from its purview the detailed examination of administration of Defence, Railways, External Affairs, Security and Intelligence, as also subjects such as Centre-State relations, judicial reforms etc. which are already being examined by other bodies. The Commission will, however, be free to take the problems of these sectors into account in recommending re-organisation of the machinery of the Government or of any of its service agencies.

5. The Commission will give due consideration to the need for consultation with the State Governments.

6. The Commission will devise its own procedures (including for consultations with the State Government as may be considered appropriate by the Commission), and may appoint committees, consultants/advisers to assist it. The Commission may take into account the existing material and reports available on the subject and consider building upon the same rather than attempting to address all the issues ab initio.

7. The Ministries and Departments of the Government of India will furnish such information and documents and provide other assistance as may be required by the Commission. The Government of India trusts that the State Governments and all others concerned will extend their fullest cooperation and assistance to the Commission.

8. The Commission will furnish its report(s) to the Ministry of Personnel, Public Grievances & Pensions, Government of India, within one year of its constitution.

Sd/-
(P.I. Suvrathan)
Additional Secretary to Government of India

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Administrative Reforms
and Public Grievances

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RESOLUTION

New Delhi, the 24th July, 2006

No. K-11022/9/2004-RC (Vol.II) – The President is pleased to extend the term of the second Administrative Reforms Commission by one year upto 31.8.2007 for submission of its Reports to the Government.

Sd/-
(Rahul Sarin)
Additional Secretary to the Government of India

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Administrative Reforms & Public Grievances

RESOLUTION

New Delhi, the 17 July, 2007

No.K-11022/26/2007-AR – The President is pleased to extend the term of the second Administrative Reforms Commission (ARC) by seven months upto 31.3.2008 for submission of its Reports to the Government.

Sd/-
(Shashi Kant Sharma)
Additional Secretary to the Government of India

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LIST OF ABBREVIATIONS

Abbreviation	Full Form
ACA	Additional Central Assistance
AR	Accommodation Reservation
ARC	Administrative Reforms Commission
ARV	Annual Rental Value
ARWSP	Accelerated Rural Water Supply Programme
ASHA	Accredited Social Health Activist
AUWSP	Accelerated Urban Water Supply Programme
AYUSH	Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy
BDO	Block Development Officer
BEO	Block Education Officer
BEST	Brihanmumbai Electric Supply & Transport
BRGF	Backward Regions Grant Fund
BIS	Bureau of Indian Standards
BSUP	Basic Services to Urban Poor
BWH	Bore Wells with Hand Pumps
CAA	Constitutional Amendment Act
CAG	Comptroller & Auditor General
CBO	Community Based Organisation
CD/NES	Community Development/National Extension Service
CDP	Comprehensive Development Plan
CHC	Community Health Centre
CPHEEO	Central Public Health & Environmental Engineering Organisation
CSS	Centrally Sponsored Scheme
DAs	Development Authorities
DDA	Delhi Development Authority
DHM	District Health Mission
DHS	District Health Society
DLFA	Director of Local Fund Audit
DM	District Magistrate
DMS	Disaster Management Support
DPAP	Drought Prone Areas Programme
DPCs	District Planning Committees
DPEP	District Primary Education Programme
DPRs	Detailed Project Reports
DRDA	District Rural Development Agency
DWCUA	Development of Women and Children in Urban Areas
DWSC	District Water and Sanitation Committee
EFC	Eleventh Finance Commission

EO	Earth Observation
EWS	Economically Weaker Sections
FFDA	Fish Farmers Development Agency
FSI	Floor Space Index
GIS	Geographical Information System
GPs	Gram Panchayats
HCBS	Housing Cooperative Building Societies
HUDCO	Housing and Urban Development Corporation
IAY	Indira Awas Yojna
ICAI	Institute of Chartered Accountants of India
ICDS	Integrated Child Development Scheme
IDSMT	Integrated Development of Small and Medium Towns
IEC	Information Education and Communication
IHSDP	Integrated Housing and Slum Development Programme
ILCSS	Integrated Low Cost Sanitation Scheme
IMR/MMR	Infant Mortality Rate/Maternal Mortality Rate
IMRB	
Indo-USAID FIRE-D	Indo-USAID Financial Institutions Reforms and Expansion-Debt
IPHS	Indian Public Health Standards
ISRO	Indian Space Research Organisation
JDCP	Jhabua Development Communications Project
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
JUSCO	Jamshedpur Utilities and Services Company
KMDA	Kolkata Metropolitan Development Authority
KVIC	Khadi & Village Industries Commission
LRT	Light Rail Transit
MLA	Member of Legislative Assembly
MLA LADS	MLA Local Area Development Scheme
MML	Model Municipal Law
MMRDA	Mumbai Metropolitan Region Development Authority
MP	Member of Parliament
MP LADS	MP Local Area Development Scheme
MPCs	Metropolitan Planning Committees
MWS	Mini Water Supply Scheme
NBC	National Building Code
NCAER	National Council of Applied Economic Research
NCERT	National Council of Educational Research and Training
NCRWC	National Commission to Review the Working of the Constitution
NCU	National Commission on Urbanisation
NDWM	National Drinking Water Mission

NGO	Non Governmental Organisation
NIPFP	National Institute of Public Finance and Policy
NIUA	National Institute of Urban Affairs
NLCPR	Non Lapsable Central Pool of Resources
NMAM	National Municipal Accounts Manual
NMMP	National Mission Mode Project
NNRMS	National Natural Resources Management System
NREGA	National Rural Employment Guarantee Act
NRHM	National Rural Health Mission
NSDP	National Slum Development Programme
NSLRS	National Scheme of Liberation and Rehabilitation
NSSO	National Sample Survey Organisation
O&M	Operation and Maintenance
OBCs	Other Backward Classes
PAC	Public Accounts Committee
PDS	Public Distribution System
PEAF	Panchayats Empowerment and Accountability Fund
PESA	Panchayati Raj (Extension to Scheduled Areas) Act
PHC	Primary Health Centre
PHED	Public Health and Engineering Department
PPP	Public Private Partnership
PRIs	Panchayati Raj Institutions
PSs	Panchayat Samitis
PURA	Provision of Urban Amenities in Rural Areas
REGS	Rural Employment Guarantee Scheme
RGNDWM	Rajiv Gandhi National Drinking Water Mission
ROW	Right of Way
RTI Act	Right to Information Act, 2005
RUDSETIs	Rural Development and Self Employment Training Institutes
SC	Scheduled Caste
SDMCs	School Development and Management Committees
SEBI	Securities & Exchange Board of India
SEC	State Election Commission
SEZs	Special Economic Zones
SFC	State Finance Commission
SFDA	Small Farmers Development Agency
SGRY	Sampoorna Grameen Rozgar Yojana
SHASU	Scheme of Housing and Shelter Upgradation
SHG	Self Help Group
SJSRY	Swarna Jayanti Shahari Rozgar Yojana
SJSY	Swaran Jayanti Swarojgar Yojna
SPV	Special Purpose Vehicle

SSA	Sarva Siksha Abhiyan
ST	Scheduled Tribe
SUME	Scheme of Urban Micro Enterprises
SUWE	Scheme of Urban Wage Employment
SWSM	State Water and Sanitation Mission
TCPO	Town and Country Planning Organisation
TDCC	Training and Development Communication Channel
TDR	Transfer of Development Rights
TFC	Twelfth Finance Commission
TGS	Technical Guidance and Supervision
TISCO	Tata Iron and Steel Co.
TSC	Total Sanitation Campaign
TSP	Tribal Sub Plan
UIDSSMT	Urban Infrastructure Development Scheme for Small and Medium Towns
UIG	Urban Infrastructure and Governance
ULBs	Urban Local Bodies
ULGs	Urban Local Governments
UMTAs	Unified Metropolitan Transport Authorities
UNEP	United Nations Environment Programme
UNFPA	United Nations Fund for Population Activities
URIF	Urban Reforms Initiative Fund
URP	Uniform Recall Period
UTAs	Unified Transport Authorities
UTs	Union Territories
VAMBAY	Valmiki Ambedkar Awas Yojana
VAT	Value Added Tax
VEC	Vidyalaya Education Committee
VPN	Virtual Private Network
VRCs	Village Resource Centres
VWSC	Village Water and Sanitation Committee
ZPs	Zila Parishads

INTRODUCTION

Local Self Government - Evolution and Growth

1

1.1. Integrating institutional reforms in local governance with economic reforms was Gandhiji's far-sighted vision of 'Poorna Swaraj'. Economic reforms and local government empowerment are the two great initiatives launched in the 1990's. Economic reforms have taken roots over the years and have yielded significant dividends in the form of enhanced growth rate, bulging foreign exchange reserves and availability of a variety of goods and services. The freedom and choice resulting from the reforms have built a broad national consensus across the political spectrum ensuring their continuity. Local government empowerment too is broadly accepted as a vital principle and all parties are committed to it. But, in practice, real empowernment as envisaged has not taken place.

1.2. Viewed in this context, the Terms of Reference of the Second Administrative Reforms Commission (ARC) pertaining to Local Self Government assume special significance since they cover key areas of reforms in Local Governance. These Terms of Reference are:

(i) Improving delivery mechanism of public utilities and civic services with greater citizens' and stakeholders' involvement in such processes.
- Utilities like water, power, health and sanitation, education, etc.

(ii) Empowerment of local self government institutions for encouraging participative governance and networking.

(iii) To encourage capacity building and training interventions for better performance of local bodies.

1.3. The Commission has examined the issues of Rural and Urban Local Governance in three parts which are as follows:

(A) *Common Issues:* This part deals with issues which are common to both rural and urban governance.

(B) *Rural Governance:* This part deals with issues related to rural governance.

(C) *Urban Governance:* This part deals with issues concerned with urban governance.

1.4. The concept of local self government is not new to our country and there is mention of community assemblies in the Vedic texts. Around 600 B.C., the territory north of the river Ganga comprising modern day north Bihar and eastern U.P. was under the suzerainty of small republics called Janapadas among which Lichhavis were the most powerful. In these Janapadas, the affairs of the State were conducted by an assembly consisting of local chieftains. In the post Mauryan times as well, there existed republics of Malavas and the Kshudrakas where decisions were taken by "sabhas". The Greek Ambassador, Megasthenes, who visited the court of Chandragupta Maurya in 303 B.C. described the City Council which governed Pataliputra – comprising six committees with 30 members. Similar participatory structures also existed in South India. In the Chola Kingdoms, the village council, together with its sub-committees and wards, played an important part in administration, arbitrated disputes and managed social affairs. They were also responsible for revenue collection, assessing individual contribution and negotiating the collective assessment with the King's representative. They had virtual ownership of village waste land, with right of sale, and they were active in irrigation, road building and related work. Their transactions, recorded on the walls of village temples, show a vigorous community life and are a permanent memorial to the best practices in early Indian polity. The present structure of Local Self Government institutions took shape in 1688 when the British established a Municipal Corporation at Madras which was followed by creation of similar bodies at Bombay and Calcutta (1726). Comprising a Mayor and a majority of British-born Councillors, these Corporations were basically units of administration enjoying considerable judicial powers. During the next 150 years, municipal bodies were created in several *mufasil*[1] towns although their functions remained confined to conservancy, road repairs, lighting and a few other sundry items.

1.5. In 1872, Lord Mayo introduced elected representatives for these municipalities and this was further developed by his successor, Lord Ripon, in 1882. By the 1880s, these urban municipal bodies had a pre-dominance of elected representatives in a number of cities and towns, including Calcutta and Bombay. A corresponding effective structure for rural areas came up with the enactment of the Bengal Local Self Government Act, 1885 which led to the establishment of district local boards across the entire territory of the then Bengal province. These boards comprised nominated as well as elected members with the District Magistrate as Chairman who was responsible for maintenance of rural roads, rest houses, roadside lands and properties, maintenance and superintendence of public schools, charitable dispensaries and veterinary hospitals. Within a span of five years, a large number of district boards came into existence in other parts of the country, notably Bihar, Orissa, Assam and North West Province. The Minto-Morley Reforms, 1909 and the Montague Chelmsford Reforms, 1919, when Local Self Government became a transferred subject, widened the participation of people in the governing process and, by 1924-25, district boards had a

[1] Mufasil means small towns

preponderance of elected representatives and a non-official Chairman. This arrangement continued till the country's Independence in 1947 and thereafter till the late 1950s.

1.6. The debates in the Constituent Assembly indicate that the leaders at that time were hesitant to introduce a wholesale change in the then prevailing administrative system and as a compromise, it was agreed that Panchayati Raj Institutions would find place in the Directive Principles of State Policy (Part IV, Article 40) which, inter alia, provides that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. But there was a general view that local government institutions would be creatures of the State Legislature and hence there was no whittling down of the powers of the State Government.

1.7. In compliance with the provisions of the Directive Principles of State Policy pertaining to establishment of village panchayats as units of self government, an ambitious rural sector initiative, the Community Development Programme, was launched in 1952. Its main thrust was on securing socio-economic transformation of village life through people's own democratic and cooperative organisations with the government providing technical services, supply and credit. Under this programme 100 to 150 villages formed a Community Development Block and participation of the whole community was the key element of this experiment which strengthened the foundation of grassroots democracy. In 1953, the National Extension Service was introduced which was an amplified version of the Community Development Programme and aimed at transferring scientific and technical knowledge to agricultural, animal husbandry and rural craft sectors. The underlying theme was extension of innovative pilot projects and while the programme did not have any content of elected democratic institutions since they were run by government functionaries with the help of ad hoc semi-popular bodies like Vikas Mandal and Prakhand Samiti, yet in the midst of the euphoria prevailing immediately after Independence in the country, they, to a great extent, caught the attention of the rural masses.

1.8. In 1956, when the Second Five Year Plan was launched, it recommended that the Village Panchayats should be organically linked with popular organisations at higher levels and in stages the democratic body should take over the entire general administration and development of the district or the sub division excluding functions such as law and order, administration of justice and selected functions pertaining to revenue administration. To operationalise this initiative, Government appointed a committee under the chairmanship of Shri Balwantrai Mehta in 1957. The Balwantrai Mehta Committee offered two broad directional thrusts; first that there should be administrative decentralisation for effective implementation of the development programmes and the decentralised administrative system should be placed under the control of local bodies. Second, it recommended that the

CD/NES blocks throughout the country should be designed as administrative democratic units with an elected Panchayat Samiti at this level to operate as a fulcrum of developmental activity in the area. This Samiti would need guidance of technical personnel in many matters; hence it should have line department officers of suitable competence under its control. The Panchayat Samiti was also to be equipped with sources of income. Certain powers of control were retained by the government; like supersession of Panachayat Samiti in public interest, suspension of a resolution of a Panchayat Samiti by the Collector on grounds of breach of peace, being contrary to the law of the land or being ultra vires the Constitution. The recommendations also suggested reservation for SC/ST and women through co-option. In order to ensure coordination, the Committee recommended formation of a Zila Parishad at the district level consisting of all the Presidents of the Panchayat Samitis, Members of Legislative Assemblies and Members of Parliament with district level officers of the public health, agriculture, veterinary and education departments as members and the Collector as the chairman. But the Committee made it clear that the district tier was being conceived just as an advisory body; a support structure for Panchayat Samitis.

1.9. The recommendations of the Committee were generally welcomed and Panchayati Raj legislations were enacted in a number of States to give effect to these recommendations. By the 1960s, Gram Panchayats covered 90% of the rural population in the country. Out of 4974 Blocks, *Prakhand*[2] Samities were formed in 4033 blocks. Out of 399 districts in existence, 262 Zila Parishads were also constituted with varying degrees of actual power. Although a number of Panchayat structures were set up in different States at all the three tiers, they had limited powers and resources and the essential idea that all developmental activity should flow only through the Block Panchayat Samitis lost ground. Moreover, important schemes like the SFDA, DPAP and ITDP were not brought within the purview of the elected Zila Parishad even in States like Maharashtra and Gujarat where effective financial decentralisation had taken place. Unfortunately, after the intensive stage of the Community Development programme, there was a visible trend towards centralisation. Panchayati Raj elections were postponed indefinitely and flow of funds for Block Development were reduced to a trickle. The net result was that, by the 1970s, these bodies remained in existence without adequate functions and authority. The position of these institutions was further weakened due to the creation of a large number of parastatals, which were assigned many of the functions legitimately envisaged in the domain of PRIs, for example water supply, slum improvement boards, etc. on the perception that these functions were too complex and resource dependent to be handled by local governments.

1.10. Beginning with Rajasthan and Andhra Pradesh in 1959, the Panchayati Raj system was at work in some form in all the States of the Indian Union, although the higher tier had not been set up in Kerala and Jammu & Kashmir. By end 1980s, except Meghalaya,

[2] 'Prakhand' means a development 'Block'.

Nagaland, Mizoram and the Union Territory of Lakshadweep, all other States and UTs had enacted legislation for the creation of PRIs. In 14 States/ UTs, there was a three-tier system, in 4 States/UTs it was a two-tier structure and in 9 States/ UTs only one tier functioned.

1.11. In 1969, the first Administrative Reforms Commission in its report on State Administration recommended that the main executive organ of the Panchayati Raj system should be located at the district level in the form of "Zila Parishad" and not at the Block level as Panchayat Samiti. It was of the view that the Zila Parishad would be in a better position to take a composite view of the resources and needs of the entire district and thus will be able to formulate a plan for the area. The Commission also believed that due to paucity of resources, it was difficult to sustain a well equipped administrative and development machinery at the level of a Block.

1.12. In 1977, Government formed a committee under the chairmanship of Shri Asoka Mehta to go into the working of Panchayati Raj Institutions and to suggest measures to strengthen them into effective local apparatus for decentralised planning and development of the rural areas. This was considered necessary in view of the Government's high priority to rural development which included the need to increase agricultural production, create employment and eradicate poverty. The Asoka Mehta Committee was of the view that the democratic process could not stop at the state level. The series of elections held for Parliament and State Legislature had attuned the people to the democratic political processes and made them conscious of their power and rights as political sovereigns in the country. The concept of Panchayati Raj, like democracy at national and state levels, is both an end as well as a means. It was an inevitable extension of democracy to the grass roots which in turn makes it the base of the democratic pyramid of the country. In the end, Panchayati Raj should emerge as a system of democratic local government discharging developmental, municipal and ultimately regulatory functions. Based on the Maharashtra-Gujarat model which was commended by the first Administrative Reforms Commission and a number of other committees, the Committee chose the district as the first point of decentralisation below the State level.

1.13. The next level of self-governing institutions recommended by this Committee was the Mandal Panchayat which was to cover a population of around 10,000 to 15,000. It was thought that the cluster of villages falling in the jurisdiction of the Mandal panchayat would turn into a growth centre. As an ad hoc arrangement, the Committee recommended continuation of the Panchayat Samiti at the Block level, not as a unit of self government but as a nominated middle level support body working as an executing arm of the Zila Parishad. Similarly, at the village level it thought of a nominated village level committee consisting of (a) local member elected to Mandal Panchayat, (b) local member elected to the Zila Parishad, and (c) a representative of small and marginal farmers.

1.14. In the total view of the set-up, the Zila Parishad was recommended to take up planning for the district as a whole, to coordinate the programmes and to guide the lower PRI tiers. The recommendations also called for creation of a machinery for taking up the district level planning exercise and for this it recommended stationing professionally qualified teams of experts at the district headquarters. The annual plan thus prepared had to be placed before the Zila Parishad for their comments/views. The Committee's other recommendation was on transfer of all development functions and related government staff to the control of the Zila Parishad. To assist the Zila Parishad, it recommended creating a senior post known as the Chief Executive Officer who could provide support to the body in formulation and implementation of policies. In order to ensure effective coordination among officers posted at the district, this officer could be senior in rank to the District Collector.

1.15. With minor variations introduced by subsequent committees in the 1980s, the recommendations of the Asoka Mehta Committee were generally well received and led many of the States to introduce appropriate amendments in their Panchayati Raj Acts. Karnataka, Maharashtra, Andhra Pradesh, West Bengal and Gujarat adopted the new arrangement, but U.P., Bihar, Orissa, Punjab and Haryana held back. Some of them did not hold elections even to the existing bodies.

1.16. The Committee which submitted its report in 1978 was also of the view that despite the rhetoric, Panchayat empowerment was not of much use unless it received Constitutional standing. Hence, there was need for introducing a Constitutional amendment on this subject. With some variations, these recommendations form the basis of the PRI format in existence in the country today.

1.17. Although a number of committees were formed between 1978 and 1986 to look into various aspects of strengthening the local self government institutions such as the committees under Shri C.H. Hanumantha Rao, Shri G.V.K. Rao and Shri L.M. Singhvi, only minor suggestions were made for any change in the ideas/structures proposed by the Asoka Mehta Committee. The next landmark in decentralised governance occurred with the 64th and 65th Constitutional Amendment Bills introduced in July 1989 by the Government of Shri Rajiv Gandhi. The basic provisions of the Bills were: (a) it should be mandatory for all States to set up PRIs/ULBs, (b) the elections to be conducted by the Election Commission, (c) tenure of Panchayats/ULBs to be five years and, if dissolved before time, fresh elections should be held within six months, (d) all seats (except those meant for the representatives of other institutions) to be filled through direct elections, (e) reservation of seats to be made for SC/ST/Women, (f) Local Bodies to be entrusted with more functions e.g. minor irrigation, soil conservation, bio-gas, health, benefits to

SC/ST etc. (g) planning and budgeting systems be introduced at the panchayat level, (h) the State Legislature to authorise Panchayats/ULBs to levy taxes/tolls and fees, (i) a separate commission to review the Local Body finances, and (j) PRI/ULB accounts to be audited by the CAG. The Bill could however not be passed in the Rajya Sabha.

1.18. In 1990, a combined Constitution Amendment Bill, covering both PRIs & ULBs was tabled in Parliament. It was a skeleton legislation which left the details to be crafted by the State Governments in their State enactments; even matters concerning elections were left completely to the discretion of the State Government. With the dissolution of the Government, this Bill too lapsed.

1.19. Finally in 1992, after synthesising important features of the earlier exercises on this subject, Government drafted and introduced the 73rd and 74th Amendments Bill in Parliament which were passed in 1993. These introduced new Parts IX and IXA in the Indian Constitution containing Articles 243 to 243ZG.

1.20. The 73rd and 74th Amendments to the Constitution constitute a new chapter in the process of democratic decentralisation in the country. In terms of these Amendments, the responsibility for taking decisions regarding activities at the grass roots level which affect people's lives directly would rest upon the elected members of the people themselves. By making regular elections to Panchayati Raj/Municipal bodies mandatory, these institutions have been given permanency as entities of self government with a specific role in planning for economic development and social justice for the local area. In totality, the intention of these Amendments is to assign a position of command to them in the democratic framework of the country. But there seems to be an area of weakness in the constitutional scheme. Local government being a State subject under Schedule VII, the implementability of these provisions is, to a large extent, dependent on the intention and strength of the State Panchayati Raj enactment. The challenge is to ensure an architecture for the State law which is in total harmony with the spirit of the 73rd and 74th Amendment.

1.21. Article 243 B of the Constitution envisages that all the States/UTs, except those with populations not exceeding 20 lakhs, will have to constitute a three-tier system of Panchayats i.e. at the village, intermediate and district levels. While the district has been defined as a normal district in a State, the jurisdiction of village and intermediate levels have not been specifically defined in the Act. A village as per the provisions of the Constitution is to be specified by the Governor by a public notification for the purpose of this part and includes a group of villages so specified. That means the territorial area of a Village Panchayat can be specified by a public notification by the Governor of the State, and may consist of more than one village. Similarly, the intermediate level which can be a Taluk, Block or a Mandal,

is also to be specified by the Governor through a public notification in this regard. This provides a certain amount of flexibility to the States in constituting Panchayats at the lower and middle levels.

1.22. Panchayati Raj Institutions (PRIs) in India have, over the years, developed certain critical strengths, although they are characterised by several systemic weaknesses and constraints as well. Post the 73rd Constitutional Amendment, Panchayats have been established at three levels, the district, block and cluster of villages (Village Panchayat). The number of Village Panchayats in the country as on 1st December, 2006 was 2,32,913; of the Intermediate Panchayats 6,094 and of the District Panchayats 537. The total number of representatives elected to these bodies is 28,28,779 – out of which 10,38,989 (36.7%) are women.

1.23. Consequent to the 73rd Constitutional Amendment as well as the Supreme Court's rulings which effectively mandate that local authorities are also to be treated as 'Government or State;' the PRIs have acquired substantial legitimacy, are recognised as an instrument of the Government, and have created participatory structures of grass roots democracy for the rural people. Creation of Constitutional bodies like the State Election Commissions and the State Finance Commissions have also given permanency and stability to these institutions. However, most Panchayats continue to be treated as agencies of the State for implementation of prescribed schemes, even though essential services such as provision of drinking water, rural sanitation, preventive health and primary education are accepted as their legitimate core functions. Moreover, the PRIs have a varied menu of potential taxes such as on professions, entertainment, tolls, users charges etc., but remain crippled by lack of elastic revenue sources. Internal Revenue mobilisation remained at only 4.17% of the total revenue of panchayats at all levels in 23 States during 1990-91 to 1997-98. In a few States like Bihar, Rajasthan, Manipur and Sikkim, it was 'nil' during this period. Although the 11th and 12th Finance Commissions have provided untied grants to these institutions, their financial capacity remains suspect. As a result, PRIs exist as over-structured but under-empowered organisations, boasting of Constitutional status but suffering from lack of effective devolution of powers and functions from the State Governments.

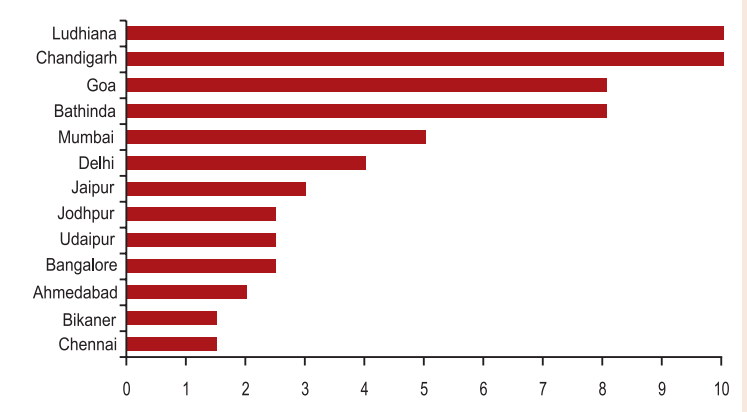
1.24. At the same time, the structure of district administration under the control of the Collector/District Magistrate, characterised by a command structure and lack of horizontal coordination at the grass roots level, has become somewhat anachronistic in the modern democratic framework of our polity. In order to make local administration more responsive, transparent and accountable to citizens, there is need to have a representative government not only in the Union and States but also at the district and village levels with an equitable division of functions among them. However, any such reform agenda is constrained by the

lack of cooperation between the legislature and the representatives of local bodies as well as the lack of capacity of the Panchayati Raj Institutions to take on enhanced responsibilities because of absence of trained personnel as well as their financial incapacity. The fact that most States have, during the 1970s and 80s, created state-wide autonomous organisations and parastatals to carry out even local level functions such as water supply also means that the issue of division of functions between such organisations and the local authorities comes in the way of greater decentralisation.

1.25. As regards urban local self-government, although municipalities played a key role in local self-government during British Rule, the actual task of managing civic functions by the ULBs themselves tended to remain constrained by their poor finances. After Independence, the focus tended to be on rural India and the concept of Gram Swaraj and urban local bodies were not given much attention. Thus, the Directive Principles of the Constitution refer to Village Panchayat and the only reference to urban local bodies is in the 'State List' of the Constitution.

1.26. There were no major changes in the structure and functioning of the ULBs till the 74th Constitutional Amendment despite rapid urbanisation and consequential increase in the complexities of problems. The powers and functions of these bodies varied from State to State as the subject *'Local government, that is to say, the constitution and powers of municipal corporations'* was included in the State List, empowering the States to define the role of the ULBs through statutes. Infrequent elections, rigid governmental control, inadequate autonomy and lack of capacity have been some of the problems faced by ULBs. The 74th Constitutional Amendment brought in some basic changes in ULBs. Mandatory holding of periodic elections, introduction of the Twelfth Schedule, reservation of seats for women and restrictions on the powers of State Governments to interfere in the functioning of ULBs are some of the important features of the 74th Constitutional Amendment Act. Although the States have

Fig. 1.1: Average Daily Water Availability (hours/day)



Source: 'Urban Water Sector in South Asia: Benchmarking Performance', Water and Sanitation Program, May, 2006; http://www.wsp.org/filez/pubs/urbanwater.pdf

amended their laws relating to the ULBs, the devolution of functions and finances has been slow and hesitant.

1.27 The State Governments have created a large number of functional bodies in the form of development authorities, housing boards, slum development agencies and water and sanitation boards. The growth of these specialised agencies has weakened the authority of municipal bodies and contributed to their atrophy. This has also led to a fragmented approach, with a large number of bodies working in isolation. Consequently, ULBs remain ill-equipped in terms of technical manpower and organisational ability and are unable to deal with the spread of urbanisation to the rural areas. In addition, our mega cities are characterised by specific problems of mounting infrastructural constraints, large scale in-migration and governance structures that remain unprofessional, unresponsive and lacking in transparency.

1.28 Improving the quality of life of citizens by providing them civic amenities has been the basic function of local governments ever since their inception and it continues to be so even today. Local governments are ideally suited to provide services like water supply, solid waste management, sanitation etc, as they are closer to the people and in a better position to appreciate their concerns and even economic principles state that such services are best provided at the level of government closest to the people. However, the performance of a large number of local bodies on this front has generally been unsatisfactory.

1.29 Providing safe drinking water and sanitation have been important elements in our development efforts, ever since the First Five Year Plan. Though there have been improvements on this front, both in urban and rural areas, the situation cannot be termed satisfactory. As per the Census (2001), only 36.4 per cent of total population has latrines within/attached to their houses. Whereas in rural areas, only 21.9 per cent of population has latrines within/attached to their houses. Out of this, only 7.1 per cent households have latrines with water closets. In urban areas, though water availability, measured as litres per capita per day is quite high for almost all Indian cities but delivery, computed as water supply in hours per day in the cities is rather poor (Fig. 1.1)[3].

1.30 The Millennium Development Goals highlight the importance of safe drinking water supply and sanitation. The 'Bharat Nirman Programme' includes drinking water as one of its six thrust areas. The 'Total Sanitation Campaign' seeks to provide 'Sanitation for all' by 2012. However, in all these initiatives the role of the local bodies is going to be crucial. There are financial, technological and institutional issues which need to be addressed.

[3]Source: 'Urban Water Sector in South Asia: Benchmarking Performance', Water and Sanitation Program, May, 2006; http://www.wsp.org/filez/pubs/urbanwater.pdf

On institutional issues, Prime Minister Dr. Manmohan Singh stated[4]:

"One problem we have with the management of the Drinking Water Sector is that this is one activity within the portfolio of rural development programmes which is still handled at the State level, at the level of State capital and not at the district level. Other programmes with which it seeks integration have moved to being managed at the district level. I sincerely believe the time has come to do the same thing with regard to other supply schemes as well.

I therefore request State Governments to consider empowering district level institutional structures to handle the issue of water supply. This is also a constitutional obligation as water supply is one of the basic functions to be carried out by rural and urban local bodies as per the 11th Schedule of our Constitution."

Box 1.1: Service Decline under Status Quo

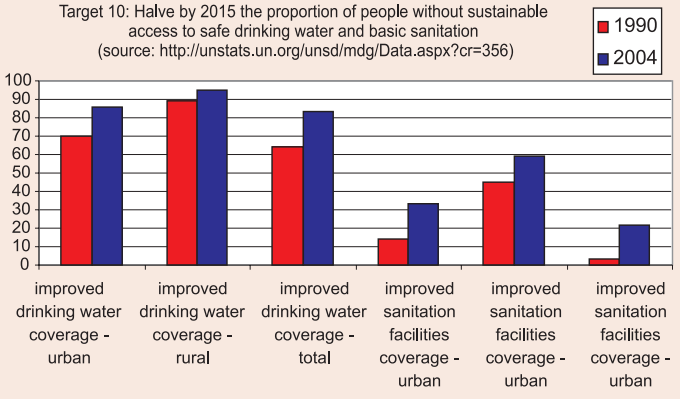
Service decline under status quo

	Hyderabad		Bangalore	
	Current	Projected (2021)	Current	Projected (2021)
Population (million)	5.5	10.5	5.7	10.3
Area (sq.km.)	778.0	833.0	530.0	784.0
Population density ('000 per sq. km)	7068.0	12637.0	10.755.0	13071.0
Road density (per cent area covered by roads)	6.0	6.0	12.0	12.0
Number of vehicles (million)	1.4	3.5	2.0	3.7
Vehicles per road length	723.0	1718.0	695.0	1902.0
Water supply (lpcd)	110.0	55.03	90.0	49.04
Sewerage infrastructure connection (per cent)	41.0	310	21.0	18.0

Source: India Infrastructure Report, 2006

Fig 1.2: Millennium Development Goals

Target 10: Halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation (source: http://unstats.un.org/unsd/mdg/Data.aspx?cr=356)



1.31 The Commission feels that substantive reform of local self-government institutions is not possible without creating an autonomous space for them, built upon the premise that the local government institutions, being governments at their own level, are an integral part of the country's governance system and therefore, must replace the existing administrative structure in respect of the functions or activities devolved to them. While there may be rationale for retention of some establishments of the State Government including that of the district administration at the local level, their functions and responsibilities should be confined to areas which are outside the jurisdiction of the local bodies. In respect of

[4] PM's address at the Annual Conference of Ministers in charge of Drinking Water and Sanitation July 4, 2007, New Delhi

devolved functions, local government institutions should have autonomy and must be free of the State Governments' bureaucratic control.

1.32 In order to ascertain views from various stakeholders, the Commission organised two National Colloquiums separately for Rural and Urban Governance. The National Colloquium on Rural Governance was organised at the Institute of Social Studies (ISS), New Delhi and the National Workshop on Urban Governance was organised in association with Janaagraha, a well known NGO in Bengaluru, associated with reforms in urban governance. The details of these two workshops are at **Annexure-I.** The Commission has greatly benefited by the inputs provided by the Ministry of Panchayati Raj, the Ministry of Urban Development and the Ministry of Housing and Urban Poverty Alleviation in their respective fields. During the process of consultations, the Commission also held discussions with the Election Commission of India, the Comptroller & Auditor General of India, some State Election Commissioners and State Finance Commissions, whose views and suggestions have been of immense help to the Commission in formulating its recommendations. The Commission is grateful to Smt. Meenakshi Datta Ghosh, Secretary, Ministry of Panchayati Raj, Government of India; Shri M Ramachandran, Secretary, Ministry of Urban Development, Government of India; Shri Bhurelal, Member, Union Public Service Commission; Shri N.P. Singh, former Secretary, Government of India; Shri Naved Masood; Shri T.R. Raghunandan, Joint Secretary, Ministry of Panchayati Raj; Shri M. Rajamani, Joint Secretary, Ministry of Urban Developlment, Government of India; Dr. P.K. Mohanty, Joint Secretary, Ministry of Housing and Urban Poverty Allevation, Government of India; Shri Vivek Kulkarni,Visiting Professor, Department of Management Studies, Indian Institute of Science, Bengaluru; Shri R Sundaram, Chairman & Managing Director, Sundaram Architects Private Limited; and Dr. V.S. Hedge and his team, ISRO for their valuable inputs. The Commission would like to place on record its gratitude to the eminent scholars, activists, representatives of citizens' groups, officers of Government of India and the State Governments for their active participation in the workshops, and in meetings during the Commission's visits to States. The Commission also visited Singapore and Thailand and held discussions with authorities on urban governance issues. The Commission highly appreciates the reports furnished by Janaagraha, Bengaluru and Institute for Social Sciences, New Delhi which contain inputs which are utilised in the preparation of this Report. In this connection the Commission would like to acknowledge the contributions of Shri Ramesh Ramanathan, Janaagraha and Shri George Mathew, Institute of Social Sciences, New Delhi.

2

THE CORE PRINCIPLES

2.1 Introduction

2.1.1 India is a Union of States. States can be created or amalgamated by a law of Parliament; residuary powers are vested in the Union (Entry 97 of List I); local governments were creatures entirely of State laws until the 73rd and 74th Constitutional Amendments and presently Constitutional devolution is the norm, not upward or outward delegation.

2.1.2 The evolution of the Constitution, over the years, has tended to favour greater empowerment of States. The rise of regional parties and coalition governments at the State and Union levels, greater economic liberalisation reducing State control and diminishing the importance of State investment in commercial undertakings, a very healthy tradition of fair non-discriminatory fiscal devolution through various mechanisms and compulsions of economic growth engendering a healthy competition for investment – all these factors are responsible for a more harmonious balance in Union-State relations. The empowerment of States has not weakened the Union; in fact the Union's role is better defined and more respected in recent decades as authority is tempered by leadership, cooperation and coordination. This rediscovery of the legitimate and effective role of the Union even as more powers are devolved on States is one of the happy features of our Constitutional evolution. Though the situation varies from State to State, overall, such a development is still in its infancy in the relationship between States and local governments. It has to be strengthened in the coming years by empowering local governments, while the State Government continues to have an important and significant role, appropriate to that level. In order to achieve this, the Commission has carefully considered the principles to be applied in the reform of local governance. It considers the core principles to be: application of the principle of subsidiarity in the context of decentralisation; clear delineation of functions of local governments vis-à-vis State Governments and among different tiers of local governments; effective devolution of these functions and resources accompanied by capacity-building and accountability; integrated view of local services and development through convergence of programmes and agencies and above all, 'citizen-centricity'.

2.2 Subsidiarity

2.2.1 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.

2.2.2 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."*

2.2.3 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.

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

2.2.5 The Commission is of the considered view that a local government reform package must be informed by the principle of subsidiarity. Only then can citizen-sovereignty be real and meaningful and democracy will acquire content beyond structures and institutions.

2.3 Democratic Decentralisation

2.3.1 While subsidiarity should be the overarching principle in restructuring governance, in practical constitutional terms it can be applied only through effective decentralisation. It is in recognition of this, that the 73rd and 74th Constitutional Amendments were enacted in 1992. Most of the constitutional provisions relating to local governments are very similar to those pertaining to the States (SFC, SEC) with the significant exception that the Seventh Schedule of the Constitution remains unaltered. As a result, while the local government structure and attendant institutions are created by a constitutional mandate, the actual functions to be devolved on local governments are the responsibility of the States. Therefore, 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.

2.3.2 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.

2.3.3 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.

2.3.4 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.

2.3.5 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.

2.3.6 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.

2.3.7 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.

2.4 Delineation of Functions

2.4.1 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. It is no accident that every federal democracy has a written Constitution, clearly listing the subjects under the jurisdiction of each tier of government and the specific role assigned to it. India's Constitution too enumerates the subjects under State control under List II of the Seventh Schedule. Where a subject requires a federal and State jurisdiction it is included in List III and clear principles are enunciated defining the extent of authority of the Union and the States. However, in respect of local governments there are two complications.

2.4.2 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.

2.4.3 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. The Commission's approach is informed by this recognition that there is no omnibus approach to devolution of powers to local governments and that the details need to be evolved keeping in view the local circumstances and balancing of details of decentralisation with the basic principle of subsidiarity.

2.5 Devolution in Real Terms

2.5.1 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.

2.5.2 However, real empowerment should go well beyond what the State gives in terms of power and resources. Giving effective voice to local governments to enable them to negotiate with the State on a continuing basis is equally important. For instance, the Upper House in many federal countries is created as the voice of constituent States and gives them negotiating power. Corresponding provisions relating to legislative councils in the State needs to be strengthened suitably to give a voice to local bodies.

2.5.3 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.

2.5.4 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.

2.5.5 In its Report on "Ethics in Governance", the Commission had observed "*If the legislators are beholden to the executive, the legislature can no longer retain its independence and loses the ability to control the Council of Ministers and the army of officials and public servants*". An effective mechanism like empowered legislative committees is therefore needed to enhance the legislators' role to give them an opportunity of exercising positive power for public good. Appropriate mechanisms will also need to be devised to enhance the role of a legislator in keeping with democratic values and promotion of public good.

2.6 Convergence

2.6.1 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 four broad areas of convergence which need to be addressed.

2.6.2 First, the rural urban divide in the intermediate and district tiers of local governments is a colonial legacy. At the primary level the needs of the rural population and the approaches required to address them are somewhat different from those of urban people. Also the occupational profile of the population lends itself to rural-urban categorisation. However, in the larger federated tier of exclusively rural local governments, as a result of this incongruity, new mechanisms like the District Planning Committee had to be created, and they never took roots. 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.

2.6.3 Second, as earlier stated (para 1.27), 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.

2.6.4 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. In Germany, a local government office is the point of contact in obtaining a passport, though the actual service is provided by the federal government. Similarly, collection of tariffs, fees and taxes by various service providers can be at a common kiosk and all complaints and suggestions can be received at a common call centre.

2.6.5 Finally, as pointed out in para 2.2 (subsidiarity), empowerment of stakeholders and local governments should be seen as a continuum. Wherever a group of stake-holders can be clearly identified, for instance, the parents of children of a school, they should be directly empowered to the extent possible, so that stake-holding and power-wielding are integrally linked. However, stake-holder empowerment should not be seen as antithetical to local government empowerment. Both are part of the same quest for local governance based on subsidarity. At the same time, the representative local government and the empowered group of stake-holders cannot function in isolation. Just as the tiers of local government have to function in close coordination, local government and empowered stake-holders' groups

should work in concert. The larger functions of support, coordination and policy will be with the local governments, and the actual day-to-day management and service delivery will be the responsibility of stake-holders. This convergence between the empowered stake-holders' groups and local governments should be a key feature of decentralisation.

2.7 Citizen Centricity

2.7.1 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.

2.7.2 Since propensity to abuse authority is intrinsic to all authorities; and local governments are no exceptions, for local governments to be effective in fulfilling their desired objectives, a series of mechanisms need to be constituted giving voice to the citizens. Measurement of citizens' satisfaction as the consumer of public services is an important mechanism. Report cards, citizens' feedback at delivery and service counters, call centres and such fora for the citizens' voice to be heard and feedback to be counted, needs to be institutionalised in decentralised governance. In addition, social audit through credible community based organisations, civil society groups and prominent citizens would ensure citizen centricity.

2.7.3 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.

2.7.4 The most important form of citizens' participation is a community of clearly identifiable stakeholders in the delivery of a specific public service. For instance, parents sending their children to a public school, farmers receiving irrigation from a common source, producers selling their produce in a market and members of a cooperative are groups of clearly identifiable stakeholders who also need empowerment in consonance with the principle of subsidiarity.

2.7.5 The Commission has taken note of the debate on local governments versus citizens' groups. The Commission is of the considered view that empowerment of stakeholders and local governments must be seen as a continuum and that there should be no cause for conflict between stakeholders' groups and representative local governments. Effective empowerment of stakeholders accompanied by mechanisms for coordination with local governments is, therefore, a key principle to be followed.

3

COMMON ISSUES

The principles governing democratic decentralisation are the same for both rural and urban areas. A large number of issues are common to both urban and rural areas and such issues have been comprehensively examined in this Chapter. In addition, the issues that are specific to rural or urban governance are detailed in two separate chapters – Rural Governance and Urban Governance.

3.1 The Constitutional Scheme

3.1.1 The Principle of Subsidiarity

3.1.1.1 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. Centralisation is not a guarantor of citizens' 'liberty or good governance', it in fact delegitimises democracy, alienates the citizen, perpetuates hierarchies, and often breeds corruption and inefficiency. A large-sized district in India is larger than about 80 Nation States in the world in terms of population. Most of our larger States would be among the large countries of the world. Uttar Pradesh, Maharashtra, West Bengal and Bihar – each would be the largest nation in Europe. Uttar Pradesh would be larger than the world's sixth largest country. Centralisation in the face of such vast numbers, not to speak of the enormous diversity, can often lead to poor functioning of public services and marginalisation of citizens. In this backdrop, the 73rd and 74th Constitutional Amendments were intended to be a breath of fresh air, empowering the citizens through local governments, redefining the State, invigorating our democracy, and injecting efficiency and accountability in our public services. As stated earlier, democratic institutions need patience, nurturing and long evolution, and cannot be expected to yield instant results. However, for democracy to work, there should be consistency, predictability,

and effective empowerment of institutions combined with accountability. An analysis of the empowerment and functioning of local governments in various States leads to the following broad conclusions:

- Despite the mandatory constitutional injunctions, it took years, and in some cases a decade, to even constitute local governments and hold elections.
- Even when local governments are constituted and elections are held, States often postponed the subsequent elections on some pretext or other. Each time it is an uphill task to ensure compliance in some States, even with the mandatory provisions of the Constitution.
- There has been no linear development or evolution in respect of democratic decentralisation.
- State Governments, legislators and civil servants are in general reluctant to effectively empower local governments. Only the bare minimum required to implement the strict letter of the Constitution prevails in many States. What is implied by the spirit of the Constitution and principles of democracy is often ignored.
- Even mandatory provisions like the constitution of District Planning Committees and Metropolitan Planning Committees have been ignored in many States.
- Where the Panchayats have been constituted and elections held regularly, they are still left at the mercy of State Legislatures and State Executive. Although local governments have a long tradition of autonomy, the fact that Union and State Governments have an established tradition of centralisation for nearly four decades, means that strong vested interests have developed over time disallowing devolution of power.
- Some legislators at times tend to act as 'executives', intervening in transfers and postings, sanctioning of local bodies' contracts and tenders, crime investigation and prosecution – all of which are therefore often at the mercy of the local legislator. Given the compulsions of survival, the State Government which depends on the goodwill and support of legislators, does not usually intervene except where the Constitution specifically and unambiguously directs it.

3.1.1.2 There is a strong case to revisit the basic constitutional scheme relating to local government.These are being outlined in the paras that follow.

3.1.1.3 The provisions of Articles 243 G and 243 W of the Constitution relating to the powers, authority and responsibilities of local governments have been interpreted by most States as being merely advisory in nature. The Statement of Objects and Reasons of the Constitution (Seventy-third Amendment) Act, 1992 points out:

"Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersessions, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the short-comings which have been observed, it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of Panchayati Raj Institutions to impart certainty, continuity and strengthen them".

3.1.1.4 The Statement of Objects and Reasons of the Constitution (Seventy-fourth Amendment) Act had this to say:

"In many States, local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersessions and inadequate devolution of powers and functions. As a result, urban local bodies are not able to perform effectively as vibrant democratic units of self-government".

The common desire was to ensure self government by the local bodies, that is, the third tier.

3.1.1.5 However, while the constitutional provisions relating to the structure of local governments are very strong and mandatory in nature, Articles 243 G and 243 W are less categorical. The intent of the Constitution is clear from the Objects and Reasons as well as the definition of local governments vide Articles 243 D and 243 P where local government, whether Panchayats or Municipalities, are defined as institutions of self government. Similarly, Articles 243 G and 243 W are clear about endowing local governments *"with such power and authority as may be necessary to enable them to function as institutions of Self Government".*

3.1.1.6 The issue of whether a firm constitutional directive compelling State Legislatures to empower local governments effectively is desirable has been a matter of much public debate over the last decade. 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. As pointed out in para 2.4, there are several functions which can be identified under each matter/subject and they in turn should vest in the appropriate level of local government or State Government based broadly on the principle of subsidarity. Such detailed prescription is not possible in the Constitution and the States must have the operational freedom in devolving specific functions to local governments.

3.1.1.7 A close examination of the Eleventh and Twelfth Schedules of the Constitution shows that they are only illustrative and not exhaustive. Also, there appear to be certain incongruities in the Twelfth Schedule and several matters listed in the Eleventh Schedule that ought to have been included, have been omitted inadvertently.

3.1.1.8 Agriculture, rural housing, watershed development, farm forestry, minor forest produce, rural electrification – all are functions which by their very nature "belong" to rural local bodies. But non-conventional energy (sources), poverty alleviation programmes, education including primary and secondary education, adult education, technical training and vocational education, women and child welfare, family welfare, the public distribution system, even animal management and welfare (slightly different from husbandary in the traditional sense), libraries, cultural activities (which figure in the Eleventh Schedule but not in the Twelfth) – can surely be functions for municipalities too. The Twelfth Schedule does cover a vast range of subjects – urban planning, land and building regulation, fire services, roads and bridges, urban poverty alleviation, slum improvement and upgradation, provision of amenities, water supply, sanitation, public health, environment and so on. However, somewhat unexpectedly, "economic and social development" of urban citizens is restricted to only planning for them, and education covered only as "promotion of ….educational….aspects (sic)." On the other hand, as mentioned above, various aspects of education figure prominently in three functions listed in the Eleventh Schedule and are intended to be devolved on rural local bodies.

3.1.1.9 The Commission examined the desirability of reviewing the two Schedules. 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. Therefore, the Commission is of the considered view that the two Schedules need not be revised, but that the fact that they are not exhaustive and are only illustrative should be recognised.

3.1.1.10 The National Commission to Review the Working of the Constitution (NCRWC), which also went into this question, was concerned about the poor devolution of functions to local bodies and made the following recommendation:

> *Article 243G along with the Eleventh Schedule indicates the kind of functions to be discharged by the Panchayats. It does not guarantee assignments of a set of exclusive functions to the Panchayats. Hence the kind of role they would be expected to play in governance depends on the regime that controls the government of a State.*
>
> *The Commission, therefore, recommends that Panchayats should be categorically declared to be "institutions of self-government" and exclusive functions should be assigned to them. For this purpose, Article 243G should be amended to read as follows:*
>
> > *Substitution of Article 243G.- For Article 243 G, the following Article shall be substituted, namely:*
> >
> > > *Powers, authority and responsibility of Panchayats.*
> > > *Subject to the provisions of this Constitution, the Legislature of a State shall, by law, vest the Panchayats with such powers and authority as are necessary to enable them to function as institutions of self-government and such law shall contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as shall be specified therein, with respect to-*
> > >
> > > *(a) preparation of plans for economic development and social justice;*
> > > *(b) the implementation of schemes for economic development and social justice as shall be entrusted to them including those in relation to the matters listed in the Eleventh Schedule."*
> >
> > *Similar amendments should be made in Article 243W relating to the powers, authority and responsibilities of Municipalities, etc."*

The NCRWC recommended the use of the phrase "shall by law vest" as against the existing "may by law endow" in Articles 243 G and 243 W. Perhaps States have taken "may" in the

present provisions as discretionary and not mandatory. The expectation is that, with an express mandatory provision the process of devolution would take centre-stage.

3.1.1.11 The Commission has examined these reports, arguments and presentations with great care. It is of the considered view that while Articles 243 G and 243 W need to be strengthened, it is desirable to lay down general principles of empowerment without unduly restricting the States' freedom of action. In particular, two principles need to be stated in the Constitution so that the State Legislatures can make laws based on these governing principles. First, devolution should be based on the broad principle of subsidiarity, and local governments at the appropriate level should be vested with adequate powers and authority to enable them to function as institutions of self government in respect of functions that can be performed by the local level. Second, as matters listed in Eleventh Schedule are not intended to be wholly transferred to local governments, the empowerment of local governments should be limited to specific functions, which can be performed at the local level. The Commission therefore recommends amendment to Article 243 G (and 243 W) on the following lines:

3.1.1.12 Recommendations:

a. Article 243 G should be amended as follows:
"Subject to the provisions of this Constitution, the Legislature of a State shall, by law, vest a Panchayat at the appropriate level with such powers and authority as are necessary to enable them to function as institutions of self government in respect of all functions which can be performed at the local level including the functions in respect of the matters listed in the Eleventh Schedule".

b. Article 243 W should be similarly amended to empower urban local bodies.

3.1.2 Strengthening the Voice of Local Bodies

3.1.2.1 Article 171(2) stipulates

Until Parliament by law otherwise provides, the composition of the Legislative Council shall be as provided in clause (3).

"(3) Of the total number of members of the Legislative Council of a State –

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly; and

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5)".

3.1.2.2 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.

3.1.2.3 Article 171 provides for election of one-third of the Members of the Legislative Council, to be elected by local bodies. However, given the importance of democratic decentralisation, this proportion of representation for them is not enough. The constitutional provisions have a historical background because the number of educated peoples, especially in rural areas, was not large at the time of framing of the Constitution. The situation has changed over the years. With strides in education, the number of educated electorate has increased manifold and a graduation degree is nothing exceptional today. Therefore, there is no raison d'etre now for having a graduate constituency. Moreover, with modernisation of the economy, a large number of professions have emerged and in such a scenario it may not be proper to give representation to only one profession that is, 'teaching'. Article 171 provides an opportunity for restructuring the Legislative Councils as a Council of local governments. Thus, the Legislative Council should have members elected solely from the

elected representatives of the local bodies. This would not require any amendment of the Constitution – a law of Parliament would suffice.

3.1.2.4 Recommendation:

a. Parliament may by law provide for constitution of a Legislative Council in each State, consisting of members elected by the local governments.

3.1.3 Structure

3.1.3.1 In the current constitutional scheme, detailed and inflexible mandatory provisions exist in respect of the constitution and composition of local governments including the manner of election. There have been strong voices across the country seeking a more flexible scheme, granting greater freedoms to States to design the Panchayat structure, suitable to their requirements. In particular, there are three issues to be examined carefully:

1. Number of tiers
2. Composition of local bodies and mode of elections
3. Urban rural divide at the district level.

Number of Tiers

3.1.3.2 Article 243 B makes it mandatory for every State with a population exceeding 20 lakhs to have three tiers of Panchayats at the Village, Intermediate and District levels. In a vast and complex country with traditional diversity, it is not feasible to prescribe nationally any specific pattern of local governments. Also, the States should have freedom to experiment and improve the design from time to time. In Kerala, there are only about 999 Village Panchayats in 14 districts. Clearly a mandatory intermediate tier Panchayat would be redundant in Kerala. 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. At the same time, if the States wish to have three tiers, they should be free to adopt them. The Commission is of the considered view that while the States should constitute the Panchayats, the tiers of local government should be left for the State Legislature to decide. Article 243 B should be correspondingly amended to constitute in every State, Panchayats at the appropriate levels instead of specifying mandatory creation of Village, Intermediary and District Panchayats.

Composition of Local Bodies and Mode of Elections

3.1.3.3 Until 1993, States had their own models of Panchayats. Typically in most States, the Village Panchayat head was the ex-officio head of the Intermediate Panchayat (IP),

and the head of Intermediate Panchayat was the member of District Panchayat. Several States believed that such an arrangement ensured an organic link between the three tiers and facilitated their harmonious functioning. Article 243 C of the Constitution makes it mandatory for all the seats in a Panchayat (at every level) to be 'filled by persons chosen by direct election from territorial constituencies in the Panchayat area'. In other words, the member of every tier of Panchayat – Village, Intermediate & District - should be elected directly by the people and the States have no flexibility of establishing any organic link between the three tiers. However, there is a strong argument in favour of each Panchayat being directly elected by the people, instead of a series of indirect elections, once the members of Village Panchayats are elected. Such a system of indirect representation will be increasingly remote from the people and might defeat the very purpose of local government. In some States, this problem was evaded in the pre-1993 era by a direct popular election of the Chairperson of the Panchayat. For instance, in Andhra Pradesh, under the 1987 law, the Chairperson of the Village, Intermediate and District Panchayats were chosen by direct popular elections, through universal adult franchise. Under the current constitutional provision {Article 243 C (5)}, the State Legislation has no choice in altering the manner of election of the Chairperson of the Intermediate Panchayat and District Panchayat. Some States may prefer direct election of a Chairperson in order to ensure greater stability of local governments and higher accountability and legitimacy that comes from a direct popular mandate. Indirect election of the Chairperson has led to certain complications on occasions on account of a complex system of reservations. There are several instances in which a party with majority support did not have any electoral member in the category for which the office of Chairperson was reserved.

3.1.3.4 Article 243 C (3)(c) and (d) stipulates that the State Legislature may by law provide for the representation of the Members of Parliament and State Legislature of the State at levels other than the village level. The Commission is of the view that the imposing presence of Members of Parliament and the State Legislature in the Panchayats would subdue the emergence of local leadership which is a sine qua non for development of vibrant local governments. Therefore, the Commission is of the view that Members of Parliament and State Legislatures should not become members of local bodies. This would endow the local bodies with decision-making capabilities.

3.1.3.5 On balance, the Commission feels that 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.

3.1.3.6 One important feature of the constitutional scheme of local government is the empowerment of the SC, ST, women and where the States choose so, OBCs through a system of reservations. Already evidence shows that women and weaker sections elected to Panchayats and Municipalities have performed very creditably. The resultant empowerment of these sections has been one of the most noteworthy features of local government.

District Council

3.1.3.7 The sheer accident of elected urban local governments coming into being first during the colonial era led to parallel and disjointed development of panchayats and municipalities. Consequently, the statutory framework has also been separate and no efforts were made to ensure their convergence. 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.

3.1.3.8 Second, 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.

3.1.3.9 The 73rd Amendment of the Constitution built upon the Balwantrai Mehta model

and the Asoka Mehta Committee recommendations, as a result there is no effective integration at district level of all local governments – urban or rural. 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.

3.1.3.10 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. This issue will be further dealt with in detail in the Report on District Administration (TOR: 6).

3.1.3.11 Recommendations:

a. Article 243B(1) should be amended to read as follows:
"There shall be constituted in every State, as the State Legislature may by law provide, Panchayats at appropriate levels in accordance with the provisions of this part".

b. **The Constitutional provisions relating to reservation of seats (Article 243 D) must be retained in the current form to ensure adequate representation to the under-privileged sections and women.**

c. **Members of Parliament and State Legislatures should not become members of local bodies.**

d. **Article 243 C(1) should be retained.**

e. **Article 243 C (2 & 3) should be repealed and supplanted by Article 243 C(2) as follows:**

243 C(2) Subject to the provisions of this part, the Legislature of a State may, by law, make provisions with respect to composition of Panchayats and the manner of elections provided that in any tier there shall be direct election of at least one of the two offices of Chairperson or members.

Provided that in case of direct elections of members in any tier, the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State. Also, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

f. **There shall be a District Council in every district with representation from both urban and rural areas.**

g. **243 B (2) should be substituted by:**

"There shall be constituted in every District, a District Council representing all rural and urban areas in the District and exercising powers and functions in accordance with the provisions of Articles 243 G and 243 W of the Constitution."

3.2 Elections

3.2.1 The Electoral Process

3.2.1.1 After the initial hiccups, elections to local bodies are now being conducted fairly regularly in almost all States and independent Election Commissions have been constituted everywhere as constitutional authorities. At present, Jharkhand is the only State not to have held Panchayat elections. In respect of municipalities, the conduct of elections has been a little more irregular, partly because of periodic change of boundaries of local governments with urbanisation. However, there are several issues which need to be addressed in the conduct of elections to local governments.

3.2.1.2 Although the Constitution entrusts the conduct of elections to the SECs (State Election Commissions), the Commission (SEC) is often helpless when the delimitation exercise is not completed in time. Article 243 C of the Constitution provides that *"the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, as far as practicable, be the same throughout the State"*. While such an explicit provision has not been made in respect of municipalities, basic principles of equity and democratic participation demand that a similar practice should be followed in urban local governments. Clause (4) of Article 243 K states as follows: *"the Legislature of State may, by law, make provisions with respect to all matters relating to, or in connection with, elections to the Panchayats."*

3.2.1.3 As can be seen from the Table 3.1, in many States, the powers of delimitation of local government constituencies have been retained by the Governments. As a result, in many cases, particularly in urban areas, the SECs have to wait until a delimitation exercise is completed by the State Governments. Though the constitutional provisions relating to elections to Lok Sabha/State Assemblies are identical, Parliament has made laws right from the inception of the Republic creating independent Delimitation Commissions with the participation of the Election Commission of India. The office of the Election Commissioner in fact acts as the Secretariat for the delimitation exercise. This salutary institutional mechanism has ensured that elections in independent India were never delayed on grounds of incomplete delimitation. The Commission is of the view that a separate Delimitation Commission for local governments is unnecessary. Independent SECs, especially when appointed as Constitutional authorities, can easily undertake this exercise and the government can provide the broad guidelines for delimitation either by law or by Rules. Once delimitation is carried out by SECs, State Governments cannot delay the conduct of elections on the plea of incomplete delimitation exercise.

Table 3.1 Comparison of Powers of State Election Commissions

Activity related to elections	Where the responsibility lies	
	State Government	SEC
Reservation and Rotation of Reserved Constituencies	Madhya Pradesh Rajasthan	Maharashtra Gujarat
	Andhra Pradesh	
	Uttar Pradesh	Kerala
	Tamil Nadu	
	Haryana	West Bengal
	Punjab	
	Karnataka (for DPs & IPs)	Karnataka (for GPs)
Delimitation and Preparation of electoral rolls	Andhra Pradesh	West Bengal
	Haryana	
	Himachal Pradesh	
	Karnataka	
	Punjab	Maharashtra
	Rajasthan	
	Tamil Nadu	
	Uttar Pradesh	

Source: Report of the Working Group on Democratic Decentralisation and PRIs, Planning Commission/Ministry of Panchayati Raj, November, 2006.

3.2.1.4 The Constitution provides for political empowerment of disadvantaged sections and therefore the reservation of elective offices in local governments. However, once again, in most States, the power of reservations is retained by State Governments. Given the complexity of reservations in local government and the high proportion of seats reserved (70% and more in certain states), periodic rotation of seats becomes necessary. Many States undertake the exercise of enumeration of Other Backward Classes (for whom census figures are not available) in the eleventh hour, delaying reservation and therefore the conduct of elections. The Commission is of the view that reservation of constituencies should also be entrusted to SECs. In respect of the Lok Sabha and the Legislative Assemblies, both delimitation and reservations are decided simultaneously by the Election Commission.

3.2.1.5 Article 243 K vests preparation of electoral rolls for local elections in SECs. The eligibility criteria for voting rights are identical for the Lok Sabha, State Assemblies and local governments, therefore, constitute the third tier of governance and the national,

state and local governments should be seen as a seamless continuum. In such a situation preparation of separate electoral rolls for local governments is redundant and can only lead to confusion. Many States recognise this problem and some of the State laws have adopted the Assembly Electoral rolls prepared by the Election Commission of India for elections to local governments also. However, the laws vary from State to State and often the Assembly rolls are taken as the starting point and fresh registration is taken up by the SEC for local elections. In cases where fresh rolls are prepared, the two rolls (one for the local bodies and another for the Legislative Assembly) may differ. This is likely to lead to confusion among voters and could also pose legal complications. In order to obviate any such difficulty it would be better if the rolls for the Legislative Assembly are used as the basis for local bodies elections also. It however needs to be emphasised that the electoral rolls for the Legislative Assembly cannot be used straightaway for local bodies elections because of two reasons: (i) a local body area may not be exactly the same as the area covered by the electoral roll of a Legislative Assembly; (ii) the voters' list in case of local bodies elections have to be prepared ward-wise whereas the voters' list of the Legislative Assembly is part-wise and as a unit a 'ward' is completely different from a 'Part'.

3.2.1.6 At present, a 'Part' in an electoral roll for the Legislative Assembly is defined as follows[5]:

> *"5. Preparation of roll in parts.—(1) The roll shall be divided into convenient parts which shall be numbered consecutively.*
>
> *. . .*
>
> *(4) The number of names included in any part of the roll shall not ordinarily exceed two thousand."*

3.2.1.7 It has been experienced that such 'Parts' are not always compact geographical units because of which it becomes difficult to use them as the basic unit for the purposes of delimitation of municipal and village wards (constituencies). The Commission is, therefore, of the view that a 'Part' should be defined to be a compact geographical unit. Then a "Building Blocks" approach can be used so that a ward comprises one or more integral Parts (In smaller towns and villages, a ward may be smaller than a 'Part' and in such cases the ward should be so constituted such that one or more wards constitute a 'Part'). A further step towards convergence would be to define 'Enumeration Blocks' during a census as co-terminus with 'Parts' of electoral rolls of the Legislative Assembly.

3.2.1.8 The Commission is of the view that local government laws in all States should provide for adoption of the Assembly electoral rolls for local governments without any revision of names by SECs. For such a process to be effective, it is also necessary to ensure

[5]The Registration of Electors Rules, 1960;
http://lawmin.nic.in/legislative/election/volume%202/registration%20of%20electors%20rules,%201960.pdf

that the voter registration and preparation of electoral rolls by the Election Commission of India is based on geographic contiguity. Similarly, the electoral divisions for elections to local bodies should follow the Building Blocks approach.

3.2.1.9 As stated earlier, rotation of reservations becomes necessary given the complexity and high percentage of reservation of seats. However, frequent rotation denies to the elected representatives, an opportunity to gain experience and grow in stature. This is particularly damaging for disadvantaged sections of voters who have hitherto been denied leadership opportunities. As a result, while reservations lead to numerical representation, empowerment is sometimes illusory because very often, entrenched local elites tend to nominate proxy candidates in reserved seats in anticipation of its rotation after a term. Considering these facts, the Commission is of the view that reservation of seats should be in a manner that leads to effective empowerment and not numerical and notional representation. This can be accomplished through the following three broad approaches:

First, the rotation can be after at least two terms of five years so that there is possibility of longevity of leadership and nurturing of constituencies. In Tamil Nadu, this approach has been adopted. However, with multiple reservations this may lead to large sections being denied the opportunity of reservation for a generation or more.

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. The 1952-57 Lok Sabha/State Assembly elections were conducted in 2 or 3-member constituencies. Maharashtra has adopted multi-member constituencies for elections in Panchayats.

Third, if the office of the Chairperson/Chief Executive is elected directly by popular vote there is greater pool of talent available from the disadvantaged sections and leadership can be nurtured and developed. The Commission's recommendations vide para **3.1.3.11** to give the States the flexibility in the composition of Panchayats and the manner of elections would address this problem.

3.2.1.10 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.

3.2.1.11 The Government of India has also circulated a Model Panchayat Elections Bill, 2007. As per the provisions of this Bill, the powers of delimitation, notification of an election, reservation of seats as well as reservation in the offices of Chairpersons have been proposed to be given to the State Election Commission.

3.2.1.12 Recommendations:

a. The task of delimitation and reservation of constituencies should be entrusted to the State Election Commissions (SECs);

b. Local government laws in all States should provide for adoption of the Assembly electoral rolls for local governments without any revision of names by SECs. For such a process to be effective it is necessary to ensure that the voter registration and preparation of electoral rolls by Election Commission of India is based on geographic contiguity. Similarly, the electoral divisions for elections to local bodies should follow the Building Blocks approach.

c. The Registration of Electors Rules, 1960, should be amended to define a 'Part' as a compact geographical unit.

d. In order to achieve convergence between census data and electoral rolls, the boundaries of a 'Part' and an 'Enumeration Block' should coincide.

e. Reservation of seats should follow any one of the two principles mentioned below:

i. 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.

ii. **Instead of single-member constituencies, elections can be held to multi-member constituencies by the List System, ensuring the reservation of seats. This will obviate the need for rotation thus guaranteeing allocation of seats for the reserved categories.**

f. **The conduct of elections for the elected members of District and Metropolitan Planning Committees should be entrusted to the State Election Commission.**

3.2.2 Constitution of the State Election Commission

3.2.2.1 Given the common functions of the State Election Commissions with regard to local bodies' elections, it is necessary to examine how the system has functioned and what improvements to that system, if any, are required. The State Election Commission performs functions similar to that of the Election Commission of India. The number of elected representatives of the people has enormously increased over the years and the conduct of elections to the local bodies is indeed a gigantic task. This institution is not yet two decades old, but holds the key to a highly representative system of democratic governance in the country**.** It is, therefore, essential that the machinery for organising local elections is adequately supported.

3.2.2.2 The tenure and conditions, qualifications and conditions of service of State Election Commissions vary greatly across States as indicated in the Table 3.2.

Table 3.2: Composition of State Election Commissions

State	Tenure	Age limit	Qualifications	Status
Assam	4 years	62 years	A minimum 25 years of service in administrative, judicial or legal service of State or Union Government.	**Status:** Equal to that of the Chairman, Public Service Commission. **Pay Scale:** Last pay drawn in the government minus pension
Bihar	3 years	62 years	Not below the rank of GOI Additional Secretary or equivalent post	**Salary**: Same as in the government service minus pension.
Haryana	5 years	Between 55 & 65 years	A Judge of High Court or a person who has served government in the rank of a Commissioner for 5 years.	**Salary**: Same as in the government service minus pension

Table 3.2 Contd.

State	Tenure	Age limit	Qualifications	Status
Himachal Pradesh	5 years	65 years	Not below the rank of Additional Chief Secretary or equivalent position.	**Salary**: Equal to that of a Judge of a High Court minus pension.
Karnataka	5 years	62 years	No qualifications prescribed.	**Salary:** Same as in the Government at time of appointment as SEC or Rs.6500/- per month whichever is higher minus pension.
Kerala	4 years	62 years	No qualifications prescribed.	**Status:** Equal to that of the State Chief Secretary. **Salary:** Rs. 8000/- per month (old scale) minus pension.
Madhya Pradesh	6 years	62 years	Not below the rank of GOI Additional Secretary or equivalent post in the State Government.	**Salary:** Rs. 8000/- per month (old scale) minus pension.
Maharashtra	5 years		Not below rank of Principal Secretary to the State Government.	**Salary:** Rs. 7600/- per month (old scale) (also a provision of pay protection)
Orissa	5 years	62 years	Retired High Court Judge, or retired District Judge or a serving civil servant.	**Salary**: Rs, 20,450/- per month minus pension or last salary drawn, which ever is higher. Facilities as available to Chairman, State PSC.
Punjab	5 years	64years	Serving or a retired High Court judge, or service of at least 2 years as Financial Commissioner or Principal Secretary to State Government.	**Salary**: equal to that of a High Court Judge.
Tamil Nadu	2 years (may be reappo-	62 years	Not below the rank of Secretary to Government.	**Salary:** As admissible to a Serving Judge of a High Court.

Table 3.2 Contd.

State	Tenure	Age limit	Qualifications	Status
	inted for two successive terms).			
Uttar Pradesh	5 years	65 years	Not below rank of Joint Secretary in GOI or must have held the post of District Magistrate or Divisional Commissioner and a senior Secretariat administrative post.	**Salary:** As admissible to him in his parent department.
West Bengal	5 years	65 years	Sufficient experience in the affairs of Union or any State Government in an administrative post.	**Salary:** Rs. 8000/- per month (old scale) minus pension.

Source: Report of the Working Group on Democratic Decentralisation and PRIs, Planning Commission/Ministry of Panchayati Raj, November, 2006.

3.2.2.3 The National Commission to Review the Working of the Constitution (NCRWC) had recommended in 2002 that State Election Commissioners should be accorded the status of a Judge of a High Court in the same manner as Election Commissioners in the Election Commission of India are accorded the status of Judge of the Supreme Court.

3.2.2.4 There is no doubt that State Election Commissions must discharge their functions in a totally 'neutral' manner. Moreover, the Commissioner should be a person with impeccable credentials. The Election Commission should have enough autonomy and powers to resist all extraneous 'pressures'. In its Report on"Ethics in Governance", this Commission recommended that the CEC and other Election Commissioners should be selected through a collegial process. On the same analogy, the Commission is of the view that the SEC should also be appointed on the recommendations of a collegium comprising the Chief Minister, the Speaker and the Leader of Opposition in the Legislative Assembly.

3.2.2.5 It has been urged before the Commission that the State Election Commission should be brought under the control of the Election Commission of India. Such a measure would give the State Election Commission the required independence from State Governments and they would be able to discharge their duties in an objective manner. This would also ensure a commonality of approach in the electoral process. However, one independent constitutional authority cannot function under another constitutional authority. The only alternative would

be to repeal Article 243K and amend Article 324 entrusting local elections to the Election Commission of India. Article 324 provides for appointment of Regional Commissioners. A Regional Commissioner could then be appointed for each State under this provision and it could function as the State Election Commission for local elections. Against this it has also been argued that, as the number of local bodies is so large, the Election Commission of India would hardly have the time to attend to election related matters in respect of local governments and therefore it is better to have a decentralised mechanism with each State having its own State Election Commission. Now that every State has constituted its SEC, repealing Article 243K and abolishing these offices would be impractical. The Commission feels that the balance of convenience lies in strengthening the independence of the State Election Commission. This can be accomplished by the State legislation providing (as suggested above) for appointment of the SEC by a collegium comprising the Chief Minister, the Chief Justice of the High Court and the Leader of Opposition in the Legislative Assembly. Certain aberrations like appointment of serving officers with lien on service should be eschewed. Uniform criteria need to be evolved and institutionalised regarding the qualifications of appointment, tenure of office and age of retirement. The Commission is of the view that a uniform tenure of 5 years subject to a age limit of 62 years as is applicable to the judges of High Courts would be appropriate. However, the Commission strongly believes that an effective institutional mechanism should be evolved and strengthened to bring the Election Commission of India and the SECs on one platform. This will facilitate regular interaction, logistical coordination, infrastructure sharing and technical support to the SECs. It will also help SECs draw upon the institutional strength and credibility the Election Commission of India has established over the decades. In addition, the Commission is of the view that the impressive infrastructure of Electronics Voting Machines (EVMs) available with Election Commission of India should be deployed for local elections, given their success in the Parliament and Legislative Assembly elections. For this, the State law should specifically provide for use of EVMs.

3.2.2.6 Recommendations:

a. **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.**

b. **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.**

3.2.3 Correcting the Urban Rural Imbalance in Representation in Legislative Bodies

3.2.3.1 Article 82 of the Constitution provides that the allocation of seats in the House of the People and the division of States into territorial constituencies shall be readjusted after each census. Similar provisions exist under Article 170 for State Legislative Assemblies. However, the Forty-second Amendment froze any such reallocation of seats till 2001. This freeze was further extended by the Eighty-fourth Amendment. The Statement of Objects and Reasons of the Eighty-fourth Amendment Act are as follows:

> *"Provisos to Articles 82 and 170 (3) of the Constitution provide that no fresh readjustment of constituencies can be undertaken until the figures of the first census taken after the year 2000 are published. These provisos were inserted by the Constitution (Forty-second Amendment) Act, 1976 as a measure to boost family planning norms. Since the first census to be taken after the year 2000 has already begun, the constitutional embargo on undertaking fresh delimitation will lapse as soon as the figures of this census are published.*

Box 3.1: The Delimitation Act, 2002

This is an Act "to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union Territory having a Legislative Assembly into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and Union Territories and for matters connected therewith."

It provides for the constitution of a 'Delimitation Commission' (Sec.3) which would readjust the division of each State into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assembly on the basis of census figures for 1991 {Sec.4(2)}. It would also determine the number of seats in the House of the People and Legislative Assembly of each State on the basis of census figures for 1971 as also the number of seats to be reserved therein for the SCs and STs on the basis of census figures for 2001 (Sec.8). The Commission would then distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State as readjusted on the basis of 1971 census to single-member territorial constituencies and delimit them on the basis of 1991 census. In doing so, it would ensure that all constituencies are geographically compact areas and every assembly constituency is delimited to fall within one parliamentary constituency (Sec.9).

Source: http://lawmin.nic.in/legislative/election/volume%201/Delimitation%20act,%202002.pdf

There have been consistent demands, both for and against undertaking the exercise of fresh delimitation. Keeping in view the progress of family planning programmes in different parts of the country, the Government, as part of the National Population Policy strategy, recently decided to extend the current freeze on undertaking fresh delimitation up to the year 2026 as a motivational measure to enable the State Government to pursue the agenda for population stabilisation.

Government has also decided to undertake readjustment and rationalisation of territorial constituencies in the States, without altering the number of seats allotted to each State in

the House of the People and Legislative Assemblies of the States, including the Scheduled Caste and the Scheduled Tribe constituencies, on the basis of the population ascertained at the census for the year 1991, so as to remove the imbalance caused due to uneven growth of population/electorate in different constituencies.

It is also proposed to refix the number of seats reserved for the Scheduled Castes and the Scheduled Tribes in the House of the People and the Legislative Assemblies of the States on the basis of the population ascertained at the census for the year 1991."

3.2.3.2 The Constitution had laid down provisions for delimitation of constituencies after every census so that the population-seat ratio is maintained. The increase in population has not been uniform throughout the country. Moreover the high rate of rural to urban migration has increased the population of urban constituencies much faster than their rural counterparts. As a result, on an average the number of electorates in an urban constituency is much higher than in rural constituencies. The freeze imposed by the Forty-second Amendment and further extended by the Eighty-fourth Amendment, on the total number of seats in the House of the People and the Legislative Assemblies is quite understandable, as it seeks to help the objectives of family planning. But within the number of seats allotted to a State, it would be desirable to carry out the adjustment of such seats. The Delimitation Act, 2002, primarily seeks to achieve this objective. The Delimitation Commission has been asked to carry out the delimitation, as per Section 8 of the Act, which says:

"8. Readjustment of number of seats.—*The Commission shall, having regard to the provisions of Articles 81, 170, 330 and 332, and also, in relation to the Union Territories, except National Capital Territory of Delhi, sections 3 and 39 of the Government of Union Territories Act, 1963 (20 of 1963) and in relation to the National Capital Territory of Delhi sub-clause (b) of clause (2) of article 239AA, by order, determine,—*

(a) on the basis of the census figures as ascertained at the census held in the year 1971 and subject to the provisions of section 4, the number of seats in the House of the People to be allocated to each State and determine on the basis of the census figures as ascertained at the census held in the year [2001] the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State; and

(b) on the basis of the census figures as ascertained at the census held in the year 1971 and subject to the provisions of section 4, the total number of seats to be assigned to the Legislative Assembly of each State and determine on the basis of the census figures as ascertained at the census held in the year [2001] the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State."

3.2.3.3 Such an exercise would set right the imbalance between the urban and rural electorate in terms of the number of voters per seat within the State. However, as the population of urban areas would further increase rapidly as compared to rural areas, it would be desirable if such an exercise is carried out after each census as was originally envisaged in the Constitution. The number of seats in the Lok Sabha and the Legislative Assembly in a State would not change but the allocation of seats within the State would change. This would help in getting the focus of legislators on urban issues along with the rural issues.

3.2.3.4 Recommendation:

a. In order to set right the electoral imbalance between the urban and rural population in view of rapid urbanisation, an adjustment of the territorial constituencies – both for the Lok Sabha and the Legislative Assembly – within a State should be carried out after each census. Articles 81, 82, 170, 330 and 332 of the Constitution would need to be amended.

3.3 Functions of Local Governments

3.3.1 Devolution of Powers and Responsibilities

3.3.1.1 Under Article 243 G (as regards Panchayats) and Article 243 W (as regards Municipalities), the 73rd and 74th Constitutional Amendments empowered State Legislatures to endow by law:

- Such powers and authority as may be necessary to enable them to function as institutions of self government;
- Such law may contain provisions for devolution of powers and responsibilities, subject to conditions specified therein, with respect to –
  - (a) the preparation of plans for economic development and social justice; and
  - (b) implementation of schemes for economic development and social justice as may be entrusted to them (Article 243 G)/performance of functions and implementation of schemes as may be entrusted to them (Article 243 W) including those in relation to the matters listed in the Eleventh Schedule (Panchayats) and the Twelfth Schedule (Municipalities) respectively.

3.3.1.2 The overriding intention of these two Articles is that powers and authority may be so devolved as to enable Panchayats and Municipalities to function as institutions of self government. For this, they may also be empowered to prepare local plans for economic development and social justice and to implement schemes/perform functions including those listed in the relevant Schedules.

3.3.1.3 Though 15 years have gone by, the progress of devolution of powers and responsibilities to local governments at various levels is poor and uneven. A survey of the present status of devolution reveals the following position:

a. Devolution has been sought to be done in most of the States by omnibus legislations regarding Panchayats/Municipalities and Municipal Corporations, in which the 'matters' listed in the Eleventh and Twelfth Schedules are just repeated.
b. The number of "subjects" said to have been transferred varies from a few in number in some States to the entire list as given in the Schedules in some others. However, in all cases the progress in delineation of functions of the different tiers of local governments in a given subject matter has been very slow.
c. Due to the persistent efforts of the Ministry of Panchayati Raj in the last three years, detailed "activity mapping" of different tiers of local governments have been undertaken in all the States.
d. However, the exercise continues to be partial and prolonged. The draft activity mapping lists have not been approved by the State Governments in some cases.
e. Even where activity mapping has been approved, parallel action to enable local governments to exercise the functions has not been taken. The existing Government Departments with their executive orders and instructions, parallel government bodies like DRDAs and the continuance of statutory bodies (as regards water, electricity, etc.) without any change, prevent the local governments from exercising the so called transferred functions.
f. In some cases even those activities that can be undertaken by local governments within the existing arrangements are got done by encouraging and financing the formation of a number of parallel community organisations of stakeholders and entrusting the activities exclusively to them, instead of working out a synergic relationship between them and the local governments.

3.3.1.4 "The implementation space" at local levels is thus occupied by a multiplicity of governmental agencies – Union, State and local – even in the case of a single sector. Confusion, unnecessary duplication, inefficiency, wastage of funds, poor outputs and outcomes are the result of this organisational jungle. The local organisations which should be the most directly and fully concerned are at best treated as a small part of the implementation, occasionally consulted but, in most cases, bye-passed and ignored.

3.3.1.5 The Standing Committee on Urban and Rural Development, 2004 (Thirteenth Lok Sabha) had noted the failure of the Union and State Governments in implementing the provisions of the Constitution.

"The overall aim of Part IX is to endow the Panchayats with such powers and responsibilities as may be necessary to enable them to function successfully as institutions of self-government, as per Article 243G of the Constitution. State Legislatures have been empowered to endow Panchayats by law with such powers and authority as may be necessary to enable them to prepare plans for economic development and social justice and implement schemes for economic development and social justice, including those in relation to the matters contained in the Eleventh Schedule. The Committee are, however, constrained to note that although more than nine years have passed since the Constitution (Seventy-third Amendment) Act was enacted, very few States seem to be serious about the implementation of said provision of Part IX. They further find that endowing Panchayats with certain functions is fruitful only if the Panchayats are equipped with the trained functionaries and adequate finances are also made available to them. Thus they note that Panchayats can fulfill their responsibility as institutions of self-government only if devolution is patterned on a nexus between the three Fs, i.e. functions, functionaries and finances. The Committee are unhappy to note that very few States have linked the very important devolution of functions to the means of actualising such devolution

Box 3.2: Eleventh Schedule (Article 243 G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26 Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of Community Assets.

through the devolution of functionaries and funds for all the 29 subjects enlisted in the Eleventh Schedule".[6]

In this respect, there is need to identify practical steps for effective empowerment of local governments, in addition to strengthening the constitutional provisions of Article 243. There are two areas which need special attention. First, Articles 243 N and 243 Z F mandate that all laws which are "inconsistent" with the provisions of Parts IX and X of the Constitution shall continue to be in force until such laws are suitably amended to bring them in conformity with the Constitutions or repealed, or until the expiration of one year from the dates of the 73rd and 74th Constitutional Amendments coming into effect. The 73rd and 74th Constitutional Amendments came into effect on 24th April, 1993 and 1st June, 1993 respectively, and as mentioned earlier, despite the passage of 15 years since then, most States have not even identified all the statutes which are inconsistent with the Parts IX and X of the Constitution. Kerala is one significant exception where dozens of laws have been identified and amended. Clearly, when the architecture of governance is fundamentally altered, several existing laws need to be suitably amended and alternative statutory arrangements made to transfer powers now exercised by State Government and officials to the local governments. Mere constitution of local governments would not serve the purpose without such a detailed and thorough exercise.

Box 3.3: Twelfth Schedule (Article 243 W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens and playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15. Cattle ponds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

3.3.1.6 For the reasons stated in Para 3.1.1.8, the Commission is of the view that a fresh, more comprehensive, set of functions should be laid down for urban bodies, to include all the activities that need to be performed at the local level. In addition to the functions already listed in the Twelfth Schedule, functions like school education; public health including community health centres/Area hospitals; traffic management and civic policing activities; land management, including registration etc. may also be included.

[6]Standing Committee on Urban And Rural Development (2004) (Thirteenth Lok Sabha)

3.3.1.7 Recommendations:

a. 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.

b. 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.

c. 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.

d. 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:

- **School education;**
- **Public health, including community health centres/area hospitals;**
- **Traffic management and civic policing activities;**
- **Urban environment management and heritage; and**
- **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.

3.4 Framework Law for Local Bodies

3.4.1 The Statement of Objects and Reasons of the Constitution (Seventy-fourth Amendment) Act referred to in paragraph 3.1.1.4 had highlighed the weaknesses of the local bodies in many States.

3.4.2 Article 243(d) of the Constitution defines a Panchayat as an 'institution of self-government' for the rural areas. Article 243G expresses the intention that while framing laws on Panchayats, State Legislatures should endow these institutions 'with such power and authority as may be necessary to enable them to function as institutions of self-government'. Thus, Panchayats are 'governments at their own level' and they must be allowed to function as governments. This means that they should have an autonomous jurisdiction of their own. However, if there are 'governments' at multiple levels, then government at each level will enjoy only partial autonomy. How much autonomous jurisdiction can be carved out for Panchayats is a matter of judgment. But it cannot be too small to make the concept of self-governing institutions at the local level meaningless. Creating an autonomous jurisdiction for the Panchayats is based on the constitutional mandate for effective decentralisation of governmental power as opposed to mere administrative deconcentration. This would necessitate withdrawal of certain activities or functions from the State Government and transferring them to local bodies. Such conceptualisation of Panchayats marks a break from the way local government institutions were treated in the past as bodies wholly subservient to State Governments.

3.4.3 The Eleventh Schedule of the Constitution, which gives a list of 29 activities, or functions, intended to be transferred to the local bodies, covers a broad spectrum of development activities ranging from activities in the social and economic sectors (education, health, women and child development, social security, farm and non-farm economic activities etc) to the development of infrastructure and institutions necessary for social and economic development. The thrust is, obviously, on development. However, the difference between a subject and a function remains as a major hiatus between local level activity and local governance.

3.4.4 In the urban sector, a similar situation prevails. Article 243P (e) defines a Municipality as an institution of self government. Article 243W, which corresponds to Article 243G regarding Panchayats, proposes that the Legislature of a State may, by law, endow *"the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities."*

3.4.5 The first roundtable of Panchayati Raj Ministers, held in Kolkata on July 24-25, 2004, agreed to make to their respective Governments, inter alia, the following recommendations "for joint acceptance by the Union and the States":

> *I) The Constitution (Article 243G) provides for "devolution", that is, the empowerment of Panchayati Raj Institutions (PRIs) to function as institutions of self-government*

for the twin purposes of i) making plans for economic development and social justice for their respective areas, and ii) implementing programmes of economic development and social justice in their respective areas, for subjects devolved to the PRIs, including those listed in the Eleventh Schedule, and subject to such conditions as the State may, by law, specify. Therefore, the key objective is to ensure that Panchayati Raj Institutions function as institutions of self-government rather than as mere implementing agencies for other authorities in respect of such functions as may be devolved on them;

II) While devolution must eventually comprise the entire range of subjects provided for the State legislation in a time-bound manner, States/UTs may prioritise their devolution programme to ensure that for such functions as are prioritised, there is full and effective devolution in empowering PRIs as institutions of self-government in respect of these functions;

III) To this end, the essential step is the identification of activities related to the devolved functions with a view to attributing each of these activities to the appropriate tier of the 3-tier system. To the extent possible, there should be no overlapping between tiers in respect of any given activity;

IV) In determining the tier of the Panchayati Raj System, to which any given activity is to be attributed, the principle of subsidiarity must, to the extent possible, be followed. The principle of subsidiarity states that any activity which can be undertaken at a lower level must be undertaken at that level in preference to being undertaken at any higher level; ……

VIII) With a view to promoting a measure of irrevocability of devolved functions, devolution may be routed through legislative measures or, alternatively, by providing a strong legislative framework for devolution through executive orders.

3.4.6 The National Commission to Review the Working of the Constitution (NCRWC) has, in its Report, recommended certain changes in the Constitution, especially with regard to the powers of the local bodies, both urban and rural. It has observed:

"The Commission, therefore, recommends that the Eleventh and the Twelfth Schedules should be restructured in a manner that creates a separate fiscal domain for Panchayats and Municipalities. Accordingly, Articles 243H and 243X should be amended making it mandatory for the Legislature of the States to make laws devolving powers to the Panchayats and Municipalities."

3.4.7 In spite of the Constitutional provisions, and observations made by several expert groups and even by Parliamentary Committees, empowerment of local governments in the real sense has not taken place. Under such circumstances, it becomes the responsibility of the Union to ensure that the 73rd and the 74th Constitutional Amendments are implemented both in letter and spirit. This becomes all the more necessary as major development schemes, funded largely by the Union Government, are being implemented by the local governments. However, the issue that arises is the manner in which the Union intervenes to ensure that the local governments are duly empowered by the States.

3.4.8 Our Constitution was framed at a time when the first and foremost requirement of the country was to consolidate itself as a nation. Over 400 princely states had been replaced by a more homogeneous federation of larger States. The next few years were spent in reorganising and strengthening the States. The Constitution did not give prominence to the local bodies at that point of time and legislative powers remained within two tiers of Government, and as separate "subjects". In the intervening decades there was also debate about the role and suitability of local bodies as institutions of governance and it was recognised that (a) the third tier of government may require some legislative powers, (b) all three levels may need to legislate in the same sphere, and (c) new areas of governance have emerged.

3.4.9 The Commission notes that the position of Item 5 in List II of the Seventh Schedule of the Constitution has placed all responsibility for local bodies with the States. It reads as follows:

> *"Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration*."

3.4.10 In 1950, when the Constitution was adopted, this allocation was appropriate, and indeed continues, by and large, to be so even today. The governance of local bodies cannot be controlled by the Union overlooking the States. Nevertheless, the multifarious activities of a large municipal body today are such that they impact the nation as a whole, such as commercial development, and may even have international ramifications, such as with international airports in some cities. In the districts, the funding for district development comes very largely from the Centre, because the States' lack of resources to provide adequately for local governments makes them approach the Government of India for funds. The indirect stamp of the Centre in urban affairs through programmes such as the Jawaharlal Nehru National Urban Renewal Mission has become necessary. In rural development, there are conditionalities set by the Centre in its programmes for rural areas.

3.4.11 To make the flow of local level activity smooth through the various levels of government, one approach could be that Item 5 of List II (Local governments), or certain functions which are only with the Union, or only with the States, but which are directly relevant to all three tiers of government be placed in the Concurrent List to enable appropriate, hierarchical and framework legislation by the Union or the State. This would shift 'functions' to 'subjects' with regard to local bodies. This would enable Parliament to legislate on the subject 'local governments' and thus the Union could mandate the devolution of powers, functions and responsibilities to the local governments.

3.4.12 Another approach to activate the changes that were intended to be made in our economic and political system through the 74th Amendment, would be that, along with the devolution of functions, certain legislative powers could also be devolved on the third tier of governance; there could be a List IV to the Seventh Schedule which would give limited legislative powers to the local bodies. If there are to be two sets of functions, one for rural and another for urban areas, then such a list can have two parts.

3.4.13 A third approach may be a more integrated one, introducing a single, legally binding legislative framework under which the States and the local bodies would function, somewhat on the lines of the South African model for municipal systems. Framework laws exist in some other countries; the EU Directives are in the nature of framework legislation. But it is the South African model that may bear emphasis here.

3.4.14 *The South African Model*: The South African Constitution lays down a cooperative model of Government under a hierarchical framework. Articles 40 and 41 of that Constitution read as follows:

> *40. Government of the Republic*
>
> *1. In the Republic, government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated.*
>
> *2. All spheres of government must observe and adhere to the principles in this Chapter and must conduct their activities within the parameters that the Chapter provides.*
>
> *41. Principles of co-operative government and inter-governmental relations*
>
> *1. All spheres of government and all organs of state within each sphere must - …*

e. respect the constitutional status, institutions, powers and functions of government in the other spheres;

f. not assume any power or function except those conferred on them in terms of the Constitution;

g. exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and

h. co-operate with one another in mutual trust and good faith by -

i. fostering friendly relations;

ii. assisting and supporting one another;

iii. informing one another of, and consulting one another on, matters of common interest;

iv. co-ordinating their actions and legislation with one another;

v. adhering to agreed procedures; and

vi. avoiding legal proceedings against one another.

2. An Act of Parliament must -

a. establish or provide for structures and institutions to promote and facilitate inter-governmental relations; and

b. provide for appropriate mechanisms and procedures to facilitate settlement of inter-governmental disputes.

The provincial legislatures can legislate in their own sphere under Article 104:

1. The legislative authority of a province is vested in its provincial legislature, and confers on the provincial legislature the power -

a. to pass a constitution for its province or to amend any constitution passed by it in terms of sections 142 and 143;

b. to pass legislation for its province with regard to -

i. any matter within a functional area listed in Schedule 4;

ii. any matter within a functional area listed in Schedule 5;

iii. any matter outside those functional areas, and that is expressly assigned to the province by national legislation; and

iv. any matter for which a provision of the Constitution envisages the enactment of provincial legislation; and

c. to assign any of its legislative powers to a Municipal Council in that province.

3.4.15 There is also a part on local government, the equivalent of which are Parts IX and IXA of the Indian Constitution.[7] And there are Schedules - Schedule 4 to provide for functional areas for concurrent national and provincial legislative competence and another, Schedule 5, for exclusive provincial jurisdiction.

3.4.16 The major difference between the two Constitutions (Indian and South African), in regard to the present issue, appear to be that:

i. In South Africa, functions listed for concurrent legislation, in Schedule 4 of that Constitution, include a vast part of municipal governance matters, whereas in the Indian Constitution, this is specifically a State "subject".
ii. The South African Parliament can pass a framework law in any matter to provide "for structures and institutions to promote and facilitate inter-governmental relations."

3.4.17 The Municipal Systems Act of South Africa, 2000, was enacted as a framework for urban governance in the country. The objective of the Act is detailed below:

"To provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services that are affordable to all; to define the legal nature of a municipality as including the local community within the municipal area, working in partnership with the municipality's political and administrative structures; to provide for the manner in which municipal powers and functions are exercised and performed; to provide for community participation; to establish a simple and enabling framework for the core processes of planning, performance management, resource mobilisation and organisational change which underpin the notion of developmental local government; to provide a framework for local public administration and human resource development; to empower the poor and ensure that municipalities put in place service tariffs and credit control policies that take their needs into account by providing a framework for the provision of services, service delivery agreements and municipal service districts; to provide for credit control and debt collection; to establish a framework for support,, monitoring and standard setting by other spheres of government in order to progressively build local government into an efficient, frontline development agency capable of integrating the activities of all spheres of government for the overall social and economic upliftment of communities in harmony with their local natural environment; to provide for

[7]"Local Government" in the South African Constitution does not segregate and differentiate rural and urban governments as in India

legal matters pertaining to local government; and to provide for matters incidental thereto.”

3.4.18 An issue that is beginning to emerge in the matter of local self governance is the degree to which the rights and duties of the citizen can be enunciated. In the South African Act, the rights and duties of members of the local community are clearly enunciated. It is useful to quote the early sections of the Act in toto:

“Legal Nature and Rights and Duties of Municipalities

Legal nature

2. A municipality—

(a) is an organ of state within the local sphere of government exercising legislative and executive authority within an area determined in terms of the local government: Municipal Demarcation Act, 1998;

(b) consists of—

(i) the political structures and administration of the municipality; and

(ii) the community of the municipality;

(c) functions in its area in accordance with the political, statutory and other relationships between its political structures, political office bearers and administration and its community; and

(d) has a separate legal personality which excludes liability on the part of its community for the actions of the municipality.

Co-operative government

3.(1) Municipalities must exercise their executive and legislative authority within the constitutional system of co-operative government envisaged in section 41 of the Constitution.

(2) The national and provincial spheres of government must, within the constitutional system of co-operative government envisaged in section 41 of the Constitution, exercise their executive and legislative authority in a manner that does not compromise or impede a municipality’s ability or right to exercise its executive and legislative authority.

(3) For the purpose of effective co-operative government, organised local government must seek to—

(a) develop common approaches for local government as a distinct sphere of government;
(b) enhance co-operation, mutual assistance and sharing of resources among municipalities;
(c) find solutions for problems relating to local government generally: and
(d) facilitate compliance with the principles of co-operative government and inter-governmental relations.

Rights and duties of municipal councils

4.(1) The council of a municipality has the right to—
(a) govern on its own initiative the local government affairs of the local community;
(b) exercise the municipality's executive and legislative authority, and to do so without improper interference; and
(c) finance the affairs of the municipality by—
(i) charging fees for services; and
(ii) imposing surcharges on fees, rates on property and, to the extent authorised by national legislation. other taxes, levies and duties.

(2) The council of a municipality, within the municipality's financial and administrative capacity and having regard to practical considerations, has the duty to—
(a) exercise the municipality's executive and legislative authority and use the resources of the municipality in the best interests of the local community;
(b) provide, without favour or prejudice, democratic and accountable government;
(c) encourage the involvement of the local community;
(d) strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;
(e) consult the local community about—
(i) the level, quality, range and impact of municipal services provided by the municipality,
(ii) the available option for service delivery:
(f) give members of the local community equitable access to the municipal services to which they are entitled;
(g) promote and undertake development in the municipality;
(h) promote gender equity in the exercise of the municipality's executive and legislative authority;

(i) promote a safe and healthy environment in the municipality; and

(j) contribute, together with other organs of state, to the progressive realisation of the fundamental rights contained in sections 24, 25, 26, 27 and 29 of' the Constitution.

(3) A municipality must in the exercise of its executive and legislative authority respect the rights of citizens and those of other persons protected by the Bill of Rights.

Rights and duties of members of local community

5.(1) Members of the local community have the right—

(a) through mechanisms and in accordance with processes and procedures provided for in terms of this Act or other applicable legislation to—

(i) contribute to the decision-making processes of the municipality; and

(ii) submit written or oral recommendations, representations and complaints to the municipal council or to another political structure or a political office bearer or the administration of the municipality;

(b) to prompt responses to their written or oral communications, including complaints, to the municipal council or to another political structure or a political office bearer or the administration of the municipality;

(c) to be informed of decisions of the municipal council, or another political structure or any political office bearer of the municipality, affecting their rights, property and reasonable expectations;

(d) to regular disclosure of the state of affairs of the municipality, including its finances;

(e) to demand that the proceedings of the municipal council and those of its committees must be—

(i) open to the public, subject to section 20;

(ii) conducted impartially and without prejudice; and

iii) untainted by personal self-interest;

(f) to the use and enjoyment of public facilities; and

(g) to have access to municipal services which the municipality provides, provided the duties set out in subsection (2)(b) are complied with.

(2) Members of the local community have the duty—

(a) when exercising their rights, to observe the mechanisms, processes and procedures of the municipality;

(b) where applicable, and subject to section 97(1)(c), to pay promptly service fees, surcharges on fees, rates on property and other taxes, levies and duties imposed by the municipality;

(c) to respect the municipal rights of other members of the local community;

(d) to allow municipal officials reasonable access to their property for the performance of municipal functions; and

(e) to comply with by-laws of the municipality applicable to them.

Duties of municipal administrations

6.(1) A municipality's administration is governed by the democratic values and principles embodied in section 195(1) of the Constitution.

(2) The administration of a municipality must—

(a) be responsive to the needs of the local community;

(b) facilitate a culture of public service and accountability amongst staff;

(c) take measures to prevent corruption;

(d) establish clear relationships, and facilitate co-operation and communication between it and the local community;

(e) give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive; and

(f) inform the local community how the municipality is managed, of the costs involved and the persons in charge.

Exercise of rights and performance of duties

7. The rights and duties of municipal councils and of the members of the local community, and the duties of the administrations of municipalities, as set out in sections 4, 5 and 6, are subject to the Constitution, the other provisions of this Act and other applicable legislation."

3.4.19 The Commission is of the considered view that local governments fall under the rightful domain of the States. It would not be desirable to bring this subject in the Concurrent List in order to empower the Union to enact a 'framework law' for the local governments. The Commission is, therefore, of the view that a 'Framework Law' may be passed by Parliament under Article 252 *(power of Parliament to legislate for two or more States by consent and adoption of such legislation by other States)*. The remaining States may then be persuaded to adopt this law. This law should spell out the rights and duties of the

citizen in relation to the local authority and also those of the local body vis-a-vis the citizen. It would also provide broad principles for detailing of activities at the third tier. Equally importantly, the model law must lay down guidelines for devolution of responsibilities, powers and functions, by the States.

3.4.20 Recommendation:

a. Government of India should draft and place before Parliament, a Framework Law for local governments. The Framework Law could be enacted under Article 252 of the Constitution on the lines of the South African Act, for the States to adopt. This Law should lay down the broad principles of devolution of powers, responsibilities and functions to the local governments and communities, based on the following:

- **Principle of Subsidiarity**
- **Democratic Decentralisation**
- **Delineation of Functions**
- **Devolution in Real Terms**
- **Convergence**
- **Citizen Centricity**

3.5 Devolution of Funds

3.5.1 Finances of Local Governments

3.5.1.1 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. Table 3.3 shows the percentage share of "own resources" in total revenues of the local bodies. The figures indicate that more than 93 per cent of the total revenues of rural bodies were derived from external sources. On the other hand, urban local bodies raised 59.69 per cent of total revenues from their own resources in 1998-99 but this percentage declined to 58.44 in 2002-03. Also the per centage of revenue expenditure covered by their own resources for rural and urban local bodies is 9.26 per cent and 68.97 percent, respectively, in 2002-03. The percentage of revenue derived from own taxes for rural and urban local bodies are 3.87 per cent and 39.23 per cent respectively in 2002-2003.

Table 3.3: Revenue and Expenditure of Local Bodies (Rural and Urban)

(Rs. in Crores)

	1998-99	1999-00	2000-01	2001-02	2002-03
Revenue					
Own Tax	5385.41	5828.5	6371.27	6696.62	5869.89
Own Non-Tax	2648.98	2885.86	3307.49	3496.3	3133.91
Own Revenue	8034.39	8714.37	9678.76	10192.93	9003.79
Assignment + Devolution	7431.03	9155.13	9513.01	8914.06	8877.13
Grants-in-Aid	11552.05	15369.85	15665.44	15895.72	16230.45
Others	1792.84	2197.75	2968.2	2616.57	2495.64
Total Revenue	20775.93	26722.72	28146.64	27426.35	27603.23
Total Revenue Expenditure	28810.32	35437.09	37825.4	37619.27	36607.02
Revenue Expenditure	22090.94	26579.45	29797.49	30381.95	28411.6
Capital Expenditure	8250.88	9565.33	10005.7	9473.53	9871.72
Total Expenditure	30341.84	36144.79	39803.19	39855.48	38283.31

Source: Data provided by State Governments to the Twelfth Finance Commission

3.5.1.2 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.

3.5.1.3 The overall finances of the local bodies such as resource generation, efficiency of collection, investment, taxation etc. will be dealt in the respective chapters pertaining to Urban and Panchayat Finances. However, it is appropriate to deal with the issue of devolution of funds and functioning of the State Finance Commissions as a common issue between the State Government and urban and rural local governments.

3.5.2 The State Finance Commission (SFC)

3.5.2.1 Articles 243H and 243X make it obligatory for the State Government to authorise the local bodies, by law, to impose taxes, duties etc. and assign to the local bodies such taxes/duties levied and collected by the State Government. These Articles also make provision for grants-in-aid to the local bodies from the Consolidated Fund of the State. The devolution of financial resources to these bodies has been ensured through constitution of the State Finance Commissions that are required to make recommendations on the sharing and assignment of various taxes, duties etc. Under these provisions, the Governor of a State is required to constitute the State Finance Commission within one year from the commencement of the 73rd Amendment (Articles 243 I and 243 Y), and thereafter, at the expiration of every fifth year, to review the financial position of the Panchayats and Municipalities. The composition of the Commission, the qualifications required for appointment as its members and the manner in which they are selected is decided by the State Legislature by way of a Law. It is also stipulated in the Constitution that the Governor of a State shall cause every recommendation made by the Commission under these Articles together-with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

3.5.2.2 The SFCs so constituted (Articles 243 I and 242 Y) have to make recommendations to the Governor as to –

(a) the principles which should govern –
  (i) the distribution between the State and the local bodies of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between these bodies all levels of their respective shares of such proceeds;
  (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the local bodies;
  (iii) the grants-in-aid to the local bodies from the Consolidated Fund of the State;
(b) the measures needed to improve the financial position of the local bodies; and
(c) any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the these local bodies.

3.5.2.3 The provisions of Articles 243 I and 243 Y are essentially modeled on Article 280 which deals with constitution of a Finance Commission at the Union level to make recommendations on–

(a) the distribution between the Union and the State of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the

allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State[8];

(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;[9]

(d) any other matter referred to the Commission by the President in the interest of sound finance.

3.5.2.4 The Tenth Finance Commission, for the first time, made a separate provision of Rs.1,000 crores for urban local bodies in the country (for a five-year period). They also made a provision of Rs.100 per capita for the Panchayats. The Eleventh Finance Commission made a detailed study of the local finances and also the recommendations made by various State Commissions. They recommended several measures to augment the Consolidated Fund of the States including a total grant of Rs. 1,600 crores and Rs. 400 crores for the Municipalities for each of the five years starting from the Financial Year 2000-01. Besides, the Eleventh Finance Commission analysed the process of implementation of the 73rd and 74th Amendments and suggested certain changes as follows:

a) Transfer of functions and schemes to the local bodies should be specifically provided by legislation.

b) There is need for making legislative arrangements to clearly indicate the role that the different levels of Panchayat Bodies have to play in the system of governance.

c) Special agencies like the District Rural Development Agency and the District Urban Development Agency should be integrated with the local government set-up.

d) For extending the provisions of the 74th Amendment to the Fifth Schedule Areas, an enabling legislation has to be enacted.

e) DPCs and MPCs should be constituted in all States.

3.5.2.5 Similar to the role of the Finance Commission in recommending devolution of funds from the Union to the States, the State Finance Commissions also make recommendations regarding the principles that should govern the distribution of taxes between the State on the one hand and the local bodies on the other. Thus, the SFC arbitrates the claims to resources of a State by the State Government and the local bodies. The terms of reference of the constitution of the State Finance Commissions generally include the provision that

[8] Inserted by 73rd Amendment.
[9] Inserted by 74th Amendment.

while making its recommendations, the Commission should take into consideration the resources of the State Government, and the requirements of the local bodies for meeting revenue expenditure. The State Finance Commissions have generally followed the approach of estimating the finances of the State Governments as well as the local bodies. Based on this, the SFC recommends the devolution package. Apart from devolving funds to the urban and local bodies as a whole, the State Finance Commission also recommends principles for inter-se distribution of funds between the urban local bodies and different Pancahayats. An analysis of the recommendations of various State Finance Commissions indicates that there is a wide variation in the approach and contents of the Reports of the different State Finance Commissions. While some States have followed the concept of pooling of all revenues and then sharing, others follow different percentages of devolution for different taxes. Such differences are quite understandable, as the laws governing these local bodies vary in different States as do the functions and duties assigned to them.

3.5.2.6 The Eleventh Finance Commission mentioned certain constraints because of which it was unable to adopt the SFC reports as the basis for its recommendations. These are as follows:

a) *non-synchronisation of the period of the recommendations of the SFCs and the Central Finance Commission;*

b) *lack of clarity in respect of the assignment of powers, authority and responsibilities of the local bodies;*

c) *absence of a time frame within which the state governments are*

Box 3.4: Experience of the State Finance Commissions in India

1. There has not been genuine efforts by the States to make clear expenditure assignments to the local bodies and corresponding restructuring of State's set-up;
2. The State Government staff transfers to the local bodies have not been accompanied by revenue source transfers;
3. The SFCs waste much of their time to collect routine financial data from the local bodies that the States should have collected in a routine manner; collection of qualitative data for policy purposes, e.g., fiscal autonomy/revenue dependency, expenditure/revenue decentralisation, is not attempted;
4. There is inadequate realisation that the SFCs are supposed to recommend fiscal transfers in aid of local revenues and not finance for creating local infrastructure;
5. The SFCs have not paid much attention to improve fiscal administration of the local bodies, which might be more important than fiscal transfers *per se*,
6. The SFCs are not required to cover issues of local taxation or borrowings, in case some of these are required to be examined 'in the interest of sound finance' these should be specifically included in their terms of eference;
7. The SFCs do not start their work after first reviewing State finances, nor did they suggest significant transfer of, or surcharging on, the State taxes;
8. Inadequate attention is given by the SFCs to the adverse consequences of grants on local revenue efforts and local fiscal autonomy;
9. The State Governments treat the SFCs with scant respect, partly due to their membership composition that includes serving civil servants; and
10. The State Governments generally take a long time to accept and act on the SFCs recommendation

Sources: "The National Finance Commission and Fiscal Devolution to Local Bodies" by Shri Abhijit Datta, in 'Municipal Finance in India', IIPA (Data compiled by the NIRD (SFC cell), Hyderabad, and NIUA, New Delhi).

required to take action on the recommendations of the SFCs; and

d) non-availability of the reports of the SFCs.

3.5.2.7 The Twelfth Finance Commission examined the functioning of the State Finance Commissions in great detail and made some very important recommendations which, if implemented, would go a long way in streamlining the scheme of fiscal decentralisation and achieving the ultimate goal of developing the local bodies as institutions of self-government. One of the important recommendations of the Twelfth Finance Commission (TFC) pertains to the time span for setting up of the SFCs, the time allowed for submission of its report, time limits for action taken report and synchronisation of its award period with that of the Central Finance Commission. The TFC recommended that:

> *"It is desirable that SFCs are constituted at least two years before the required date of submission of their recommendations, and the deadline should be so decided as to allow the State Government at least three months' time for tabling the ATR, preferably along with the budget for the ensuing financial year. Synchronisation of the award periods of the SFC with the central finance commission does not mean that they should be coterminus. What is necessary is that the SFC reports should be readily available to the central finance commission, when the latter is constituted so that an assessment of the State's need could be made by the Central Finance Commission on the basis of uniform principles. This requires that these reports should not be too dated. As the periodicity of constitution of the Central Finance Commission is predictable, the States should time the constitution of their SFCs suitably. In order to fulfill the overall objective, the procedure and the time limits would need to be built into the relevant legislation."*

3.5.2.8 The Twelfth Finance Commission made several recommendations regarding the working of the SFCs. These are summarised as follows:

a. The principal recommendations made by the SFCs should be accepted by the Government as is the case with the recommendations made by the Central Finance Commission.

b. The SFCs follow the procedure adopted by the Central Finance Commission for transfer of resources from the Centre to the States.

c. While estimating the resource gap, the SFCs should follow a normative approach in the assessment of revenues and expenditure rather than make forecasts based on historical trends.

d. It is necessary that the States constitute SFCs with people of eminence and competence, instead of viewing the formation of SFCs as a mere constitutional formality.

e. In the matter of composition of the SFCs, States may be well advised to follow the Central legislation and rules which prescribe the qualifications for the chairperson and members and frame similar rules. It is important that experts are drawn from specific disciplines such as economics, public finance, public administration and law.

f. There should be a permanent SFC cell in the finance department of each State. This cell may be headed by a secretary level officer, who will also function as secretary of the SFC.

3.5.2.9 The recommendations of the Central Finance Commissions are not mandatory but from the beginning, successive Union Governments have established a healthy tradition of accepting the devolution package suggested by the Finance Commission without any deviation. In effect, therefore, these recommendations have become mandatory. However, this tradition has not been established in the States, as a result even if recommended by the SFCs, State Governments often do not commit adequate resources for the local governments. The healthy precedent established by the Union Government in generally accepting the devolution proposals made by the Union Finance Commission should also be followed by the State Government with regard to the recommendations of the State Finance Commissions. This will ensure effective and progressive devolution of functions and powers to the local bodies and lead to their empowerment.

3.5.2.10 With the Thirteenth Finance Commission likely to be constituted in 2007/2008, it would be appropriate to advise that all States appoint their State Finance Commissions in advance so that the reports of the State Finance Commissions are available for the consideration of the Central Finance Commission. This Commission, therefore, is of the view that State Finance Commissions should be set up with the periodicity of five years as required by the Constitution, but equally importantly, that they should be set up in time across the country, so that, as recommended by the Twelfth Finance Commission, their recommendations can be taken into consideration by the Central Finance Commission.

3.5.2.11 Incidentally, the Constitution provides for the setting up of the Central Finance Commission every five years or earlier. Article 280 states:

> *"The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President."*

3.5.2.12 However, Article 243 I, which relates to the setting up of SFCs, does not provide for such a course to the States. Perhaps this is to prevent arbitrariness and adhocism in the setting up of SFCs. But since the need for the Central Finance Commission to take into account the recommendations of the SFCs arises out of Article 280 (3) (bb) and (c), Government may examine the need to modify Article 243 I suitably.

3.5.2.13 The Commission also agrees with the recommendations of the Twelfth Finance Commission that each State should prescribe through an Act the qualifications of persons eligible to be appointed as Members of the State Finance Commission, on the lines of the Central Act. This would ensure that persons with requisite qualifications, experience and public standing are appointed.

3.5.2.14 The task of the State Finance Commissions is undoubtedly complex. They have to assess the resource gap in case of all the urban and rural local bodies. Even within a State, there are wide variations in the financial position of these local bodies and also in the level of services provided by them. Lack of data on various aspects of local governance makes the task of the SFCs even more difficult. Generally, the SFCs have attempted to estimate the resource gap and recommended devolution of funds accordingly. The resource gap for any local body can never be measured in absolute terms as the resource gap is a function of variety of factors such as the level and quality of civic amenities provided, the efficiency of the local body in raising resources, the quantum of service charges levied by the local body etc. The Commission is of the view that the State Finance Commissions should link the devolution of funds to the level/quality of civic amenities that the citizens could expect. This approach would also help to bring about some uniformity in the quality of services provided by different local bodies. Basically, this would shift the focus from outputs to outcomes.

3.5.2.15 Although SFCs, while making their recommendations about devolution of funds also give their recommendations on other matters affecting the resources of the local bodies, there has not been adequate emphasis on the outcomes of such devolutions. Local bodies focus their attention on getting the maximum possible funds from the State, and in the process, other recommendations which seek to enhance the resources of the local bodies such as improvement in their own tax base, higher efficiency in tax collection, economy in expenditures, reduction of surplus staff etc do not get due attention. In short, the local bodies implement only the 'soft portions' of the recommendations and the 'hard' recommendations are often not acted upon. As a result, the recommendations of the SFCs do not get implemented in totality and the outcomes are therefore sub-optimal. The Commission is of the view that the SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations for improvements in their

working. In case of smaller local bodies, such recommendations could be broad based, but in case of larger local governments such recommendations would need to be more specific. With historical data being available with the SFC, and with the improvement in efficiency of data collection, the SFC would be in a position to carry out detailed analysis.

3.5.2.16 A substantial portion of the revenues of the local bodies goes towards meeting the establishment expenditure. Generally, the local bodies are overstaffed in some respects and yet the requisite capability is not available within the organisation. The SFCs should evolve norms for expenditure on establishment for different local bodies.

3.5.2.17 Monitoring the implementation of the recommendations of the SFCs has generally been weak. This has also been observed by various Finance Commissions. It is necessary that a mechanism is put in place which reviews the implementation of all the recommendations of the SFCs. An Action Taken Report must be tabled in the State Legislature within six months, and this should be followed up with an annual statement on the devolution made and grants given to individual urban bodies, through an appendix to the State budget documents. If considered necessary, the devolution of funds could be made conditional to local bodies agreeing to implement the recommendations of the SFCs.

3.5.2.18 Recommendations:

a. This Commission endorses and reiterates the views of the Twelfth Finance Commission regarding the working of the SFCs as listed in paragraph 3.5.2.8.

b. Article 243 I (1)of the Constitution should be amended to include the phrase "at such earlier time" after the words "every fifth year".

c. Each State should prescribe through an Act, the qualifications of persons eligible to be appointed as Members of the State Finance Commission.

d. SFCs should evolve objective and transparent norms for devolution and distribution of funds. The norms should include area-wise indices for backwardness. State Finance Commissions should link the devolution of funds to the level/quality of civic amenities that the citizens could expect. This could then form the basis of an impact evaluation.

e. The Action Taken Report on the recommendations of the SFC must compulsorily be placed in the concerned State Legislature within six months

of submission and followed with an annual statement on the devolution made and grants given to individual local bodies and the implementation of other recommendations through an appendix to the State budget documents.

f. Incentives can be built into devolution from the Union to the States to take care of the need to improve devolution from the States to the third tier of governments.

g. Common formats, as recommended by the Twelfth Finance Commission (TFC) must be adopted, and annual accounts and other data must be compiled and updated for use by the SFCs.

h. SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations for improvements in their working. In case of smaller local bodies such recommendations could be broad in nature, but in case of larger local bodies, recommendations should be more specific. With historical data being available with the SFC, and with the improvement in efficiency of data collection, the SFC would be in a position to carry out the required detailed analysis. The special needs of large urban agglomerations particularly the Metropolitan cities should be specially addressed by the SFC.

i. SFCs should evolve norms for staffing of local bodies.

j. It is necessary that a mechanism be put in place which reviews the implementation of all the recommendations of the SFCs. If considered necessary, devolution of funds could be made conditional to local bodies agreeing to implement the recommendations of the SFCs.

3.6 Capacity Building for Self Governance

3.6.1 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. With the enactment of the National Rural Employment Guarantee Act (with an annual outlay of Rs 60000 crores when 'universalised') and other 'flagship' schemes like the Jawaharlal National Urban

Renewal Mission-JNNURM- (Rs 50,000 crores for five years for 63 cities) being primarily implemented through such institutions, it is clear that sustained, well planned 'enabling exercises' need to be undertaken to ensure that the implementing agencies have the capacity and the capability to deal with the challenges in undertaking and implementing these major national programmes apart from being able to fulfil their statutory functions.

3.6.2 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.

3.6.3 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.

3.6.4 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.

3.6.5 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.

3.6.6 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. These guiding principles need to be kept in view while undertaking exercises to enhance capacities, individual and organisational, in local bodies.

3.6.7 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.

3.6.8 Organisational capacity building should not be taken to mean that the organisation acquires all the skills and knowledge required to perform its tasks. In recent years, a large number of agencies have developed certain specialised skills. Prudence demands that any organisation should have the capability of tapping such skills rather than spending a large amount of resources in acquiring such skills themselves. Evolving partnerships, developing networks and outsourcing functions are all methods of enhancing the capability of an organisation.

3.6.9 The Commission also believes that adequate staffing of local bodies is a matter that requires considerable attention of the State Finance Commissions in active association with the State Governments in order to endow these bodies with greater capacities. The Commission agrees with, the observations of the Standing Committee on Urban and Rural Development of the Thirteenth Lok Sabha in its Fifty-sixth Report where it summarises the crux of local bodies' growth as 'development of functions, functionaries and finances'. This approach encompasses the mutually complementary but somewhat neglected goals of organisational and individual growth and development. It also underscores the responsibility of State Governments to take the initiative for standardisation and 'norm fixation' in areas like the strength of the establishment, monitoring of outsourced activities, optimum internal resource mobilisation potential and unit costs of providing services etc.

3.6.10 The State Finance Commissions, therefore, need to be vested with the responsibility of suggesting 'staffing norms' for various levels and categories of local bodies to determine the optimum or desirable degree of outsourcing of functions. While outsourcing results in reduction of 'operational personnel', its successful outcome, as already noted, depends on an appropriate complement of monitoring mechanism. Failure to take a holistic view of this approach is often responsible for outsourced functions (particularly in the sphere of public health and sanitation) becoming a source of public dissatisfaction. Similarly, a

number of 'flagship' schemes e.g. NREGS, JNNURM, cast implementing responsibilities on the various tiers of panchayati institutions and the municipal bodies. Besides, there are a number of other schemes particularly in the rural sector with considerable involvement of PRIs. Some such schemes do carry a 'staffing component' mainly for supervision. The state of preparedness of the local bodies in such cases is, however, not uniform and is often not properly assessed. This observation is primarily in the context of Centrally Sponsored Schemes. There is also a trend in certain States to involve such institutions in executing some of the State sector programmes; observations in the context of Centrally Sponsored Schemes also apply to such cases. There are clear indications that failure to upgrade organisational capacity to meet rising demands is a badly neglected aspect of local self-governance.

3.6.11 This brings us to the conventional facet of capacity building through 'Training'. While State Institutes of Rural Development and other institutions involved in training Panchayat functionaries have been imparting training to the 'target beneficiaries', these are generally limited to areas like Panchayat and Municipal laws, rudiments of book keeping, account codes and office procedures. Clearly, much more is required for capacity building and skills-inculcation beyond such routine measures. For example, issues like principles of good local governance, gender concerns and sensitivity, disaster management and Right to Information are aspects needing much more salience in training and individual capacity building initiatives. Training initiatives for elected local government representatives have been even more sporadic and inadequate. Apart from certain initiatives of 'distance training' of Gram Panchayat chiefs by the Indira Gandhi National Open University, some programmes financed by All India Council of Mayors and the occasional trainings in the State Administrative Training Institutes, there are hardly any other initiatives for meaningful capacity enhancement of the elected representatives. The tendency to respond to filling up training gaps by establishing more institutions is obviously not the answer.

3.6.12 The 73rd Constitutional Amendment provides for minimum of 33% reservation of women in elective posts, thus putting over one million women in positions of leadership and mainstreaming them in the process of development. In fact, women in Panchayat seats today have enlarged their representation beyond the minimum 33% prescribed by the Constitution. They have also brought to their office, enthusiasm and courage and their contribution has enriched the quality of life in their communities. However, because of entrenched gender bias, there are still many instances of women Panchayat members encountering obstruction and exclusion and lacking self-confidence as also adequate knowledge of their duties and responsibilities. While the situation has improved due to special training and capacity building programmes, there is still need to give special attention to capacity building of women panchayat leaders and members so that they are truly equipped to carry out their envisaged role in the third tier of government.

3.6.13 With the responsibilities of rural and urban local government institutions expanding and with their role and reach poised for further enlargement in the foreseeable future, there is a clear need to bring about a 'networking' of the existing training institutions in various subjects like financial management, rural development, disaster management and general management to formulate compendia of training methodology and training modules to build institutional and individual capacities. There is a strong case for the Union Ministries of Panchayati Raj and Urban Development to initiate funding of specific 'key' training programmes. The training needs, assessment and content details of the training programmes should be best left to the local training institutions so that they are relevant to the local needs. It is equally important that training should be mainstreamed in the activity mapping of organisations so as to be a continuing activity.

3.6.14 While it may be argued that there is no need for 'standalone' training institutions for Panchayat and Municipal institutions, there is little doubt that activities like applied and action research, case studies, documentation of major initiatives and evaluation of important interventions need special focus. Further, some of the larger, better endowed local bodies may be in a position to commission and finance academic initiatives and they should be encouraged to take action in this field. The primary responsibility in this behalf must rest with the State and Union Governments through funding under suitable state/ national schemes. The research and higher education funding establishment must also play a role to provide encouragement to 'purely academic' research on topics with implications for the functions performed by local bodies and those providing theoretical underpinnings and analytical framework for matters connected with decentralised governance, subsidiarity and allied issues.

3.6.15 As a result of decentralisation, local bodies have become responsible for a number of services. One of the difficulties they face is the lack of specialised and technical skills required for these services pertaining to engineering design, project management, maintenance of high-tech equipment, accounting etc. In the 'pre-decentralised' period, such services were made available by the State Governments, at least to some extent. It would, therefore, be appropriate if a common pool of such expertise is maintained either by a federation of local bodies or by professional agencies which can be accessed by local bodies on demand and payment.

3.6.16 Recommendations:

a. Capacity building efforts in rural and urban local self governing institutions must attend to both the organisation building requirements as also the professional and skills upgradation of individuals associated with these

bodies, whether elected or appointed. Relevant Panchayat and Municipal legislations and manuals framed thereunder must contain clear enabling provisions in this respect. There should be special capacity building programmes for women members.

b. State Governments should encourage local bodies to outsource specific functions to public or private agencies, as may be appropriate, through enabling guidelines and support. Outsourcing of activities should be backed by development of in-house capacity for monitoring and oversight of outsourced activities. Likewise, transparent and fair procurement procedures need to be put in place by the State Government to improve fiscal discipline and probity in the local bodies.

c. Comprehensive and holistic training requires expertise and resources from various subject matter specific training institutes. This can be best achieved by 'networking' of institutions concerned with various subjects such as financial management, rural development, disaster management and general management. This should be ensured by the nodal agencies in State Governments.

d. As an aid to capacity building, suitable schemes need to be drawn up under State Plans for Rural and Urban Development for documentations of case studies, best practices and evaluation with reference to the performance of the prescribed duties and responsibilities of such bodies.

e. 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.

f. Academic research has a definite role to play in building long-term strategic institutional capacity for greater public good. Organisations like the Indian Council of Social Science Research must be encouraged to fund theoretical, applied and action research on various aspects of the functioning of local bodies.

g. A pool of experts and specialists (e.g. engineers, planners etc.) could be maintained by a federation/consortium of local bodies. This common pool

could be then accessed by the local bodies whenever required for specific tasks.

3.7 Decentralised Planning

3.7.1 Constitutional Provisions

3.7.1.1 The concept of planning at the local level has been given an institutional framework under Articles 243 G, 243 W, 243 ZD and 243 ZE of the Constitution.

243 G. *Powers, authority and responsibilities of Panchayat: Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to-*

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243 W. *Powers, authority and responsibilities of Municipalities, etc.: Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow-*

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243 ZD. *Committee for district planning : (l) There shall be constituted in every State at the district level a District Planning Committee to consolidate the*

plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to –

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled: Provided that not less than four-fifths of the total number of members of such Committee 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;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,-

(a) have regard to-

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243 ZE. *Committee for Metropolitan planning-(l) There shall be constituted in every Metropolitan area, a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.*

(2) The Legislature of a State may, by law, make provision with respect to-

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(c) the representations, in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and co-ordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,-

(a) have regard to-

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

3.7.1.2 In addition, the Twelfth Schedule, which lays down the functions of urban local bodies, lists urban planning including town planning, regulation of land use and planning for economic and social development as key functions of the ULBs.

3.7.2 Planning Roles of the Panchayats, ULBs, DPCs and MPCs

3.7.2.1 There is need to draw a distinction between the planning role of the largely rural Panchayats, which is focused on plans for economic development and social justice, which may be described as development planning; as compared to the planning functions of the urban local bodies (or rural areas in transition) which includes town planning, regulation of land use as well as planning for economic and social development. It is also essential to clarify the wider role of the DPCs and the MPCs which emphasises coordinated spatial planning of a much larger area, sharing of water and other physical and natural resources and the integrated development of infrastructure and environmental conservation as well as integration of the development plans of the various local bodies that fall in their jurisdictions.

3.7.3 Legal Provisions in the States

3.7.3.1 In the light of the Constitutional provisions, various States have passed new legislations or amendments to existing Panchayat and Municipal Acts to outline the structure and functions of the planning bodies at different levels.

3.7.3.2 In Kerala, for example, the role of the Panchayat in planning has been defined in the Kerala Panchayat Act,1994 as under:

"The Panchayat at every level shall prepare every year a development plan for the next year in respect of the functions vested in it, for the respective Panchayat area in the form and manner prescribed and it shall be submitted to the District Planning Committee before the date prescribed.

(2) The Village Panchayat shall prepare the development plan having regard to the plan proposals submitted to it by the Gram Sabhas.

(3) Where the District Planning Committee directs to make changes in the draft development plan on the ground that sector-wise priority and criteria for subsidy specified by the Government had not been followed or sufficient funds

for Scheduled Castes and Scheduled Tribes development schemes have not been provided in the draft development plan or that the scheme was prepared not in accordance with the provisions of the Act or rules; the Panchayat shall be bound to make such changes.

(4) The Panchayat shall in addition to the annual and five year plans, prepare a perspective plan foreseeing a period of fifteen years, with special focus on spatial planning for infrastructure development and considering the resources and the need for further development and such plan shall be sent to the concerned District Planning Committee"

3.7.3.3 In Tamil Nadu, the constitution of the DPCs has been defined in the Tamil Nadu Panchayat Act,1994 as under:

"The Government shall constitute in every district a District Planning Committee (hereinafter in this section referred to as the Committee) to consolidate the plans prepared by the district panchayats, panchayats union councils, village panchayats, [town panchayats][10], municipal councils and municipal corporations in the district and to prepare a draft development plan for the district as a whole"..

Its composition has been outlined as follows:

(i) the chairman of the district panchayat;

(ii) the Mayor of the City Municipal Corporation in the district;

(iii) the collector of the district;

(iv) such number of persons, not less than four-fifth of the total number of members of the committee as may be specified by the Government, elected in the prescribed manner from amongst the members of the district panchayat, town panchayats and councillors of the municipal corporations and the municipal councils in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district.

In addition, the MPs and MLAs are to be permanent special invitees to the DPC along with MLCs registered as electors in the district and Municipal chairpersons. It is also stipulated that the Chairman, District Panchayat will be the Chairman and the Collector, the Vice-Chairman of the DPC.The role of the DPC in planning has been defined in accordance with the provisions of Article 243 ZD of the Constitution and is common across States.

3.7.3.4 However, there are variations across States in the constitution of the DPCs and regarding the Chairperson which is shown in Table 3.4 below:

[10]Inserted by Tamil Nadu Act 55 of 1997.

Table 3.4: Composition of DPCs – Variations Across some States

State	Elected Members	Nominated Members	Chairperson	Secretary
Assam (Assam Panchayat Act, 1994)	Four-fifth	One-fifth	President of the Zila Parishad	CEO of Zila Parishad
Karnataka (Section 301 of Karnataka Panchayat Raj Act)	Four-fifth	One-fifth	President of the Zila Parishad	CEO of Zila Parishad
Kerala	12	3	President of District Panchayat	District Collector
Madhya Pradesh	Four-fifth	One-fifth	Minister nominated by State Government	District Collector
Maharashtra {Maharashtra District Planing Committee (Constitution and Functions Act)}	Four-fifth	One-fifth	Minister nominated by State Government	District Collector
Rajasthan	20	5	President of the Zila Parishad	Chief Planning Officer, Zila Parishad
Tamil Nadu (Tamil Nadu Panchayat Act)	Four-fifth	One-fifth	President of District Panchayat	CEO of District Panchayat
Uttar Pradesh	Four-fifth	One-fifth	Minister nominated by State Government	Chief Development Officer
West Bengal	Four-fifth	One-fifth	President of the Zila Parishad	District Collector

Source: Collected from different sources.

3.7.3.5 Similarly, for MPCs there are variations across States primarily in their composition. In Kerala, the MPC's composition has been defined in the Kerala Panchayat Act, 1994, as under:

"The Metropolitan Planning Committee shall consist of fifteen members of whom —

a. ten shall be elected, in such manner as may be prescribed, by and from amongst, the elected members of the Municipalities and the Presidents of the Village Panchayats in the metropolitan area in proportion to the ratio between the population of the Municipalities and Village Panchayats in that area;

b. five shall be nominated by the Government of whom—

(i) one shall be an officer of the rank of a Secretary to Government or an eminent person having experience in local administration or public administration;

(ii) one shall be an officer not below the rank of Senior Town Planner of the Town Planning Department;

(iii) one shall be an officer not below the rank of Superintending Engineer of the Public Works Department;

(iv) one shall be an officer of any Government Department not below the rank of a Deputy Secretary to Government; and

(v) one shall be the Collector of the district in which the metropolitan area is comprised or where more than one district is comprised in the metropolitan area one of the Collectors of such districts, as the Government may determine.

(3) The members mentioned under clause (a) to sub-section (2) shall be elected under the guidelines, supervision and control of the State Election Commission and one among them shall be elected as the Chairman."

The nature of the plans to be prepared by the MPCs as defined in the Kerala Act broadly follows the provisions laid down in the Constitution i.e.

"The Metropolitan Planning Committee shall, in preparing the draft development plan—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the metropolitan area;

(ii) matters of common interest between the Municipalities and Panchayats including the co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set out by the Central or the State Government;"

3.7.3.6 In West Bengal, the Metropolitan Planning Committee Act was enacted in 1994 and the Metropolitan Planning Committee was constituted in 2001 with the Chief Minister as its Chairperson. The Kolkata Metropolitan Development Authority (KMDA) is the technical secretariat of the MPC and the Secretary KMDA is the Secretary of the MPC. West Bengal is the only State which has actually constituted the MPC so far.

3.7.3.7 In Maharashtra, the MPC Act was passed in 1999. It envisages a nominee of the State Government as the Chairperson, the MMRDA as the technical arm of the MPC and a mix of officials, MLAs/MPs and experts as nominated members. However, the MPCs are still to be constituted there.

3.7.4 Planning at the Panchayat Level

3.7.4.1 The Constitutional scheme of institutionalising decentralised planning at the level of the Panchayats has not been realised. One of the reasons for this is that many State Acts do not contain provisions relating to the actual task of preparing development plans at all the levels of Panchayats, as envisaged in Article 243 G of the Constitution.

3.7.4.2 Even in States where the respective Panchayat Acts have such provision, the task is not taken seriously. There are various reasons for this. First, real devolution of functions/ activities has not taken place in most States. In the absence of meaningful devolution of powers and responsibilities in respect of local level activities, the local bodies cannot be expected to be motivated to take up this function seriously for the simple reason that they would not have the authority to implement what they plan. Secondly, the lack of untied funds is another constraint for the local bodies to take up local planning. Local level planning reflecting concerns for addressing the urgent local needs cannot be a reality if the Panchayats have at their disposal only schematic funds to use. They require untied funds to finance projects that cannot be covered by the tied funds. Lastly, till recently the National Planning Commission had not taken much interest in local government level planning and in integrating the local plans with the State plans. The State Planning Boards also, by and large, failed to prepare viable frameworks for preparing local plans.

3.7.4.3 In the above context, carving out an autonomous jurisdiction for local bodies and ensuring flow of untied funds to these bodies are preconditions for institutionalisation of local level planning. Specific recommendations on these issues have been made elsewhere in this Report.

3.7.4.4 *Panchayat Plan – a holistic concept:* The Panchayat plan should be in the nature of a holistic plan covering and integrating within it multiple sectors, so that it can achieve the objectives of "economic development and social justice" envisaged in the Constitution. Some centrally sponsored programmes, on the other hand, mandate preparation of stand-alone sectoral plans, such as health or education plans. It is necessary to dovetail sectoral plans into overall development planning at the local level.

3.7.5 Planning at the District Level

3.7.5.1 *Role of the District Planning Committee*

3.7.5.1.1 Under Article 243 ZD of the Constitution, the role of the District Planning Committees to be set up in every State at the district level except in Meghalaya, Mizoram, Nagaland, Jammu & Kashmir and NCT of Delhi, is to consolidate the plans prepared

by Panchayats and Municipalities in the district and to prepare a draft development plan for the district. It is for the State Legislatures to frame laws regarding the composition of District Planning Committees provided that not less than four-fifths of the total number of members of such Committee 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 urban areas in the district. For ensuring effective bottom up participative planning, there is a need to re-orient the district planning mechanism with a view to ensuring centrality of Panchayats in participative planning from the village level upwards. In order to ensure that the Eleventh Plan begins with and is founded on District Plans prepared in accordance with Part IX and IX-A of the Constitution, the Planning Commission has also requested all States in September and October 2005 to establish DPCs in accordance with Article 243 ZD of the Constitution.

3.7.5.2 *Nature of the District Plan*

3.7.5.2.1 There is also considerable confusion about the district plans. One type of confusion relates to its nature: is it a collection of the Panchayat and Municipal plans? What are the things that cannot be addressed at the micro-levels of Gram Panchayats, Intermediate Panchayats and the Municipalities, but require a macro-view for proper appreciation of the problems and issues? Settled answers to these questions are not yet available. The other type of confusion relates to the domain of planning. Will the district plans consist of only those functions which have been devolved to the local bodies? Should such plans also accommodate the

Box 3.5: Guidelines Issued by the Planning Commission

The preparation of the plan for the district should follow the following procedure:

- The planning process should start at the Gram Sabha level. The Gram Panchayat will finalise its plan based on the priorities emerging from the Gram Sabha and give suggestions on projects/activities to be taken up by the Intermediate Panchayat. The Gram Panchayat plan should also provide an estimate of the community contribution that can be mobilised for the purpose of implementing the plan.
- Based on the suggestions received from the Gram Panchayats and its own priorities, the Intermediate Panchayat will prepare its plan. Projects and activities which can be implemented at the level of Intermediate Panchayat will be included in its plan and those which involve areas of more than one Intermediate Panchayat will be forwarded to the District Panchayat for inclusion into the District Panchayat plan.
- District Panchayat will prepare its plan on the basis of the suggestions received from the Intermediate Panchayats and its own priorities.
- District plan will be prepared by the District Planning Committee on the basis of the plans of the Panchayats at three levels and those of the urban local bodies of the district.
- All the local bodies will be entitled to give separate suggestions for inclusion in the departmental components of the district plan.
- The sum total of outlay on district plans in a state may be around 40 per cent of the gross State plan outlay.
- The DPC will consolidate the plans of the rural and urban local governments and integrate them with the departmental plans for the district and prepare the draft five-year plan and the annual plan.

The Planning Commission has decided that the 'district planning process' should be an integral part of the process of preparation of the States' Eleventh Five-Year Plan (2007-2012) and the annual plans. It is necessary to institutionalise this process of planning from below.

activities of the State Government that are not devolved to the local bodies, because they may have an impact on the economy, society or the physical environment of the district? In other words, is there a need for congruence between the perception of the higher level government and that of the local governments in preparing a development plan for a district? In case of conflict, how should this be resolved? For districts with substantial urban areas, where Development Authorities now carry out town planning functions by statute, the issue of parallel planning bodies working in isolation also arises. It may be argued that satisfactory answers to these questions will emerge over time through practice. But that may not be an alibi for not recognising them or addressing them. In this context, it is necessary to introduce more clarity in the concept of the district plan. The real essence of the district plan has to be in ensuring integrated planning for the rural and urban areas in the district.

3.7.5.2.2 In a regime of multi-level planning, providing knowledge and skills to different levels is a problem that needs to be addressed. In this connection, the idea of establishing a

Box 3.6: DPCs Support Framework – Recommendations of Expert Group

In this regard, the following recommendations have been made by the Expert Group on Planning at Grassroots Level:

- CSS guidelines that entrust the task of district level planning and implementation to parallel bodies, such as DRDAs and District Health Societies, need to be modified to incorporate the District Planning Committee in the process of District level planning.
- The Planning Commission could inform States that the DPC would be the sole body that is entrusted with the task of consolidating plans at the district level.
- The Planning Commission could specify a time frame within which States will need to issue detailed instructions covering the manner in which the DPC would perform its functions.
- There must be a full time professionally qualified District Planning Officer to head the District Planning Unit. If such persons are unavailable in the government, appointments of professionals on contract or outsourcing are options to be considered and acted upon.
- Institutional support through universities and research institutions, both at the District and State levels, could be identified for assisting the DPC in planning, monitoring and evaluation.
- The Planning Commission should continue to provide the required support for district planning as was done earlier, except that this would now be provided to the DPC.
- Experts could be assigned to work either individually or in teams. They could be taken on a part-time basis, an assignment basis or full-time, if the need arises.
- It is for the State to determine the number of Experts that can be drawn to assist the DPC. They could be taken on a part-time basis. This could depend upon the extent of devolution in each State.
- Though ideally they are best drawn locally, experts can be drawn even from outside the jurisdiction of the district, if required. Care must be taken to ensure that participation is voluntary, above partisan politics and able to respect different points of view.
- With growing urbanisation of smaller and intermediate sized towns, there is need to especially draw in experts on municipal matters and the urban rural interphase to assist the DPC in planning for local resource sharing, area planning, soli & waste and sewage disposal and other such matters which call for close coordination between Panchayats and Municipalities.
- The DPC could also constitute a few sectoral sub-committees for both the envisioning and the consolidation processes.
- It is strongly recommended that each Intermediate Panchayat be provided a planning and data unit, which could also be integrated into the larger concept of having a Resource Centre at each Intermediate Panchayat level, to provide a basket of pooled services, such as for engineering, agriculture, watershed development, women and child care, public health etc., which Gram Panchayats can draw upon for support in planning and implementation.
- One of the primary tasks of the DPC would be to build capacity for decentralised planning in the district. A major impediment to proper planning is the lack of personnel providing planning support and availability of good and comprehensible information at the Intermediate and Gram Panchayat levels.
- The DPC should be entrusted with anchoring the preparation of the vision document, the maintenance of databases, training of planners, evaluation of outcomes, internal monitoring of performance and independent evaluation of outcomes.

dedicated centre in each district for providing such inputs to the local bodies may be considered. Closely associated to this, is the need to ensure a two-way process of flow of information from the higher levels of government to the local governments and vice versa. In an era of advanced information technology, this should not be difficult.

3.7.5.2.3 The National Planning Commission has recently issued guidelines (see Box: 3.5) to ensure that the concept of planning from below, as envisaged in the Constitution, is realised in practice. The guidelines envisage preparation of a vision document for the district by the District Planning Committee in consultation with the local government institutions. Among other things, this document will analyse the progress of the district in different sectors, identify the reasons for backwardness and indicate interventions for addressing the problems. The document will thus provide a framework for preparation of plans by the local government institutions.

3.7.5.2.4 Decentralised planning should involve a process of decentralised consultations and stock taking exercise followed by a planning exercise at each local body level and then the consolidation and integration exercise. The vision should be articulated at every level of local governance. The Expert Group on Planning at Grassroots level headed by Shri V. Ramachandran has gone into great detail regarding the planning process at all levels viz. Gram Panchayat level, Intermediate level and the District level. Their recommendations have been accepted by the Ministry of Panchayati Raj and the Ministry is strictly monitoring its implementation. Specifically, with regard to the measures needed to strengthen the capacity of the DPCs, the Expert Group has made detailed recommendations. (See Box 3.6).

3.7.5.2.5 Constitution of District Planning Committee – The current status across the States is given in Table 3.5.

Table 3.5: Status of District Planning Committees (Article 243-ZD)

S. No.	State/UTs	State of Constitution of DPCs
1.	Andhra Pradesh	Not yet Constituted. However, an ordinance has been issued by the Govt. of AP in December, 2003 for constitution of DPCs.
2.	Arunachal Pradesh	Not Constituted
3.	Assam	Not Constituted

Table 3.5 Contd.

S. No.	State/UTs	State of Constitution Of DPCs
4.	Bihar	37 districts out of 38 Districts constituted on adhoc basis. Chairman ZP in the Chairperson of DPCs.
5.	Chattisgarh	Constituted. Minister is the Chairperson of DPC.
6.	Goa	Constituted. President of ZP Chairperson of DPC.
7.	Gujrat Not	Constituted
8.	Haryana	Only in 16 Districts out of 19 Districts.
9.	Himachal Pradesh	Constituted only in 6 Districts out of 12 Districts. Minister is the Chairperson of DPC.
10.	Karnataka	Constituted. President of ZP Chairperson of DPC.
11.	Jharkhand	Panchayat Elections yet to be held.
12.	Kerala	Yes, Chairman of District Panchayat(DP) is Chairman of DPC.
13.	Madhya Pradesh	Yes, District incharge Ministers are Chairperson.
14.	Maharashtra	Not Constituted
15.	Manipur	Yes, in 2 Districts out of 4 Districts. Adhyaksha, DP is the Chairperson.
16.	Orissa	Only in 26 Districts. Minister is the Chairperson of DPC.

Table 3.5 Contd.

S. No.	State/UTs	State of Constitution Of DPCs
17.	Punjab	Not Constituted
18.	Rajasthan	Constituted. Chairperson of DP is Chairman of DPC.
19.	Sikkim	Yes
20	Tamil Nadu	Yes, Chairperson, DP is Chairperson.
21.	Tripura	Not Constituted
22.	Uttar Pradesh	Not Constituted
23.	Uttarakhand	Constituted. Minister is Chairperson of DPC.
24.	West Bengal	Constituted. Chairperson ,DP is Chairperson.
25.	A & N Islands	Constituted. Chairman of DP is Chairman of DPC.
26.	Chandigarh	Not Constituted
27.	D& N Haveli	Constituted. Chairman , DP is Chairman of DPC.
28.	Daman & Diu	Constituted. Chairman, DP is Chairman of DPC.
29.	Lakshwadeep	Constituted. Collector-cum-Development Commissioner is Chairperson of DPC.
30.	Pondicherry	Not Constituted. Panchayat Elections not held.

Source: Website of Ministry of Panchayati Raj

3.7.5.3 *Structure of the DPCs in the States*

3.7.5.3.1 Regarding the constitution of the DPCs, the National Institute of Urban Affairs, has observed as follows :

> *"These include Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Haryana, Karnataka, Kerala, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal. The members of DPCs vary among the states. They generally comprise the Minister-in-charge of the district, the Mayor of the Corporation, Chairperson of the Council, Chairperson of the Zila Parishad/Panchayat, elected members of local bodies (both rural and urban), special invitee members (i.e., MPs, MLAs, MLCs), nominated members, the Divisional Commissioner, Deputy Commissioner, Additional Deputy Commissioner, District Collector, District Planning Officer, District Statistical Officer, etc. Insofar as the functioning of DPCs is concerned, it is understood that in Karnataka, Kerala and Tamil Nadu, DPCs have been constituted and technically they are functioning. However, it is learnt that in Karnataka they have not been functioning as expected. In fact, Kerala is the only State in South India where DPCs are active and functional. In the case of Madhya Pradesh, it is learnt that the DPC has no executive powers. In Chhattisgarh, the DPCs are not functioning at all and no meetings of DPCs are being held[11] ".*

3.7.5.3.2 As regards who chairs the DPCs, two broad patterns are visible; one of having a State minister as the Chairperson (e.g. in Maharashtra, Madhya Pradesh, Uttar Pradesh) and the other of the Zila Parishad Chairman/District Panchayat President as the Chairperson of the DPC (e.g. in Kerala, West Bengal, Karnataka etc). This issue in turn is also closely linked to the broader issue of decentralisation from the State to the district and local levels and whether the District Panchayat or Zila Parishad should take on the broader role of a district government at some future date; an issue which is dealt with in the following paragraph.

3.7.5.4 *Rural-Urban Divide and Long-Term Role of DPC vis-a-vis District Council*

3.7.5.4.1 The Commission is of the view that of all the institutions created by the 73rd/74th Constitutional Amendments, the District Planning Committee (DPC) is one, which in most States, has so far failed to emerge as an effective institution. Some States have not formed the DPC. Besides, there are some inherent problems with this institution. In a developmental State, planning is an essential function of government at any level. Creating a separate authority independent of the structures of governance for undertaking the exercise of development planning has no logic. The DPC is the only body in the decentralisation scheme of the Constitution where up to one-fifth of the total members can be nominated.

[11] NIUA: Impact of the 74th CAA

A nominated member can also be the Chairperson of the DPC. Nomination could be used as a convenient tool available to the ruling party of a State to induct members on narrow political considerations. Some States have the system of nominating a minister as head of the Committee, thus converting the DPC into a power centre that is stronger than the elected local bodies. Also, the DPC is a stand-alone committee within the Panchayat-Municipal system and there is no organic linkage between the two. Being constituted partly through indirect election and partly by nomination, it is neither accountable to the people directly, nor to the PRI-Municipal system. With all these weaknesses, the DPC in its present form is hardly able to make any contribution to the process of democratic decentralisation. The situation is compounded by the fact that separate 'district plans' are required to be prepared for each of the major Centrally Sponsored Schemes.

3.7.5.4.2 It may be pointed out, however, that under the guidelines in Kerala, the DPC plays an important role in coordinating the planning exercises at the levels of various local governments, providing technical guidelines to the local bodies, examining the local plans for, among other technical things, prevention of overlapping and duplication of schemes and for preparation of the district plan. When all the local bodies are required to prepare plans for their respective areas, it is necessary that the above activities are performed at the district level.

3.7.5.5 *District Council – Relevance vis a vis DPCs*

3.7.5.5.1 It is urged in some quarters that in the strict sense of the term, only the Gram Panchayat and the Municipality qualify for being regarded as local governments. It is also significant that powers of taxation, which is an indicator of governmental authority, is enjoyed by these two bodies among all the local bodies. On the other hand, traditionally, the district has been an indispensable unit of our country's administration. Hence, if democratisation of local administration is the goal, then there has to be a representative body at the district level. Therein lies the justification for having a District Panchayat or Zila Parishad, as it is called in most States. Even when the British introduced local self government in the country, District Boards had been set up. Thus the District Panchayat has a long tradition. Compared to this, the idea of Intermediate Panchayat is a new one – the product of the Balwantrai Mehta Committee report. The Asoka Mehta Committee had recommended a two-tier structure.

3.7.5.5.2 The urban areas on the other hand have a separate local government system in the form of municipalities or corporations. There are institutional linkages between different tiers of Panchayats, the chairpersons of the lower tiers being members of the higher tiers. There is operational linkage also between them, since it becomes difficult for the higher

tier to function by remaining completely detached from the lower tiers and similarly the lower tiers quite often need the assistance and support of the higher tiers in discharging their own functions. Urban local bodies, on the other hand, function independently and remain detached not only from each other but also from the Panchayat system.

3.7.5.5.3 The institutional arrangement under which Panchayats cater to the rural areas and the Municipalities to the urban areas only, may work at the micro-level of villages and towns. When it comes to the level of the district, the distinction disappears. A development plan for the whole district, for example, has to take into consideration both rural and urban areas. A district plan is something more than the two sets of separate plans - one consisting of micro-plans for rural areas and the other comprising plans for individual towns. As one moves from the micro-levels to the meso-and macro-levels, perspectives and priorities of plans change. The Constitution recognises this and accordingly prescribes that the district plan, as distinguished from the individual Panchayat and Municipal plans, should have regard to 'matters of common interest between the Panchayats and the Municipalities'. This, in other words, means that the development needs of the rural and urban areas should be dealt with in an integrated manner and, therefore, the district plan, which is a plan for a large area consisting of villages and towns, should take into account such factors as 'spatial planning', sharing of 'physical and natural resources', integrated development of infrastructure' and 'environmental conservation' [Article 243ZD(3)]. All these are important, because the relationship between villages and towns is complementary. One needs the other. Many functions that the towns perform as seats of industry, trade and business and as providers of various services, including higher education, specialised health care services, communications etc have an impact on the development and welfare of rural people. Similarly, the orderly growth of the urban centre is dependent on the kind of organic linkage it establishes with its rural hinterland.

3.7.5.5.4 In the decentralised regime, there is thus need for a body which can coordinate between the individual rural and urban local bodies and at the same time take the responsibility of such tasks of local administration as cannot be discharged by the individual local bodies. As explained earlier, the DPC is an inappropriate institution for this. In this context the concept of district government becomes relevant. It is felt that the District Panchayat or Zila Parishad can be perfectly fitted into the role of district government by expanding its jurisdiction to the whole district. Its members may be elected by the people of both rural and urban areas. Under such a scheme, the rural-urban distinction among local government institutions will remain for individual municipalities and the Panchayats up to the intermediate level. At the district level, the distinction will disappear and the local government institution at that level will represent rural as well as the urban people. The District Panchayat in that case will have a much more meaningful role to play than

it is playing now. In fact, as the Gram Panchayats and the Intermediate Panchayats start functioning as self-governing institutions, the necessity of the District Panchayat as a representative body of the rural areas only gets reduced. But with its expanded role as the government of the whole district, it can give a new dimension to the project of democratic decentralisation. As already recommended earlier, the present office of the District Collector may be converted into the Chief Officer of such a District Government fully accountable to the elected District Government in all local matters. This idea is not new. In the 1980s, the state of Karnataka made an experiment with the concept of district government. In 1991, District Councils were formed in Kerala based on a 1988 Report on Decentralisation and continued for about a year. The suggestion to expand the jurisdiction of the Zila Parishad to cover the entire district and the abolition of the DPC in its present form was also made by the Institute of Social Sciences in its consultation paper submitted to the National Commission to Review the Working of the Constitution (2001). Recently, the National Advisory Council has given similar suggestions which are as follows:

- The district tier of local government may represent both rural and urban population.
- Article 243(d) needs to be amended facilitating election of a single representative body at the district level for both rural and urban population.
- Article 243 ZD may be repealed, since with the district tier representing both rural and urban areas, the DPC in its present form will be redundant.

3.7.5.5.5 A committee dedicated to the task of planning will, however, be necessary for coordination of the planning exercises of various local bodies, providing technical guidelines to them, examining the local plans for ensuring technical and financial viability and for preventing overlapping and duplication of schemes and for preparation of the district plan. Such a committee may function under the district council.

3.7.5.5.6 For the metropolitan areas, which often encompass more than one district, an alternative institutional structure in the form of a Metropolitan Planning Committee has been mandated by the Constitution and its planning functions will have to be harmoniously dovetailed with the DPC/District council framework as discussed later in this chapter.

3.7.5.6 Recommendations:

a. A District Council should be constituted in all districts with representation from rural and urban areas. It should be empowered to exercise the powers and functions in accordance with Articles 243 G and 243 W of the Constitution. In that event, the DPCs will either not exist or become,

at best, an advisory arm of the District Council. Article 243 (d) of the Constitution should be amended to facilitate this.

b. In the interim and in accordance with the present constitutional scheme, DPCs should be constituted in all States within three months of completion of elections to local bodies and should become the sole planning body for the district. The DPC should be assisted by a planning office with a full time District Planning Officer.

c. For urban districts where town planning functions are being done by Development Authorities, these authorities should become the technical/ planning arms of the DPCs and ultimately of the District Council.

d. A dedicated centre in every district should be set up to provide inputs to the local bodies for preparations of plans. A two-way flow of information between different levels of government may also be ensured.

e. The guidelines issued by the Planning Commission pertaining to the preparation of the plan for the district and the recommendations of the Expert Group regarding the planning process at the district level should be strictly implemented.

f. Each State Government should develop the methodology of participatory local level planning and provide such support as is necessary to institutionalise a regime of decentralised planning.

g. States may design a planning calendar prescribing the time limits within which each local body has to finalise its plan and send it to the next higher level, to facilitate the preparation of a comprehensive plan for the district.

h. State Planning Boards should ensure that the district plans are integrated with the State plans that are prepared by them. It should be made mandatory for the States to prepare their development plans only after consolidating the plans of the local bodies. The National Planning Commission has to take the initiative in institutionalising this process.

3.7.6 Planning for Urban Areas

3.7.6.1 Current Status of implementation of constitutional provisions:

3.7.6.1.1 The status of MPC in various States is given in Table 3.6.

Table 3.6: Status of MPC Constitution

Sl. No.	Name of State	No. of Metropolitan Areas in States (Cities/ Urban agglomerations exceeding 1 million)	Status of MPC Composition at the end of 2006
1	Andhra Pradesh	3	Not yet constituted
2	Assam	-	Not yet constituted
3	Bihar	1	Not yet constituted
4	Gujarat	4	Not yet constituted
5	Haryana	1	Not yet constituted
6	Jharkhand	2	Not yet constituted
7	Karnataka	1	Not yet constituted
8	Kerala	1	Not yet constituted
9	Madhya Pradesh	3	Not yet constituted
10	Maharashtra	4	Act passed-MPC yet to be constituted
11	Punjab	2	Not yet constituted
12	Rajasthan	1	Not yet constituted
13	Tamil Nadu	3	Not yet constituted
14	Uttar Pradesh	6	Not yet constituted
15	West Bengal	2	Yes (for Kolkata)
16	GNCT of Delhi	1	Not yet constituted
17	UT of Chandigarh	1	Not yet constituted
	Total	36	

3.7.6.1.2 While the DPCs have been set up in a number of States, an MPC has been constituted in West Bengal alone. The Kolkata Metropolitan Planning Committee (KMPC)

comprises 60 members, including the Chief Minister, Minister-in-charge of Municipal Affairs and Urban Development, elected members of local bodies and nominated members. Of the 60 members, two-third members are elected and one-third are nominated. The Chief Minister of the State is the Chairman of the KMPC and the Minister-in-charge of Municipal Affairs and Urban Development Department of the State is the Vice-Chairman. Kolkata Metropolitan Development Authority (KMDA) is the technical secretariat of the KMPC and Secretary, KMDA is the Secretary of the KPMC.

3.7.6.1.3 A proposal for constituting MPCs is also in an advanced stage in Maharashtra. The Maharashtra MPC Act specifies that the State Government shall nominate the chairperson of the MPC and it also envisages the MMRDA as its planning or technical arm to assist the MPC in preparing the development plan for the Mumbai metropolitan area. The Kerala Municipalities Act makes provision for election of a chairperson of the MPC from among the elected members.

3.7.6.2 *Multiplicity of Planning Authorities*

3.7.6.2.1 At present there is a multiplicity of planning agencies in cities. It has been observed: *"These two constitutionally authorised planning mechanisms, viz. DPCs and MPCs, as and when they are set up in all States, will have to contend with the existing multiple planning structures for major cities which are in the form of Development Authorities, Town and Country Planning Departments and Housing Boards and/or the Municipal Corporations. It has been pointed out that in many Indian cities, Development Authorities wear the hat of planner and developer simultaneously as a result of which physical development supersedes planning concerns"*[12]. At present, we are in a transitional phase where urban spatial planning in most cities involves a multiplicity of agencies whereas the constitutional provisions appear to broadly envisage local level planning by local bodies and regional planning by the DPCs and MPCs. Government of India's conditionalities under the JNNURM scheme are, however, helping States to accelerate the transition to a regime where ULBs gain full jurisdiction over town planning functions.

3.7.6.2.2 For the metropolitan areas in particular, there is an additional issue of how the two committees i.e. the District Planning Committee and the Metropolitan Planning Committee (DPC and MPC) would interface with each other in different scenarios. For example, in Delhi the Metropolitan area comprises 7 revenue districts some of which still have rural areas but all of which are likely to be urbanised in the next decade or so. There can be other cases where the urbanisable area for particular metropolitan cities could extend to more than one district and the setting up of DPCs and MPCs without delineating their jurisdictions, may only lead to confusion. The difficulty with MPCs is also that they have a peripheral outreach that extends into rural areas. There are also issues of externalities. Some

[12]Planning for urban infrastructure-Olivier Toutain and S Gopiprasad in India Infratsructure Report,2006

of the urban facilities have a larger clientele outside its area or a source which is outside its jurisdiction. The bus service often has routes which go into non-urban locations, bringing commuters or other travellers into the city; the source of water supply may be a hundred kilometres away and the landfills for solid waste are certainly in the countryside. Many of these services may cut across jurisdiction of several local bodies, such as with electricity transmission. It would be useful to dovetail the views and interests of the rural district, which is its immediate hinterland, into the Metropolitan Planning Committee. Another aspect is the future relationship between the two, and the "ownership" in Government of these two institutions. In the Government of India, for example, the Ministry of Urban Development is responsible for MPCs while 'district planning' is with the Ministry of Panchayati Raj. In most States, there is a similar problem of coordination. Clearly this would be even more acutely a difficulty in the field. Presently, a Zila Parishad has jurisdiction in certain matters that extend into the cities. Should there be a difference of opinion between an MPC and a neighbouring DPC, who would be the decision-maker?

3.7.6.2.3 One possible option would be for the State Government to notify the jurisdiction of the MPCs in such a manner that all districts falling within its fully urbanised or urbanising (peri-urban) boundaries would come under one MPC and no DPC for such districts/ portions of districts need be constituted. The Tamil Nadu Government has attempted to do this by providing that the MPC for the Chennai metropolitan area will be deemed to be a DPC for those portions of the revenue districts that are included in the metropolitan area. This would ensure that there will be a single planning authority for the entire metropolitan area to be duly notified by the State Government, with no competing DPC. And to further ensure integration of the planning function, the planning resources in terms of technical and human resources of the existing Development Authorities for these metropolitan areas may be integrated with the secretariats of the concerned DPC/MPC. Taking into consideration the need for coordination, it may also be necessary to have Chairpersons of Panchayats and of the local bodies in the MPCs. For this purpose, the Presidents of the neighbouring Zila Panchayats concerned and the Chairmen of the adjacent District Planning Committees (or District Councils) should be ex-officio members of the Metropolitan Planning Committee. This principle, of a single planning authority, will apply even if the DPC is conceived not as an independent planning body, as is currently laid down in the Constitution; but as an adjunct planning office reporting to a representative District government (whether such district government is called the District Council or District Panchayat or Zila Parishad) as recommended by this Commission elsewhere in this Report. In that scenario also, for the Metropolitan areas whose urban footprint encompasses several districts, an MPC alone may be constituted with representation from the District Councils/Zila Parishads/District

Panchayats that fall within its urban-peri-urban boundaries. In any case, there would be no need for a DPC for these areas.

3.7.6.2.4 Recommendations:

a. **The function of planning for urban areas has to be clearly demarcated among the local bodies and planning committees. The local bodies should be responsible for plans at the layout level. The DPCs/District Councils – when constituted – and MPCs should be responsible for preparation of regional and zonal plans. The level of public consultation should be enhanced at each level.**

b. **For metropolitan areas, the total area likely to be urbanised (the extended metropolitan region) should be assessed by the State Government and an MPC constituted for the same which may be deemed to be a DPC for such areas. As such an area will usually cover more than one district, DPCs for those districts should not be constituted (or their jurisdictions may be limited to the rural portion of the revenue district concerned). The MPCs should be asked to draw up a Master Plan/CDP for the entire metropolitan area including the peri-urban areas.**

c. **The planning departments of the Development Authorities (DAs) should be merged with the DPCs and MPCs who will prepare the master plans and zonal plans.**

d. **The task of enforcement and regulation of the master plans/CDPs drawn up by the MPCs should be the specific statutory responsibility of all the local bodies falling within the extended metropolitan region concerned.**

e. **The monopoly role of Development Authorities (DAs) in development of land for urban uses, wherever it exists, should be done way with. However, public agencies should continue to play a major role in development of critical city level infrastructure as well as low cost housing for the poor. For this purpose, the engineering and land management departments of the DAs should be merged with the concerned Municipality/Corporation.**

3.8 Accountability and Transparency

3.8.1 Need for Effective Accountability

3.8.1.1 While democracy, including local democracy, is by no means a perfect tool to improve governance, the only antidote to imperfections in democracy is more and better democracy. The improvement of conditions through local empowerment is necessarily an evolutionary process. Experience over the last decade shows that, in many cases, local governments are beset by the same problems of corruption, patronage, arbitrary exercise of power and inefficiency which have bedevilled governance.

3.8.1.2 This failure is part of a larger process of democratic evolution and needs to be addressed with patience, perseverance and innovation. In an environment where corruption is still a major problem, local governments cannot be expected to be islands of probity and competence, overnight. The exercise of power often becomes distorted, sometimes leading to a patronage-based, unaccountable governance structure. Not surprisingly, power at the local level is also, at times, sought to be exercised in a similar manner. The difference is that local corruption and arbitrariness are far more glaring and visible and touch people's lives more directly as they affect basic amenities and services. In time, as people understand the link between their vote and quality of public goods and services better, things will no doubt improve. That is the logic of democracy and universal franchise.

3.8.1.3 However, since power is prone to corruption and abuse, there is need for effective instruments of accountability to be able to check abuse of power and give citizens a voice in improving the quality of services.

3.8.2 Elements of Accountability

3.8.2.1 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. At no level of government are the expectations about the congruence of government activities and the felt needs of the community more than at the level of the local government, as it is nearest to 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.*

3.8.3 Institutional Mechanisms to Ensure Propriety

3.8.3.1 Traditionally, local bodies have been subject to control by the State Government, which it exercises through financial regulations, administrative purview and legislation. The traditional system for ensuring financial propriety comprises (a) timely annual audit of accounts and other financial documents, (b) regular internal audit, (c) follow-up action on audit reports for correcting financial irregularities and (d) fixing responsibility for lapses and use of sanctions against those who are responsible for such lapses. The measures related to 'accounting and financial audit' are discussed separately in this Report. The first requirement of ensuring accountability in local bodies is to provide for robust institutional mechanisms. Such mechanisms would basically relate to audit, State Government control and an independent grievance redressal body.

3.8.3.2 *Audit:* "The most general definition of an audit is an evaluation of a person, organisation, system, process, project or product. Audits are performed to ascertain the validity and reliability of information and also provide an assessment of a systems internal control."* Traditionally, audits were mainly financial audits, associated with obtaining

* Wikipedia Encylopedia

information about a company's financial accounts and reporting systems. Indeed, the dictionary defines the term audit as "an official examination of accounts." Audits today are diverse in scope, and are ultimately directed at improving governance. The three broad categories of audits, in this context, are Compliance Audits, Financial Audits and Performance Audits.

3.8.3.2.1 A large number of scandals in recent years have invited attention to strengthening audits and the role of audit committees in corporate governance in the corporate sector, in order to improve governance. The role of audit committees has been the subject matter of continuing debate in India and several committees were set up by Government as well as by SEBI, to examine the issues and make suitable recommendations, in order to improve transparency, accountability and ethical behaviour.

3.8.3.2.2 There is an elaborate audit mechanism in Government with the report of the Comptroller and Auditor General being scrutinised by the Public Accounts Committees. This mechanism has proved to be effective to a certain extent. However, holding public agencies accountable, based on the existing audit mechanism sometimes becomes difficult because of the large time lag between the decision making and its scrutiny by audit. Also a large number of audit objections/observations remain unattended due to lack of proper monitoring and follow up.

3.8.3.2.3 It may therefore be desirable to consider introducing some of the best practices of good governance prescribed for the corporate sector into the public sector. One such practice is the appointment of an audit committee by the State Government with independent members of proven integrity and professional competence and with appropriate oversight powers. It was certain events in the public sector and failures in the quality of government audits that prompted the U.S. Government Accountability Office (GAO) to recommend that public sector entities consider the benefit of using audit committees. In 2003, the GAO revised Government Auditing Standards to require that auditors communicate certain information to the audit committee or to individuals with whom they have contracted for the audit. Accordingly, each government entity is required to designate an audit committee or an equivalent body to fulfill the role.

3.8.3.2.4 Audit committees are expected to play a significant role in improving all aspects of governance, including transparency, accountability and ethical behaviour. In the case of local bodies, such audit committees may be constituted at the district level. For metropolitan bodies, separate audit committees may be constituted. Essentially, the audit committee must 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 the entity. To fulfil these roles effectively and to perform its duties diligently, the Commission is of the view that the audit committee must have independence, access to all information, ability to communicate with technical experts and accountability to the public. Once the District Councils are formed (as discussed earlier in this Report), a special committee of the District Council may examine the audit reports and other financial statements of the local bodies within the district. This 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. The audit committee should report to the respective local body.

3.8.3.3 *Legislative Oversight:* Howsoever independent the third tier of governance may become, it should still be responsible to the State Legislature. The Commission is of the considered view that legislative supervision can be ensured by institutionalising a separate Committee on Local Bodies in the State Legislature. This Committee may also function in the manner of the Parliamentary Public Accounts Committee as recommended in this Report while dealing with 'Accounts and Audit'.

3.8.3.4 *Independent Grievance Redressal Mechanism (Local Body Ombudsman)*

3.8.3.4.1 Apart from the above, 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. With increased devolution to the local government institutions, a plethora of developmental schemes will be implemented at the grass roots level. On an average, a Panchayat could be handling a crore worth of programmes every year. Such a large size of public funds increases public expectations. It also gives rise to concerns that decentralisation without proper safeguards may increase corruption, particularly if the process is not simultaneously accompanied by the creation of suitable accountability mechanisms similar to those available at the Union and State Government levels. The Commission in its Fourth Report on "Ethics in Governance" considered this issue. It was of the view that a local body Ombudsman should be constituted for a group of districts to look into complaints of corruption and maladministration against functionaries of local bodies, both elected members and officials. For this, the term 'Public Servant' should be defined appropriately in the respective State legislations. The Ombudsman should have the authority to investigate cases and submit report to competent authorities for taking action. Such competent authorities should normally take action as recommended. In case of disagreement, reasons must be recorded in writing and be placed in the public domain. These would require amendments in the respective State Panchayat Acts and the Urban Local Bodies Acts to include provisions pertaining to the local body Ombudsman.

3.8.3.4.2 The Commission has further deliberated on the matter and is of the considered view that the local body Ombudsman should be a single-member body. The Ombudsman may be appointed by a Committee consisting of the Chief Minister of the State, the Speaker of the State Legislative Assembly and the Leader of the Opposition in the Legislative Assembly. The Ombudsman should be selected from a panel of eminent persons of impeccable integrity who should not be serving government officials. The Commission is also of the view that in case a group of districts has a metropolitan city in its fold, then a separate Ombudsman may be constituted for the metropolitan local body, that is, in addition to the Ombudsman for that group of districts.

3.8.3.4.3 The Commission in its Report on 'Ethics in Governance' had recommended that the local body Ombudsman should function under the overall guidance and superintendence of the Lokayukta. The Lokayukta should also have revisionary powers over the local body Ombudsman. The Commission is of the view that in case of complaints and grievances against a local body in general or its elected members with regard to corruption and maladministration, the local body Ombudsman should have powers to investigate into the matter and forward its report to the Lokayukta who shall further recommend it to the Governor of the State. In case of non–acceptance of the recommendations made by the Ombudsman, the reasons for doing so should be placed in the public domain by the State Government. Time limits may be described for the Ombudsman to complete its investigations into complaints.

3.8.3.4.4 The Commission is also of the view that as far as complaints related to infringements of law governing elections to these local bodies are concerned, the State Election Commissioner (SEC) would be the appropriate authority to investigate in the matter. The SEC should submit its report on such matters to the Governor of the State who shall act on his/her advice.

3.8.4 Measures to Improve Responsiveness of the Local Bodies to the People

3.8.4.1 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

3.8.4.2 *Delegation of Functions:* To make the lowest functionary accountable and to inculcate responsibility at the cutting edge level, there has to be delegation of functions to the lowest possible functionary in the local bodies. This would make the local bodies responsive in their interface with the common man.

3.8.4.3 *In-house Mechanism for Redressal of Grievances:* While audit and governmental control are necessary for making the local bodies accountable and an independent grievance redressal body would provide the citizens with the much needed instrument for enforcing accountability, the local bodies themselves should be in a position to learn from mistakes and mould themselves according to the needs of the people. This would require a robust in-house mechanism for redressal of grievances.

3.8.4.4 *Social Audit*

3.8.4.4.1 Institutionalising a system of social audit is essential for improving local service delivery and for ensuring compliance with laws and regulations. An effective system of social audit will have to be based on two precepts; first, that service standards are made public through citizens' charters and second, that periodic suo motu disclosure is made on attainment of service delivery standards by the local bodies. Social audit processes are also important to ensure effectiveness. They should also evolve a suitable framework of social audit clarifying its objectives, scope and methods. Such framework may be evolved in each State through extensive consultations with the civil society organisations and others. The NGOs and the CBOs should be given support and encouragement to mobilise the local community in undertaking social audit. The formal audit should give due consideration to the findings of social audit and vice versa.

3.8.4.4.2 The Commission in its Fourth Report on "Ethics in Governance" recognised the importance of civil societies and social audit in enforcing accountability and in providing transparent administration. In chapter 5 on of that Report pertaining to 'Social Infrastructure', the following recommendations were made at para 5.1.12:

> *"a. Citizens' Charters should be made effective by stipulating the service levels and also the remedy if these service levels are not met.*
> *b. Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.*
> *c. Reward schemes should be introduced to incentivise citizens' initiatives.*
> *d. School awareness programmes should be introduced, highlighting the importance of ethics and how corruption can be combated."*

3.8.4.4.3 As regards social audit, the Commission in the said Report observed that:

"5.4 Social Audit

5.4.1 Social audit through client or beneficiary groups or civil society groups is yet another way of eliciting information on and prevention of wrong doing in procurement of products and services for government, in the distribution of welfare payments, in the checking of attendance of teachers and students in schools and hostels, staff in the hospitals and a host of other similar citizen service-oriented activities of government. This will be a useful supplement to surprise inspections on the part of the departmental supervisors. The Commission, without entering into details of all these, would like to suggest that provisions for social audit should be made a part of the operational guidelines of all schemes.

5.4.2 Recommendation:

a. Operational guidelines of all developmental schemes and citizen centric programmes should provide for a social audit mechanism."

Box 3.7: Citizen-centric Accountability: Case of Hubli-Dharwad Municipal Corporation

In order to have transparency and quality checking on the work executed by any contractor, every month the bills which are proposed for payment are listed on the website of the Corporation. It gives the details regarding the ward no., work description and bill amount. The details are made available on the website from 15th to 25th of every month. Any citizen is free to make the inspection of the said work and in case there is any accusation of the quality of work for the bill raised and work is not done then he/she may file the complaint. On receipt of such complaints the concerned officer will verify the complaint. Only after verification, the bill is passed for payment. If the complaint is found to be true, necessary action is taken against the contractor and the concerned engineer. The complainant has to be a registered NGO having office in the particular ward or a Resident Welfare Association of that ward. In case of individuals, the complainant should be supported by at least 3 citizens and their telephone nos. should be submitted. If any false complaint is found then further complaint from the said NGO or citizen is not considered.

Source: http://www.hdmc.gov.in/quality_check_public.php

3.8.4.4.4 The need for social audit was also emphasised by the Commission in its second Report on implementation of the National Rural Employment Guarantee Act entitled "Unlocking Human Capital, Entitlement and Governance- a case study". The Commission observed that,

"5.4.6.4 Community Control and Social Audit of All Works

5.4.6.4.1 The operational guidelines stipulate that there should be a local vigilance and monitoring committee composed of members of the locality or village where the work is undertaken, to monitor the progress and quality of work. The Gram Sabha has to elect the members of this committee and ensure adequate representation of SC/ST and women on the committee.

5.4.6.4.2 Section 17 of NREGA stipulates that Gram Sabhas shall conduct regular social audits of all projects under REGS. Social audit is a process in which, details of the resource, both financial and non-financial, used by public agencies for development initiatives are shared with the community, often through a public platform. Social audits allow people to enforce accountability and transparency, providing the ultimate users an opportunity to scrutinise development initiatives. Chapter 11 of the Operational Guidelines has emphasised the importance of social audit for the proper implementation of NREGA. It has prescribed a continuous audit and a mandatory social audit forum once in six months. The guidelines also prescribe the methodology for publicity, the documentation required and the mandatory agenda. Following these guidelines, in letter and spirit, would go a long way in enforcing social accountability.

5.4.6.4.3 For an effective social audit, the essential requirements would be a proper information recording and dissemination system, expertise to conduct audit and awareness among the Gram Sabha members about their rights. Thus proper record keeping, capability building and awareness generation would be required. All these aspects have been dealt with under respective paras."

3.8.4.4.5 Therefore, an effective system of social audit at all levels of local self government is critical to ensure accountability and transparency in these institutions. Some of the action points suggested in the Report of the Expert Group on 'Planning at the Grass roots Level', March, 2006 (para 5.9.5) in this regard are mentioned below:

(a) *Social audit should not be individually prescribed for each scheme implemented by the local bodies. A multiplicity of social audits separately prescribed for each scheme undermines the importance of the process.*
(b) *Adequate publicity needs to be given for social audit.*
(c) *Social audit "action taken reports" have to be time bound and placed in the public domain. It is advisable to precede a social audit with the action taken on the previous social audit.*
(d) *Opportunity has to be given to people to inspect the records of the local bodies particularly their documentation on property lists, tax assessments and tax collected, measurement books and muster rolls.*
(e) *In case of PRIs it may also be advisable to adopt a system where a higher level of Panchayat, such as the Intermediate Panchayat, provide details of the comparative performance of all Panchayats falling within its jurisdiction, so that people can get an idea of where their Panchayat stands in respect of each service delivered.*

(f) *State Governments should encourage conduct of social audit of Gram Panchayats by the committees of Gram Sabha.*

(g) *Space has to be provided to Community Based Organisations to be involved in the social audit.*

The Commission endorses these action points and recommends them for adoption by the State Governments.

3.8.4.5. *Transparency*

3.8.4.5.1 Suo motu disclosure of information, especially with regard to duties, functions, financial transactions and resolutions should become the norm for all the local bodies as provided under the RTI Act, 2005. Several local bodies have developed there own transparency mechanisms (see Box 3.7). Such practices may also be adopted by other local bodies.

3.8.5 Evaluation of Performance of Local Bodies

3.8.5.1 Local bodies have to be evaluated in terms of efficiency, effectiveness and resource mobilisation, apart from the efforts to promote participation and transparency as indicated above. One way of achieving this would be to benchmark the performance of local bodies. To ensure effective service delivery, the performance of local bodies has to be closely monitored. The best way of doing this is to fully involve these institutions at all levels in the monitoring process. This can be done by development of yardsticks for monitoring through discussions at the local level. The development of indicators can itself become a very good capacity building exercise. Another way of encouraging such self-assessment of performance is to consolidate data relevant to a particular indicator and compare it with the best possible status, as well as the minimum actual level of achievement within a particular area, say, within the district in the case of PRIs and within the State for ULBs. It may also be worthwhile for these bodies to lay down certain accepted quality standards concerning service delivery and give wide publicity to them by way of citizens' charters, followed by periodic checks to ensure conformity.

3.8.5.2 In Tamil Nadu, a study to develop an approach towards comparative assessment of municipalities was carried out under the Indo-USAID FIRE-D (Financial Institutional Reforms and Expansion) project. The study adopted a total of forty one (41) indicators in assessing performance levels of municipalities, which included financial (15), service level and coverage (17) and service efficiency (9) indicators[13]. The financial indicators for debt management included 'outstanding loan per capita and overdue', service coverage indicators for sewerage and sanitation level included 'persons per unit of public conveniences' and the

[13]www.teri.res.in/teriin/users/case3.html

service efficiency indicators for sewerage and sanitation included staff per 10,000 population. On the basis of the performance of local bodies, benchmarking was done.

3.8.5.3 The Union Ministry of Panchayati Raj has also instituted an Awards Scheme for the Panchayats (in 2005). One important criterion for determining the best Gram Panchayat under this Scheme is 'efficient service delivery tested against specific identified benchmarks and identified range of activities'[14].

3.8.5.4 The Commission is of the view that State Governments should conduct such exercises for developing benchmarks. For this purpose, the State Governments may utilise the services of independent professional evaluators. Such benchmarking would bring in the desired accountability in respect of efficiency and outcomes.

3.8.5.5 Apart from the above, evaluation of the performance of local bodies may also be attempted from the viewpoint of the citizens. This essentially brings the concept of 'feedback mechanism' to the fore. The feedback could be on legal and procedural conformity, services and amenities, public works and projects and planning and vision. It could be organised around polling booths, villages (if they are part of a larger Panchayat), wards and even communities. The feedback could consist of indicating a satisfaction score on the categories mentioned above. The collation of these feedbacks would provide a 'Citizens' Report Card' on the performance of the local bodies. In Chhattisgarh, a pilot project for performance rating based on 'Community Score Card' has been tried and tested in 30 sample Gram Panchayats spread over seven districts in which a total of twelve (12) services were assessed. These were – organising Gram Sabhas, health, education, drinking water, PDS distribution, other schemes, Mid-day Meal Scheme, sanitation, physical infrastructure, hand pump maintenance, Nawa Anjor (Chhattisgarh District Poverty Reduction Project) and taxation[15]. The Commission feels that such methods of a participatory nature which are now recognised the world over as a means of improving governance, service delivery and empowerment should be increasingly adopted as accountability tools.

3.8.6 Recommendations:

a. 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

[14]http://panchayat.gov.in/awards_for_best_panchayats.htm
[15] http://www.sasanet.org/documents/LearningNote/Chattisgarh.pdf

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.

b. There should be a separate Standing Committee of the State Legislature for the local Bodies. This Committee may function in the manner of a Public Accounts Committee.

c. A local body Ombudsman should be constituted on the lines suggested below. The respective State Panchayat Acts and the Urban local Bodies Acts should be amended to include provisions pertaining to the local body Ombudsman.

i. Local body Ombudsman should be constituted for a group of districts to look into complaints of corruption and maladministration against functionaries of local bodies, both elected members and officials. For this, the term 'Public Servant' should be defined appropriately in the respective State legislations.

ii. Local body Ombudsman should be a single member body appointed by a Committee consisting of the Chief Minister of the State, the Speaker of the State Legislative Assembly and the Leader of the Opposition in the Legislative Assembly. The Ombudsman should be selected from a panel of eminent persons of impeccable integrity and should not be a serving government official.

iii. The Ombudsman should have the authority to investigate cases and submit reports to competent authorities for taking action. In case of complaints and grievances regarding corruption and maladministration against local bodies in general and its elected functionaries, the local body Ombudsman should send its report to the Lokayukta who shall forward it to the Governor of the State with its recommendations. In case of disagreement with the recommendations of the Ombudsman, the reasons must be placed in the public domain.

iv. **In case of a Metropolitan Corporations, a separate Ombudsman should be constituted.**

v. **Time limits may be prescribed for the Ombudsman to complete its investigations into complaints.**

d. **In case of complaints and grievances related to infringement of the law governing elections to these local bodies, leading to suspension/ disqualification of membership, the authority to investigate should lie with the State Election Commission who shall send its recommendations to the Governor of the State.**

e. **In the hierarchy of functionaries under the control of local bodies, functions should be delegated to the lowest appropriate functionary in order to facilitate access to citizens.**

f. **Each local body should have an in-house mechanism for redressal of grievances with set norms for attending and responding to citizens' grievances.**

g. **For establishing robust social audit norms, every State Government must take immediate steps to implement the action points suggested in para 5.9.5 of the Report of the Expert Group on 'Planning at the Grass roots Level'.**

h. **It should be ensured that suo motu disclosures under the Right to Information Act, 2005 should not be confined to the seventeen items provided in Section 4(1) of that Act but other subjects where public interest exists should also be covered.**

i. **A suitable mechanism to evolve a system of benchmarking on the basis of identified performance indicators may be adopted by each State. Assistance of independent professional evaluators may be availed in this regard.**

j. **Evaluation tools for assessing the performance of local bodies should be devised wherein citizens should have a say in the evaluation. Tools such as 'Citizens' Report Cards' may be introduced to incorporate a feedback mechanism regarding performance of local bodies.**

3.9 Accounting and Audit

3.9.1 Capability enhancement of the institutions of local self-government through constitutional empowerment, increased raising of resources and governmental transfers implies the existence of a strong accounting machinery which is willing to follow rigorous accounting standards. In the budget speech for 2006-07, the Union Finance Minister had indicated that a large chunk of resources would go to eight flagship programmes, namely, Sarva Shiksha Abhiyan, Mid-day Meal Scheme, Drinking Water Mission, Total Sanitation Campaign, National Rural Health Mission, Integrated Child Development Services, National Rural Employment Guarantee Programme and Jawaharlal Nehru National Urban Renewal Mission (JNNURM). These schemes, with the exception of JNNURM, fall within the core functions of Panchayats with substantial allocation of funds during 2006-07 and 2007-08[16]. The details of allocation of funds for these schemes are given in Table 3.7:

Table 3.7: Allocation of Funds to Flagship Schemes

Sl. No.	Scheme	Ministry /Department	Allocation in 2006-2007 (Rs in Crores)	Allocation in 2007-2008 (Rs in Crores)
1.	Sarva Shiksha Abhiyan	Department of Elementary Education	10041	10671
2.	Mid-day Meal Scheme	Department of Elementary Education	4813	7324
3.	Drinking Water Mission	Department of Drinking Water Supply	4680	6500
4.	Total Sanitation Campaign	Department of Drinking Water Supply	720	1060
5.	National Rural Health Mission	Ministry of Health and Family Welfare	8207	10890
6.	Integrated Child Development Services	Ministry of HRD – Department of Women and Child Welfare	4087	4761
7.	National Rural Employment Guarantee Scheme (including SGRY)	Ministry of Rural Development	14300	12000
	Total		46848	53206

[16] Source: Report of the Expert Group on 'Planning at the Grass roots Level', March 2006, and Union Budget for 2007-08

3.9.2 Even in the case of JNNURM, it is envisaged that funds from the Union and State Governments would flow directly to the nodal agency designated by the States and funds for identified projects across cities would be disbursed to the ULBs/Parastatal agencies through these nodal agencies.[17] Thus, with the large flow of funds under various socio economic development programmes to the local bodies and the growing realisation of the importance of the third tier of government, accountability concerns assume critical importance. Owing to the large number of local bodies in the country, it is therefore necessary to address the concerns regarding maintenance of accounts and audit.

3.9.3 Article 243 J of the Constitution provides for the audit of accounts of Panchayats in the following way:

> *"The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts".*

3.9.4 Article 243Z of the Constitution makes similar provisions with regard to audit of accounts of municipalities. Even though various States have incorporated general provisions regarding audit and maintenance of accounts in their Panchayati Raj and Municipal Acts, detailed guidelines have generally not been issued. The Eleventh Finance Commission (EFC) had occasion to comment on this:

> *"Article 243J and 243Z of the Constitution expect the States to make provisions by way of legislation for maintenance of accounts by the panchayats and the municipalities and for the audit of such accounts. Following this, most states' legislation do make general provisions for these purposes, but detailed guidelines or rules have not been laid down, in several cases. In many States, the formats and procedures for maintenance of accounts by these bodies prescribed decades ago, are continued without making any improvements to take into account the manifold increase in their powers, resources and responsibilities. Most village level panchayats do not have any staff except for a full or a part-time Secretary, because of financial constraints. It would, therefore, be rather too much to expect a village panchayat to have a trained person dedicated exclusively to upkeep of accounts. With a passage of time, the flow of funds to the panchayats and the municipalities will increase considerably. Therefore, there is a need to evolve a system of maintenance of accounts by the local bodies that could be adopted by all the States. As regards audit, in many States, the legislation leaves it to the State Government to prescribe the authority. In some States, the Director, local Fund Audit or a similar authority has been given the responsibility for the audit of accounts of panchayats and municipalities. The C&AG has a role only in a few States and that too for the audit of district level panchayats and for very large urban bodies. In our view, this area – of accounts and audit – needs to be set right under the close supervision of the C&AG and supported by*

[17] Source: Overview document, JNNURM, retrieved from http://jnurm.nic.in/toolkit/Overview.pdf on 5.07.2007

specific earmarking of funds from the grants recommended by us in respect of local bodies"[18].

3.9.5 The observations of the Eleventh Finance Commission (EFC) called for an enhanced role for C&AG of India in the accounts and audit of local bodies. The main recommendations of the EFC in this regard were:

a. *The C&AG should be entrusted with the responsibility of exercising control and supervision over the proper maintenance of accounts and their audit for all the tiers/ levels of panchayats and urban local bodies.*

b. *The Director, local Fund Audit or any other agency made responsible for the audit of accounts of the local bodies, should work under the technical and administrative supervision of the C&AG in the same manner as the Chief Electoral Officers of the States operate under the control and supervision of the Central Election Commission.*

c. *The C&AG should prescribe the format for the preparation of budgets and for keeping of accounts for the local bodies. Such formats should be amenable to computerisation in a networked environment.*

d. *Local bodies particularly the village level panchayats and in some cases the intermediate level panchayats, that do not have trained accounts staff, may contract out the upkeep of accounts to outside agencies/persons.*

e. *Audit of accounts of the local bodies be entrusted to the C&AG who may get it done through his own staff or by engaging outside agencies on payment of remuneration fixed by him.*

f. *The report of the C&AG relating to audit of accounts of the panchayats and the municipalities should be placed before a Committee of the State Legislature constituted on the same lines as the Public Accounts Committee*[19].

Box 3.8: Overview of Audit of PRIs by C&AG in Maharashtra (2004-05)

1. In violation of the provisions of the Account Code and Treasury Rules, reconciliation of drawals from and remittances into the treasury has not been carried out. Reconciliation of cash book with bank pass book was overdue in thirteen Zilla Parishads and Rs.17.42 crore drawn from treasury remained unreconciled. (Paragraph 2.3)
2. In all the fourteen Zilla Parishads unspent grants of Rs.232.96 crore were not credited to Government account as of months between June 2004 and December 2004. (Paragraph 2.6)
3. In ten Zilla Parishads lapsed deposits of Rs.12.17 crore were not credited to revenue head even though the stipulated time limit of three years had elapsed. (Paragraph 2.8)
4. In four Zilla Parishad amount of Rs.4.85 crore was irregularly retained under deposit. (Paragraph 2.9)
5. In three Zilla Parishads receipts of Rs.1.04 crore were not credited to Government account between 2000-01 and 2003-2004. (Paragraph 2.10)
6. In seven Zilla Parishads Rs.1.83 crore earned as interest were not credited to DRDA. (Paragraph 2.14)

Source: C&AG, Audit Report (Panchayati Raj), Maharashtra for the year 2004-05; overview (retrieved on 3.07.2007 from http://www.cag.gov.in/html/LB/mh04_05/overview.pdf)

[18]Para 8.19, Report of the Eleventh Finance Commission, June, 2000
[19]ibid

3.9.6 The recommendations made by the EFC were studied by various State Finance Commissions and the ground realities compelled them to incorporate modifications to these recommendations. Thus, the Second State Finance Commission, Tamil Nadu (2002-07) recommended that the Director of Local Fund Audit (DLFA) should be made the statutory auditors for Municipal Corporations, Municipalities, Town Panchayats, District Panchayats and Panchayat Unions while audit of the Village Panchayats should continue to be done by the Deputy BDO subject to test audit by DLFA[20]. As Tamil Nadu was the pioneer State in introducing the accrual accounting system after running a pilot scheme for ten Municipalities and Municipal Corporations, the Second SFC recommended the progressive extension of the accrual accounting system to all Town Panchayats and Panchayat Unions from 2003-2004 after imparting training to the staff[21]. However, it also suggested that *"the Accountant General may go through the audit reports of Director of Local Fund Audit and indicate how they could be professionally improved by way of technical inputs and standards. There can be technical guidance by the Accountant General to Director of Local Fund Audit on a continuing basis".*

3.9.7 The Second State Finance Commission, Uttar Pradesh also examined the recommendations made by the EFC for the streamlining of accounts and audit of PRIs. It noted that the UP Government agreed to get the audit of local bodies done under the supervision of C&AG. While the audit of Zila Panchayats would be done by AG, (A&E), UP, the audit of Kshetra and Gram Panchayats would be distributed among the parties of AG (A&E), UP and the Panchayati Raj audit staff of the State Government. However, owing to the very large number of PRIs and the very small size and low income levels of Gram Panchayats, it recommended that *"a separate organisation for the audit of PRIs in the State should be created and it should be delinked from the audit of cooperative societies as per prevailing arrangement. This should be an independent body under the control of Finance Department. This body must function under the over all supervision and guidance of the C&AG as agreed to by the State Government"*[22]. With regard to municipal accounting, the SFC noted that it was based on the age old system of revenue accounting which does not provide meaningful information about the financial performance of ULBs. It also rejected the

Box 3.9: Case for Prudent Accounting and Reporting Norms

In the case of Arakkonam Municipality, Vellore District, Tamil Nadu, borrowing of Rs 9.88 lakh at 10.75 per cent per annum and paying it to Railways for purchasing their land without confirming their acceptance of price resulted in blockade of the entire amount since 1991. As the price could not be settled with the Railways and the entire land got encroached, the Municipality dropped (January 2004) the proposal of its purchase. The Municipality did not raise the matter with the Government to help obtain refund of Rs 9.88 lakh along with interest. As of October 2005, the Municipality had not repaid the loan taken for this purpose (Rs 9.88 lakh) along with interest (Rs 15.20 lakh) and penal interest (Rs 3.47 lakh).

Source: C&AG, Audit Report (Urban Local Bodies), Tamil Nadu for the Year 2004-2005 (retrieved on 3.07.2007 from http://www.cag.gov.in/html/LB/TN04_05/ULB_chap_III.pdf)

[20]Para 3.6, Report of Second State Finance Commission, Tamil Nadu, May 2001, Volume I.
[21]Para 3.7, ibid.
[22]Para 11.19, Report of the Second State Finance Commission (Panchayati Raj and Urban Local Bodies), Government of Uttar Pradesh, June, 2002, Volume I.

argument that Muncipalities follow the cash-based accounting system in order to maintain better budgetary control over activities. It referred to the development of detailed formats for maintenance of accounts for local bodies by the C&AG and recommended that *"it should be mandatory to table a consolidated annual report on the audit and accounts of local bodies before the State Legislature every year and the report should be discussed in a specifically designated Committee of the Legislature which should function on the lines of the Public Accounts Committee"*[23].

3.9.8 The Sixth Round Table of Ministers In-charge of Panchayati Raj held in November, 2004 at Guwahati agreed to recommend, inter alia, the following to their respective State Governments regarding audit of PRIs[24]:

- *DLFAs and other similar bodies should work in concert with the C&AG to upgrade their work to the level required by constitutional imperatives.*
- *Audit and accounting standards should be established which are appropriate to the work of the Panchayats. The PRIs themselves should be associated with the preparation of standards.*
- *Audit and accounting standards for the PRIs should be elementary, simple and easily comprehensible to the elected representatives. They should focus on:*
    - *When to look into a transaction*
    - *What to monitor*
    - *How to document transactions, and*
    - *How to disclose transactions*
- *Arrangements should be made in the State Legislatures for establishment of Public Accounts Committees specifically for PRIs or for the accounts of PRIs to be submitted to Panchayati Raj Committees of the State Legislatures.*
- *Such institutional arrangements should be complemented by legislating an appropriate Fiscal Responsibility Act for elected local authorities.*

3.9.9 The Ministry of Urban Development and Poverty Alleviation, Government of India (now Ministry of Urban Development) in association with the Indo-USAID FIRE Project has already formulated 'Policy Options for Framing New Municipal Laws in India'. As a part of this effort, the Institute of Chartered Accountants of India (ICAI) has published a Technical Guide on Accounting and Financial Reporting by Urban Local Bodies. This guide also provides 'Guidelines on the Formats of Financial Statements of Municipalities'.[25] Some important guidelines are as follows:

a) *The financial statements of local bodies (viz. balance sheet and income and expenditure account) shall be prepared on accrual basis.*

[23]Para 17.17, ibid.
[24]Source: A Compendium of Resolutions of the Seven Round Tables of Ministers In-Charge of Panchayati Raj, http"//panchayat.gov.in, retrieved on 3.07.2007
[25]Source: http://urbanindia.nic.in/moud/legislations/li_by_min/Model_Municipal_Law/indexpop.html, retrieved on 3.07.2007

b) *Accounting policies shall be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period or which is reasonably expected to have a material effect in later periods shall be disclosed. In case of a change in accounting policies which has a material effect in the current period, the amount by which any item in the financial statements is affected by such change shall also be disclosed to the extent ascertainable. Where such amount is not ascertainable, wholly or in part, the fact shall be indicated.*

c) *Provision shall be made for all known liabilities and losses even though the amount cannot be determined with certainty and represents only a best estimate in the light of available information. Revenue shall not be recognised unless the related performance has been achieved and no significant uncertainty exists regarding the amount of the consideration; and it is not unreasonable to expect ultimate collection.*

d) *The accounting treatment and presentation in the balance sheet and the income and expenditure account of transactions and events shall be governed by their substance and not merely by the legal form.*

e) *In determining the accounting treatment and manner of disclosure of an item in the balance sheet and/or the income and expenditure amount, due consideration shall be given to the materiality of the item.*

3.9.10 It needs to be kept in mind that the accounts of the ULBs, in general, are kept on cash basis and there is no uniform practice of certification of accounts. Under the cash system of accounting, revenue and expenditure are recorded in books only if they are actually received or paid, whatever may be their period of accounting. On the other hand, under the accrual basis of accounting, revenue and expenses along with acquired assets are identified with specific periods of time. The recording in books takes place as they are incurred. Thus, financial transactions get recorded on occurrence of claims and obligations in respect of incomes or expenditures, assets or liabilities based on happening of any event, passage of time, rendering of services, full or partial fulfillment of contracts, diminution in values, etc. even though actual receipts or payments of money may not have taken place. Some of the benefits of such a system of accounting, particularly in the context of ULBs, are summarised below:[26]

- Revenue is recognised as it is earned and thus "income" constitutes both revenue received and receivable. The accrual basis not only records the actual income but also highlights the level and efficacy of revenue collection, thereby assisting decision makers in taking financial decisions.
- Expenditure is recognised as and when the liability for payment arises and thus it constitutes both amount paid and payable. In the accrual basis

[26]Source : National Municipal Accounts Manual, November 2004, Government of India, Ministry of Urban Development

of accounting, expenditure incurred on repairs and maintenance will be recognised as expense of the period in which they are incurred and, if not paid for during the year, shall be treated as a liability (payable) and be disclosed as such in the Balance Sheet.

- Expenses are matched with the income earned in that year. Thus, it provides a very effective basis to understand the true performance of the organisation for the operations that are conducted in that year.
- A distinct difference is maintained between items of revenue and capital nature. This helps in correct presentation of financial statements, viz., the Income and Expenditure Statement and the Balance Sheet.
- Costs which are not charged to the Income & Expenditure Accounts are carried forward and kept under continuous review. Any cost that appears to have lost its utility or its power to generate future revenue is written off.
- It helps in providing timely, right quality nature of information for planning, decision-making and control at each level of management.
- One of the distinct advantages of adopting the accrual accounting system is ease in financial appraisal by financial institutions. It also facilitates credit rating through approved Credit Rating Agencies, which is a pre-requisite for mobilising funds in the financial markets through debt instruments.

3.9.11 Accordingly, the Ministry of Urban Development, Government of India in association with the Office of the Comptroller and Auditor General of India, National Institute of Urban Affairs (NIUA) and Indo-USAID FIRE-D Project have brought out a National Municipal Accounts Manual (NMAM) for the ULBs. The accounts of the ULBs are now to be prepared on accrual basis as prescribed under NMAM. The new standards are those of the ICAI and the Ministry of Urban Development has prescribed the procedure for formalising these standards. The Commission is of the view that this Manual should be adopted by the State Governments for use by the urban local bodies.

3.9.12 The Model Municipal Law (MML) circulated by the Union Ministry of Urban Development, mentions that *"The municipal accounts as contained in the financial statement, including the accounts of special funds, if any and the balance sheet shall be examined and audited by an Auditor appointed by the State Government from the panel of professional Chartered Accountants prepared in that behalf by the State Government."* [Clause 93(1)][27]. This arrangement is similar to the arrangements for audit of Government Companies under the Companies Act, 1956. In order to ensure transparency, professional competence and accountability in the process of certification of accounts, the Commission is of the view that the C&AG should prescribe guidelines for empanelment of Chartered

[27]Source: http://urbanindia.nic.in/moud/legislations/li_by_min/Model_Municipal_Law/indexmml.html, retrieved on 13.08.2007

Accountants like, qualification of members, length of existence and experience of firms, number of partners, etc. Further, it is also felt that for the proper conduct of audit, detailed guidelines would also be required to be prescribed by the C&AG as is the practice in the case of the Companies Act. It needs to be kept in mind that the audit to be done by the Local Fund Audit or the C&AG in discharge of their responsibilities would be different and in addition to this audit.

3.9.13 As mentioned above, the Eleventh Finance Commission had recommended that the Comptroller and Auditor General of India (C&AG) should be entrusted with the task of supervision over proper maintenance of accounts and audit of all three tiers of PRIs and ULBs. Presently, the C&AG of India has already developed the following framework with regard to maintenance of accounts and audit of PRIs and ULBs[28]:

- Auditing Standards for PRIs and ULBs
- Guidelines for Certification audit of accounts – PRIs
- Manual of Audit for PRIs
- Audit training modules for ZPs, PSs and GPs
- List of Codes for functions, and activities of PRIs
- Budget and Accounts formats for PRIs
- New Accrual accounting system suggested for ULBs with detailed formats
- Training Module on PRI accounts and budget – 2 parts – theory and practical.

3.9.14 As of 31st March, 2007, out of 24 States where the 73rd and 74th Constitutional Amendments are applicable, full entrustment of the role of providing 'Technical Guidance and Supervision' (TGS) over audit and accounts of PRIs and ULBs to C&AG has been made by 19 States[29]. Given the enormity of the task of maintenance of accounts and audit of all the PRIs and ULBs in the States and the concomitant technical requirements, the Commission is of the considered view that the entrustment of technical supervision over the maintenance of accounts and audit of PRIs and ULBs should be institutionalised through a provision in the respective laws governing the local bodies and the accounting formats and standards may be provided by way of Rules.

3.9.15 Similarly, the accounts and budget formats for PRIs prescribed by C&AG have been accepted and formal orders issued by 11 States, though 22 States have positively responded[30]. The format developed for PRIs is basically a simple receipt and payment account on cash basis accompanied by key statements that take care of the items of accrued income and expenditure. The format ensures that all the functions which have been devolved or are likely to be devolved by the States to the Panchayats are properly classified. It is also in synchronisation with the classification codes at the State and National level. The

[28]Source: http://cag.nic.in/html/localbodies.htm, retrieved on 3.7.2007.
[29]ibid
[30]ibid

Commission would like to emphasise upon what has already been recommended in the Sixth Round Table of the Ministers in-charge of Panchayati Raj held in November 2004 at Guwahati – the formats for the Panchayats should be simple and comprehensible to the elected representatives.

3.9.16 The Eleventh Finance Commission had also suggested that the Director, Local Fund Audit (DLFA) or any other agency responsible for audit of accounts of local bodies should work under the 'technical and administrative' supervision of the C&AG in the same manner as the Chief Electoral Officers of the States do under the Central Election Commission. The Commission is of the view that the role of the C&AG should be limited to technical guidance and supervision and not extend to administrative control. In fact, there is a case for institutionalising the independence of the DLFA so that it could function as a specialised body devoted to the audit of the accounts of the local bodies. This would enhance the stature of the DLFAs with a positive impact on the quality of audit and on accountability. The Commission feels that to achieve this, the head of the body responsible for Local Fund Audit should be appointed by the State Government after selection from a panel vetted by the C&AG. This would imbibe this body with the required independence and facilitate coordination with the office of the C&AG. Further, to strengthen the arrangements for providing technical guidance and supervision by the C&AG, the Commission is also of the view that release of Finance Commission Grants to local bodies be made conditional on the acceptance by the States of such arrangements.

3.9.17 Apart from the statutory audit performed by the DLFA or such other designated authority of the State Government, audit of certain local bodies in a State would come under the purview of Section 14 of the C&AG's (Duties, Powers and Conditions of Service) Act, 1971. In terms of this Section, where any body or authority is substantially financed by grants or loans from the Consolidated Fund of India or of any State or of any Union Territory having a Legislative Assembly, the C&AG shall audit all receipts and expenditure of that body or authority. For the purposes of this Section, if the grant or loan is not less than rupees twenty five lakhs and is not less than 75% of the total expenditure of such body or authority, it would be deemed to be substantially financed. In case of bodies receiving grants or loans not less than Rupees one crore in a financial year, the Section provides that the C&AG may, with the previous approval of the President or the Governor of a State or the Administrator of a Union Territory having a Legislative Assembly, audit all receipts and expenditure. In fact, in exercise of this authority, C&AG is already conducting audit of PRIs and ULBs in various States under Section 14 of this Act, wherever applicable. Further, Section 20 of the said Act provides for audit of accounts of certain bodies by the C&AG on the basis of mutual agreement with the concerned government. Some of the

States have already entrusted audit of the local bodies to the C&AG under this provision. In fact, in the States of Bihar, West Bengal and Jharkhand, it is the C&AG's institution which acts as the Local Fund Examiner. Even in Karnataka, the first two tiers of Panchayats viz. Zila Panchayats and Taluk Panchayats are audited by the C&AG as the sole auditor. In Tripura also, the State Government has entrusted the statutory audit of PRIs to the C&AG. The Commission is of the view that the final decision on the matter should be left to the States.

3.9.18 It is equally important that prompt action is taken on the audit reports of C&AG. Accountability requires that corrective action is taken promptly on audit reports so as to increase the effectiveness of the local government. As recommended by the Eleventh Finance Commission, the reports of C&AG on local bodies should be placed before the State Legislature and public interest would be better served, if these reports are discussed by a separate committee of the State Legislature on the same line as the Public Accounts Committee (PAC). The Sixth Round Table of the Ministers in-charge of Panchayati Raj had also recommended on the same lines. The Commission endorses these views. The audit reports on local bodies should be placed before the State Legislature and these should be considered by a separate Committee of the State Legislature constituted on the lines of the Public Accounts Committee. The access to relevant information/records to DLFA/designated authority for conducting audit or the C&AG should also be ensured by incorporating suitable provisions in the State Laws governing local bodies.

3.9.19 In order to match the above standards with regard to accounts and audit, local bodies particularly the PRIs will need to be suitably strengthened by making skilled professionals available to them. The Commission is of the view that the States should take up appropriate capacity building measures so that the PRIs and ULBs are able to cope with the audit of these institutions.

3.9.20 With the progressive increase in capacity of the local bodies and reliability of the audit mechanism, a system of performance audit should also be gradually introduced. For this purpose, suitable parameters should be developed. This would strengthen the functioning of the local bodies and bring in elements of much desired accountability.

3.9.21 As significant funds are being ploughed through local bodies, the adoption of sound financial management principles along with accountability measures becomes a sine qua non. These should include, inter alia, the following:

- Effective and sustained fiscal monitoring systems
- Maintenance of local bodies' debt at prudent levels

- Prudent management of contingent liabilities and guarantees
- Productive use of borrowings

The Karnataka Government has already taken an important initiative in this regard by enacting the Karnataka Local Fund Authorities Fiscal Responsibility Act, 2003. The Commission endorses the view taken at the Sixth Round Table of Ministers in-Charge of Panchayati Raj at Guwahati in November 2004 that an appropriate Fiscal Responsibility Act for local bodies should be legislated by all the States.

3.9.22 Recommendations:

a. The accounting system for the urban local bodies (ULBs) as provided in the National Municipal Accounts Manual (NMAM) should be adopted by the State Governments.

b. The financial statements and balance sheet of the urban local bodies should be audited by an Auditor in the manner prescribed for audit of Government Companies under the Companies Act, 1956 with the difference that in the case of audit of these local bodies, the C&AG should prescribe guidelines for empanelment of the Chartered Accountants and the selection can be made by the State Governments within these guidelines. The audit to be done by the Local Fund Audit or the C&AG in discharge of their responsibilities would be in addition to such an audit.

c. The existing arrangement between the Comptroller & Auditor General of India and the State Governments with regard to providing Technical Guidance and Supervision (TGS) over maintenance of accounts and audit of PRIs and ULBs should be institutionalised by making provisions in the State Laws governing local bodies.

d. It should be ensured that the audit and accounting standards and formats for Panchayats are prepared in a way which is simple and comprehensible to the elected representatives of the PRIs.

e. The independence of the Director, Local Fund Audit (DLFA) or any other agency responsible for audit of accounts of local bodies should be institutionalised by making the office independent of the State administration. The head of this body should be appointed by the State Government from a panel vetted by the C&AG.

f. Release of Finance Commission Grants to the local bodies may be made conditional on acceptance of arrangements regarding technical supervision of the C&AG over audit of accounts of local bodies.

g. Audit reports on local bodies should be placed before the State Legislature and these reports should be discussed by a separate committee of the State Legislature on the same lines as the Public Accounts Committee (PAC).

h. Access to relevant information/records to DLFA/designated authority for conducting audit or the C&AG should be ensured by incorporating suitable provisions in the State Laws governing local bodies.

i. Each State may ensure that the local bodies have adequate capacity to match with the standards of accounting and auditing.

j. The system of outcome auditing should be gradually introduced. For this purpose the key indicators of performance in respect of a government scheme will need to be decided and announced in advance.

k. To complement institutional audit arrangements, adoption and monitoring of prudent financial management practices in the local bodies should be institutionalised by the State Governments by legislating an appropriate law on Fiscal Responsibility for local Bodies.

3.10 Technology and Local Governance

3.10.1 Information and Communication Technology

3.10.1.1 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. The Commission would discuss such issues in detail in its Report on 'eGovernance'.

3.10.1.2 Recommendation:

a. Information and Communication Technology should be utilised by the local governments in process simplification, enhancing transparency and accountability and providing delivery of services through single window.

3.10.2 Space Technology

3.10.2.1 Space technology, involving Satellite Communication (SatCom), and Earth Observations (EO), has made tremendous impact in recent years by way of effectively addressing certain key aspects related to rural and urban development. SatCom provides the conduit information exchange/transfer; and EO provides the content/information on terrain features that are of relevance to development. In fact, India is taking lead in putting the finest of space technology, both SatCom and EO conjunctively, into effective use for rural and urban development and addressing issues at the grass roots.

3.10.2.2 Satellite Communication (SatCom) has demonstrated its operational capabilities to provide the services relevant at the village/community level, such as, healthcare, development communication and education. On the other hand, the value-added, high-resolution Earth Observation (EO) images provide community-centric, geo-referenced spatial information useful in management of natural resources - land use/land cover, terrain morphology, surface water and groundwater, soil characteristics, environment and infrastructure, etc. The SatCom and EO segments, together, provide support to disaster management, also at community level.

3.10.2.3 Satellites are providing communication infrastructure for television and radio broadcasting and telecommunication including Very Small Aperture Terminals (VSATs). In fact, the Extended-C band channels of INSAT-3B and EDUSAT are being used for the Training and Developmental Communication Channel (TDCC), a service that has been operational since 1995. Several State Governments are using the TDCC system extensively for distance education, rural development, women and child development, Panchayat Raj and industrial training. In Madhya Pradesh, space technology harnessed under the Jhabua Development Communications Project (JDCP) is an important initiative in this direction. The JDCP network consists of 150 direct reception terminals in 150 villages and 12 interactive terminals in all the block headquarters in Jhabua district in Madhya Pradesh. The areas addressed under the overall umbrella of developmental communication included watershed development, agriculture, animal husbandry, forestry, women and child care, education and Panchayat Raj development.

3.10.2.4 Other areas where space technology is being harnessed to bring about a qualitative change in the rural areas are:

i. Tele-education : The EDUSAT is specifically designed for providing audio-visual medium, employing digital interactive classroom and multimedia multi-centric system.

ii. Tele-medicine : Today, the INSAT-based telemedicine network connects 235 hospitals - 195 District/remote/rural hospitals including those in Jammu and Kashmir, North East Region, and Andaman & Nicobar Islands; and 40 super speciality hospitals in major cities as well as a few hospitals of the Indian Air Force.

Box 3.10: A Nnationwide GIS to Improve Planning

Qatar, a country of 522,000 people located on the west coast of the Arabian Gulf, is the first country to implement a comprehensive and integrated nation-wide geographic information system. With the discovery of oil three decades ago, government agencies were unable to keep up-to-date records of the rapid and large-scale development that followed. The lack of information together with inadequate inter-agency co-ordination led to inefficient management of resources. Today, Qatar's state-of-the-art Digital Topographic Database provides a common base map for 16 Government agencies through a high speed, fiber optic network. The Government saves money in delivering services like sewerage, electricity and water through linked, up-to-date databases. Digital maps and locators allow fire trucks and ambulances to rapidly respond to emergencies. Using GIS tools, consistency and uniformity in policies, standards and regulations for the whole of Qatar has been achieved.

Source: http://www.bestpractices.org/bpbriefs/urban_infrastructure.html

iii. Integrating Services through Village Resource Centre (VRCs): These are 'single window' delivery mechanism for a variety of space-enabled services and products, such as tele-education - with emphasis on awareness creation, vocational training, skill development for livelihood support and supplementary education; telemedicine - with focus on primary, curative and preventive healthcare; information on natural resources for planning and development at local level; interactive advisories on agriculture, fisheries, land and water resources management. These are implemented by ISRO through partnership with reputed NGOs and Governments.

iv. Weather and Climate: Space technology is providing round-the-clock surveillance of weather systems including severe weather conditions around the Indian region.

v. Disaster Management: The Disaster Management Support (DMS) Programme of ISRO/DOS, embarked upon in association with the concerned Central and State agencies, employs both the space based communication and remote sensing capabilities, for strengthening the country's resolve towards disaster management. ISRO/DOS are also networking the National Emergency Control Room and State Control Rooms through satellite based, secured, Virtual Private Network (VPN), with video-conferencing and information exchange capabilities. This VPN, during the period of natural disasters, facilitates video-

conferencing and real-time information exchange among the different key institutions, disaster managers, and administrative offices at the highest level. Space technology is also utilised in flood mapping and damage assessment and drought assessment and monitoring.

vi. Natural Resources Management: Satellite remote sensing through synoptic view and repetitive coverage, provides a scientific way of gathering information on natural resources for inventory and monitoring purposes. Several national missions in the key areas of socio-economic development have been carried out in the country under the aegis of the National Natural Resources Management System (NNRMS) with the active involvement of the user agencies. The areas of importance are rural land management, rural infrastructure, conservation of water bodies, groundwater mapping and providing drinking water, wasteland Mapping, participatory Watershed Development, geo-referencing of village maps etc.

3.10.2.5 Most of the utilities/services mentioned above could be utilised for the urban areas also by the local bodies. Remote sensing has provided an important source of data for urban landuse mapping and environmental monitoring. In fact, ISRO's CARTOSAT-2 satellite has the capacity to provide panchromatic imagery with one metre spatial resolution. Such imagery could be used by the local bodies in urban infrastructure and transportation system planning, monitoring and implementation; mapping individual settlements and internal roads, urban complexes and urban utilities, etc.[31]

3.10.2.6 In recent years, there have been tremendous advancements in data collection and their updation through satellite and aerial remote sensing, and organisation of spatial databases using GIS packages and other database management systems. GIS based studies for the Bombay Metropolitan Region; the National Capital Region (NCR); Ahmedabad Urban Development Authority (AUDA); Hyderabad Urban Development Authority (HUDA); Bangalore Metropolitan Region (BMR); towns of Pimpri, Indore, Lucknow, Mysore, Jaipur, and many other cities have been taken up. These projects and programmes have demonstrated the utility of the multi-parameter database in arriving at useful guidelines for planning. Specifically, remote sensing data can be used for urban land use/sprawl/ suitability analysis for preparation of regional plans; preparation of existing and proposed land use; preparation of sustainable urban development plan; zonal planning; optimisation of transport routes; integrated analysis for locating sewage treatment plant sites; macro level urban information system; GIS approach to town planning information system etc. The Union Ministry of Urban Development (MUD) has taken initiative to establish a 'National Urban Information System' (NUIS), with Town and Country Planning Organisation

[31]Source: http://www.isro.org/pslv-c7/PSLV-C7_Background.pdf

(TCPO) as the nodal agency. The major objectives of NUIS are to: (a) develop attribute as well as spatial information base for various levels of urban planning; (b) use modern data sources: (c) develop standards with regard to databases, methodology, equipment software, data exchange format, etc; (d) develop urban indicies to determine and monitor the health of the towns and cities: (e) build capacity; and (f) provide decision support system for planning. Some of the main sources of spatial data for base maps and land maps would be from sattllite remote sensing data and aerial photographs, which would be used for integration with conventional maps, as well as statistical data, for development of GIS database. In fact, an Urban Information System (UIS) for Jaipur city and environs covering Jaipur Development Area (JDA) of 2500 sq km has already been done.

3.10.2.7 The Commission is of the view that the local governments should utilise the facilities provided by space technology to prepare an information base and for delivery of services through resource centres.

3.10.2.8 Recommendations:

a. Space technology should be harnessed by the local bodies to create an information base and for providing services.

b. Local governments should become one point service centres for providing various web based and satellite based services. This would however require capacity building in the local governments.

4 RURAL GOVERNANCE

4.1 Institutional Reforms

4.1.1 Despite steady urbanisation, over 70% of India's population continues to live in its villages and about 60% of the nation's workforce draws its sustenance from agriculture and related activities. Improved governance is therefore inexorably linked to the empowerment and efficient functioning of self-governing institutions in rural areas.

4.1.2 Common major issues pertaining to constitutional, legal, financial and institutional reforms required for both rural and urban governance have been comprehensively examined by the Commission in Chapter 3 of this Report. The focus of this Chapter is on those issues which are specific to rural self-governing institutions.

4.1.3 Size of the Gram Panchayat

4.1.3.1 Under Article 243 B of the Constitution, all States and Union Territories to which Part IX of the Constitution applies shall constitute Panchayats at the district, intermediate and village levels. The Constitution does not stipulate any size for Panchayats, either in terms of population or in area. The district along with a well designed administrative infrastructure, has been a composite unit of government across large parts of the country since last two hundred years. In the last five decades, blocks and mandals too have grown into subsidiary governing units in the rural areas. But, the village Panchayat which is intended to be the lowest grass roots structure, the most active component of local governance, is of nascent origin. Its size becomes critical to its functioning. The demographic details of Panchayats in States and Union Territories given in Table 4.1 are relevant.

Table 4.1 : Demographic Details of the Panchayats in States and Union Territories

S.No.	State	Rural Population (2001-Census)	No. of Panchayats			Average population per Panchayat		
			District	Inter-mediate	Village	District	Inter-mediate	Village
1	Andhra Pradesh	55401067	22	1098	21825	2518230	50595	2528
2	Arunachal Pradesh	870087	14	136	1639	62149	6398	531
3	Assam	23216288	20	188	2223	1160814	124151	10783
4	Bihar	74316709	38	531	8471	1955703	139956	8773
5	Chhattisgarh	16648056	16	146	9820	1040504	114028	1822
6	Goa	677091	2	0	190	338546		3582
7	Gujarat	31740767	25	224	13819	1269631	141700	2297
8	Haryana	15029260	19	119	6187	791014	126296	2429
9	Himachal Pradesh	5482319	12	75	3243	456860	73098	1691
10	Jharkhand	20952088	22	211	3746	952368	99299	5593
11	Karnataka	34889033	27	176	5653	1292186	198233	6173
12	Kerala	23574449	14	152	999	1683889	155095	23789
13	Madhya Pradesh	44380878	48	313	23051	986242	141792	2015
14	Maharashtra	55777647	33	351	27918	1690232	159821	1953
15	Orissa	31287422	30	314	6234	1042914	99641	5019
16	Punjab	16096488	17	141	12447	946852	114975	1294
17	Rajasthan	43292813	32	237	9188	1352900	182670	4712
18	Sikkim	480981	4	0	166	120245		2897
19	Tamil Nadu	34921681	28	385	12618	1204196	90706	2768
20	Tripura	2653453	4	23	513	663363	115368	5172
21	Uttar Pradesh	131658339	70	820	52000	1880833	160559	2532
22	Uttarakhand	6310275	13	95	7227	485406	66424	873
23	West Bengal	57748946	13	341	3354	3208275	169352	17218

**Details for Manipur are unavailable

Source: 1. Based on Mid-term Appraisal - State of the Panchayats 2006-07 (Vol.I) (http://Panchayat.gov.in/mopr%Dirmap pubication 2007%2D08/)2. Report of the Working Group on Democratic Decentralisation & PRIs, November 2006, Planning Commission and Ministry of Panchayati Raj.

It can be seen that the average size of Panchayats varies widely from State to State. The classification of States on the basis of average size of Gram and Intermediate Panchayat is given in Table 4.2 and Table 4.3:

Table 4.2 : Size of the Gram Panchayat

Tiny Gram Panchayats (Population below 2000)	Small Gram Panchayats (Population between 2000 and 5000)	Medium sized Gram Panchayats (Population between 5000 and 10,000)	Large Gram Panchayats (Population above 10,000)
Arunachal Pradesh (531)	Gujarat (2297)	Orissa (5019)	Assam (10783)
Uttarakhan (873)	Haryana (2429)	Tripura (5172)	West Bengal (17218)
Punjab (1294)	Andhra Pradesh (2528)	Jharkhand (5593)	Kerala (23789)
Himachal Pradesh (1691)	Uttar Pradesh (2532)	Karnataka (6173)	
Chhattisgarh (1822)	Tamil Nadu (2768)	Bihar (8773)	
Maharashtra (1953)	Sikkim (2897)		
Madhya Pradesh (2015)	Goa (3582)		
	Rajasthan (4712)		

Source: Report of the Working Group on Democratic Decentralisation & PRIs, November 2006, Planning Commission and Ministry of Panchayati Raj.

Table 4.3 : Size of the Intermediate Panchayat

Tiny Intermediate Panchayats (Population below 55000)	Small Intermediate Panchayats (Population between 55000 and 100000)	Medium sized Intermediate Panchayats (Population between 100000 and 150,000)	Large Intermediate Panchayats (Population above 150,000)
Arunachal Pradesh (6398)	Uttarakhand (66424)	Punjab (114975)	Kerala (155095)
Andhra Pradesh (50595)	Himachal Pradesh (73098)	Chhattisgarh (114028)	Maharashtra (159821)
Tamil Nadu (90706)	Tripura (115368)	Uttar Pradesh (160559)	
Jharkhand (99299)	Assam (124151)	West Bengal (169352)	
Orissa (99641)	Haryana (126296)	Rajasthan (182670)	
	Bihar (139956)	Karnataka (198233)	
	Gujarat (141700)		
	Madhya Pradesh (141792)		

Source: Report of the Working Group on Democratic Decentralisation & PRIs, November 2006, Planning Commission and Ministry of Panchayati Raj.

4.1.3.2 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. Since there is no data on this issue, it is difficult to give a definite recommendation as to what should be the optimum size of a Gram Panchayat. But it can be emphasised that a tiny Gram Panchayat will not be able to discharge the role envisaged for it under the present decentralisation plan. The factors that would have to be taken into consideration for determining the minimum size of a Gram Panchayat are: (a) potentiality for resource generation, (b) sustainability of the staff structure, (c) suitability as a unit of planning for core functions, (d) geographical cohesiveness, (e) terrain conditions and (f) communication facility within the Panchayat area.

4.1.3.3 While undertaking any such re-organisation, the provisions of the Panchayati Raj (Extension to Scheduled Areas) Act, 1996, (PESA) in the States and districts to which they apply will need to be complied with, so that Gram Sabhas have primacy and tribal communities are not disrupted by any such attempt at delimitation. Terrain and isolation, particularly in sparsely populated areas would also be a significant factor in determining whether re-organisation can be attempted or otherwise.

4.1.3.4 It is imperative that States with small-sized Gram Panchayats undertake a detailed exercise to reconstitute them after considering the factors mentioned above. It may be important to note that over sizing of Panchayats itself may give rise to problems with regard to popular participation. In such cases it may be appropriate to give emphasis on Ward/Area Sabha for encouraging local participation. The Gram Sabha will continue to remain the constitutionally mandated grass roots organisation.

4.1.3.5 Recommendation:

a. States should ensure that as far as possible Gram Panchayats should be of an appropriate size which would make them viable units of self-governance and also enable effective popular participation. This exercise will need to take into account local geographical and demographic conditions.

4.1.4 Ward Sabha – Its Necessity

4.1.4.1 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.

4.1.4.2 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. Such a two tier system of a Ward Sabha for each segment and the Gram Sabha at the Panchayat level already exists in Karnataka. The Ward Sabhas have been assigned the function of identification and prioritization of beneficiaries under various anti-poverty, social support and wage employment programmes. The list thus prepared is placed before the Gram Sabha for its approval. They have also been given a role in prioritisation of schemes pertaining to their area and in delivery of services such as water supply, sanitation and streetlighting. In order to encourage democracy at the lowest possible level, The Orissa Gram Panchayat Act, 1964, provides for citizens' group called Palli Sabhas that function below the Gram Sabhas at a smaller habitation level and specific powers have been assigned to them. In Rajasthan too, the State Panchayat Act provides for a Ward Sabha headed by the Panchayat member elected from that area.

4.1.4.3 The Commission is of the view that in order to have effective popular participation at the micro level, the large Gram Panchayats should be split into a number of wards/ areas. Representing a unit of smaller habitation or cluster, the Ward Sabha will provide a platform where people can directly discuss their needs and prepare an area specific local plan. The Ward Sabha can exercise certain powers and functions of the Gram Sabha and also some powers and functions of the Gram Panchayats may be entrusted to them. If possible, the territorial division of a Gram Panchayat Member may be made coterminus with jurisdiction of the Ward Sabha. A simple amendment in the respective State Panchayat Act can introduce this provision.

4.1.4.4 Recommendation:

a. Wherever there are large Gram Panchayats, States should take steps to constitute Ward Sabhas which will exercise in such Panchayats, certain powers and functions of the Gram Sabha and of the Gram Panchayat as may be entrusted to them.

4.1.5 Personnel Management in PRIs

4.1.5.1 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 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.

4.1.5.2 Purely as a transitional measure, till the personnel structure of PRIs takes a definite shape, the employees of the State Government may be taken on deputation, but such deputation should be made after the consent of the borrowing Panchayat.

4.1.5.3 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 assesement 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 within the next one year. The Zila Parishads,[32] particularly, should be associated with this exercise. The ownership of those working for local bodies must lie with these bodies.

4.1.5.4 Recommendations:

a. Panchayats should have power to recruit personnel and to regulate their service conditions subject to such laws and standards as laid down by the State Government. Evolution of this system should not be prolonged beyond three years. Until then, the Panchayats may draw upon, for defined periods, staff from departments/agencies of the State Government, on deputation.

b. In all States, a detailed review of the staffing pattern and systems, with a zero-based approach to PRI staffing, may be undertaken over the next one year in order to implement the policy of PRI ownership of staff. The Zila Parishads, particularly, should be associated with this exercise.

4.1.6 PRIs and the State Government

4.1.6.1 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.

4.1.6.2 A close look at the Panchayati Raj enactments of the States, reveals that almost all of them broadly place the State Government in a position of command vis-à-vis the PRIs.

[32]The reference to Zila Parishad should also be construed as a reference to the District Council as and when they are constituted.

In some of the Acts, such powers have been given to the District Collector or the Divisional Commissioner and in some cases such powers are exercised partly by the Collector and partly by the State Government. By all standards, the scope of these powers is very wide and largely depends on the subjective satisfaction of the empowered authorities. As an illustration, excerpts from the Bihar State Panchayati Raj Act, 2006, Karnataka Panchayati Raj Act, 1993 and Assam Panchayat Act 1994 are enclosed as **Annexure-IV(1)** to this Report.

4.1.6.3 The power of the State Government to suspend or remove elected Panchayat representatives needs closer scrutiny. There have been many instances of arbitrary use of this power. In some States the higher tier of Panchayat is either consulted or given the authority to exercise this power in respect of office bearers or members of the lower tier. The Commission is of the view that this provision is inappropriate because all the tiers of Panchayats are institutions of self government and, as such, there cannot be any hierarchic relationship between them.

4.1.6.4 As regards the power of the State Government to supersede the elected local bodies it is relevant to mention that in the first phase of the Panchayati Raj system (post 1960), the State Government used this power rather indiscriminately. But with the provisions of Article 243 E(1)(2) and (3), which make it mandatory to hold local body elections within six months of the end of its tenure/dissolution, any attempt to supersede a local body has become difficult. However, there may be a lurking fear that local bodies may be victimized by the State Government on narrow political considerations.

4.1.6.5 The issue is to what extent such controlling powers of the State Government should exist in the statute. The spirit behind Article 243G is to install PRIs as constitutional entities with autonomous space. While State laws draw the boundaries within which the local governments have to function, the constitutional provision does not intend a relationship of 'subordinate and superior' between the two. There is no scope, in the post 73rd Amendment era, for exercise of overbearing powers mentioned in paragraph 4.1.6.1.

4.1.6.6 Deviant behaviour, maladministration, violation of fiscal responsibility norms, irregular/illegal transfer of Panchayat property, abuse/ misuse of authority, corruption and nepotism are some of the situations which may warrant action against the PRIs or their elected representatives. 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. As far as election related issues are concerned, the Constitution itself provides for creation of a 'State Election Commission' in each State. For any grievance or complaint relating to

election law infringements, this institution should be the authority to take a final decision and send it to the Governor. Further, the Commission has recommended establishment of an independent grievance redressal mechanism in form of 'local Ombudsman' for a group of neighbouring districts at Para 3.8.6 of this report. Whenever a complaint is made against a Panchayat or any of its members to the local Ombudsman, he will examine the matter and will send his report through Lokayukta to Governor of the State.

4.1.6.7 There can also be a situation where there is an absolute breakdown of administrative and legal machinery at the level of a Panchayat and the elected body concerned needs to be immediately suspended or dissolved. The Commission is of the view that even in such cases, the State Government would need to place the records before the local Ombudsman for investigation and appropriate action as detailed above. In all cases of disagreement with the recommendations made by the local Ombudsman/Lokayukta, the reasons will need to be placed in the public domain.

4.1.6.8 Recommendations:

a. The provisions in some State Acts regarding approval of the budget of a Panchayat by the higher tier or any other State authority should be abolished.

b. State Governments should not have the power to suspend or rescind any resolution passed by the PRIs or take action against the elected representatives on the ground of abuse of office, corruption etc. or to supersede/dissolve the Panchayats. In all such cases, the powers to investigate and recommend action should lie with the local Ombudsman who will send his report through the Lokayukta to the Governor.

c. For election infringements and other election related complaints, the authority to investigate should be the State Election Commission who will send its recommendations to the Governor.

d. If, on any occasion, the State Government feels that there is need to take immediate action against the Panchayats or their elected representatives on one or more of the grounds mentioned in 'b' above, it should place the records before the Ombudsman for urgent investigation. In all such cases, the Ombudsman will send his report through Lokayukta to the Governor in a specified period.

e. In all cases of disagreements with the recommendations made by the local Ombudsman/Lokayukta, the reasons will need to be placed in the public domain.

4.1.7 Position of Parastatals

4.1.7.1 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.

4.1.7.2 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.

4.1.7.3 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.

4.1.7.4 Similar is the case with the District Water & Sanitation Committee (DWSC) which deals with the rural water supply and sanitation schemes. The primary responsibility of providing drinking water facilities and sanitation rests with the State Governments. The Union Government has been extending policy, technological and financial support through a Centrally Sponsored Scheme – the Accelerated Rural Water Supply Programme (ARWSP) – under which funds are provided to the State Governments for implementing rural water supply schemes. Drinking water supply is also one of the six components of Bharat Nirman which has been conceived as an overarching action plan to be implemented in four years, from 2005-06 to 2008-09 for building rural infrastructure. The objective of the said component is "Every habitation to have a safe source of drinking water: 55067 uncovered habitations to be covered by 2009. In addition, all habitations which have slipped back from full coverage to partial coverage due to failure of source and habitations which have water quality problems to be addressed". Though with the 73rd Amendment, drinking water and sanitation are included in the list of subjects to be devolved to Panchayats, so far their involvement in this programme has not been significant. The Commission is of the view that since as democratically elected institutions, Panchayats are responsible for these functions to the citizens in the rural areas, DWSC should be a committee of the District Panchayat. In view of the importance of this programme, there may be need to take up this work very extensively in the villages. A committee at the block level may also be needed to monitor this programme. If so, this committee should be a body of the Intermediate Panchayat. Besides, many of the States have also created a high level organisation called State Water and Sewerage Board to look after both urban as well as rural drinking water supply schemes. The Commission is of the view that barring a few large investment schemes which need high grade technical and professional support, the rural water supply system can be very conveniently handled by the Panchayats. Hence, the presence of the State Water and Sewerage Board in the rural areas needs to be substantially pruned.

4.1.7.5 Currently, a district also has a District Health Society (DHS) to look after the programmes of the National Rural Health Mission (NRHM). A major part of its functions concerns the rural sector (e.g. running hospitals, primary health centres and dispensaries). These functions are listed in the Eleventh Schedule and hence this Society has to be responsible to the PRIs for these activities. However, management of district hospitals and specialised units and regulation of private nursing homes and healthcare organisations are some of the functions which need high level professional and technical competence. To that extent, the DHS will need functional autonomy. The Commission is of the view that since rural healthcare is a primary concern of the PRIs, DHS should have an organic relationship with the District Panchayat (Zila Parishad). Similarly the Fish Farmers Development Agency (FFDA) may have a separate existence, because its activities do not coinside totally with

the activities of the PRIs. However, keeping in view the potentiality of fish farming as a livelihood programme in the rural areas, this body also needs to work in close collaboration with different tiers of Panchayats especially the Gram Panchayat.

4.1.7.6 At the grass roots level, projects under Centrally Sponsored Schemes are looked after by two parallel organisations. One, consists of the programmatic bodies which oversees implementation and progress of schemes. They are Vidyalaya Education Committee (VEC) under Sarva Siksha Abhiyan, Village Water and Sanitation Committee, Committee for Mid-day Meal Programme and ICDS centre committee. The second structure is that of the PRIs which have also been assigned some aspects of implementation such as beneficiary identification. However, most of the programmatic bodies function independently of the Panchayat concerned. This practice needs to be changed. The measures needed to integrate such parallel bodies with the Panchayat system have been discussed in paragraph 4.4 of this Report.

4.1.7.7 The Commission is of the view that the parastatals should not be allowed to undermine the functions and authority of the PRIs. Some of the existing committees may need to be subsumed in the Panchayats and some of them may be restructured to have an organic relationship with them (Panchayats). The Union and the State Governments should not normally set up special committees outside the PRIs. However, if such specialised committees are required to be set-up because of professional or technical requirements, and if their activities coincide with those listed and devolved, they should function under the overall supervision and guidance of the Panchayats**.** Similarly, Community level bodies should not be created by decisions taken at higher levels. If considered necessary the initiative for their creation should come from below and they should be accountable to PRIs.

4.1.7.8 Recommendations:

a. Parastatals should not be allowed to undermine the authority of the PRIs.

b. There is no need for continuation of the District Rural Development Agency (DRDA). Following the lead taken by Kerala, Karnataka and West Bengal, the DRDAs in other States also should be merged with the respective District Panchayats (Zila Parishad). Similar action should be taken for the District Water and Sanitation Committee (DWSC).

c. The District Health Society (DHS) and FFDA should be restructured to have an organic relationship with the PRIs.

d. The Union and State Governments should normally not setup special committees outside the PRIs. However, if such specialised committees are required to be set-up because of professional or technical requirements, and if their activities coincide with those listed in the Eleventh Schedule, they should, either function under the overall supervision and guidance of the Panchayats or their relationship with the PRIs should be worked out in consultation with the concerned level of Panchayat.

e. Community level bodies should not be created by decisions taken at higher levels. If considered necessary the initiative for their creation should come from below and they should be accountable to PRIs.

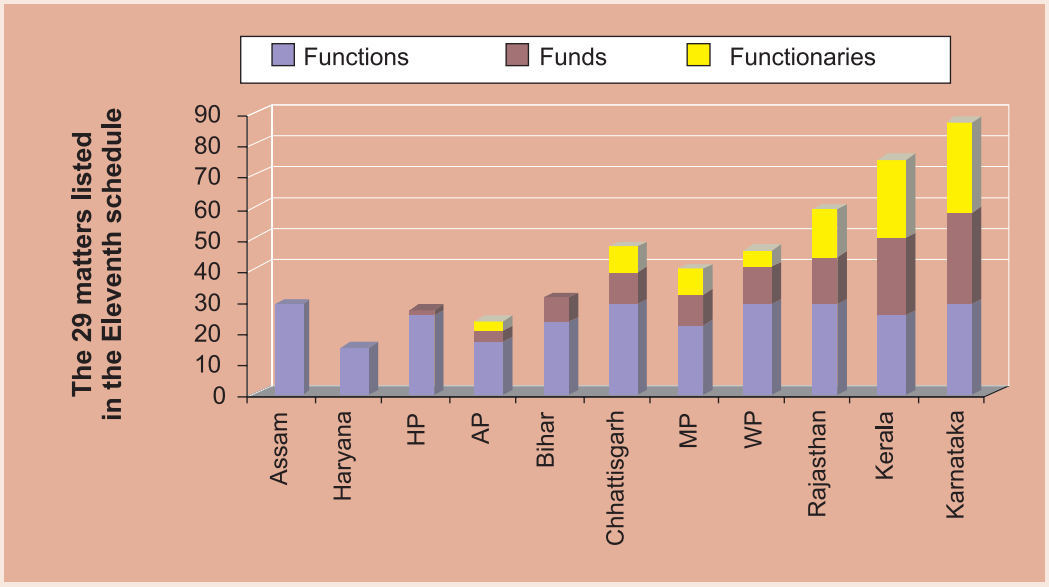
4.1.8 PRIs and Management of Natural Resources

4.1.8.1 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'. All these issues will be analysed by the Commission in greater detail in its report on "District Administration".

4.2 Functional Devolution:

The broad outlines of "devolution of functions to the local bodies" (both rural and urban) have already been indicated in para 3.3 of this report. However, in view of the State Government's reluctance in the past to transfer the 3 'F's (Functions, Funds and Functionaries) to the PRIs, there is a need to examine these aspects in greater detail.

Figure 4.1: Comparative position of devolution in States



Source: www.panchayat.nic.in

4.2.1 Current Position

4.2.1.1 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.

4.2.1.2 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 or a subject to the PRIs. 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 Ministry of Panchayati Raj, Government of India took a lead in this direction by organizing in 2004, seven round table conferences across the country and launching the national roadmap for effective Panchayati Raj. Some States have responded so far and even among them only a few have carried out intensive activity mapping.

4.2.1.3 Article 243 G stipulates that the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self government. Almost all the States have chosen to assign functions to the PRI not through statute, but by delegated legislation in the form of rules or executive orders.

4.2.1.4 Even in those States which have shown the political will to decentralize, real devolution has not taken place and only the responsibilities for implementing schemes and projects of the Union and State Government have been entrusted to them. Real devolution would imply that Panchayats are entrusted with design, planning and implementation of the schemes and projects best suited to their requirements and needs. Until this takes place Panchayats will not become institutions of self-government and will remain merely implementing agencies of the State Government.

4.2.1.5 The present status of devolution (as of November 2006) is reflected in Table 4.4.

Table 4.4 : Status of Devolution of Functions as of November, 2006

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
Andhra Pradesh	17 subjects	9 subjects	A Task Force constituted under the Special Chief Secretary for Activity Mapping has prepared detailed formulations. Draft Government Orders incorporating activity mapping in accordance with the recommendations of the Committee

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
			are under the consideration of a Group of Ministers for finalisation. After the completion of these discussions, departments have been directed to finalise the Government orders for issue.
Assam	29 subjects	29 subjects	Assam claims that it has done activity-mapping more than 3 years back. However, individual departments have not operationalised this order through executive orders transferring funds and functionaries. However, after the recent visit of the Minister Panchayati Raj to Assam, the State has renewed its efforts at activity mapping. It has now set out a road map for undertaking activity mapping in the current year and matching it with fiscal devolution by the time of the supplementary estimates to the States' budget for 2007-08.
Arunachal Pradesh	3 subjects		The State Government has engaged one of its officers to carry out activity mapping with assistance from the NGO, PRIA. This Officer has submitted his report on Activity Mapping to the State Government in May 2006. It has now promised that work on Activity Mapping will be expedited. Currently, only selection of beneficiaries in respect

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
			of Rural Development, Agriculture and Horticulture programmes has been devolved to the Panchayats.
Bihar	25 subjects	25 subjects	Bihar had earlier undertaken activity mapping in 2001. However, these orders were not operationalised. Therefore, the State has again undertaken a detailed exercise in Activity Mapping with the assistance of an NGO, PRIA. Currently, a Committee chaired by the Commissioner and Principal Secretary Rural Development and Panchayati Raj is undertaking a detailed exercise on Activity Mapping, This exercise will also include devolution of finances and functionaries. In respect of finances, a separate Committee headed by the Finance Commissioner has been constituted to address the modalities on creation of a Panchayat Sector Window in the budget.
Chhattisgarh	29 subjects	27 subjects, except forests and drinking water supply	Although activity mapping has been completed for 27 subjects, the requisite executive orders have not been issued so far.
Goa	6 subjects	18 subjects	18 functions have been devolved to village Panchayats and to 6 ZPs. Goa needs to follow up with fiscal devolution.

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
Gujarat	15 subjects	14 subjects	Activity mapping has been done for 14 subjects. 5 subjects have been partially devolved. Activities are yet to be devolved with respect to 10 functions. A matrix for Activity Mapping has been prepared by the State.
Haryana	29 subjects	10 subjects	Activity mapping in respect of 10 subjects was released on 17-2-2006 in the joint presence of the Chief Minister, Haryana and the Union Minister for Panchayati Raj.
Himachal Pradesh	26 subjects		15 departments had issued orders delegating powers to Panchayats. But no activity- mapping has been attempted in the formal model matrix as suggested by the Ministry of Panchayati Raj.
Karnataka	29 subjects	29 subjects	Activity mapping has been completed in respect of all 29 items in August 2003, followed by devolution of funds through the State Budget in October 2004.
Kerala	26 subjects	26 subjects	Activity mapping was completed in the form of a responsibility mapping. Now the State is revisiting this responsibility mapping by preparing a new activity mapping matrix that also covers Municipalities. Untied funds are also

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
			being devolved to Panchayats for the devolved functions.
Madhya Pradesh	23 subjects	23 subjects	Activity mapping was undertaken in two stages–first, 7 subjects were covered, with assistance from an NGO, Samarthan. This NGO has now completed Activity Maps for the remaining 16 more matters that have been devolved. These are under discussions with the line departments concerned.
Maharashtra	18 subjects		There has not been much progress on activity mapping in the State. The State has recently decided to review the progress in this regard.
Manipur	22 functions	22 subjects	Earlier, Activity mapping of 22 subjects were said to have been completed. However, since these were not operationalised, the state has reviewed matters once again and issued a notification for activity mapping for 16 subjects in January 2006. This is now being operationalised.
Orissa	25 subjects	7 subjects	Activity mapping in progress in respect of 9 subjects has been issued in the joint presence of the Union Minister for Panchayati Raj and the Chief Minister.

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
			The state is now undertaking fiscal devolution to the Panchayats and aims to complete the same by the next financial year.
Punjab	7 subjects		Draft activity mapping has been prepared for all departments in a detailed fashion. Significant work is being undertaken in certain sectors such as Health and Education. The matrix has been discussed with the Ministry of Panchayati Raj and is ready for notification
Rajasthan	29 subjects	12 subjects	The activity-mapping exercise was started for 18 departments and has now been completed for 12. A Cabinet sub-committee was constituted in August 2004 to recommend measures to strengthen PRIs. Its report recommends full devolution by 2007, when the Eleventh Plan starts.
Sikkim	28 functions		Activity mapping has started and is expected to be announced in October 2006.
Tamil Nadu	29 subjects		Tamil Nadu claims to have issued instructions for devolving all subjects to Panchayati Raj but these remain on paper. Subjects relating to rural roads, water supply, sanitation and rural

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
			housing schemes are now being taken up for discussion in respect of activity mapping.
Tripura	29 subjects	21 subjects	In 1994 orders were issued for devolving 21 subjects. With respect to 8 subjects, orders are awaited because of operational problems related to the 6th Schedule. The activity mapping exercise is underway.
Uttar Pradesh	12 subjects		Activity mapping was completed in respect of 32 departments as part of the recommendations of a committee (Bholanath Tiwari report). However, this report has not been implemented.
Uttarakhand	14 subjects	9 subjects	Activity mapping in respect of 9 departments has been completed and is under consideration of the Government.
West Bengal	29 subjects	15 subjects	Activity mapping has been completed and orders issued in respect of 15 subjects on 7.11.2005.
Union Territories:			
Dadra and Nagar Haveli	29 subjects	29 subjects	Activity mapping has been completed in respect of all 29 matters in the Eleventh Schedule through amendments to the Dadra and Nagar Haveli Village Panchayat

Table 4.4 Contd.

State	Transfer of Subjects through Legislation	Subjects Covered under Activity Mapping	Latest Position
			(Amendment) Regulation, 1994, notified in 2002.
Daman and Diu	18 subjects	18 subjects	The Ministry of Home Affairs set up the Finance Commission to study and recommend for devolution of powers and functions to Panchayats After approval of the Ministry of Home Affairs, Activities and Schemes have been transferred to the Panchayats in respect of 18 subjects, in 2001.
Andaman and Nicobar Islands	8 subjects	8 subjects	Activity mapping has been completed for 8 subjects. Included in these are marine fisheries, poverty alleviation programmes, disaster management and rural electrification.
Laksha-dweep Islands	25 subjects	25 subjects	Following the visit of the Minister, Panchayati Raj to Lakshadweep in January 2006, a team from the Ministry of Panchayati Raj and Kerala have completed Activity mapping for the UT, which has since been notified by the Administration.
Chandigarh			Activity mapping has not been done. Since Chandigarh is going to absorb its villages into the urban area, Activity Mapping has been deemed to be unnecessary.

Source: Based on Mid-term Appraisal - State of the Panchayats 2006-07 (Vol.I) (http://Panchayat.gov.in/mopr%2Dirmapublication2007%2D08/)

4.2.1.6 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.

4.2.2 Basic Principles of Devolution

4.2.2.1 The above account shows that the constitutional design of democratic decentralization has not yet been put into practice. Starting from the premise that a Panchayat is the local government closest to the people, enjoying financial and functional autonomy, the devolution exercise has to proceed on the following key principles:

(i) 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.

(ii) There may be spheres of activity where the State Government and the Panchayats would work as equal partners.

(iii) 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).

Among the above three spheres, the first two should predominate. The agency functions as in (iii) should not be allowed to overshadow the other two spheres of the action, where the local government institutions will have autonomy.

(iv) 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.

4.2.3 Activity Mapping

4.2.3.1 Activity Mapping means unbundling subjects into smaller units of work and thereafter assigning these units to different levels of government. This disaggregation process need not be unduly influenced by the way budget items or schemes are arranged. Schemes may specifically relate to one activity or sub-activities, or might comprise of several activities. This mapping of activities must be done on certain objective principles. An activity, such as beneficiary selection for a programme, can span different budget line items but it must be done at the lowest level of the Panchayats. Different yardsticks cannot be applied to the assignment of the same activity on a scheme-wise basis.

4.2.3.2 The first step in Activity Mapping would be to unbundle each functional sector to a level of disaggregation that is consistent with devolution. For instance, basic education could be unbundled to sub activities such as monitoring teachers' attendance, repairing schools, procuring equipment, recruiting or firing teachers, etc. Horticulture might be unbundled into seed supply, nurseries production, technical assistance, pest control, providing price and marketing information and post harvesting support etc. These unbundled activities can be classified under five categories as follows: (i) Setting standards, (ii) Planning, (iii) Asset creation, (iv) Implementation and Management, (v) Monitoring and Evaluation.

4.2.3.3 Once activities are unbundled, the next step is to assign each of them to the tiers of Panchayats where they could be most efficiently performed. Factors such as economy of scale, externality, equity and heterogeneity will play a major role in this process. Economies of scale tend to push the service towards higher levels of government. Conversely, if some activity is scale neutral in implementation, it may be preferable to push it down to the lowest level for implementation. Closely related is the issue of economies of scope. Some services may be linked in ways that makes it more efficient for one tier of government to provide all of them more efficiently, when bundled together. A good example is that of multi village water supply projects, which can be managed by higher level local governments (such as ZPs) or undertaken by associations of local governments or contracting out to regional providers. If an activity impacts an area larger than the jurisdiction of a local body, then such activities ought to be undertaken at a higher level. For instance, epidemic control has to be managed at a higher level than Gram Panchayats, because the vector transcends Gram Panchayat boundaries. Sometimes a particular activity can be indeed undertaken efficiently at the local level, and has no externalities, but in the interests of equity, a uniform growth

pattern across jurisdictions is desirable. Such activities, for the purposes of equity, have to be dealt with at a higher level. The more heterogeneous the nuances of the activity, the lower down it ought to be performed. For instance, the contents of mid-day meals varies widely across States, because of local food habits. Therefore, it is better performed at the lowest level.

4.2.3.4 Public accountability is another important factor which guides where an activity ought to be slotted. The following questions are relevant in this regard:

(i) Is the activity discretionary? If so, it is best performed lower down, to enable transparency.
(ii) Is it transaction intensive? If so, again it is best performed lower down.
(iii) Who can best judge performance? If performance appraisal requires technical skills, then it could be pushed higher up.

4.2.3.5 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.

4.2.3.6 The Union Government has significant influence on the devolution of functions and funds upon Panchayats, because of the large fiscal transfers it undertakes to States in the functional domain of the Panchayats, mainly through Centrally Sponsored Schemes and Additional Central Assistance (ACAs). The Ministry of Panchayati Raj has been examining guidelines of old and new Centrally Sponsored Schemes and suggesting changes to make them compatible with the functional assignment to Panchayats. However, at the conceptual stage itself, Ministries will need to undertake Activity Mapping delineating what is to be done at the Union, State and Panchayat levels.

4.2.3.7 Activity Mapping can become a trigger for ensuring that Panchayats are on a sound footing. When Panchayats are assigned clear tasks, devolved funds and made accountable for their performance of these newly assigned responsibilities, they have a big incentive to demand the capacity required for effective performance. Thus role clarity catalyses capacity building from being supply driven to demand driven, which is a huge benefit. Empowered

Panchayats with clear roles assigned through activity mapping would begin to also demand the staff required for effective performance. Therefore activity mapping can spur appropriate placement of functionaries for better service delivery.

4.2.3.8 In order to ensure smooth completion of activity mapping at both State and Union levels, there is a need to avoid misunderstanding and misinterpretation of the exercise. Care must be taken to avoid activity mapping to be (a) either construed as a 'sharing of the spoils' exercise, or (b) an exercise 'disempowering' line departments. The following approaches may dispel any misgivings in this regard:

(i) Undertaking extensive participatory exercises to bring Panchayats and Line departments together to arrive at a consensus as to what activities should be devolved to Panchayats,
(ii) Ensuring transparency in the process and developing trusts among different stakeholders,
(iii) Considering the capacities of Panchayats, prioritising different subjects for step-wise activity mapping,
(iv) Strict adherence to the objective principles described in this report, while approaching the matter of activity mapping,
(v) Simultaneously linking activity mapping with (a) mapping of capacity building, (b) financial requirements and (c) administrative requirements, so that there is a smooth transition and activity mapping can be immediately operationalised,
(vi) Encouraging for reasons of stability, legislative sanction for activity mapping, by eventually including it as part of the law.

4.2.3.9 The Commission is of the view that every State should take up comprehensive activity mapping with regard to the matters mentioned in the Eleventh Schedule of the Constitution. While doing so the principles discussed in the preceding paragraphs should be kept in mind. The progress made so far in this area is far from satisfactory and therefore, it is desirable that each State should constitute a special task force to complete this work in a time bound manner. Similarly, the Union Ministries will also need to intensively carry out activity mapping for all the Centrally Sponsored Schemes with priority on flagship programmes.

4.2.3.10 Recommendations:

a. States must undertake comprehensive activity mapping with regard to all the matters mentioned in the Eleventh Schedule. This process should

cover all aspects of the subject viz planning, budgeting and provisioning of finances. The State Government should set-up a task force to complete this work within one year.

b. The Union Government will also need to take similar action with regard to Centrally Sponsored Schemes.

4.2.4 Devolving Regulatory Functions to the Panchayats

4.2.4.1 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 Commission in its report on Public Order – para 5.15 – stressed the importance of community policing in creating an environment which enhances community safety and security. 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. In due course, with the implementation of the reforms suggested in this Report, the PRIs would be in a position to efficiently handle many more such functions. Therefore, regulatory functions which can be devolved to the Panchayats should be identified and devolved on a continuous basis.

4.2.4.2 Recommendations:

a. Rural policing, enforcement of building byelaws, issue of birth, death, caste and residence certificates, issue of voter identity cards, enforcement of regulations pertaining to weights and measures are some of the regulatory functions which should be entrusted to Panchayats. Panchayats may also be empowered to manage small endowments and charities. This could be done by suitably modifying the laws relating to charitable endowments.

b. Regulatory functions which can be performed by the Panchayats should be identified and devolved on a continuous basis.

4.3 Panchayat Finance

4.3.1 Fiscal Decentralisation

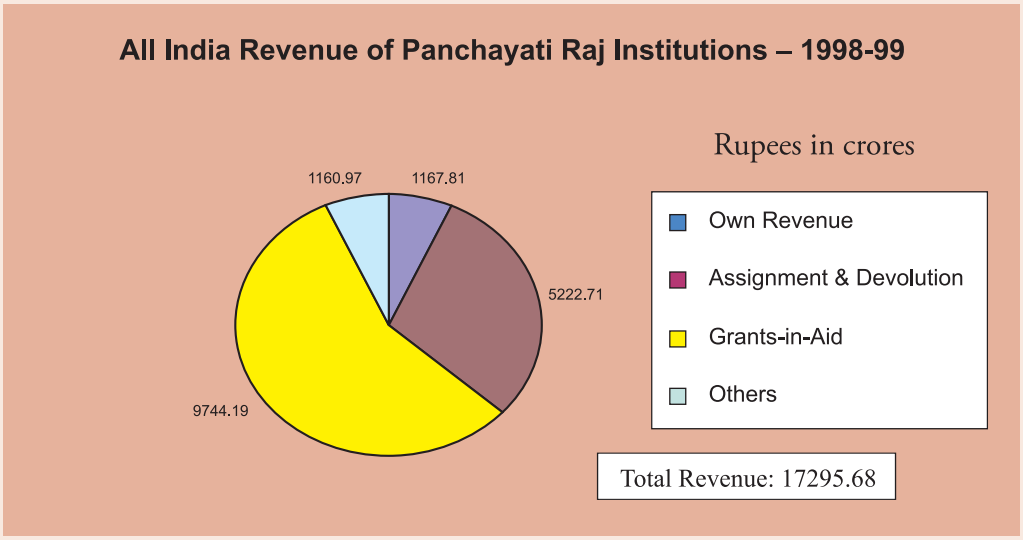
4.3.1.1 A major portion of Part IX of the Constitution covering Articles 243C, 243D, 243E, 243 G and 243 K deals with structural empowerment of the PRIs but the real strength in terms of both autonomy and efficiency of these institutions is dependent on their financial position (including their capacity 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).

4.3.1.2 Across the country, States have not given adequate attention to fiscal empowerment of the Panchayats. It is evident from Figures 4.2 and 4.3 that Panchayats' own resources are meagre. Kerala, Karnataka and Tamil Nadu are the states which are considered to be progressive in PRI empowerment but even there, the Panchayats are heavily dependent on government grants. 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.

Figure 4.2



Source: Based on the data furnished by States to the Twelfth Finance Commission

- 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.

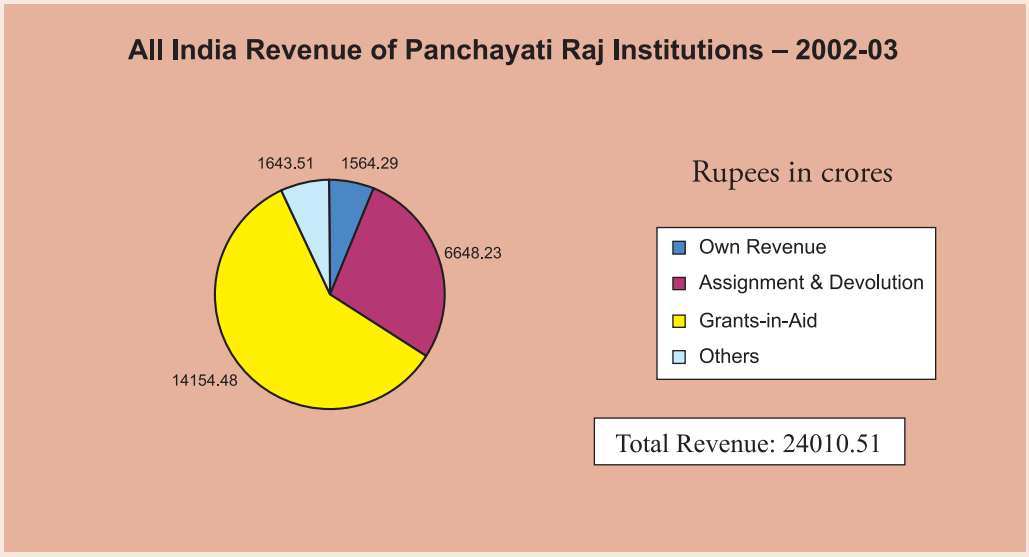
4.3.1.3 For fiscal decentralization to be effective, finances should match expenditure assignments related to the transferred activities. This calls for a two fold approach – first demarcation of a fiscal domain for PRIs to tap resources directly both Tax and Non-tax and second devolution of funds from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

4.3.1.4 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.

4.3.1.5 Devolution of funds from the higher tiers of the government forms a major component of the Panchayat's resources. Issues regarding devolution of funds and functioning of SFCs have already been examined in Chapter 3 of this Report.

Figure 4.3



Source: Based on the data furnished by States to the Twelfth Finance Commission

4.3.2 Own Resource Generation

4.3.2.1 Though, in absolute terms, the quantum of funds the Union/State Government transfers to a Panchayat forms the major component of its receipt, the PRI's own resource generation is the soul behind its financial standing. It is not only a question of resources; it is the existence of a local taxation system which ensures people's involvement in the affairs of an elected body. It also makes the institution accountable to its citizens.

4.3.2.2 In terms of own resource collection, the Gram Panchayats are, comparatively in a better position because they have a tax domain of their own, while the other two tiers are dependent only on tolls, fees and non-tax revenue for generating internal resources.

4.3.2.3 The taxation power of the Panchayats essentially flow from Article 243 H which reads as follows:

"*the Legislature of a State may, by law*

- *authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;*
- *assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;*
- *provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and*
- *provide for constitution of such funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom as may be specified in the law."*

4.3.2.4 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 o secondary areas like ferry services, markets, water and conservancy services, registration of vehicles, cess on stamp duty and a few others.

Box: 4.1: Income-wise classification of Village Panchayats in Tamil Nadu (Average income of 3 years from 2003-04 to 2005-06)

Sl.No.	Income Range (In Rupees)	No. of Village Panchayats
1.	Up to 50000	10
2.	50000 – 1 lakh	178
3.	1 – 5 lakhs	7,422
4.	5 – 10 lakhs	3,181
5.	10 – 25 lakhs	1,489
6.	25 – 50 lakhs	252
7.	50 lakhs – 1 crores	60
8.	1 – 3 crore	24
9.	Above 3 crores	2
	Total	12,618

Source: Policy Note 2007-08, Government of Tamil Nadu, Rural Development and Panchayat Raj Department

4.3.2.5 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.

4.3.3 Exploring Additional Sources of Revenue

4.3.3.1 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 Panchayats need to be more imaginative and assertive in tapping such resources. The role of the State Governments should be limited to prescribing floor rates for such taxes and levies, so that Panchayats levy these taxes at a realistic rate.

4.3.3.2 Most of the State Acts vest Panchayats with public properties such as irrigation sources, ferry ghats, waste land, community lands, orchards and fairs. Vehicle stand charges and market/shop/cart fees are some of the other sectors which need to be tapped effectively by the PRIs. Thus, all common property resources vested in the Village Panchayats should be identified and made productive for revenue generation.

4.3.3.3 Apart from exploring new areas for taxation/levies and productive use of common properties, gradually the Panchayats could be encouraged to manage some important utilities. This will not only ensure better service delivery but will also propel Panchayats to make some profit and generate additional revenue for themselves. This would be particularly relevant for the higher tiers of Panchayats. Accordingly, at the block or district level the local bodies could be encouraged to manage utilities such as transport, water supply and power distribution on a commercial basis. They will need to collect realistic user charges for all such services.

4.3.3.4 The royalty and other income from minerals such as dead rent, fees, cess and surcharge is a major source of revenue for the State Government. The revenue on account of royalty for major minerals is fixed by the Union Government and is collected and retained by the State Governments. In the case of minor minerals, State Governments have powers both to fix and collect royalty and dead rent. Conceptually royalty is a payment made by the mining lessee to the State as lessor. It is charged for letting the lessee consume the wealth belonging to the lessor where the wealth gets depleted over time. Therefore, 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.

4.3.3.5 Apart from allocating substantial share of royalty to the local bodies, the State Government may also consider empowering them to levy local cess on the royalty so accrued to the State Government. Some States like Tamil Nadu and Karnataka have such provisions in their Panchayati Raj Acts. In terms of Section167 of the Tamil Nadu Panchayat Act, 1994 *"There shall be levied in every Panchayat development block, a local cess at the rate of one rupee on every rupee of land revenue payable to the Government in respect of any land for every fasli.*

> *Explanation: In this Section and in Section 168, "land revenue" means public revenue due on land and includes water cess payable to the Government for water supplied or used for the irrigation of land, royalty, lease amount or other sum payable to the Government in respect of land held direct from the Government on lease or licence, but does not include any other cess or the surcharge payable under Section 168, provided that land revenue remitted shall not be deemed to be land revenue payable for the purpose of this section."*

Box: 4.2 : Royalty Accruals on Minerals in States with Significant Mining Activities

(Rs. in Crores)

State	Total Royalty Collection		
	2002-03	2003-04	2004-05
Chhattisgarh	552.36	637.17	694.61
Jharkhand	797.65	900.16	916.2
Karnataka	83.89	143.62	210.94
Madhya Pradesh	590.69	646.71	733.72
Orissa	440.57	547.2	663.61
Rajasthan	399.68	457.96	589.79
Maharashtra	400.69	475.96	568.24
Gujarat	172.63	217.90	238.95
Kerala	1.63	10.45	12.61
Goa	14.81	17.87	17.44
Tamil Nadu	297.34	324.5	324.82

Box: 4.2 Contd.

State	Total Royalty Collection		
	2002-03	2003-04	2004-05
Andhra Pradesh	769.93	766.56	864.53
Uttarakhand	22.55	30.65	35.6
Uttar Pradesh	262.42	254.18	291.94
Haryana	118.08	76.77	92.50
Assam	9.36	12.64	13.36

Source: Report of the High level committee constituted by the Planning Commission on National Mineral Policy – December 2006.

4.3.3.6 In addition to cess, the Tamil Nadu Act also contains provision for imposition of local cess surcharge. The Commission is of the view that the State Governments, particularly those having significant mining activities may explore possibilities for imposition of cess/surcharge by the local bodies on royalty collected from the mines. With liberalisation of the economy, rural areas are opening up for infrastructure development such as construction of highways, bridges and warehouses and erection of power stations. The State Governments should devise a way so that the Panchayats get a part of earnings from such ventures. Mining and other infrastructural activities cause heavy wear and tear of the existing facilities. Roads and other systems need greater maintenance. The Commission is of the view that the local Panchayats should be empowered to collect additional/special surcharge from such activities.

4.3.4 Incentivising Better Performance

4.3.4.1 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. This can be done by linking the Union Finance Commission and State Finance Commission grants to their own revenue generation efforts. States may also promote Panchayats to collect revenue by providing bonus payments at specified pre-announced rates to Panchayats which have demonstrated exemplary collection performance. However, while incentivising better performance, it is equally important to instil some kind of fiscal responsibility mechanism like the system that exists between Union and the State Government. There are some States which have encouraged and supported their PRIs in exploring new areas of taxation and there are others which have not showed any initiative. There is a strong case to give some kind of incentive to the first category. Such incentivisation will in due course also motivate others. The Ministry of Panchayati Raj has evolved a Panchayats Empowerment and Accountability Fund (PEAF) to incentivise both

empowerment of the Panchayats by the States, on the one hand, and accountability on the part of the Panchayats to Gram/Ward Sabhas on the other.

4.3.5 Resource Generation by Higher Tiers of Panchayats

4.3.5.1 As already observed, in most States it is the Gram Panchayat which is primarily endowed with tax and non-tax revenue raising powers. In the field of tax revenue, only a few insignificant tax items have been kept with Intermediate Panchayats and Zila Parishads. In Orissa, all taxation powers lie exclusively with the Village Panchayat. The Rajasthan Panchayati Raj Act assigns some taxation powers to the Intermediate Panchayat Samiti but this power is limited only to a few select items like the Panchayat samiti tax on land rent, vikas tax and education cess. The Zila Parishad in Rajasthan can levy a surcharge on the sale of land in rural areas and surcharge on market fee. In Madhya Pradesh, taxes levied by the Intermediate Panchayats are the business tax and entertainment tax, whereas the Zila Parishads do not have any taxation powers. The Bihar Panchayati Raj Act gives powers to the Zila Parishads to levy fees on registration of boats/ vehicles, on sanitary arrangement in fairs etc., on public street lighting and toll on ferries and Panchayat Samitis hold concurrent powers in exactly the same areas of taxation.

Box: 4.3 : Taxation Powers of Zila Parishads in Maharashtra

Maharashtra Zila Parishad and Panchayat Samiti Act, 1961 authorises the Zila Parishad to levy property tax, yatra tax, water charges, bazaar fee, permission fee, special tax on land and houses which are as follows:

(a) Stamp duty at the rate of half a percent which has been increased to 1% w.e.f. April 1993;

(b) Cess on land revenue up to 500%;

(c) Cess on water charges which was subsequently abolished.

(d) Forest revenue at the rate of 7% of the total collection of their jurisdiction and water charges.

4.3.5.2 The Commission is of the opinion that Village Panchayats must have primary authority over taxation within the tax domain assigned to PRIs. However, where a unit of assessment for imposition of taxes is larger or such taxation has inter-Panchayat ramifications, the higher formations – Intermediate Panchayat and Zila Parishad should be given concurrent powers subject to a prescribed ceiling. Running of small power projects, large scale mining activities, ferry services on a large river, are some of the areas which could be subjected to taxation by higher tiers. However, whenever a tax/fee is imposed by either the Zila Parishad or Intermediate Panchayat, such tax or fee should be collected by the concerned Village Panchayats as if it were a tax or fee imposed by them.

4.3.5.3 Recommendations:

a. **A comprehensive exercise needs to be taken up regarding broadening and deepening of the revenue base of local governments. This 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. Government may incorporate this as one of the terms of reference of the Thirteenth Finance Commission.**

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

c. **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.**

d. **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.**

e. **The expanded tax domain could interalia include levies on registration of cattle, restaurants, large shops, hotels, cybercafés and tourist buses etc.**

f. **The role of State Governments should be limited to prescribing a band of rates for these taxes and levies.**

g. **PRIs should be given a substantial share in the royalty from minerals collected by the State Government. This aspect should be considered by the SFCs while recommending grants to the PRIs.**

h. **State Governments should consider empowering the PRIs to collect cess on the royalty from mining activities. In addition they should also be given power to impose and collect additional/special surcharge from such activities (mines/minerals/plants).**

i. **Innovative steps taken by the States and the PRIs to augment their resources must be rewarded by linking Central Finance Commission and State Finance Commission grants to such measures. States may reward better performing PRIs through special incentives.**

j. In the tax domain assigned to PRIs, Pillage Panchayats must have primary authority over taxation. However, where such taxation has inter-Panchayat remifications, the local government institutions at higher levels - Intermediate Panchayat and Zila Parishad could be given concurrent powers subject to a ceiling. Whenever a tax/fee is imposed by the higher tier, such taxes should be collected by the concerned Village Panchayats.

4.3.6 Transparency/Transfer/Allocation of Funds

4.3.6.1 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.

4.3.6.2 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.

4.3.6.3 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.

4.3.6.4 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). The scheme covers 250 backward districts across three States. It is designed to redress regional imbalances; this fund has to be used through the process of district planning. The fund is intended to provide financial resources for (i) filling of critical gaps as identified by local bodies, (ii) capacity building of PRIs, and (iii) for enlisting professional support by the local bodies. The Panchayats have flexibility in selection of programmes and their prioritization, identification of beneficiaries and audit and monitoring. In all these activities, the Gram Sabha has to be fully involved. In the first year of its life 2006-07, a sum of Rs. 5000 crore was earmarked in the Union budget for this project, which has been stepped up to Rs. 5800 crores in 2007-08.

4.3.6.5 The Commission is of the view that except major Centrally Sponsored Schemes of the Union Government or special purpose programmes of the States, allocations to PRIs should be in the form of untied funds so that the PRIs can have some degree of flexibility in expenditure. The allocation order should contain only a brief description of objectives and expected outcomes. Also while releasing funds, the States should not impose conditions of utilisation, except those prescribed by the Finance Commission.

4.3.7 Budget Procedure and Transfer of Funds

4.3.7.1 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 Commission would also examine this matter further in its report on "Strengthening Financial Management Systems".

4.3.7.2 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:

i. Control of departments at State level, for valid reasons based on established principles
ii. Schemes transferred to the Zila Parishad for execution
iii. Devolved funds at the disposal of Panchayats

4.3.7.3 The mode of funds transfer to Panchayats from the State Government is also an important issue for effective functioning of the Panchayats. In 2005, the Ministry of Panchayati Raj set up a committee to examine the feasibility of electronic fund transfer to Panchayats. The committee recommended that it was indeed feasible to transfer funds rapidly to approximately 2.4 lakhs Panchayats across the country through banks. In Karnataka, the State Government has created an arrangement involving six nationalized and twelve Grameen banks in which all the 5800 Panchayats of States at all levels hold accounts. As of now in Karnataka, the Twelfth Finance Commission's fund and the States untied statutory grants to Panchayats go from the Panchayati Raj Department to all the Panchayats through these banks without any intermediary. This arrangement has reduced the maximum time taken for transfer of funds from the State Headquarters to a Panchayat from two months to twelve days. The Ministry of Panchayati Raj has developed a software on this process. State Governments should be encouraged to adopt it and speed up their fund transfer procedure.

4.3.7.4 At present, the State Governments do not adhere to a time frame for release of funds to PRIs. Often the allotment is released towards the close of the financial year, leaving very little time to the local bodies to carry out actual work. On many occasions their funds remain undrawn/unspent. The Panchayats have to indulge in a lot of paper work to get these funds revalidated in the next financial year. Such delays are due to the fact that the funds received from the Union Government for specific national schemes become a part of the 'ways and means' of the State Government. The State Government should take steps to release grants to the PRIs according to a pre-fixed time-table so that it becomes possible to utilise the funds during the currency of the year. The fund release could be in the form of equitably spaced instalments. The release could be made in two instalments; one at the beginning of the financial year and the other by the end of September of that year.

4.3.7.5 Recommendations:

a. Except for the specifically tied, major Centrally Sponsored Schemes and special purpose programmes of the States, all other allocations to the Panchayati Raj Institutions should be in the form of untied funds. The allocation order should contain only a brief description of broad objectives and expected outcomes.

b. State Governments should modify their rules of financial business to incorporate the system of separate State and District sector budgets, the later indicating district-wise allocations.

c. There should be a separate Panchayat sector line in the State budget.

d. State Governments should make use of the software on "fund transfer to Panchayats" prepared by the Union Panchayati Raj Ministry for speedy transfer of funds.

e. State Governments should release funds to the Panchayats in such a manner that these institutions get adequate time to use the allocation during the year itself. The fund release could be in the form of equally spaced instalments. It could be done in two instalments; one at the beginning of the financial year and the other by the end of September of that year.

4.3.8 PRIs and Access to Credit

4.3.8.1 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. In the current liberalised credit scenario, local bodies can borrow from the market on the strength of their credit viability. Depending on the sustainability of the programme and the Panchayats' financial health, such initiatives of the PRIs need to be liberally encouraged. Once the projects start showing positive results, banks and other credit institutions will step up their activity in this sector. The Commission is of the view that the State Government should encourage such initiatives. The role of the State

Government should remain confined to fixing the limits of borrowing as per the guidelines of the State Finance Commission.

4.3.8.2 Recommendation:

a. For their infrastructure needs, the Panchayats should be encouraged to borrow from banks/financial institutions. The role of the State Government should remain confined only to fixing the limits of borrowing.

4.3.9 Local Area Development Schemes

4.3.9.1 In addition to the regular State Government departments and the three levels of Panchayats, the rural areas of many districts are also being serviced by Area Development Authorities/Rural Development Boards. These organizations receive sizeable grants from both the Union and the State Governments for schematic expenditure in their jurisdiction with emphasis on crop improvement, creation of minor irrigation facilities, upgradation of local infrastructure and other area specific needs. This arrangement is anomalous. With popularly elected grass roots institutions, Panchayats, in place to take care of the local development needs, there can be very little justification for existence of separate Development Authorities and Boards. Apart from ethical and broader governance issues, there are difficulties that such schemes create with regard to flow of resources to the grass roots level. The multiplicity of fund flow results in administrative confusion, economic inefficiency and ultimately ineffective governance.

4.3.9.2 Next is the issue of MP and MLA Local Area Development Funds, which receive substantial allocation from the government. These schemes were created on the assumption that often the administrative system existing at the district level is not able to assess the requirements of the rural areas and sufficiently provide for them. It was thought that the popularly elected representatives (MLAs/MPs) on account of their proximity to the electorate would have a firmer knowledge of the ground realities in their constituencies and hence, they were given discretionary funds to initiate development programmes in their area. But now when the constitutionally mandated third tier of government is firmly in place, assigning any discretionary funds to MLAs and MPs goes against the very fabric of decentralization.

4.3.9.3 The system is unethical from a different perspective as well. The fund gives the sitting MP or the MLA an added advantage over his rival candidates in brightening his electoral prospects and denies the opposition candidates a level playing field. In addition, the MPs and MLAs, by getting access over a discretionary fund, have virtually turned themselves

into executive functionaries. The Commission in its report on "Ethics in Governance" had observed that –

> "*Several party leaders and legislators feel the need for discretionary public funds at their disposal in order to quickly execute public works to satisfy the needs of their constituencies. However, these schemes do seriously erode the notion of separation of powers, as the legislator directly becomes the executive. The argument advanced that legislators do not directly handle public funds under these schemes, as they are under the control of the District Magistrate is flawed. In fact, no Minister directly handles public money. Even the officials do not personally handle cash, except the treasury officials and disbursing officers. Making day to day decisions on expenditure after the legislature has approved the budget, is a key executive function.*"

Accordingly, the Commission recommended that schemes such as MPLADS and MLALADS should be abolished.

4.3.9.4 In view of the above, the Commission is of the view that the flow of funds to public bodies for development of rural areas should be exclusively through the Panchayati Raj Institutions.

4.3.9.5 Recommendations:

a. 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.

b. As recommended by the Commission in its report on "Ethics in Governance", the Commission reiterates that the schemes of MPLAD and MLALAD should be abolished.

4.4 Rural Development

4.4.1 Overview

4.4.1.1 As stated in paragraphs 4.1 of this report, inspite of rapid urbanization in the last few decades the vast majority of Indians live in approximately 5,93,000 villages spread across the country. Though, in recent years, the overall performance of the Indian economy

has been impressive, the benefits of this growth have not travelled evenly to all sectors. The progress in many aspects of development like health, water, sanitation, nutritional status and literacy poses a major challenge to the systems of our governance particularly in the rural areas. According to the UNDP Human Development Report 2006, India ranks 126th among the countries of the world on a composite development scale. The 59th round of the National Sample Survey on household consumer expenditure and employment reveals that at the all India level three rural households per thousand do not get enough to eat during any month of the year, while thirteen rural households per thousand get enough to eat only during some months of the year.

4.4.1.2 It is in this background that the development of rural areas and the rural people is a matter of primary concern for our planning. In the Tenth Five year plan, an amount of Rs.77,474 crores was earmarked for rural development programmes as against Rs.42,874 crores allocated during the Ninth Plan. The budget outlay for rural development also increased from Rs. 28,314 crores in 2005-06 to Rs.31,444 crores in the year 2006-07. This has been further scaled up to Rs.36,588 crores for the financial year 2007-08. The following table indicates the Budget estimates of Annual Plan 2006-07 for the Union, States & UTs:

Table 4.5 : Budget Estimates of Annual Plan 2006-07 for Centre, States & UTs

(Rs. in Crores)

S.No.	Head of Development	Centre			States & UTs Outlay	Total
		Budget Support	IEBR	Outlay		
1	Agriculture and Allied Activities	7273.19	112.38	7385.57	8777.21	16162.78
2	Rural Development	15643.95	0	15643.95	15066.74	30710.69
3	Irrigation and Flood Control	586.55	0	586.55	32602.80	33189.35
4	Energy	8011.96	61581.55	69593.51	20905.35	90498.86
5	Industry and Minerals	5375.41	9157.93	14533.34	3679.62	18212.96
6	Transport	23756.57	24857.23	48613.80	23440.86	72054.66
7	Communications	593.05	19290.70	19883.75	481.96	20365.71
8	Science, Technology and Environment	8061.34	0	8061.34	333.39	8394.73

Table 4.5 Contd.

(Rs. in Crores)

S.No.	Head of Development	Centre			States & UTs Outlay	Total
		Budget Support	IEBR	Outlay		
9	General Economic Services	3171.74	0	3171.74	6854.39	10026.13
10	Social Services	58180.52	7757.16	65937.68	66050.83	131988.51
11	General Services	630.25	0	630.25	3528.94	4159.19
12	Special Area Programmes	0	0	0	5521.89	5521.89
	TOTAL	**131284.53**	**122756.95**	**254041.5**	**187244.00**	**441285.46**

Source: Annual Report 2006-07 of the Planning Commission

4.4.1.3 As can be seen from Table 4.5, out of a total Plan budget of Rs 441285.46 crores, an amount of Rs.30710.69 crore was earmarked exclusively for the rural development in the 2006-07. Besides, substantial funds have been allocated to Agriculture and Allied Activities, Irrigation and Flood Control, Social Services and other related sectors. All these sectors play a critical support role in the overall plan of rural development. In March 2005, the Government of India launched "Bharat Nirman Yojana": an overarching concept which aims at achieving a quantum jump in six key areas of rural infrastructure during a span of just 4 years between 2005 to2009. These are assured irrigation, drinking water supply, rural roads, rural housing, rural electrification and rural connectivity.

Box: 4.4 : Bharat Nirman: Tasks

- Every village to be provided electricity: remaining 1,25,000 villages to be covered by 2009 as well as connect 2.3 crore households
- Every habitation over 1000 population and above (500 in hilly and tribal areas) to be provided an all-weather road: remaining 66,802 habitations to be covered by 2009
- Every habitation to have a safe source of drinking water: 55,067 uncovered habitations to be covered by 2009. In addition all habitations which have slipped back from full coverage to partial coverage due to failure of source and habitations which have water quality problems to be addressed
- Every village to be connected by telephone: remaining 66,822 villages to be covered by November 2007
- 10 million hectares (100 lakhs) of additional irrigation capacity to be created by 2009
- 60 lakh houses to be constructed for the rural poor by 2009

While the agenda is not new, the effort here is to impart a sense of urgency to these goals, make the programme time-bound, transparent and accountable. These investments in rural infrastructure will unlock the growth potential of rural India.

Source: http://bharatnirman.gov.in/download.pdf

4.4.1.4 Another significant programme of the Government of India is PURA, "Provision of Urban Amenities in Rural Areas". Based on a concept promoted by the then President of India to bridge the rural-urban divide and achieve balanced socio-economic development, this programme was launched in August 2003. It aims to meet the gaps in physical and social infrastructure in identified rural clusters consisting of 10-20 villages around towns with population of one lakh or less to further their growth potential. The identified areas of intervention and support are:

- Road, transportation and power connectivity;
- Electronic connectivity in the form of reliable telecom, internet and IT Services;
- Knowledge connectivity in the form of good educational and training institutions;
- Market connectivity that would enable farmers to get the best price for their produce;
- Provision of drinking water supply and upgradation of existing health facilities.

At present pilot projects have been launched in seven States selecting one cluster of 10-15 villages in each of them. A proposal regarding implementation of PURA as a regular scheme covering all the districts in rural areas is under consideration of the Government.

4.4.1.5 The Committee on Vision 2020 for India constituted by the Planning Commission in its report "India Vision 2020" recognized the importance of decentralization and people's participation in the system of governance in the following manner:-

> *"India's economic and technological transition is accompanied by a multifaceted political transformation which may well be slower, less clearly defined and less visible, but will nonetheless have profound impact on the functioning of the government 20 years from now. The main consequences of that transformation are likely to include:*
>
> *1. Decentralisation and People's Participation*
>
> - *Devolution of power to local bodies will continue at an accelerated rate. Pressure from the grass roots will increasingly supplant governance from the top down.*
> - *Local communities will come to depend less on state and central government action and more on their own initiative and organisational capacity.*
> - *Financial devolution will give local bodies more authority to levy taxes and greater control over the use of local natural resources. It will also make them increasingly responsible for financing local infrastructure.*

- *Direct democracy through Gram Sabhas, as opposed to representative democracy, will become more prevalent at the local level. People at the local level will be more directly involved in setting priorities for distribution of resources and managing local projects.*
- *A better educated and better informed electorate will be increasingly demanding of its rights and increasingly critical of non-performing governments and their individual members."*

4.4.2 Assessment of Centrally Sponsored Schemes (CSSs)

4.4.2.1 Centrally Sponsored Schemes account for the largest number of special purpose grants extended by the Union Government to States under Article 282. In 2006-07 there were more than 200 CSSs, involving an annual allocation of over Rs.72,000 crores[33]; with some of the most prominent among them being in the Rural Development Sector. Seven of them accounted for Rs. 46,848 crores (para 3.9.1) during that year. In 2007-08, the allocation for these schemes stands at a staggering Rs. 52,206 crores. 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. In some cases, the Union ministry concerned may decide to implement the programme itself through programmatic committees. From the Mid Day Meal Programme to Sarva Siksha Abhiyan, the list of Centrally Sponsored Schemes covers a wide range of subjects in the antipoverty and social Sectors.

4.4.2.2 In spite of massive flow of funds to such schemes in the past, there is a widely shared concern that the results have not been commensurate with the investments. 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.

[33]A Mid-Term Review and Appraisal of the State of the Panchayats, Vol.I, Ministry of Panchayati Raj

- 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.

4.4.3 Centrality of PRIs in the Centrally Sponsored Schemes

4.4.3.1 Most of the Centrally Sponsored Schemes deal with matters earmarked for Panchayats under Article 243 G and the Eleventh Schedule of the Constitution. Some examples are the National Rural Employment Guarantee Scheme, Sampoorna Gramin Rojgar Yojana, Sarva Siksha Abhiyan, National Rural Health Mission, Integrated Child Development Services, Mid-Day Meal Programme, Drinking Water Mission, Total Sanitation Campaign, Indira Awas Yojana, Swarna Jayanti Gram Swarogar Yojana, Pradhanmantri Gram Sadak Yojana, Rajiv Gandhi Grameen Vidyutikaran Yojana, Adult Literacy and the Remote Village Electrification Programme. Out of this long menu, nine major programmes take up nearly Rs. 65,875 crores during the current year 2007-08. Since a large quantum of resources flows through these schemes to the States, efficient implementation of these programmes is critical for the States' economic development. In the long run, the schemes taken up under such programmes also need to find place in the overall development plan of the Panchayat body. 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.

4.4.3.2 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 implementational 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 implementational 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.

4.4.3.3 A task force of the Planning Commission had observed that many of the large CSSs are being implemented departmentally or through support organizations like user associations, agencies, Self Help Groups (SHGs) and Non Governmental Organisations (NGOs) without any linkage with the PRIs. Subsequently, it was decided that all the ministries operating CSSs should review these schemes in the background of the role of the Panchayats as envisaged in Article 243 G of the Constitution. The Ministry of Panchayati Raj was to be given a nodal position and consulted in all cases relating to new programmes that are supposed to have a bearing on Panchayats. The following issues are of significance in this respect:

- Each Ministry of the Government of India should undertake activity mapping with regard to its CSSs and identify the levels where activities need to be located; at the ministry level, at the State Government level or at the Panchayat level.
- Based on the above findings, scheme guidelines need to be suitably modified.
- Currently, there are a large number of CSSs varying in size with different allocation ranges. There is need to accept that the Ministry should not formulate any CSS below a certain critical size. Smaller schemes may straightaway be included in State plans.
- Parallel bodies created by conditionalities of CSSs should be wound up and merged with standing committees of the PRIs. Some of them may need to have organic linkage with the PRIs.

4.4.3.4 The Commission is of the view that in due course the present system of release of funds to the CSSs should be substituted with a system where majority of the allocation is in the form of untied grants. The State and local governments should have flexibility in designing project components and implementation mechanism to achieve the overall objectives of a sectoral programme.

4.4.4 Analysis of some major Centrally Sponsored Schemes (CSSs):

In order to appreciate the concerns expressed by many on Centrally Sponsored Schemes it would be useful to examine a few major schemes.

4.4.4.1 *National Rural Health Mission (NRHM)*

Box: 4.5 : National Rural Health Mission – The Vision

- The National Rural Health Mission (2005-12) seeks to provide effective healthcare to rural population throughout the country with special focus on 18 states, which have weak public health indicators and/or weak infrastructure.
- These 18 States are Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Himachal Pradesh, Jharkhand, Jammu and Kashmir, Manipur, Mizoram, Meghalaya, Madhya Pradesh, Nagaland, Orissa, Rajasthan, Sikkim, Tripura, Uttarakhand and Uttar Pradesh.
- The Mission is an articulation of the commitment of the Government to raise public spending on Health from 0.9% of GDP to 2-3% of GDP.
- It aims to undertake architectural correction of the health system to enable it to effectively handle increased allocations and promote policies that strengthen public health management and service delivery in the country.
- It has as its key components provision of a female health activist in each village; a village health plan prepared through a local team headed by the Health & Sanitation Committee of the Panchayat; strengthening of the rural hospital for effective curative care and made measurable and accountable to the community through Indian Public Health Standards (IPHS); and integration of vertical Health & Family Welfare Programmes and Funds for optimal utilization of funds and infrastructure and strengthening delivery of primary healthcare.
- It seeks to revitalize local health traditions and mainstream AYUSH into the public health system.
- It aims at effective integration of health concerns with determinants of health like sanitation & hygiene, nutrition, and safe drinking water through a District Plan for Health.
- It seeks decentralization of programmes for district management of health.
- It seeks to address the inter-State and inter-district disparities, especially among the 18 high focus States, including unmet needs for public health infrastructure.
- It shall define time-bound goals and report publicly on their progress.
- It seeks to improve access of rural people, especially poor women and children, to equitable, affordable, accountable and effective primary healthcare.

Source: http://mohfw.nic.in/NHRM

4.4.4.1.1 This mission is a comprehensive programme which seeks to make a qualitative change in the rural healthcare system through (a) improved performance of medical personnel, (b) upgradation of infrastructure and (c) unhindered availability of generic medicines. Initially it seeks to focus on 18 States, which have weak public health indicators and/or weak infrastructure. Its aim is to raise public spending on health from 0.9% of GDP to 3% of the GDP during this period. The principle goals concern reduction in Infant Mortality Rate (IMR)/Maternal Mortality Rate (MMR), universal access to public health services, women and child healthcare, sanitation and hygiene, immunization and nutrition and control of communicable and non-communicable diseases. It also aims at securing comprehensive primary health care, population stabilization, and popularisation of AYUSH (Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy). Though, one of the core strategies of this programme is to train and enhance capacity of PRIs to own, control and manage public health services, the actual implementation of the programme has led to a few distortions such as (i) creation of parallel structures like District & Village Health Committees and (ii) multiplicity of fund transfers. A correction is needed in the Scheme so as to integrate it fully with the three levels of Panchayats operating in the district. Under this programme each Sub-centre, Primary Health Centre and Community Health Centre

(CHC) gets an allotment of Rs. 10,000; 25,000 and 50,000 per annum maintenance grant. Seventy per cent of the total allocation under the programme has to be made available to formations below the Block level i.e. primary and sub-centre. An effective implementation of such a large and dispersed programme demands effective participation of the people.

4.4.4.1.2 Monitoring and review of Community and Primary Health Centres (CHC, PHC) and Sub-centres need to be a routine work of the Panchayats/ and Standing Committees. Such monitoring and review should cover all parameters enunciated in the vision, goal and

Box: 4.6 : Role of Panchayati Raj Institutions in NRHM

The Mission envisages the following roles for PRIs:

- States to indicate in their MoUs the commitment for devolution of funds, functionaries and programmes for health to PRIs.
- The District Health Mission (DHM) to be led by the Zila Parishad. The DHM will control, guide and manage all public health institutions in the district, Sub-centres, PHCs and CHCs.
- Accredited Social Health Activitists (ASHAs) would be selected by and be accountable to the Village Panchayat.
- The Village Health Committee of the Panchayat would prepare the Village Health Plan, and promote intersectoral integration.
- Each Sub-centre will have an Untied Fund for local action @ Rs. 10,000 per annum. This Fund will be deposited in a joint Bank Account of the Auxiliary Nurse Midwife (ANM) & Sarpanch and operated by the ANM, in consultation with the Village Health Committee.
- PRI involvement in Rogi Kalyan Samitis for good hospital management.
- Provision of training to members of PRIs.

Source: http://mohfw.nic.in/NHRM

strategy documents of the NRHM. The present practice of installing a centre-wise managing committee may continue but the practice of separate village committees for each of the three major components (Public health, Women's Health and Child health) under departmental command needs to be dispensed with. There should be a single village committee constituted by the Gram Sabha to look after all the above three aspects of the rural healthcare system. At the intermediate and district levels too, the Block Committee and Zila Parishad themselves should be the implementing and monitoring agencies. At the district level, there could be an advisory body consisting of sectoral experts to guide the Zila Parishad from time to time.

4.4.4.2 *Accelerated Rural Water Supply Programme (ARWSP)*[34]

4.4.4.2.1 This programme has been in existence since 1972-73. The basic objective of the programme is to provide safe drinking water to people living in all rural areas of the country in a sustainable and equitable manner. The intended outcomes are (i) ensuring a better quality of life, (ii) improvement in general health status, and (iii) reducing drudgery

[34]Source: Annual Report 2006-07, Ministry of Rural Development, Government of India

of women. Currently, the funding pattern is 50-50 sharing between the Union and State Governments.

The entire programme was given a Mission mode in 1986 and brought under the Technology Mission on Drinking Water Management (NDWM) and was named as the Rajiv Gandhi National Drinking Water Mission (RGNDWM) in 1991. In 1999, a separate Department of Drinking Water Supply was created in the Government of India.

4.4.4.2.2 To ensure that different aspects of Rural Drinking Water Supply are adequately addressed the funds budgeted for ARWSP have been divided into different components. The criteria for division of funds and the funding pattern are as indicated below:

- Up to 20% funds are kept for the reform process. i.e. Sectoral Reforms introduced in 1999 in selected districts and later scaled up in the entire country through Swajaldhara – 90% GOI share, 10% Community Contribution.
- 5% funds are kept for States under Desert Development Programme-100% GOI funding, no State share.
- 5% funds are kept aside for meeting contingencies arising out of natural calamities-100% GOI funding, no State share.
- The remaining funds are allocated to the States as per a laid down criteria. They are required to provide matching share under State resources. States can utilize 15% of the said funds for Operation and Maintenance (O&M). They can also utilize up to 20% of their annual allocation for taking up projects for Sub-Mission projects. The existing Sub-Missions are on control of Arsenic, Fluoride, Brackishness and Iron. 15% of the ARWSP funds are to be utilized on water quality and 5% on sustainability. The funding pattern for Sub-Mission projects is 75:25 between the Union and States.
- To Tackle the increasing problem of water quality under revised guidelines since February 2006, it has been decided to retain up to 20% of ARWSP funds at the Centre for water quality for providing focused funding for projects approved by State Governments for water quality affected States only. This ceiling could be exceeded in exceptional cases for providing focused funding to tackle severe contaminations of water. The funding pattern from the current year is 50:50 between the Union and States.

4.4.4.2.3 The States/UTs are required to earmark and utilize at least 25% of the ARWSP funds for drinking water supply to the Schedule Castes (SCs) and another minimum 10% for the Schedule Tribes (STs). A group consisting of 100 persons or 20 households is considered to be a habitation for the purpose of coverage under this programme. For Schedule Castes and Schedule Tribes, this limit may further be relaxed.

4.4.4.2.4 State Governments have been given the liberty to select the agency for implementation of this programme. It could be the Public Health and Engineering Department (PHED), the State Department of Rural Development or any other parastatal. In some of the States this work has been assigned to the Water and Sewerage Board.

4.4.4.2.5 With a view to promoting involvement of user groups/Panchayats in the selection and implementation of drinking water schemes and for subsequent operation and maintenance (O&M), State Governments were asked to sign an Memorandum of Understanding (MoU) with the Government of India before commencement of the XIth Plan. State Governments were also asked to draw up an Action Plan framework for involving the community and PRIs and transfer the drinking water assets to them in a phased manner. The purpose behind the MoU was to commit the States to meet the Bharat Nirman targets; provide sufficient funds for the Sector; and to set up a mechanism for convergence of programmes for conservation of water and ground water recharge. The other objectives of the MoU were to have an effective capacity building programme for PRIs; to empower them to levy user charges for O&M and to provide technical and financial support to user groups/ PRIs. However, so far no State has signed the MoU with the Union Government.

4.4.4.3 *Sarva Siksha Abhiyan (SSA)*

4.4.4.3.1 SSA seems to universalize elementary education through community ownership of the system. The programme addresses primary schools and non formal education centres all of which are located in the village or in the neighbourhood. The SSA is also an attempt to provide an opportunity for improving human capabilities to all children, through provision of community-owned quality education in a mission mode. The ultimate objective is (a) to meet the demand for quality basic education all over the country, (b) to ensure 100% coverage of children for elementary schooling by 2010, and (c) to attain universal retention during this period.

4.4.4.3.2 It was expected that in the rural areas, Panchayats in general and Gram Panchayats in particular would have critical roles to play in this programme. Panchayats do figure in the texts of SSA documents, but they do not seem to have been given any crucial responsibility in respect of management, monitoring and supervision of the school system. SSA envisages habitation level education planning as the starting point of a gradual formulation of a block and eventually district education plan. But the plan seems to have some basic infirmities A number of Community Based Organizations (CBO) are conceived to facilitate micro-level planning in the form of school management committee, parent teacher association, mother teacher association, village education committee, micro planning teams for habitation level education planning etc. But, the linkage between CBOs and the Gram Panchayat is

missing. Nor is there any role for Intermediate (block) and District level Panchayats in this programme. At the District level the entire task is being handled by the District SSA cell. It is a professional body supposedly constituted as a change management unit but the programme does not envisage its linkage with the District and Intermediate Panchayats.

4.4.4.3.3 The Commission is of the view that integrating SSA with the PRI system is necessary not only for getting better outcomes from the project, but also for sustainability of processes and the institutions introduced by it.

4.4.4.4 *Integrated Child Development Scheme (ICDS)*

4.4.4.4.1 Launched in 1975 in 33 CD Blocks, ICDS is today one of the largest global programmes covering early childhood development. It is an inter-sectoral programme reaching out to children below 6 years of age, who reside in remote areas. The main objective of the programme is to improve nutrition and health care status of these children, to reduce incidents of mortality, malnutrition and the school dropouts rate and finally to enhance the capability of the mother and the family to look after the child.

4.4.4.4.2 From the days of its initiation, ICDS has been a departmentally run programme. Each State has a separate management structure consisting of a State Coordinator/ Department Secretary, Child Development Project Officer (CDPO) at the Block level, Supervisors and the Anganwadi Centre Personnel. Involvement of the three tier Panchayats in ICDS has so far been nil. Inspite of this programme being in existence for such a long time, there have been conflicting views on its impact. There is a feeling that somehow the scheme has remained distant from the beneficiaries; people have not yet owned it. The guidelines of the programme therefore call for a review to give an effective role to the Panchayats, particularly the Village Panchayats in its functioning.

4.4.4.4.3 The Commission is of the view that the ICDS programme has to be looked at as a part of the comprehensive healthcare delivery structure. By skilfully integrating other components of the system, namely immunization, ante-natal care, family planning and vector control in the mainstream of healthcare, a composite healthcare machinery for children and women could be built up in the rural areas. This can be done by transferring the responsibility of the local level activities of all these components and the management of the local institutions related to such components (for example, health sub centres, anganwadi centres) to the PRIs.

4.4.4.5 *Mid-day Meal Programme*

4.4.4.5.1 A national programme of nutritional support to primary education was formally launched in 1995. The objective of the programme is to support universalisation of primary education by increasing enrolment and retention and also to improve the nutritional status of children, studying in primary classes of Government, Local Body and Aided Schools.

4.4.4.5.2 Many of the States have not involved the Village Panchayats in managing this programme, even though most of them have devolved primary education to these institutions. Instead, at the local level the responsibility for it has been given to the schools and the VECs and at the district level to the Collector. The Intermediate and District Panchayats have nothing to do with this programme. Disassociation of the Panchayats from this important programme has caused an institutional vacuum; implementing agencies at the micro levels have been left alone. There is no agency for regular monitoring of the programme. The Commission is of the view that in the absence of participation of the PRIs, the monitoring of this programme has remained weak. It goes beyond doubt that the welfare of children is one area where all structures of community be it the Gram Sabha, the Ward Sabha or the Village Panchayat will be willing to show maximum cooperation. The programme guidelines need to be revised urgently so as to bring it directly under Panchayat monitoring.

4.4.5 The Commission has separately examined NREGA and has given its recommendations in its second report titled, "UNLOCKING HUMAN CAPITAL, Entitlements and Governance - a case study". The expert group on grass roots planning has also made some very important suggestions to ensure the centrality of Panchayats in planning and implementation of all Central programmes. **Recommendations are attached as Annexure-IV(2)**.

4.4.6 The role of the Panchayats vis-a-vis the Centrally Sponsored Schemes is not yet in line with the commitment of the 73rd Amendment. The CSSs have to shed their separate vertical identity and be part of the overall development plan of the Panchayati Raj system. The Commission feels that there has to be territorial/jurisdictional/functional convergence in their implementation. The centrality of PRIs in these schemes must be ensured if they are to deal with matters listed in the Eleventh Schedule. The Gram and Ward Sabha at the lowest level and the Panchayat Samiti and Zila Parishad at the higher levels have to be the structures looking after all their activities in terms of implementation, monitoring and social audit. In the programmes, where the activities percolate to areas and habitations below a Panchayat/Ward level, a small local centre committee should be formed to support these activities. Such a local committee will only be a deliberative body with responsibility to

provide regular feedback to the Gram Sabha/Ward Sabha and be accountable to it. Even while formulating such projects, the Union and State Governments need to include elements of flexibility so that they could be moulded as per local conditions and requirements. The Ministries concerned should only issue guidelines and the implementational flexibility should be left to the local bodies. In order to assess the socio-economic impact of these programmes periodically, a system of outcome monitoring must be put in place. The National Sample Survey Organisation (NSSO) on being suitably strengthened can be given this responsibility.

4.4.7 Recommendations:

a. The Commission while endorsing the views of the Expert Group on Planning at the Grass roots Level as given at Annexure-IV(2) to this Report, recommends that there has to be territorial/jurisdictional/ functional convergence in implementing Centrally Sponsored Schemes.

b. The centrality of PRIs in these schemes must be ensured if they are to deal with matters listed in the Eleventh Schedule.

(i) In all such schemes, the Gram/Ward Sabha should be accepted as the most important/cutting edge participatory body for implementation, monitoring and audit of the programmes.

(ii) Programme committees dealing with functions under the Eleventh Schedule and working exclusively in rural areas need to be subsumed by the respective Panchayats and their standing bodies. Some others having wider roles may need to be restructured to have an organic relationship with the Panchayats.

(iii) In the programmes, where the activities percolate to areas and habitations below a Panchayat/Ward level, a small local centre committee should be formed to support these activities. This Centre committee should be only a deliberative body with responsibility to provide regular feedback to the Gram Sabha/Ward Sabha and be accountable to it.

c. The Ministry sanctioning the programme should issue only broad guidelines leaving scope for implementational flexibility so as to ensure local relevance through active involvement of the Panchayats.

d. All Centrally Sponsored Programmes should have properly demarcated goals and there should be a mechanism to assess their socio-economic impact over a given period of time. The NSSO may be suitably strengthened and assigned this task.

4.4.8 Information Education and Communication – IEC

4.4.8.1 Legislation by itself does not guarantee empowerment of the people. There has to be an enabling environment which allows the meaning and import of legislations to percolate to the lowest level in a form which is intelligible to the common man. It enhances grass root capability which in turn leads to robustness of the democratic institutions. The willing and active participation of the people in local bodies is a sine qua non for strengthening the democratic functioning of these institutions. This requires a massive exercise in generating awareness about these institutions.

4.4.8.2 The importance of information in building and strengthening civil society is well-recognised but the responsibility for this does not rest only with the official machinery. Information received from a variety of sources and knowledge creation using multiple technologies is essential for political empowerment in a democratic framework. Information, Education and Communication (IEC) are generally identified as powerful tools for creating awareness, mobilising people and imparting knowledge and skills to them. Thus, the print media, the electronic media and other modes of communication like folk dramas plays etc. are important tools which could be utilised for creating awareness about the Panchayati Raj Institutions, their functioning, importance of peoples' participation, concept of social audit and for ensuring accountability and transparency. Further, convergence of such activities has to be ensured to achieve greater synergies in this field.

Box 4.7: Rural Radio Broadcasts by Ministry of Rural Development

Amongst the established modes of media channels, Radio is an effective medium to reach out to people in rural areas. Considering the reach and potential of Radio in rural area, the Ministry has been sponsoring Radio Programmes over AIR. Apart from broadcasts in Hindi and ten regional languages, the Ministry is also producing through DAVP one half an hour Radio Programme based on folk music and broadcasting over 128 local and primary stations of AIR in 19 languages and dialects.

To meet the area and region specific requirement of North-East Region and Tribal belt in Chhattishgarh, Western parts of Orissa etc., one half an hour programme each in the languages of the North-East and in the tribal dialects is being produced and broadcast weekly.

Souce: Ministry of Rural Development, Annual Report 2004-05

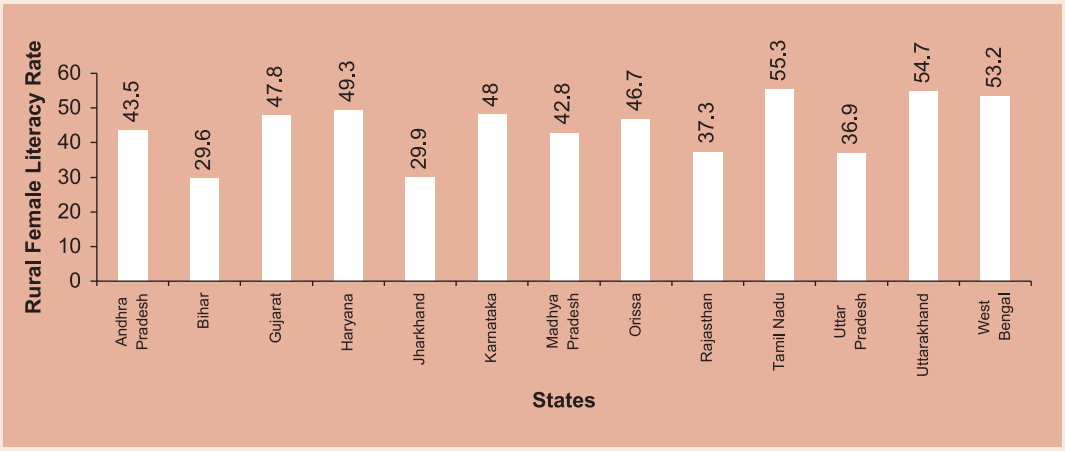
4.4.8.3 As per the National Readership Survey 2006, the print media covers only 45 per cent of urban and 19 per cent of rural areas[35]. The limitation of the print media in generating awareness among rural people was fully recognised by the Standing Committee of Parliament on Urban and Rural Development

[35]Source: para 30, 'Working Group Report of 11th Five Year Plan (2007-12) on Information and Broadcasting, Ministry of Information and Broadcasting, January 2007; http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_iandb.doc

(13th Lok Sabha)[36]. Further, the visual media also is of limited utility in the rural areas on account of lack of rural electrification and the relatively higher cost of a television set. This underlines the importance of the medium of propagation through 'Radio Broadcasting' both in terms of reach (99.13% of the population),[37] as well as the cost involved. In addition, this medium is not dependent on availability of electricity in rural areas, which is presently a major constraint as about 56.5% of the rural households in the country still remain without an electricity connection, more so in States like Bihar (94.9%), Jharkhand (90%), Assam (83.5%), Orissa (80.6%), Uttar Pradesh (80.2%) and West Bengal (79.7%).[38] Thus, rural radio broadcasting provides an effective medium for reaching out to the people.

4.4.8.4 To make people in rural areas aware about the functioning of the PRIs and their role in it, such rural broadcasting would have to be done in the local language(s) in use at the district level. This is basically due to low literacy levels prevalent in most rural areas (national rural literacy rate: 59.4%). Even in the case of rural literates, more often than not, literacy would mean simply the ability to read and write in the local language. The reason for this is that Census of India defines literacy to mean 'ability to read and write in any language'.[39] Thus, local language radio broadcasts would be equally effective in the case of both literates and illiterates. The issue of low literacy rate is of greater concern in the case of women and disadvantaged sections of the society in the rural areas. As a way of illustration, rural female literacy rate in some selected States is given in Fig. 4.4:

Fig.4.4: Rural Female Literacy Rate in Selected States



Source: Primary Census Abstract, Census of India, 2001

[36]Source: Para 8.3, 37th Report, August 2002; reproduced in 'The State of the Panchayats: A Mid-Term Review and Appraisal', 22 November, 2006, Vol. III, Ministry of Panchayati Raj, Government of India

[37]Source: para 95, 'Working Group Report of 11th Five Year Plan (2007-12) on Information and Broadcasting, Ministry of Information and Broadcasting, January 2007;

[38]Source: Ministry of Power, Government of India; http://powermin.gov.in/rural_electrification/electrification_of_rural_households.htm; retrieved on 09.10.2007

[39]Census of India defines literacy to mean 'ability to read and write in any language'; source: http://www,censusindia.net/census2001/history/censusterms.html

These figures assume importance in the light of Article 243D (3) of the Constitution, which provides for reservation of not less than one-third of the total number of seats (including the seats reserved for women belonging the SCs and the STs) to be filled by direct election in every Panchayat for women. Thus, as on 1st December, 2006, 36.7% of elected representatives in Village Panchayats and 37.1% in Intermediate Panchayats were women.[40] This further underlines the need for creating awareness in rural areas amidst low literacy rates through a medium like radio broadcasting. Empowerment without awareness and information would lead to disenchantment among the people and even degeneration of local institutions. In such a scenario, it is imperative that the local language in use at the district level is made the vehicle of awareness generation initiatives and rural radio broadcasts should carry their programmes in the local language prevalent in the district.[41] In fact, the Union Ministry of Rural Development has already adopted this approach and is getting its programmes broadcast in 19 local languages and dialects apart from Hindi and ten regional languages (see Box: 4.7). In a similar way, the vision of the third tier of the government, the content of Panchayati Raj legislations, the democratic processes involved, the conduct of elections, the nature and conduct of social audit, means of expression and redressal of public grievances, ways to measure the efficiency of the institutions, the use of the Right to Information Act, 2005 etc. could be communicated to the people more effectively through the spoken word in the local language. Rural radio broadcasts carrying such messages could also act as a medium of communication with regard to holding of Gram Sabha meetings, Panchayat meetings, decisions taken at District, Intermediate and Village Panchayat levels, audit of Panchayats etc.

4.4.8.5 The Commission is of the view that different modes of communication like the print media, the visual media, electronic media, folk arts and theatres etc. should be utilised to create awareness among the rural population. As mentioned earlier, it should be ensured that there is a convergence in approach to achieve synergies and maximise reach. The Commission is also of the view that district level rural broadcasting should become a full-fledged independent activity of the All India Radio. To achieve this, apart from covering issues related to Panchayati Raj Institutions and peoples' participation in local governance, these broadcasts should also focus

Box 4.8: Community Radio in Jharkhand

In the State of Jharkhand, the community radio programme 'Chala Ho Gaon Mein' (let's go to the village), initiated by the NGO 'Alternative for India Development' and aired by All India Radio, Daltongunj, completed its 500th episode on 18th May, 2007. This programme employs the local dialect, a mix of Bhojpuri and Hindi prevalent in the districts of Palamu and Garhwa, to voice community concerns over issues of local governance and social issues. Nearly 32,000 local artists have given performance in the radio programmes. The programme has been catering to more than 7 million population in three districts in Jharkhand, namely Palamu, Garhwa and Latehar and also districts in its neighbouring States of UP, Bihar and Chhattisgarh.

Source: http://www.aidindia.org.uk/cr_section/pev_500ep.htm, extracted on 6.09.2007

[40]Source: Table 1A & 1B, 'The State of the Panchayats: A Mid-Term Review and Appraisal', 22 November 2006, Vol.I, Ministry of Panchayati Raj, Government of India

[41]In the 1991 census, 2.31 crore had returned Bhojpuri as their mother tongue, 1.33 crore as Rajasthani, 1.05 crore each as Chhattisgarhi and Magahi, 77.66 lakhs as Maithili and 46.73 lakhs as Marwari (Source: http://www.censusindia.net/cendat/language/lang_tabl2.PDF)

on issues related to agriculture and rural development, which concern mainly with the rural areas and combine it with programmes on the citizens' Right to Information. The mechanism for this should be evolved by the Union Ministry of Information and Broadcasting in coordination with the Union Ministries of Panchayati Raj, Rural Development, Agriculture and other related Ministries.

4.4.8.6 Recommendations:

a. 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.

b. 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.

c. 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.

4.5 Role of Panchayats in Delivery of Services

4.5.1 Development is not just a basket of new investments and programmes but it is also a means to deliver quality public services to citizens. A list of such services can broadly be classified into following distinct categories –

- civic services like water supply & sanitation;
- social services like health & nutrition care, family welfare and primary/ school education;
- infrastructure e.g. construction of roads and culverts and rural electrification;
- welfare services like social security, pensions and distribution of essential commodities;
- extension services for conveying development messages to the stakeholders;
- governance-related services like issue of certificates and licenses, providing information etc.

4.5.2 So far, the quality of public services made available to the citizens in the rural areas has not been satisfactory. With proper design and effective decentralization, many of these services could be improved substantially. Under the current arrangement, except participating

Box: 4.9 : Approach of the Planning Commission in promoting access to Health and Education in the Eleventh Five Year Plan

Achieving the 11th Plan targets for health and education requires a greatly expanded role for the state in these areas. This is because access to essential public services such as health, education, clean drinking water, and sanitation is not an automatic outcome of rising incomes. It calls for deliberate public intervention to ensure delivery of these services. It is in this context that the National Rural Health Mission has been launched in order to improve the access and availability of quality health care, sanitation, and nutrition. Achievement of these targets also requires a conscious effort in capacity mobilization of the state at various levels to provide such services through public action. This can be supplemented wherever possible by private effort but there can be no doubt that even after allowing for the scope for expanded supply by the private sector, the bulk of the responsibility will fall on the public sector. For this reason, plan expenditure in education and health will have to increase substantially. However, mere increases in expenditure will not suffice unless accountability is also improved. For locally delivered services, such as elementary education and health, more active supervision by the PRIs can make a difference. For secondary and higher education, as well as for tertiary health care, other methods of monitoring performance and enforcing accountability are necessary. Both the Centre and the States have to cooperate in finding ways to improve monitoring and enforce accountability. Measures to bring about effective devolution to PRIs will help improve local involvement and accountability. Civil Society organizations can play a major role in assisting PRIs in this area.

Source: http://planningcommission.nic.in/plans/planrel/app11_16jan.pdf

in occasional campaigns for disease control or enrolment in schools, PRIs have practically no role in many of the activities in this sector. The most important step towards betterment of public service delivery would be to secure grass roots participation i.e. to involve PRIs. In this context it would be useful to analyse some of the structures which are responsible for delivery of services in the rural areas.

4.5.2.1 *Health*

4.5.2.1.1 Provision of health care facilities through Primary and Community Health Centres (PHC/CHC) and hospitals and prevention of diseases through health education are the two major components of the health care delivery system in the rural areas. Though primary health care is a subject that could be entrusted to local governments under the Eleventh Schedule of the Constitution, in order to give a special thrust to this sector, the Union Government has directly been running a large number of centrally funded programmes all across the country. These programmes are being implemented through special bodies functioning at the State as well as at the district level. In most of the States Gram Panchayats play no role in this area except for participating, along with the health department officials, in IEC campaigns like Pulse Polio immunization. Some Panchayats have contributed to the infrastructure and amenities in the Sub-centres/PHCs like provision of water, electricity

and toilets besides carrying out minor repairs. However, they do not have any power to set right anomalies, discrepancies, irregularities or non-availability of services either at the Sub-centre level or at the PHC level.

4.5.2.1.2 The role of the District and Intermediate Panchayats too, has remained limited to providing occasional infrastructure and procurement support. All the key activities lie with the line department. Purchase of medicines has also been centralized at the State level except in times of crisis when ZP funds are used to meet emergency requirements.

4.5.2.1.3 To sum up, currently, so far as primary health care is concerned, it must be addressed holistically to include preventive and promotive health care, water, sanitation, environmental improvement and nutrition under a common institutional umbrella and this can best be done by the PRIs.

Box: 4.10 : Drinking Water Coverage Norms

- 40 lpcd of drinking water for human beings;
- 30 lpcd of additional water for cattle in areas under the DDP;
- One hand pump or stand post for every 250 persons; and
- Availability of water source within 1.6 Kms in plains and 100 metres elevation in hilly areas.
- Habitations which have a safe drinking water source (either private or public) within 1.6 km in plains and 100 metres in hill areas but where the capacity of the system ranges between 10 lpcd to 40 lpcd, are categorized as Partially Covered (PC) and those having less than 10 lpcd are categorized as Not Covered (NC).

Source: Annual Report 2006-07 – Ministry of Rural Development, Government of India

4.5.2.2 *Water supply and Sanitation*

4.5.2.2.1 Like primary health, drinking water is also a subject that can be entrusted to the local governments under the Eleventh Schedule of the Constitution. Government of India has been funding substantially for execution of programmes in this sector. However, the guidelines for the implementation of rural water supply programmes under the National Drinking Water Mission leave the selection of the implementing agency to the State Governments. While in some States, the Rural Development/Panchayati Raj Department manages it through the Panchayats, in many others, implementation is directly through the State Water & Sewerage Board, or through a line department of the State Government like PHED. In most places, maintenance is still the responsibility of the same agency and very few community/user groups have volunteered to own the scheme.

4.5.2.2.2 The normal sources of drinking water in rural India are open wells, Mini Water Supply Schemes (MWS), Piped Water Supply Schemes (PWS) and Bore Wells with Hand Pumps (BWH). In some States, maintenance of MWS and PWS are with the GPs and of the BWH with the IPs. Even when the responsibility for maintenance of BWH has been transferred to GPs, the engineering support for repairs comes from the Intermediate

or District Panchayats. The user charges are to be levied and collected by the GPs, but, in most cases, the water tariff has been kept at a very low and its realization is also weak. Thus, the scheme as a whole becomes non sustainable. The Twelfth Finance Commission has recommended that the PRIs should recover at least 50% of the recurring cost in the form of user charges.

4.5.2.2.3 In some States, the responsibility for planning and implementation of drinking water schemes in rural areas does lie with the District Panchayat, however, the Village Panchayats are usually not consulted at the formulation stage. The beneficiary groups set up in several villages to implement Centrally Sponsored Schemes through community participation often act as parallel bodies, independent of the Village Panchayats. The Village Panchayats also face problems in maintenance, as procurement is the responsibility of the Zila Parishad or the State Government. Government of India has taken some initiatives in this regard. State Governments were asked to sign a Memorandum of Understanding with the Government of India before commencement of the Eleventh Five Year Plan in order to involve the community and PRIs and transfer the assets to them in a phased manner. Implementation of this system must be ensured.

Box: 4.11 : Emphasis on Water Supply in Rural Areas in the Tenth Plan

- "Not covered" habitations to get priority attention so that they get the required per capita quantity of drinking water.
- "All partly covered" habitations which are currently getting a supply of less than 10 litres per capita per day to be saturated.
- Habitations with poor water quality to be covered with safe drinking water facility.
- Rejuvenation of water facilities in habitations which were fully covered in the past but over the years have again slipped back to the "uncovered" or "partially covered" category.

Souce: http://planningcommission.nic.in

4.5.2.2.4 There is a direct relationship between Water, Sanitation and Health. Rural Sanitation coverage was only 22% in 2001. However, due to sustained efforts by the Government through Centrally Sponsored Schemes such as Central Rural Sanitation Programme introduced in 1986 which has now been modified as the Total Sanitation Campaign (TSC) in 1999, the percentage coverage has gone up to 43% as per the latest available figure[42]. The annual plan outlay for the TSC is Rs.1,060 crores for the year 2007-08. So far 570 districts of the country have been covered under this programme and the target is to achieve the objective of total sanitation coverage by the year 2012. This programme aims to change the earlier supply driven, high subsidy and departmentally executed programme to a low subsidy, demand driven concept with emphasis on hygiene education. Provision of sanitary facilities in schools, anganwadis and individual houses will go a long way in inculcating hygienic practices amongst both the children and adults. The health indicators in rural areas

[42]Source: Annual Report 2006-07, Ministry of Rural Development

would not show any significant improvement unless hundred per cent sanitation coverage is ensured along with a proper solid waste management system for the village.

4.5.2.3 *Primary Education*

4.5.2.3.1 The key activities in the delivery of primary education in rural India include:

- allocating funds;
- setting standards such as curriculum designs and learning achievement levels;
- planning for physical expansion and quality improvement of infrastructure;
- creating assets – human, social and physical; and
- operation and maintenance (O&M) of the assets thus created.

4.5.2.3.2 Enrolment of students and prevention of drop-outs, provision of text books and learning materials, hiring of teachers, their pre-service training, assigning of teachers to specific schools/classes, performance evaluation, in-service training, career prospects, setting examination schedules, maintenance of school buildings/ facilities, supervision over teachers, maintenance of discipline and monitoring of school processes are some of the sub-activities essential for delivery of quality primary education.

4.5.2.3.3 It is a Constitutional obligation of the Government to provide free and compulsory elementary education to all children up to the age of 14 years. The Union Government has been supporting the efforts of the State Governments through specific Centrally Sponsored Schemes. So far during a span of three decades there have been seven major schemes covering elementary education in the country namely Operation Blackboard, Non-formal Education, Teacher Education, Nutrition Support to Primary Education, Lok-jumbish, Shiksha Karmi and District Primary Education Programme (DPEP). The key ingredients of activities under these schemes included construction of classrooms, provision of teaching material, training of teachers, selection of volunteer teachers and supply of food grains for nutritional support. All these schemes have now been integrated into the Sarva Shiksha Abhiyan (SSA). This scheme aims at giving education to all children (age group 6-14 years) up to class 8 by 2010. It also aims to bridge all gender, social and regional gaps in education. The strategy document of this programme calls for community ownership through effective decentralization by active association of the PRIs. It also envisages involvement of the women's group, Village Education Committee (VEC) and some other external structures which are outside the PRIs.

Table 4.6 : Progress Against Key Input Targets of SSA

Sl. No.	Items	Cumulative Targets including 2006-07		Achievements (up to 31.3.2007)
1.	Construction of School Buildings	183461	Completed and in Progress	157516 (85.85%)
2.	Construction of Additional Classrooms	692678	Completed and in Progress	650442(93.90%)
3.	Drinking Water Facilities	170267	Completed and in Progress	158361(93.01%)
4.	Construction of Toilets	235041	Completed and in Progress	203577(86.61%)
5.	Supply of Free Texbooks	6.69 crores	Supplied	6.40 Crore(96%)
6.	Teacher Appointment	10.12 lakhs	Completed and in Progress	7.95 lakh(78%)
7.	Teacher Training (20 days)	3405615	Completed and in Progress	2952395(87%)
8.	Enrolment in EGS/ AIE Centres	12689299 children	69 lakhs	54%
9.	Opening of New Schools	240072	Completed and in Progress	193220(80%)

Source: http://ssa.nic.in

4.5.2.3.4 As per the recommendations of the Planning Commission, under the SSA, location of schools and construction of school buildings would be the function of the GPs. They would also select the teachers but their training programmes would be arranged by the Intermediate Panchayats. Teaching and training material would be arranged by Zila Parishad for which they should identify and promote resource centres. Nutritional programmes would be entirely managed by the GPs while the ZPs would arrange for linkages in respect of supply of food grains.

4.5.2.3.5 Four years after the introduction of SSA, it was stated in the first meeting of the Governing Council of the National Mission for SSA held in February 2005 that only 47

of the 100 children enrolled in Class 1 reach Class 8. This puts the drop out rate at 52.79 per cent which is unacceptably high. It is officially stated that at the primary level (Class I to V), the drop out rate is 34 per cent. Unfavourable student-teacher ratio, poor attendance of the students in schools, low teaching motivation, inadequate infrastructure and high level of absenteeism among the teachers are identified as major areas of concern. Universalization of elementary education through SSA with such a detailed allocation of work to different institutions of delivery has not been achieved. A primary reason seems to be that the ownership of the programme has not been given to the Panchayats.

4.5.2.3.6 Despite all the delineation of roles by the Planning Commission as stated above, the PRIs do not play any effective role in this programme. The key players appear to be the School Development and Management Committees (SDMCs) and the Block Education Officer (BEO). At the village level, the SDMC is exclusively responsible for all aspects of school administration; with no role for the Gram Panchayat. The Zila Parishad or its Standing Committee on Education too, has no say in policy making, in school administration, or in procurement and distribution of uniforms and scholarships. In effect, it is the State Education Department, which is directly responsible for running this programme.

4.5.2.3.7 The Commission feels that there is need to restructure the SDMC. This body should, as a rule, have the local GP representative as a member. For all its duties relating to enrolment, retention, local participation and other important issues, the SDMC should report to the GP. A detailed and clear activity and resource mapping exercise must be undertaken, specifying the roles of SDMCs and PRIs, which should be strictly adhered to thereafter.

4.5.3 In view of the above, the following steps are required to ensure the centrality of PRIs in service delivery programmes:-

- Unbundling the service into activities.
- Assigning clear responsibilities for different aspects of service delivery to agencies including PRIs – the role could range from planning to supervision and feedback.
- Placing the resources required for service delivery, both human and financial, with PRIs.
- Setting standards for services both institutional and otherwise. This has to be modulated according to available facilities and manpower.
- Preparing service delivery plans by the PRIs based on these standards in respect of each service, in consultation with the stakeholders and in accordance with the resources and facilities available. Milestones in upgradation of services in terms

of quality and quantity. Service Delivery Plans could be prepared by institutional committees consisting of stakeholders, officials, elected representatives and experts in respect of institutions like hospitals, schools and anganwadis. In respect of other services, the plans could be prepared in consultation with user groups.

- Publishing the elements of Services Delivery Plans in the form of Citizen Charters which would indicate the levels of assured services; measurement and feed back systems and grievance redressal systems.
- Putting in place a community based monitoring system including user groups, SHG networks and civil society groups to monitor the implementation of Service Delivery Plans and provide inputs for further improvement.

4.5.4 Recommendations:

a. In terms of the Eleventh Schedule of the Constitution, local level activities of elementary education, preventive and promotive health care, water supply, sanitation, environmental improvement and nutrition should immediately be transferred to the appropriate tiers of the PRIs.

b. State Governments need to prepare an overarching Service Delivery Policy outlining the framework within which each department could lay down detailed guidelines for preparation of Service Delivery Plans.

4.5.5 Resource Centre at the Village Level

4.5.5.1 Along with democratic empowerment in the form of local governments, there is need to create local information and resource centre at the levels of the Village and the Intermediate Panchayat. ICT and Space Technology have already prepared the ground for such a move. The time has come for augmenting national resource management and planning through creation, maintenance and flow of information from below.

4.5.5.2 These Resource Centres at the Village Panchayat level should utilize the potential of educated local youths in documenting and mapping local resources; soil types; drainage pattern; cropping and animal husbandry practices; water resources; land and farm holding; susceptibility to natural disasters – documentation of impact, recurrence, rescue, relief and settlement requirement; rural infrastructure etc. This locally generated information base should be corroborated through satellite imagery and other space-enabled services. Such space-enabled services would thus, need to be provided at Village and Intermediate Panchayat levels and it could be digitised. The information generated at the Village and

Intermediate levels should be collated and synthesized at the district headquarters and it could be used subsequently for preparation of a composite district plan.

4.5.5.3 Once these Resource Centres become operational, they should also be utilized for documenting in detail, local traditional knowledge, especially about medicine, natural resource management and agricultural practices; local arts and crafts; folk memories – ranging from folk tales and lores to local memories about historical events, movements, people and monuments; community festivals, gatherings, events and folk cultural practices etc. before they vanish into oblivion. This would not only generate a database for posterity but also create a sense of collective identity in the Panchayats, which would further strengthen their democratic functioning and inculcate a sense of common destiny and vision.

4.5.5.4 Government of India has recently launched a national level programme targeted at improvement in rural infrastructure in order to ensure better service delivery. The Government has approved a Common Service Centres (CSCs)[43] scheme, wherein one lakh CSCs will be established in approximately six lakh villages spread across the country. The CSCs are envisaged as the front-end delivery points for Government, private and social sector services to rural citizens of India, in an integrated manner. These Centres would also function as a means to connect the citizens of rural India to the World Wide Web. Another similar initiative to Common Service Centres of GoI, is "Mission 2007 : Every Village a Knowledge Centre". Mission 2007 was initiated in July 2004. Its goal is to take the benefits of Information and Communication Technology (ICT) - led development to every village by creating village knowledge centres. In order to achieve this ambitious mission, a National Alliance has been set up. The Government has supported this initiative by including it in the National Budget and providing Rs. 100 crores support out of the Rural Infrastructure Development Fund (RIDF).[44]

4.5.5.5 While appreciating such initiatives, the Commission feels that setting up space technology enabled Resource Centres at the Village and Intermediate Panchayat levels all across the country should be on the priority agenda of the government. This would require substantial capacity building at the local level. This would, in essence, also necessitate a shift from the currently available generalistic education at the post-school level, to a skill and technology based system which focuses on farm & animal husbandry practices, computer applications, commercial cropping and soil and water management. It will enable the rural youth to utilize their knowledge in the local environment, to earn better livelihoods and to manage their local resources in a productive and sustainable way.

[43]http://mit.gov.in
[44]www.mission2007.in

4.5.5.6 Recommendations:

a. 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.

b. These Resource Centres should also be used for documenting local traditional knowledge and heritage.

c. 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.

4.6 Local Government in the Fifth and Sixth Schedule Areas

4.6.1 Local Government in the Fifth Schedule Areas

4.6.1.1 *Salient features of Panchayati Raj (Extension to Scheduled Areas) Act, 1996, PESA*

4.6.1.1.1 In recognition of the fact that in several parts of India, the tribe is an effective community and a vehicle of political consciousness, Part X of the Constitution has incorporated special provisions with respect to social and economic protection of people living in the Scheduled and tribal areas of the country. For this purpose, under Article 244, a separate annexure to the Constitution has been created in the form of Schedule 5. In the background of their strong identity, a special clause in the form of Article 244(1)(5) stipulates that the provisions of Part IX relating to creation of Panchayats across the States do not automatically apply to these areas.

4.6.1.1.2 For decentralization of governance in these areas, government enacted a special legislation - the Panchayati Raj (Extension to Scheduled Areas) Act in 1996- which extends to all the notified scheduled areas located in nine States of the country. (i) Andhra Pradesh (ii) Chhattisgarh (iii) Gujarat (iv) Himachal Pradesh (v) Jharkhand (vi) Madhya Pradesh (vii) Maharashtra (viii) Orissa and (ix) Rajasthan.

4.6.1.1.3 The most significant feature, the essence of this legislation, is the acceptance of Gram Sabha as the most powerful unit of the Panchayat system. It recognizes that people living in these areas are acutely disadvantaged in terms of political education and empowerment. Also recognizing that the full-fledged multi-level Panchayat system as prevalent in the plains may marginalize the local people, PESA introduces a strong element of subsidiarity in the structure and provides for exercise of maximum power at the lowest level.

4.6.1.1.4 The Act defines a village as ordinarily consisting of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs. It stipulates that every village will have a Gram Sabha, which will be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution. With respect to the manner of reservation of seats at each Panchayat level the Act stipulates that reservation for the Scheduled Tribes shall not be less than half of the total number of seats and that all seats of Chairpersons of Panchayats at all levels will be reserved for the Scheduled Tribes. It has also been provided that State Government would nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level, not exceeding one-tenth of the total members to be elected in that Panchayat.

4.6.1.1.5 Article 4 of the Act provides details of the functions, powers and responsibilities of the Gram Sabha/Panchayat. These could be divided into the following three categories:-

(a) **Functions and responsibilities where the approval of the Village Gram Sabha is compulsory:** (i) Approval of plans, programmes and projects for social and economic development (before they are taken up for implementation). (ii) Identification/selection of beneficiaries under anti-poverty/other programmes. (iii) Grant of certification of utilization of funds to Panchayats.

(b) **Functions and responsibilities which require compulsory consultation with the Gram Sabha/appropriate Panchayat:** (i) acquisition of land for development projects, (ii) resettlement/rehabilitation of displaced persons.

(c) **Functions where prior recommendation of the Gram Sabha/Panchayat is necessary:** (i) grant of prospecting license and mining lease for minor minerals, (ii) grant of concession for the exploitation of minor minerals by auction.

4.6.1.1.6 This Act also directs the State Government that while endowing Panchayats in

the scheduled areas with powers and authority as may be necessary to establish them as institutions of self government, the State Government shall ensure that the Gram Sabha and the respective Panchayats are given specific powers with regard to enforcement of prohibition, ownership of minor forest produce, preventing land alienation, management of village markets, money lending etc. The Act also empowers Gram Sabha to exercise control over institutions and functionaries connected with local area planning.

4.6.1.1.7 Provision of any law relating to Panchayats which is inconsistent with PESA will cease to operate after one year of its enactment.

4.6.1.1.8 Article 4(n) of this enactment is of considerable significance in the sense that it inserts a specific clause that the higher level Panchayats in Scheduled Areas in no case should marginalize the Gram Sabha/Village Panchayat by assuming their power and authority. The States have been given very pointed directives in this respect.

4.6.1.2 *PESA and the Union/State Laws*

4.6.1.2.1 All the above nine States have amended the respective Panchayati Raj Acts to match them with requirements of PESA. However, much remains to be done with regard to subject laws and rules which also need to be modified suitably in accordance with provisions of PESA. Technically under Section 5 of the PESA Act all such laws have automatically become invalid after December 12, 1997. But in practice these laws are being still followed by the State Government machinery. Similarly there is a large number of Union legislations which need to be hormonised with the provision of PESA. Many policies and programmes of the Union Ministries/Departments will require suitable amendment.

4.6.1.2.2 PESA derives its constitutional validity from Article 243 M (4) (b) and the Fifth Schedule. This Schedule provides an enabling framework for preventing the exploitation of tribal and for providing peace and good governance in the Schedule Areas. Since PESA is a Union legislation and a logical extension of the Fifth Schedule, a duty is cast upon the Union Government to see that the provisions are strictly implemented. In case of reluctance by any State in implementing the provisions of PESA, specific directions can be issued by the Government of India under Proviso 3 of Part A of the Fifth Schedule of the Constitution.

4.6.1.2.3 Recommendations:

a) **The Union and State legislations that impinge on provisions of PESA should be immediately modified so as to bring them in conformity with the Act.**

b. If any State exhibits reluctance in implementing the provisions of PESA, Government of India may consider issuing specific directions to it in accordance with the powers given to it under Proviso 3 of Part A of the Fifth Schedule.

4.6.1.3. *PESA and Specific Policies of the Government/Centrally Sponsored Schemes*

4.6.1.3.1 There is a large number of Centrally Sponsored Schemes which are not compatible with PESA e.g. Policy on wastelands, water resources and extraction of minerals. These policies, as interpreted and implemented, have given rise, on occasions, to confrontations between the tribal people and the administration. Similarly, the National Policy on Resettlement and Rehabilitation of Project Affected Persons, 2003, National Water Policy, 2002, National Minerals Policy, 2003, National Forest Policy, 1988, Wildlife Conservation Strategy 2002 and National Draft Environment Policy, 2004 would also require detailed examination from the viewpoint of ensuring compliance to the provisions of PESA.

4.6.1.4 *Effective Implementation of PESA*

4.6.1.4.1 The PESA has been in existence since last eleven years, but the response of the States towards its implementation has been rather slow. The States have not gone beyond inserting broad amendments in their Panchayti Raj Act. In absence of a vocal leadership in these regions, compliance on other issues has been weak. Under the Fifth Schedule, Part A(3), special powers have been assigned to the Governors of the States concerned; they have to send annual report to the President regarding the administration of the Schedule areas. The report has to be analysed by the Union Government and if necessary, the Union Government has the powers to issue directions to the States. In fact the scope of the power given to the Union Government under this provision is comparable to its power under Article 256. But there have been very few occasions when the Union Government issued any direction to the State Government under this clause.

The Commission is of the view that due importance must be given to regular annual reports from the Governors as stipulated in the Fifth Schedule, Part A(3) of the Constitution.

4.6.1.4.2 In tribal areas, though, the society and economy is closely woven around womenfolk, their involvement at the Village Council/Gram Sabha level is minimal. Special efforts need to be taken to raise their status in this respect. There is need to make suitable provisions in the PESA Rules and Guidelines making it mandatory that the quorum of a Gram Sabha meeting would be acceptable only when out of the members present, at least thirty three per cent are women.

4.6.1.4.3 For effective compliance to legislation and protection of tribal rights, the administration at the lower levels ought to be sensitized. Special measures have to be taken to strengthen the local administration both in terms of intellectual enhancement and skill upgradation. One such measure could be constituting a group in each State to look into strengthening of the administrative machinery in the Fifth Schedule Areas. This group can consider important administrative issues such as creation of separate cadres of employees for the Fifth Schedule Areas, provision of hardship pay/allowance and other incentives, preferential treatment in accommodation and education etc. and make suitable recommendations to the State Government. Considering the importance of this exercise, the funds required for this purpose should be made available by the Union Government under Article 275 of the Constitution.

4.6.1.4.4 Recommendations:

a. **Regular Annual Reports from the Governor of every State as stipulated under the Fifth Schedule, Part A (3) of the Constitution must be given due importance. Such reports should be published immediately and placed in the public domain.**

b. **In order to ensure that women are not marginalised in meetings of the Gram Sabha, there should be a provision in the PESA Rules and Guidelines that the quorum of a Gram Sabha meeting will be acceptable only when out of the members present, at least thirty-three per cent are women.**

c. **Each State should constitute a group to look into strengthening of the administrative machinery in the Fifth Schedule Areas. This group will need to go into the issues of (i) special administrative arrangements, (ii) provision of hardship pay, (iii) other incentives, and (iv) preferential treatment in accommodation and education. All expenditure in this regard should be treated as charged expenditure under Article 275 of the Constitution.**

4.6.1.5 *Effective Implementation of the Tribal Sub-plan (TSP)*

4.6.1.5.1 The Prime Minister, while addressing the 51st meeting of the NDC held on 27-6-2005 had stated that the Tribal sub-plan should be made non-divertible and non-lapsable, with the clear objective of bridging the gap in socio-economic development of the Scheduled Tribes, within a period of ten years. The Expert Group on Decentralised Planning formed by the Panchayati Raj Ministry under the Chairmanship of Shri V. Ramachandran went into this problem and suggested a number of measures with regard to (i) role of the standing

committee for social justice in the States, (ii) co-option of NGOs in such committees, (iii) implementational responsibilities to Panchayats, (iv) impact assessment and (v) criteria for central support to TSP.

4.6.1.5.2 The Commission is of the view that since last many years, the tribal-sub plan has been a regular feature of the planning exercise in a State, it has been implemented in a ritualistic manner and treated just as an adjunct of the State budget. The performance has not been very encouraging, on account of both poor planning as well as weak implementation. Technically and professionally qualified personnel who are the sheet anchors of the development process, are reluctant to work in such areas. For government employees, a posting in these areas is considered to be a punishment. The situation is further compounded by lack of data; there has been little attempt in the past to have an impact assessment made. Then, finally, one has to contend with the problem of extremism which prevails on a large scale in some of these States. The Commission feels that both the Union as well as State Governments have to take special steps with regard to (i) creation of a special planning unit for scheduled areas in a State; (ii) special financial stipulation for the sub plans; (iii) incentivisation and capacity building of government employees; (iv) impact assessment of the past schemes; and (v) effective monitoring/social audit of the current programmes.

4.6.1.5.3 Recommendations:

a. **Keeping in view the inadequacy of the past efforts, State Governments should form a special planning unit (consisting of professionals and technically qualified personnel) to prepare their tribal-sub plan.**

b. **A certain portion of the allocation under TSP should be made non-lapsable on the pattern of the Non Lapsable Central Pool of Resources (NLCPR) created for the North-Eastern States. A special cell may be set up in the Ministry of Tribal Affairs to monitor expenditure from this fund.**

c. **The government may consider preparing an impact assessment report every year with respect to the States covered under PESA. This exercise may be assigned to a national level institute which has done similar work in the past e.g. National Council for Applied Economic Research (NCAER), National Institute of Public Finance and Policy (NIPFP), National Sample Survey Organisation (NSSO) or some other suitable agency. This agency will rate the performance of the State on predetermined indices.**

4.6.2 Local Governments in the Sixth Schedule Areas

4.6.2.1 The local government structure in the Sixth Schedule Areas of the Constitution will be covered as a part of the Reports on Conflict Resolution and on the State/District Administration.

5 URBAN GOVERNANCE

5.1 Urbanisation and Growth

5.1.1 Trends in Urbanisation

5.1.1.1 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.

5.1.1.2 According to UNFPA's *State of World Population 2007:*

> *"…in 2008, the world reaches an invisible but momentous milestone: For the first time in history, more than half its human population, 3.3 billion people, will be living in urban areas. By 2030, this is expected to swell to almost 5 billion. Many of the new urbanites will be poor. Their future, the future of cities in developing countries, the future of humanity itself, all depend very much on decisions made now in preparation for this growth."*

From the beginning of human existence till now, the number of people in rural areas, world-wide, exceeded those in urban concentrations. As stated above, by the end of 2008, it is expected that this position will be reversed. This huge demographic shift demands designing and implementing new systems and a redefinition of priorities and dramatic changes in the lifestyles of individuals and communities. Policy makers must acknowledge and plan for this paradigm shift.

5.1.2 Urbanisation and Economic Growth

5.1.2.1 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.

Table: 5.1 Distribution of the Total, Urban and Rural Populations of the World by Development Group: 1950-2030[45]

	Per centage of the World Population			
Development group	1950	1975	2000	2030
Total population				
More developed regions	32.3	25.7	19.7	15.3
Less developed regions	67.7	74.3	80.3	84.7
Urban population				
More developed regions	58.2	46.4	30.9	20.5
Less developed regions	41.8	53.6	69.1	79.5
Rural population				
More developed regions	21.6	13.5	9.7	7.1
Less developed regions	78.4	86.5	90.3	92.9

5.1.2.2 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.

5.1.2.3 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.

5.1.3 Urban Growth in India

5.1.3.1 The population of India grew 2.8 times between 1951 and 2001, from 361 million to 1027 million, while the urban population expanded 4.6 times, from 62 million to 285 million. The pace of urbanisation has also been slower in India as compared to other countries in the world. As per UN estimates, the degree of urbanisation in the world in 1950 was around 30 per cent which increased to 47 per cent in 2000. In India, it increased from 17.3 per cent in 1951 to 27.8 per cent in 2001. China and Indonesia which had lower levels of urbanisation in 1950[46], have now overtaken India with the percentage of urban

[45]Source: UN World Urbanisation Prospects: The 2003 Revision
[46]http://www.censusindia.net/results/eci_3.html

population being 32.1 and 40.9 respectively. In the decade of the 1990s, there were nearly 68 million new urban Indians, an increase larger than the entire Thailand. India's current urban population exceeds the whole population of the United States, the world's third largest country. By 2050, over half of India's population is expected to be urban dwellers.

5.1.3.2 The growth of India's urban population, indicating the increase in the number of urban centres and in the percentage of urban population is given in Table 5.2.

Table 5.2 : India: Number and Population (in Million) of Urban Agglomerations (UAs) and Towns (1901-2001)

Census Year	Number of UAs/Towns	Total Population	Urban Population	Urban Population as % of Total Population
1901	1,830	238,396,327	25,851,873	10.8
1911	1,815	252,093,390	25,941,633	10.3
1921	1,944	251,321,213	28,086,167	11.2
1931	2,066	278,977,238	33,455,989	12.0
1941	2,253	318,660,580	44,153,297	13.9
1951	2,822	361,088,090	62,443,934	17.3
1961	2,334	439,234,771	78,936,603	18.0
1971	2,567	548,159,652	109,113,977	19.9
1981	3,347	683,329,097	159,462,547	23.3
1991	3,769	846,387,888	217,551,812	25.7
2001	4,378	1,028,610,328	286,119,689	27.8

Note: Urban Agglomerations, which constitute a number of towns and their outgrowths, have been treated as one unit. Some of the data for 1981, 1991 and 2001 is adjusted.

Source: Census of India 2001

5.1.3.3 Three of the largest metropolises in the world – Mumbai, Delhi and Kolkata – are in India. (List given in Table 5.3).

Table 5.3 : The Largest Metropolises

Rank	Name	Population in 2005 (millions) (Projections)
1.	Tokyo, Japan	35.327
2.	Mexico City, Mexico	19.013
3.	New York-Newark, U.S.A.	18.498
4.	Mumbai, India	18.336
5.	Sao Paulo, Brazil	18.333
6.	Delhi, India	15.334
7.	Calcutta, India	14.299
8.	Buenos Aires, Argentina	13.349
9.	Jakarta, Indonesia	13.194
10.	Shanghai, China	12.665

Source: http://www.un.org/esa/population/publications/wup2003/WUP2003Report.pdf

5.1.3.4 Interestingly, none of the three megacities from India in the list of "top ten" were in the list even as recently as 1975. In that year, Mumbai was only 15th in the world list, but was 8th in 1985, and is expected to be the 2nd, after Tokyo, in 2010. Delhi was 25th in 1975, and is 6th now.[47] Other large cities have also shown phenomenal growth. The population of Bengaluru (earlier Bangalore), grew from 0.17 million in 1901 to 0.80 million in 1951 and 2.94 million in 1981 and then rocketed to 5.68 million in 2001. Thus, at the top of the urban structure in India are enormous, complex urban agglomerations, Kolkata, Mumbai, Delhi, Chennai and now Bengaluru and Hyderabad. These cities are amongst the 50 largest agglomerations in

Box 5.1 : Urban Growth Trajectories

India's urban trajectory contrasts sharply with that of China, here the size of the urban population was strictly controlled between 1949 and 1978, and city life was the privilege of a minority. Subsequent economic policies, however, favoured coastward migration to rapidly growing urban centres in special economic zones. Eventually, migration restrictions were slackened and official bias against cities declined as they became the engine of China's rapid economic growth….. China is now a major world manufacturing centre, and almost all of its factories are located in or near cities. The country has more than 660 cities, according to government data.

In India, a recent assessment of the components of urban growth 1961-2001 found that the share of growth attributable to urban natural increase ranged from 51 per cent to about 65 per cent over the period. Some 65 per cent of current urban growth in Latin America stems from natural increase, despite steep declines in fertility rates, especially in urban areas. China, where migration has recently predominated, is unusual.

Source: UNFPA - State of World Population 2007

[47]Based on Table 5.3 and United Nations Department of Economic and Social Affairs/Population Division : World Urbanisation Prospects: The 2003 Revision

the world. It will be increasingly necessary for India to organise and manage these mega cities and those growing to join that league, with a special effort.

5.1.3.5 The growth in population of large cities was higher than the overall population growth in urban India indicating the tendency towards concentration in larger agglomerations. The growth of million plus cities is given in Table 5.4:

Table 5.4 Growth of Urban Population in Million-plus Cities/Agglomerations in India 1901-2001

Census Year	Number	Population (in million)	Population per Million Plus City (in million)	% to Urban Population
1901	1	1.51	1.51	5.84
1911	2	2.76	1.38	10.65
1921	2	3.13	1.56	11.14
1931	2	3.41	1.70	10.18
1941	2	5.31	2.65	12.23
1951	5	11.75	2.35	18.81
1961	7	18.10	2.58	22.93
1971	9	27.83	3.09	25.51
1981	12	42.12	3.51	26.41
1991	23	70.66	3.07	32.54
2001	35	107.88	3.08	38.60

Source: Census of India 2001.

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

people. There are 108 million people in 35 urban agglomerations which have over one million people each, indicating that as many as 35 million people are residing in towns and peri-urban areas outside, but close to the main cities.

5.1.3.6 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.

5.1.3.7 The National Commission on Urbanisation (NCU), in 1988, had expressed its anxiety thus:

> *"(1) In 1981, there were 160 million people living in urban areas; by 2001 these will increase to 350 million. Where will these people go? How will they earn a living? How will they be housed? Can we really afford the infrastructure to service such large conglomerations of people?*
>
> *(2) Our urban areas, particularly the metropolitan cities, are in severe crisis. Our planning processes have proved to be intrinsically defective, the cities are overcrowded, urban land has become extremely scarce, services are breaking down, city management is often ineffective and human misery has increased beyond belief. How can we feel that we have progressed as a nation when, in just twenty years, almost every one of our major cities has been reduced to a virtual slum?*
>
> *(3) Just as the physical infrastructure and administrative systems have collapsed, so also have the processes for raising resources. For whatever reason, resource allocation in the urban field seems to follow a problem rather than anticipate it. The compulsions*

Box 5.2 : Urban Agglomeration

Urban agglomeration is a continuous urban spread constituting a town and its adjoining urban outgrowths (OGs), or two or more physical contiguous towns together and any adjoining urban outgrowths of such towns. Examples of outgrowth are railway colonies, university campuses, port area, military camps etc. that may have come up near a statutory town or city but within the revenue limits of a village or villages contiguous to the town or city. For Census of India, 2001, it was decided that the core town or at least one of the constituent towns of an urban agglomeration should necessarily be a statutory town and the total population of all the constituents should not be less than 20,000 (as per 1991 Census). With these two basic criteria having been met, the following are the possible different situations in which urban agglomerations could be constituted. i) a city or town with one or more contiguous outgrowths; ii) two or more adjoining towns with or without their outgrowths; iii) a city and one or more adjoining towns with their outgrowths all of which form a continuous spread.

Census of India, 2001, definition.

of a situation determine its allocation. This again is evidence of a system which is in severe crisis.

(4) The inefficiency of our cities and towns is being perpetuated by obsolete, rigid and inefficient laws, regulatory provisions and norms. The urban centres, with their concentration of diverse activities, should be generators of wealth; instead, they have degenerated into parasites looking elsewhere for support. This is a perversion of the economic system, because logically it is the urban markets which should trigger off prosperity in rural areas. Instead, the cities claim that they cannot even pay for their own upkeep, and constantly hanker for subsidies. This distorts profoundly, the basic relationship which should exist between the rural and the urban sectors of our economy.

5.1.3.8. Nearly 20 years have passed since the first National Commission on Urbanisation submitted its report. During this period, the importance of the urban sector and its contribution to the national economy and employment has increased manifold while the infrastructural constraints in our cities have become more acute. While the urban growth has been slower than anticipated by the National Commission on Urbanisation, the problems identified still remain valid. Indeed the magnitude and complexities of urban problems have increased and with that the urgency to reform 'urban governance' The Commission is of the view that a new National Commission on Urbanisation should be set up to take a holistic and long-term view of the entire range of policy instruments required to deal with the rapid urbanisation, including the large cities and to bring about more balanced and efficient urbanisation in the country.

5.1.4 Recommendation:

a. A new National Commission on Urbanisation should be constituted by Government to suggest measures to deal with the rapid urbanisation, including the large cities and bring about more balanced and efficient urbanisation in the country.

5.2 Structure of Urban Governance

5.2.1 A Broad Common Approach

5.2.1.1 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. Keeping in view the principles that have been enunciated earlier in this Report, and which form the basis of the reform measures proposed, 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 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.

5.2.1.2 *Different Types of Urban Local Governments:* The 74th Constitutional Amendment lays down three types of municipal bodies*:

1. Nagar Panchayat (by whatever name called): This is for a transitional area, which is transforming itself from being a rural area into an urban area;
2. Municipal Council: This is for "a smaller urban area"; and
3. Municipal Corporation: This is for "a larger urban area".

Implicit in the above classification of urban local governments is the recognition of the need for variation in the functional domain and requirements depending on the size of the population they need to serve.

5.2.1.3 *Census categories:* In the Census of India, 2001, two types of towns were identified: (a) *Statutory towns:* all places with a municipality, corporation, cantonment board or notified town area committee, etc. so declared by a State law, and (b) *Census towns;* places which satisfied the following criteria: i) a minimum population of 5,000; ii) at least 75 per cent of male working population engaged in non-agricultural pursuits; and iii) a density of population of at least 400 persons per sq. km.[48] The category-wise number of urban centres in India is given in Table 5.5.

Table 5.5 : Urban Agglomerations/ Towns by Class/ Category: Census of India 2001

Class	Population Size	No. of UAs/Towns
Class I	1,00,000 and above	393
Class II	50,000 – 99,999	401
Class III	20,000 – 49,999	1,151
Class IV	10,000 – 19,999	1,344
Class V	5,000 – 9,999	888
Class VI	Less than 5,000	191
Unclassified		10
All classes		4378[49]

* The term Urban Local Body (ULB), municipal body, Municipal Council in a generic sense and Urban Local Government (ULG) have been used interchangeably in the Report.

[48]Explanatory note on Town/City and Urban Agglomeration as adopted in Census of India, 2001

[49]Population Census, 2001 could not be held in certain towns/cities of Gujarat State on account of national calamity. Source: Office of the Registrar General of India. (Population totals for India & States for the Census of India – 2001).

5.2.1.4 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. Accordingly, the categorisation given in Table 5.6 is used in this Report for convenience:

Table 5.6 : Recommended Categorisation of Urban Local Governments

Size	Nomenclature	Nos.
ULGs with a population up to 20,000:	Town Panchayats	2433
ULGs with a population between 20,000 and 1,00,000:	Municipal Councils	1552
ULGs with a population between 1,00,000 and 10,00,000:	City Municipal Council	366
ULGs with a population between 10,00,000 and 50,00,000:	Municipal Corporations	21
ULGs with a population above 50,00,000:	Metropolitan Corporations	6

** These norms could be suitably modified for hilly areas.*

5.2.2 Proposed Basic Structure – Ward Committees and Area Sabhas

5.2.2.1 *Need for Greater Citizen Participation*

5.2.2.1.1 The Commission has examined the various structures that exist today, in statutes and in practice. 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. These issues have been kept in view while proposing a modified structure for urban governance.

5.2.2.1.2 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.

5.2.2.1.3 The statistics given in Table 5.7 for Karnataka indicate how much more involved in democratic decision-making a rural citizen is likely to be than his/her urban counterpart:

Table 5.7: Political Representation Ratios, 2000

Rural Karnataka Population			**Urban Karnataka Population**		
Level	No. of units	No. of Reps.	Level Level	No. of units	No. of Reps.
Zila Panchayat	27	890	Metropolitan Corporations	6	410
Taluk Panchayat	176	3,255	City Municipal Councils	40	1,308
Gram Panchayat	5,659	80,023	Town Municipal Councils	81	1,919
			Town Panchayats	89	1,373
Total No. of Elected Representatives		84,168	Total No. of Elected Representatives.		5,023
Citizen: Representation Ratio		380:1	Citizen: Representation Ratio		3,400:1

Source: Based on report furnished by Janaagraha, Bengaluru.

5.2.2.1.4 The representation ratio between citizens and their elected representatives is almost ten times larger in urban areas. 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.

5.2.2.1.5 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.

5.2.2.2 *Area Sabhas*

5.2.2.2.1 Though the council and the ward levels are commonly known, the proposed Area Sabha needs some detailing, especially because it would be the starting point for the other two upper echelons of urban governance. 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.

5.2.2.2.2 Role of the Area Sabhas: The role of the Area Sabha needs some consideration. An Area Sabha should be the functional equivalent of the Gram Sabha in villages. It should not be merely a political space for opinion formation, as that may happen if some responsibilities are not formally attached to it. The concept of neighbourhood groups looking after their own welfare, within a limited mandate needs to be explored. The Gram Sabha has certain functions that are performed within its area. The same approach could be considered for the Area Sabha, its urban counterpart. The Area Sabha should be a legitimate, formal space, which would need to be explicitly defined in terms of constitution, composition, functions, duties and responsibilities.[50] The Area Sabha will perform functions similar to Gram Sabha such as prioritising developmental activities and identifying beneficiaries under various schemes.

5.2.2.2.3 Members of the Area Sabha: Presently, in most States, the membership of the Ward Committee is by nomination. This is partly because of the propensity of the State Government to gain partisan advantage in nomination, and partly because of the genuine

[50] Union Ministry of Urban Development has circulated a model community participation law called "NAGARA RAJ BILL, 2006". The Model Bill prescribes a detailed structure of Area Sabha with its rights, powers, functions and duties. The Model Bill also includes detailed provisions regarding constitution and governance of Ward Committees, embedding the above structure into a legal document, with details like the constitution, composition, functions, roles and responsibilities of the Area Sabhas and Ward Committees.

difficulty in identifying legitimate citizen representatives within the ward. A system in which the Area Sabha members are elected, would overcome this difficulty. 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.

5.2.2.3 *Ward Committees*

5.2.2.3.1 The present Constitutional position is that Ward Committees must be constituted *"consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more"* (Art.243S). As stated earlier, even in States where Ward Commitees have been constituted, the population is at times well in excess of 3 lakhs served by a single Ward Committee. For instance, in Mumbai city' there are 227 corporators' divisions serving a population of 18.3 million. They are divided into 24 Ward Committees, each corresponding to an existing Ward Officer's jurisdiction, merely to fulfil the constitutional obligation of creating Ward Committees. Each such committee has 9 or 10 corporators' divisions in its jurisdiction, covering a population ranging from 7 to 11 lakhs. Similarly, in Hyderabad, there are 10 Ward Committees for 100 corporators' divisions, each committee serving about 4 lakh people. The very purpose of a Ward Committee is defeated by clubbing several Wards/divisions, and creating a body for the population of the size of a normal city. Neither citizen participation nor local decision making is feasible in such large Ward Committees and at best it helps in internal delegation. A large Ward Committee also reinforces the tendency to resort to a 'spoils' system by rotation of membership or chairmanship and reduces accountability and transparency.

5.2.2.3.2 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.

5.2.2.3.3 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. These should cover all the relevant activities that may be delegated by the Legislature or the Municipal Council. A suggestive functional and financial devolution to the Ward Committees is as follows (based on "Empowerment of Local Governments, Stakeholders and citizens", a Discussion Paper for the National Advisory Council, March, 2005):

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.

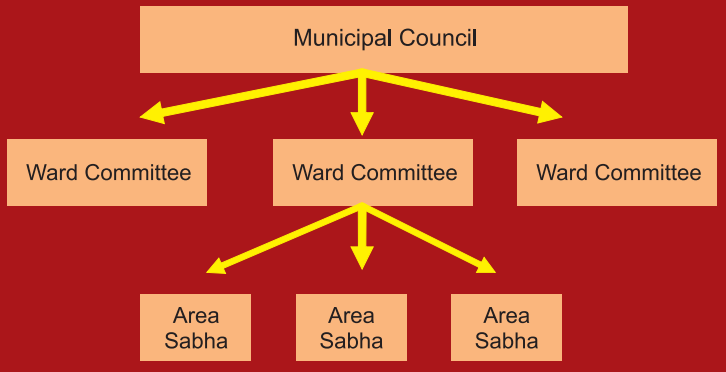
f. The Ward Committees should be given a share of the property taxes collected from the ward, depending on the economic profile of the locality.

g. The Ward Committee may raise funds through other sources.

5.2.2.3.4 Non-residential Stakeholders: 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.

Figure 5.1: Pictorial Representation of the Proposed System



5.2.2.3.5. Delineation of Functions in the Three Tiers: 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.

5.2.2.4 Recommendations:

a. Government may consider the adoption of a common categorisation of urban bodies across the country to improve clarity in their definition so as to assist a systematic planning process and devolution of funds. A categorisation on the lines proposed given in Table 5.6 could be adopted.

b. There should be three tiers of administration in urban local governments, except in the case of Town Panchayats, where the middle level would not be required. The tiers should be:

i. **Municipal Council/Corporation (by whatever name it is called);**

ii. **Ward Committees; and**

iii. **Area Committees or Sabhas.**

c. **Each Area Sabha comprising all citizens in one or two (or more) polling station areas, should 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 State may, by law, prescribe the procedure and other details for such election.**

d. **Ward Committees should be set up in every Ward/Corporator's Division, The present system of having more than one ward in a Ward Committee needs to be given up.**

e. **Ward Committees need to be given legitimate functions which can be handled at that level. These functions could include street lighting, sanitation, water supply, drainage, road maintenance, maintenance of school buildings, maintenance of local hospitals/dispensaries, local markets, parks, playgrounds, etc.**

f. **Funds allocated for the functions entrusted to the Ward Committee should be transferred en-bloc to the Ward Committee. The budget proposed by the Ward Committee in respect to the functions allotted to it should be taken into account in formulating the overall municipal budget.**

g. **Meetings of the Ward Committee should be widely publicised to ensure maximum citizens' participation.**

h. **Ward Committees should be given a share of the property taxes collected from the ward, depending on the locality.**

i. **The allocation of functional responsibilities between the tiers must be clearly spelt out. While doing so, the principle of subsidiarity should be followed. Broadly, the Area Sabha should perform functions similar to the Gram Sabha such as prioritising developmental activities and identifying beneficiaries under various schemes.**

j. A process of activity mapping similar to the one taken up for PRIs should be carried out for all ULBs within one year.

5.2.3 Zonal System for Large Cities

5.2.3.1 The very size of large cities poses a challenge in their organisation and management– from the point of view of space, population and complexity including the span of control. In large cities, excessive centralisation within the city government would erode efficiency and effectiveness in delivery of services, making it difficult to cope with the citizens' problems on a day-to-day basis. There should be little need for the citizen to have to go to the City Hall to get his/her work done; it should be possible to delegate many functions at the zonal level. Kolkata is divided into boroughs, an additional tier of governance. In Mumbai, the ward officers have delegated authority to take decisions, provide services and execute public works in the area. The Commission is of the view that within one large city, a number of zonal offices should be set up. Such zonal offices do exist in many cities, but, generally do not have adequate delegated powers. The powers of the city government, covering all decision-making for administrative purposes, can be delegated and exercised in the zones. Broadly, one zonal office for every five lakh (or less) population, could be considered. The system could be introduced in all Municipal Corporations within the next three years.

5.2.3.2 Recommendation:

a. 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.

5.2.4 The Office of the Mayor/Chairperson

5.2.4.1 *Election and Term of Office of the Mayor/Chairperson*

5.2.4.1.1 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.

5.2.4.1.2 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.

5.2.4.1.3 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.

5.2.4.1.4 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, as shown in the Table 5.8.

Table 5.8: Mode of Election of Municipal Chairperson and Their Terms

State	Election	Term
Andhra Pradesh	Indirect	Five years
Assam	Indirect	One year
Delhi	Indirect	One year
Gujarat	Indirect	Two-and-half years
Haryana	Indirect	One year
Himachal Pradesh	Indirect	One year
Karnataka	Indirect	One year
Kerala	Indirect	Five years

Table 5.8 Contd.

State	Election	Term
Madhya Pradesh	Direct	Five years
Maharashtra	Indirect	Two-and-half years
Orissa	Indirect	One year
Rajasthan	Indirect	Five years
Tamil Nadu	Direct	Five years
Uttar Pradesh	Direct	Five years
West Bengal	Indirect	Five years

Source: NCRCW, A consultation paper on Decentralisation and Municipalities.

5.2.4.1.5 Some of the methods of appointing the executive head of city governments in other countries are given in **Annexure V(1)**. Generally, a City Council is the most common form of elected government in a city or town, with the Mayor (from the Latin major, meaning larger, greater) being the elected chief executive in most cities. There is wide variation in local laws and customs regarding the powers and responsibilities as well as the manner of election of the Mayor. The Mayors of New York and London are popularly elected by direct vote every four years. The Mayor of Toronto is elected by direct popular vote once in three years. The Mayors of Tokyo, Sydney and Athens are also popularly elected. In Paris, the Mayor is chosen by proportional representation. The Mayor of Rio de Janeiro is popularly elected by a two-round majority system. In Mexico City, Bogota and Buenos Aires the Mayors are popularly elected. In Johannesburg, the executive Mayor is at the top of the list of proportional representative candidates of the Party that aims for the majority support. In almost all these cities, the city government is a powerful institution with very real and effective role in the management of most aspects of the city. The Mayor is usually the head of the executive branch of the city government. In most cases, the police, airports, ports, fire services, traffic and transport are under the city government's control, in addition to roads, water supply, sanitation, drainage and sewerage.

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

5.2.4.1.7 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.

5.2.4.1.8 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.

Box 5.3: Netaji as Chief Executive Officer

In 1924, Netaji Subhas Chandra Bose was made the Chief Executive Officer of the newly constituted Calcutta Corporation, on the proposal of Deshbandhu Chittaranjan Das who was the Mayor. Netaji has himself written: "Though my appointment to this important post at the age of twenty-seven was generally approved in Swarajist circles, it did not fail to cause a certain amount of heart-burning in some circles within the party. To the Government it gave great annoyance and it was not without a great deal of hesitation that they decided to give their approval, as they were required to do under statute." (Collected Works, Vol. II, Chapter V, 1981.)

The appointment as CEO, despite opposition, exhibits the potency of the local body in its relationship with the Government. But it also indicates that the Government did, ultimately, accept the views of the local body, a trait not easy to come by today.

5.2.4.1.9 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.

5.2.4.1.10 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.

5.2.4.1.11 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.

5.2.4.1.12 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 Jeneiro 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.

5.2.4.1.13 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.

5.2.4.2 *Role of the Mayor/Chairperson*

5.2.4.2.1 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.

5.2.4.2.2 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.

5.2.4.2.3 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.

5.2.4.3 Recommendations:

a. The functions of chairing the municipal council and exercising executive authority in urban local government should be combined in the same functionary i.e. Chairperson or Mayor.

b. The Chairperson/Mayor should be directly elected by popular mandate through a city-wide election.

c. The Chairperson/Mayor will be the chief executive of the municipal body. Executive power should vest in that functionary.

d. The elected Council should perform the functions of budget approval, oversight and framing of regulations and policies.

e. In municipal corporations and metropolitan cities, the Mayor should appoint the Mayor's 'Cabinet'. The members of the Cabinet should be chosen by the Mayor from the elected corporators. The Mayor's Cabinet shall not exceed 10 per cent of the strength of the elected Corporation or fifteen, whichever is higher. The Cabinet will exercise executive authority on matters entrusted to them by the Mayor, under his overall control and direction.

5.2.5. Management Structure of Urban Local Governments

5.2.5.1. There is a broad uniformity in their structure and functions as explained below.

5.2.5.2 *The Commissioner*

5.2.5.2.1 The Municipal Commissioner today is the chief executive and is vested with executive powers[51]. Although the Municipal Corporation/Council lays down policies for

[51]For example: Section 39 of The Kolkata Municipal Corporation Act stipulates that the Municipal Commissioner shall be the Principal Executive Officer of the Corporation.

the governance of the city, it is the Commissioner who takes bottom line responsibility for the execution of such policies. The powers of the Commissioner are those provided under the relevant State law and as delegated by the Corporation/Council. In most of the urban local bodies, the Commissioner (or the Chief Officer) is an officer of the State Government deputed to work in the municipal body. The Commission has already recommended that the Mayor/Chairperson should be the chief executive and the Commissioner/Chief Officer should discharge functions that are delegated to him/her.

5.2.5.2.2. As regards appointment of the Municipal Commissioner, there are two viewpoints. One view holds that unless the Municipal Commissioner is an 'outsider' appointed by the State Government, he/she may not be able to resist pressures - a situation that is clearly not in public interest. The other view is, unless the Mayor/Chairperson, as the Chief Executive of the local government, has complete control over all staff including the Commissioner he would not be in a position to fully discharge his duties towards the electorate and the Mayor/Chairperson should, therefore, appoint the Commissioner/Chief Officer. The Commission is of the view that the elected Mayor/Chairperson is accountable to the electorate. This accountability should also have commensurate authority over the staff of the local government. The Mayor/Chairperson should, accordingly, have a final say in the matter of appointment of the Commissioner/Chief Officer. However, in order to ensure that the right person is selected, the State must lay down, by law, the procedure and qualifications for selection and appointment to this post.

5.2.5.2.3 The responsibility for selection and appointment of the Commissioner may be given to the Metropolitan Corporations and Municipal Corporations within a period of two years. For all other ULGs, this should be possible in three years' time. Selection could be done by the Mayor from a panel of names, which could be prepared by a bipartisan Committee to be set up by the Council/Corporation. Appointment should be for a minimum period to be extended based on performance. During such time as the Commissioners/Chief Officers are deputed by the State Government, selection of the Commissioner should be from a panel of names, from which the Mayor could select an officer.

5.2.5.3 *Staffing of Municipalities*

5.2.5.3.1 Generally, a municipality should have the following staffing groups – Conservancy and Waste Management, Engineering, Financial Management, Audit, Public Healthcare, Education and Culture, and Revenue. In larger municipalities, the staff is under the employment of the municipality except for some senior positions where officers/staff are given on deputation by the State Government. The Commission is of the view that ultimately all municipal bodies should have the power to appoint their own staff. State

Governments may, however, lay down the procedure and the principles of making such appointments. The existing State-wide municipal cadres may continue for the present but no fresh recruitments need be made to such cadres.

5.2.5.3.2 Some States also have Directorates of Municipal Administration. These Directorates exercise supervision over the local bodies and sometimes also act as cadre controlling authorities for the common cadre of municipal personnel. It is envisaged that, in future, the municipal bodies would recruit and manage their own staff, thus obviating the need for centralised control exercised at the State level. The present system of the Directorate of Municipal Administration exercising supervision over the local bodies intrudes into the autonomy of the ULBs. The Commission is of the view that organisations like Directorates of Municipal Administration come in the way of true decentralisation and should be abolished.

5.2.5.4 Recommendations:

a. **The Mayor should be the Chief Executive of the municipal body while the Commissioner should perform the functions delegated to him/her.**

b. **The responsibility for selection and appointment of the Commissioner and other staff may be given to the Metropolitan Corporations within a period of two years. For other bodies this may be done within three years. States should, however, by law, lay down the procedure and conditions of such appointment. For the duration that the Commissioner/Chief Officer continues to be drawn from the State Government, selection should be made by the Mayor from out of a panel of names sent by the State Government.**

c. **The Directorates of Municipal Administration, wherever they exist, should be abolished. In case there are State-wide cadres of municipal employees, no fresh appointments to these may be made and the employees should be absorbed in municipal bodies through a due process.**

5.3 Urban Finances

5.3.1 Overview

5.3.1.1 As municipal institutions evolved during the pre-independence period, their role increased gradually with the transfer of more and more functions and powers to them. Lord Mayo, Governor General (1869-72) issued a Resolution giving more functions

to the elected bodies. Lord Ripon in 1882, further extended the scope of local governments. This was followed by devolution of certain taxation powers to local governments. Despite the transfer of several functions to municipal institutions, availability of adequate financial resources was always an issue. Gopal Krishna Gokhale had moved a resolution in the Indian Legislative Council on 13th March 1912, which read:

> *That this Council recommends to the Governor General in Council that a Committee of officials and non-officials may be appointed to enquire into the adequacy or otherwise of the resources at the disposal of local bodies in the different provinces for the efficient performance of the duties, which have been entrusted to them, and to suggest, if necessary, how the financial position of these bodies may be improved (Manager of Publications, 1951, p.21)*[52].

Box 5.4: International Comparison of Fiscal Role of ULBs

Indian ULBs (Urban Local Bodies) play a relatively limited fiscal role in comparison to selected, other countries. International fiscal comparisons are fraught with problems of non-comparability across data sources and institutions, and such comparisons should be interpreted with great caution. Nonetheless, a comparison of per capita total expenditures and revenues in corporations with the average per capita local expenditure and revenue in Poland, Russia, Brazil, Mexico or South Africa shows that Indian ULBs spend and collect considerably less expenditure and revenues per capita than all of the comparison countries except for Mexico, which is roughly similar to Maharashtra. Corporations in Maharashtra spent an average of $58 per capita, well below Russia's average local expenditure of $349 or Poland's average local expenditure of $358. These expenditure disparities reflect in part the income differentials, but also the fact that Indian ULBs do not have significant responsibility for health and education services, which are an important local responsibility in other countries. Similar disparities hold in per capita revenue collections as well.

Source: Urban Finance and Governance Review; World Bank 2004

5.3.1.2 The Government of India Act, 1919, provided for clear demarcation of powers to the local bodies and included in its range of municipal taxes, tolls, land tax, tax on buildings, vehicles and boats, tax on animals, octroi, terminal tax, tax on trade, professions and callings, tax on private market and tax on municipal services like water supply, lighting, drainage and public conveniences.

5.3.1.3 Sardar Vallabhbhai Patel, the then Chairman of Ahmedabad Municipality said:

> "*It is being said that the franchise of the electorate has been enlarged and the local bodies have been given very wide powers. True, I accept it. But what good would come out of it unless and until the question of local finances is settled first. The extension of franchise and widening the scope of duties would be like dressing a dead woman.*[53]

5.3.1.4 The Government of India Act, 1935, seeking to establish a two-tier federation, however, changed the entire approach to urban local governance and reduced the taxation powers of local bodies transferring these to the provinces. This structure was retained in

[52]http://fincomindia.nic.in/speech/chaubey_ulb.pdf, retrieved on 15-8-07
[53]http://fincomindia.nic.in/speech/chaubey_ulb.pdf; Presidential Address of Sardar Vallabhbhai Patel, at who was the Chairman of the Ahmedabad Municipality (1935), at the Provincial Local Bodies Conference at Surat in 1935

our Constitution. With the powers of the States over local bodies kept in List II (State List) of the Seventh Schedule and the authority to tax restricted to the Union and the States, States were empowered to decide on functions and financial powers of the municipalities.[54]

Box 5.5: Financial Position of Urban Local Bodies

"The Committee express their deep anguish to note that most of the Municipalities etc., which are statutorily responsible for provisioning and maintenance of basic infrastructure and services in cities and towns are under fiscal stress. They are given to understand that many of the Municipalities have not been able to carry out their assigned civic functions and pay salaries and wages. to their employees, although, the financial conditions of bigger municipal corporations had not been as bad as of smaller municipalities."

[Tenth Report of the Standing Committee on Urban Development-(2004-2005); Fourteenth Lok Sabha]

5.3.1.5 Though the performance of municipalities on revenue mobilisation and spending levels varies across States, it can generally be said that even after the 74th Constitutional Amendment, the financial position of the municipal institutions has not improved commensurate with their functions and responsibilities. Further, the position of the smaller municipal institutions is much worse and at times they find it difficult to even meet their establishment costs.

5.3.1.6 Estimates indicate that the share of municipal expenditure in the total public sector expenditure has been steadily decreasing from nearly 8 per cent in 1960-61 to 4.5 per cent in 1977-78 and to approximately 2 per cent in 1991-92. In 1991-92, municipal bodies raised only Rs. 3,900 crores from their own resources, as compared to Rs. 48,660 crores by the States and Rs. 83,320 by the Centre.[55] According to the Twelfth Finance Commission, the size of the municipal sector, measured in terms of resources raised and spent by the municipalities, was just one per cent of the GDP and transfers from States to urban local bodies, which constituted an important source of revenues for urban local bodies, was only 3.8 per cent of the States' own resources.

Box 5.6: Expenditure on Establishment

Expenditure on Establishment (salaries and wages) accounts for 54.2% of the total municipal expenditure. In several States, however, it is as high as 80.4%. ….There exist no norms with respect to division of expenditure between establishment and operations and maintenance, and therefore, it is not possible to ascertain if these proportions are, in any way excessive.

Source: India Infrastructure Report 2006- Urban Infrastructure.

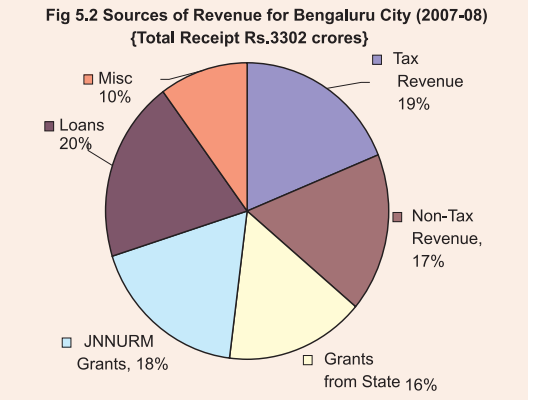
5.3.2 Finances of ULBs

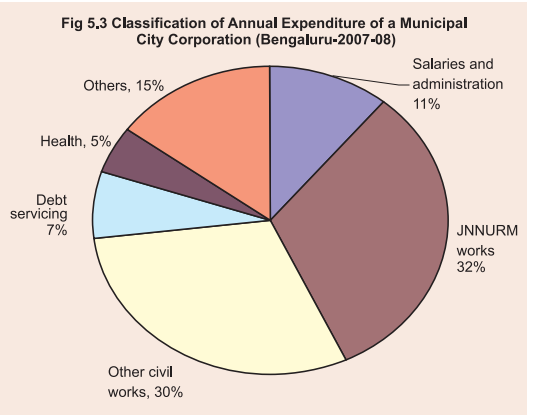
5.3.2.1 The robustness of urban local bodies would be reflected in the state of their finances and in their capacity to look after their own needs. The basic requirement of financial sustainability must be intertwined with the need for financial powers. Unfortunately, even as the urban population is growing at a rate faster than the national rate, urban bodies

[54]See http://www.worldbank.org/urban/mun_fin/uifpapers/garg.pdf, retrieved on 15-8-07
[55]Redefining State-Municipal Fiscal Relations.: Options and Perspectives for the State Finance Commissions, May 1995, NIPFP.

have become increasingly dependent on the Union and the States for financial resources. An example of the receipts and expenditures of a municipal body is shown in Figures 5.2 and 5.3.[56] Receipts in case of an urban local body can be broadly classified as follows:

- Tax Revenue - property tax, advertisement tax etc;
- Non-Tax Revenue - income in terms of rent, royalty, interest, fees and profits/dividends, user charges for public utilities such as water, sewage etc;
- Devolution of funds from the State Government;
- Grants from Union and State Governments for development schemes;
- Borrowings





5.3.2.2. The All India trend in municipal resources is given in Table 5.9:

Table 5.9: Trend in Municipal Resources (Rs. in Crores)

	1997-98	1998-99	1999-00	2000-01	2001-02
Revenue					
Own Tax	6,060.34	6,582.77	7,235.65	8,261.89	8,756.10
Own Non-Tax	1,606.07	1,914.50	2,101.74	2,562.75	2,918.55
Total Own Revenue	7,666.41	8,497.27	9,337.39	10,824.64	11,674.65
State Transfers	3,275.01	4,281.28	5,225.63	5,423.33	5,629.58
Total Revenue	10,941.42	12,778.55	14,563.02	16,247.97	17,304.23
Revenue Expenditure	9,147.91	10,722.15	12,053.91	12,849.10	13,621.44

Source : NIPFP

[56] Source: Website of Bruhat Bengaluru Mahanagara Palike; http://www.bmponline.org/

5.3.2.3 The data available in the report of the Twelfth Finance Commission, however, indicates a somewhat different position. That report indicates that the own revenues of the municipalities in 2001-02 was Rs. 8760.16 crores, which came down the next year to Rs. 7360.28 crores. That was possibly incomplete data provided by State Governments.

Table 5.10: All India Revenue and Expenditure of Urban Local Bodies (All Levels) (As per Twelfth Finance Commission's Report)

(Rs. in Crores)

	1998-99	1999-00	2000-01	2001-02	2002-03
Revenue					
Own Tax	4755.52	5151.01	5617.57	5885.81	4941.18
Own Non-Tax	2117.90	2228.84	2642.95	2874.35	2419.11
Own Revenue	6873.42	7379.86	8260.52	8760.16	7360.28
Assignment + Devolution	2208.32	2646.60	2981.84	2744.63	2228.90
Grants-in-Aid	1807.86	2251.21	2239.24	2671.65	2075.97
Others	625.03	895.30	1099.45	972.76	931.35
Total Other Revenue	4641.22	5793.10	6320.52	6389.04	5236.22
Total Revenue	11514.64	13172.96	14581.04	15149.20	12596.50
Revenue Expenditure	9059.47	10690.30	11665.88	12204.78	10671.63
Capital Expenditure	2975.47	3761.36	4077.17	3709.51	3325.40
Total Expenditure	12034.95	14451.67	15743.05	15914.29	13997.02

Source: Filled in questionnaires received by the Finance Commission from various State Governments

5.3.2.4 In spite of the variations in the figures compiled by different agencies, for want of a uniform accounting and reporting framework, it is evident that municipal revenues have generally had limited buoyancy. As per the data with NIPFP, the growth rates for revenues of ULBs, from 1997-98 to 2001-02, are as follows:

Own Revenue Receipts of Municipalities	–	10.48 per cent
Tax Revenue Receipts of Municipalities	–	9.20 per cent
Non–Tax Revenue Receipts of Municipalities	–	14.93 per cent
State Transfers to Municipalities	–	13.54 per cent

5.3.2.5 In comparison, the tax revenues of the Union Government grew from Rs. 187060 crores in 2001-02 to Rs. 442153 crores in 2006-07 (budget estimates), an annual average increase of 47.27 per cent. Tax revenues of the States grew in this period from Rs. 128097 crores to Rs. 252573 crores, which translates into an average annual growth of 39.44 per cent. Even though the two sets of data pertain to different periods, the trends brought out therein are clear enough.

5.3.2.6 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 (The role of SFCs has been examined in detail in Chapter 3.5).

5.3.2.7 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).

Box: 5.7 : Tax Domain for Municipalities

"The Committee also noter that the State Governments specify the taxes that the Municipalities could levy and collect which are largely taken from the State List in the 7th Schedule of the Constitution of India. Since no distinctive tax domain has been specified for the Municipalities, the State Municipal Laws are non-uniform in respect of municipal taxes. The Committee, therefore, recommends that the Union Government should emphasise on the States/UTs for clear-cut tax domain for Municipalities in all the State Governments/UTs so as to ensure more methodical and proper fiscal management by Municipal bodies."

{Source: Standing Committee on Urban Development (2004-05), Tenth Report; Recommendation, Para No. 3.10}

Earlier schemes for Infrastructure Development in Mega Cities, Integrated Development of Small and Medium Towns (IDSMT), Accelerated Urban Water Supply Programme (AUWSP) and Urban Reforms Initiative Fund (URIF) have been subsumed in the new schemes.

5.3.2.8 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.

5.3.2.9 The National Commission to Review the Working of the Constitution recommended as follows:

> *The Commission, therefore, recommends that the Eleventh and the Twelfth Schedules should be restructured in a manner that creates a separate fiscal domain for Panchayats and Municipalities. Accordingly, Articles 243H and 243X should be amended making it mandatory for the Legislature of the States to make laws devolving powers to the Panchayats and Municipalities.*

5.3.2.10 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.

5.3.3 Property Tax Reforms

5.3.3.1 With the abolition of Octroi by most States, Property Tax is the most important source of revenue for local governments. There have been substantial reforms in Property Tax administration in recent years. Earlier, 'Annual Rental Value' (ARV)[57] was the basis of levy of this tax. This mode of assessment had many drawbacks – the manner of assessment was opaque and gave a lot of discretion to assessing officials and it was inelastic and non-buoyant. The Supreme Court directed the improvements in the taxation methodology. Government of India formulated and circulated the Guidelines for Property Tax Reforms, in 1998. As a result, a large number of municipal bodies have switched over from the traditional ARV based

[57]ARV is defined as the reasonable rent a property may fetch or actually fetches.

assessment to the 'Unit area' or the 'Capital value' methods. In spite of these measures, there are several additional measures which could be taken to improve the tax base and enhance the efficiency of its collection. Some of these are discussed in the succeeding paragraphs.

5.3.3.2 *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[58]. 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.

5.3.3.3 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

[58]Article 285: (1) The property of the Union shall, save in so far as Parliament may, by law, otherwise provide, be exempt from all taxes imposed by a State or any authority within a State.

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.

5.3.3.4 *Rationalising the Appeals Process:* Assessment of the tax chargeable on a property is the first step in property tax administration. Earlier, the assessing officer had a substantial amount of discretion and consequently there were large number of complaints against such officers and, in a number of cases, the assessees would file an Appeal. With the introduction of 'self assessment', be it the 'unit area method' or the 'capital value method', the number of appeals is likely to come down. However, even then, there may be cases which, when subjected to detailed scrutiny could lead to revision of the tax. In such cases the assessee, if aggrieved, would obviously prefer an appeal.

Box: 5.8 : Tax Collection Efficiency

{Collection as a per cent of Current Demand (1999-2000)}

Mumbai	55.6%
Calcutta	55.0%
Bangalore	63.8%
Hyderabad	74.8%
Bhopal	19.4%
Ludhiana	70.0%
Mirzapur	31.0%
Ahmedabad	12.5%
Chennai	63.1%
Jaipur	58.9%
Patna	66.0%

Source: Dr A Ravindra and Vasanth Rao, Property Tax Reform in India (UNDP Study, 2002)

5.3.3.5 In the earlier system, the appeal against the assessing officer lay with the Chief Executive Officer or with a Standing Committee comprising elected representatives. The Commission is of the view that in the interest of fairness and objectivity the appeal should lie to an independent quasi-judicial authority.

5.3.3.6 *Improving Collection Efficiency:* It has been experienced that the collection efficiency of municipal taxes is in the range of 40 to 46% (NIUA, 1993). A more recent study (vide Box 5.8) shows wider variation. Poor data base management, improper upkeep of records, collusion between tax payers and recovery officers and lack of understanding of the tax regime are the main reasons for low recovery rates. Last, but not the least, the enforcement powers with the recovery officers are often not used for fear of reprisal. Introduction of the new simplified and transparent system of taxation would definitely improve the collection efficiency. A periodic physical verification of the properties and taxes levied on them should be carried out in each municipal area by a separate wing directly under the control of the Chief Executive. Besides, randomly selected cases of assessment should be audited by the government auditors as is done by C&AG in case of Union and State taxes. As both the 'unit area method' and the 'capital value method' are based on the principles of self-ssessment, the law should provide for exemplary penalties in cases of suppression of facts by property owners.

5.3.3.7 *Making Property Tax Buoyant:* One of the major drawbacks of property tax based on Annual Rental Value (ARV) was that it was non-buoyant. The tax fixed for a property would remain unchanged till such time an overall revision in the property tax was undertaken in the municipal areas. Such revisions in some places did not take place for several years or even decades. The Unit Area Method overcomes this problem to some extent as the various parameters for assessment of tax can be changed periodically so as to reflect the market values. Property tax based on 'capital value' overcomes this problem totally, as taxes are self-assessed by the property owner every year and while doing so the market value prescribed for that year are taken into account. This ensures that the property tax reflects the current market value and hence is buoyant.

5.3.3.8 Recommendations:

a. State Governments should ensure that all local bodies switch over to the 'unit area method' or 'capital value method' for assessment of property tax in a time-bound manner.

b. The categories of exemptions from property tax need to be reviewed and minimised.

c. 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, in itself, confer any right of ownership, in case the property is found to be constructed in violation of any law or regulation.

d. Tax details for all properties should be placed in the public domain to avoid collusion between the assessing authority and the property owner.

e. The State law should also provide for tax on properties belonging to the municipal authorities which are given on lease, to be payable by the occupants.

f. Law should provide for the levy of service charge on properties belonging to the Union and State Governments. This service charge should be in lieu of various services provided such as solid waste management, sanitation, maintenance of roads, streetlighting and general civic amenities.

g. A periodic physical verification of the properties and the taxes levied on them should be carried out in each municipal area by a separate wing directly under the control of the Chief Executive.

h. A computerised data base of all properties using GIS mapping should be prepared for all municipal areas.

i. Randomly selected cases of assessment should be audited by the government auditors as is done by C&AG in case of Union taxes.

5.3.4 Octroi

5.3.4.1 Octroi was the main source of revenue for the municipal bodies in the past. It has been abolished in most States because of the obsolete method of levy and collection persistent demand by trade and transport. The tax, however, still exists in a few States. It has been argued that levy of 'Octroi' is based on an outdated method of collection which breeds corruption and hampers free movement of goods. Several committees have gone into this issue. Maharashtra collects well over Rs 5,000 crores, mainly in Mumbai, through this tax. The Government of Maharashtra set up a study group to suggest alternatives to Octroi, but the report is reportedly yet to be accepted and acted upon. In terms of administrative efficiency, Octroi breeds delays in the movement of goods and is neither transparent nor efficient. Mumbai, which is estimated to collect Rs. 3,925 crores in 2007-08 has a staff of over 4,500 persons just to assess and collect this tax. The Commission is of the view that Octroi should be abolished, but at the same time, States should evolve mechanisms to compensate the local bodies for the loss in revenue as a result of such abolition.

5.3.4.2 Recommendation:

a. Octroi should be abolished, but the States should evolve mechanisms to compensate the local governments for the loss of revenue caused by such abolition.

5.3.5 Other Taxes

5.3.5.1 Local Government being a State subject, different States have authorised the local bodies to levy different kinds of taxes. Some of these taxes are Professional Tax, Advertisement Tax, Entertainment Tax, Tax on Entry of Tourists, Animal Tax, Water Tax, Lighting Tax etc. Besides, the local government levies several cesses like education cess, library cess, beggary cess etc. The proceeds from these sources is much lower as compared to Property Tax. However, Professional Tax has the potential of generating significant resources for the local governments. The upper ceiling of Rs 2500, on the tax rate prescribed under the Constitution {Article 276(2)} limits the potential of this tax. There is need to amend this Article to enhance the upper limit on the professional Tax. The Commission would not go into a detailed examination of each tax but recommends that certain principles should

be followed in the administration of these taxes. These principles are – (i) The levy of tax should be made totally transparent and objective, (ii) the cost of collection for the local body and the cost of compliance for the tax payers should be reduced to a minimum, (iii) there should be an independent unit under the Chief Executive to monitor the collection of all taxes, and (iv) as far as possible, all levies should 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.

5.3.5.2 Recommendations:

a. 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.

5.3.6 Non-Tax Revenues

5.3.6.1 *User Charges:* The most important sources of non-tax revenues are the user charges, the payments a citizen has to make for the public services he/she uses. These would include water charges, sanitation and sewerage charges, waste collection charges, charges for street lighting, fees for parking, fees for use of congested roads by motorists, fees for use of local services etc. There has been a tendency to charge for various services at rates that are much

lower than the actual cost of provisioning such services. This concern has also been expressed in the Government's Economic Survey 2006-07 as follows:

> *In terms of financing patterns, the foundation of urban infrastructure has to be user charges. It is possible for urban institutions to access funds from the capital markets to finance a large portion of capital expenditure on urban infrastructure, which can be serviced by user charges in the future. While municipal bond issues have indeed taken place, the magnitude of resources raised is as yet insignificant. The user-charge financed approach can facilitate a massive increase in capital expenditure on urban infrastructure without worsening the fiscal problem. In addition, the tariff restructuring or subsidy design allows for more efficient and targeted impact on the poor.*

5.3.6.2 There are several reasons for this state of affairs. First, there is reluctance on the part of the elected local governments to charge fair rates for fear of becoming unpopular. As a result, the resources available for maintaining and running these services get limited and consequently the quality of service declines. This leads to a vicious circle where the consumers also resist any increase in the service charges. Second, lack of availability of required economic and financial expertise at the local level (especially in case of smaller municipalities) prevents them from arriving at correct rates for the utilities. Third, the poor paying capacity of a segment of population is used as an excuse for not charging even others, who can and should pay.

5.3.6.3 The Union Government and the State Finance Commissions have examined this issue and recommended that appropriate rates should be charged for the services provided by the municipal bodies. The Union Government has made it mandatory for ULBs in the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) and Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) to levy reasonable user charges with the objective that the full cost of operation and maintenance is collected within the next five years.

5.3.6.4 This Commission is of the view that the levy and collection of appropriate user charges must be encouraged. For this, a significant portion of grants to the municipalities may be linked with their own efforts at resource raising.

5.3.6.5 The 'User pays' principle is applicable to a large number of services. But there are services where the individual user is not identifiable and the services are of a collective nature. In such cases, recourse should be made to 'Betterment levy'. This is already being done in some cities. The levy of another category of charges based on the externalities created or 'Polluters pay' principle is still in a nascent stage in India but needs to be used sufficiently. A

good example of this could be the traffic congestion caused by large scale economic activities or even concentrated dwelling units. Such major developments create congestion not only in the neighbouring areas but also contribute to congestion in the city centre. It is, therefore, necessary to carry out an impact study for all such major developments, and a 'congestion' charge' may be levied which could then be used to take steps to ease congestion.

5.3.6.6 All municipal laws generally provide for imposition of fines for a large number of civic offences. Although the proceeds of such fines may not be significant, their levy has a salutary effect on compliance of various municipal laws and bye laws and this indirectly leads to increase in municipal resources. However, such fines are imposed in rare cases. One reason is that the power to impose fines is not given to the municipal authorities and proceedings in the court of a magistrate have to be instituted. The Supreme Court has held that:[59]

> *"The normal rule of legislative drafting is that whenever it says that a particular act shall be 'punishable with fine', it contemplates its imposition by a criminal court only."*

Box 5.9 : Impact Fees

The Government of Andhra Pradesh permitted the Municpal Corporation of Hyderabad to levy Impact Fees to mitigate the impacts of construction of commercial complexes that lead to increased traffic necessitating decongestion measures. Distinction is made between on-site and off-site (local area) development cost and city-wide impact cost. The Impact Fees are meant to address city-wide problems emanating from high density commercial development. These fees – levied at Rs.25 per square feet – are required to be deposited in a separate account of the Municipal Corporation and utilised for implementation of capital improvement and decongestion plans i.e., for works such as road widening, link roads, slip roads, parallel roads, junction improvements including traffic signals, fly-overs, rail over-bridges, rail under-bridges, etc. Under no circumstances, the amount is to be spent for salaries and maintenance works.

Source: Innovative Urban Development Financing Practices: A Case Study of Hyderabad City, India , P K Mohanty; http://www.municipal-finance.org/downloads/Hyderabad.pdf

5.3.6.7 Thus even for imposition of a small fine, prosecution has to be launched in a criminal court. The municipal authorities rarely launch such criminal proceedings. This, in turn, has given rise to the feeling that the municipal authorities are 'soft' in enforcing the law and is a major reason for widespread violation of civic laws. The Commission is of the view that in several types of cases pertaining to the violation of civic laws the power to impose spot fines should be given to the municipal authorities (the Commission in its Report on 'Public Order' has recommended the creation of a municipal police service for better compliance of civic laws). Another reason for poor compliance of civic laws is the relatively non-deterrent nature of penalties prescribed. For example, there are a large number of offences where the prescribed fine is less than Rs.100. Therefore, the punishment prescribed for all civic offences need to be revisited and modified.

[59]Municipal Corporation of Ludhiana vs. The Commissioner, Patiala, 1995(2) RRR 110 9SC)

5.3.6.8 Recommendations:

a. A significant portion of grants to the municipalities must be linked with their own efforts at resource raising.

b. An impact study should be carried out for all major developments in the city. A congestion charge and/or betterment levy in relation to such projects may be levied wherever warranted.

c. The power to impose fines for violation of civic laws should be given to municipal authorities. The relevant laws may be suitably modified.

d. The fines prescribed for civic offences need to be enhanced. The amount of fine should be regulated by rules under the law so that it could be revised periodically without the necessity of an amendment to the law.

5.3.7 Borrowings

5.3.7.1 Urban infrastructure traditionally has been planned and implemented by State Governments, municipal governments or parastatals, through use of their own revenue surpluses or grants from the Union/State Government. Municipal bodies and parastatals have also been raising loans from financial institutions to fund their capital expenditure. Most of these loans are guaranteed by the State Governments. A major disadvantage of this type of funding (with government guarantee) is that it dilutes the responsibility of the borrowers and they are not very serious about recovery through levy of appropriate charges on the beneficiaries of such projects. Thus, it brings a sense of financial indiscipline to some extent. However, with State Governments enacting fiscal management laws greater fixed prudence would be required on part of both State Governments and Municipal bodies. Consequently, Municipal bodies could find it difficult to secure loans in future, without undertaking financial reforms. Moreover, financial institutions have also become more prudent and they look for improved kinds of securities (like escrow accounts) from the local bodies. All this has made it necessary

Box 5.10 : A Regulatory Framework for Borrowing

A regulatory framework would need to be established that enforces a hard budget constraint and eliminates the cycle of state bailouts. Such a framework might require the establishment of bankruptcy legislation, creditors remedies and workout procedures for borrower defaults, and possible methods of interceding in ULB management if necessary. South Africa has developed a relatively robust regulatory framework for local borrowing and financial emergencies that might provide insights for Indian states. Having experienced three major state debt crises during the 1990's, Brazil's federal government enacted a series of controls on sub-national borrowing, including the Law of Fiscal Responsibility. Finally, for a hard budget constraint to work, individual states must be committed to letting ULBs fail rather than bailing them out.

Source: The World Bank

for local governments to bring in accounting reforms so that their accounts reflect a clear picture of their assets and liabilities on the one hand and adoption of prudent practices to improve their finances on the other. Government of India is already persuading the States through JNNURM to introduce financial reforms in the urban local bodies. Such reforms should be extended to cover all local governments in a phased manner.

5.3.7.2 At present, the borrowing powers of local governments are limited and they have to seek the approval of the State Government for any borrowing. This system should be replaced by one of automatic approvals provided certain norms are fulfilled. However, fiscal prudence would require that larger borrowings are scrutinised by the State Government.

5.3.7.3 *Accessing the Capital Market:* The last decade has seen the emergence of the municipal bond market. Municipal bodies, especially in larger cities have taken recourse to raising resources by floating municipal bonds. The Bangalore Municipal Corporation was the first municipal body to raise funds by issuing bonds in the early 1990s backed by a State Government guarantee. On the other hand, the Ahmedabad Municipal Corporation floated bonds that were not backed by any State guarantee. Several municipalities have accessed the capital market so far and raised funds for infrastructure development. The fact that the municipal bodies have succeeded in raising resources on the strength of their own creditworthiness indicates the potential for raising resources for financing urban projects. An added advantage of this method of mobilising resources is that these bodies improve their efficiency and greater awareness about quality of service.

5.3.7.4 The issuance of debt by municipalities is governed by a number of laws, such as the Public Debt Act, 1944, the Securities and Exchange Board of India Act, 1992, the Local Authorities Loan Act, 1914, the Security Contracts (Regulation) Act, 1956 and the Depositories Act, 1996. Besides, there are a large number of instructions/guidelines to be followed before the municipal bodies can access the capital market. The capacity in the municipal bodies is limited to handle these legal and financial requirements. Efforts should be made to ensure that responsible borrowing is encouraged and the capacity to do so enhanced.

5.3.7.5 Successful implementation of projects based on municipal bonds would require strong financial and administrative capabilities in the municipalities in order to service the bonds. The municipalities would have to follow economic pricing for their services so that their actual costs are recovered from the citizens. Besides, professionalism in project formulation, objectivity in evaluation of alternatives and transparency in the decision making process would be a necessary pre-condition for success of a bond issue. Last, but not the least, the funds mobilised should be used for economically viable schemes.

5.3.7.6 The Commission would recommend that municipal bodies should be encouraged to raise their own resources. Any borrowing, be it term loans from financial institutions or market borrowings, could be adopted by the municipal bodies depending upon their capability. Initially, borrowings appear attractive as they improve the liquidity of these bodies in the short run. But it need to be ensured that the deployment of resources is in economic activities. State support would, however, be required by smaller local bodies. Such bodies would need to be given State guarantee or in the alternative pooled financing mechanisms would have to be put in place.

5.3.7.7 Recommendations:

a. The limits of borrowings for various municipal bodies in a State may be fixed on the recommendation of the SFC.

b. Municipal bodies should be encouraged to borrow without Government Guarantees. However, for small municipalities, pooled financing mechanisms will have to be put in place by the State Government.

c. The capacity of the municipalities to handle legal and financial requirements of responsible borrowing must be enhanced.

5.3.8 Leveraging Land as a Resource

5.3.8.1 Municipal bodies often have a wide range of assets on their balance sheets ranging from infrastructure net works to public buildings, from housing to municipal shopping centers as well as land. In view of the recommendation of this Commission that development authorities should be merged with concerned ULBs and their technical/planning manpower subsumed with the DPCs and MPCs; the substantial land holdings of the development authorities should also eventually come under municipal ownership. With spiralling prices of land in cities, it is extremely necessary that these assets are managed properly.

5.3.8.2 Asset management involves deciding what to do with these assets, specifically, whether such assets should be leased and, if so, there is the issue of how these can be re-priced so that users pay the true economic costs or whether they should go for outright sale in order to generate resources upfront for infrastructure creation. Many cities in China have financed more than half of their infrastructure investment from land leasing and have also borrowed against the value of land on their balance sheets to fund infrastructure investments. Land leasing in China, for example, involves sale of long-term occupancy and development rights. Thus, Shanghai, in the period 1992-2004, generated over US$12.5 billion from land leasing while Shenzhan generated 80% of its local Government revenues

from land leasing. Even in India, in the last three years, the Delhi Development Authority (DDA)[60] has generated over Rs.6000 crores as revenue from sale of developed land, largely for commercial uses. The potential for revenue through land sales has been further heightened by India's urban real estate boom. To cite another example, MMRDA in Mumbai in a single auction in January 2006 sold plots in the Bandra Kulra Complex for Rs.2290 crores.

Box 5.11: New Fiscal Tools Innovated in Haryana

- Local Area Development Tax @ 4 per cent of the value of goods moving from one area to another within the State.
- Tax on Profession, Trade and Callings
- Fire Tax @ one per cent of ARV
- Rs.100 tax on Driving License
- Five paise per unit on power consumption
- Rs.2,500 per year on hotels, restaurants, banquet halls, petrol pumps, nursing homes, gas agencies, private schools ad colleges, furniture show rooms, milk dairies, industrial units.
- Rs.1,500 per year on private laboratories, commercial colleges, computer centres and show rooms of big companies
- Rs.1,000 per year on workshops, service stations, ice factories, flour mills
- Tent houses, cable operators, printing presses, medical and general stores.
- Levies on registration of new vehicles.

Source: Municipal Financial Resource Mobilisation: Status, Concerns and Issues - Gangadhar Jha

5.3.8.3 However, sale of public urban land in India is dominated by development authorities and has neither been instrumental in fiscal decentralisation to the local level nor have they contributed significantly to the municipality's capital budget. The Government of Rajasthan has, however, made a progressive move in this direction by stipulating that 15% of the proceeds from land sales of the Jaipur Development Authority should be given as grant to the cash strapped Jaipur Municipal Corporation.

5.3.8.4 In economic terms, municipalities have to not only leverage land as a resource but also avoid the fiscal risk of becoming dependent upon asset sales for covering their recurring costs (and delaying politically difficult decisions on users' charges). They must use the proceeds of land sales mainly to finance investment and capital works.

5.3.8.5 Most municipal bodies have a large number of properties given on rents or lease. However, the earnings out of these properties are quite low. This is primarily because of litigations by the current occupiers who neither pay the market rent nor vacate the premises. Such litigations generally go on for years. The Commission is of the view that the respective municipal laws should provide that any built up property of municipal bodies shall not be given on rent for more than a period beyond 5 years and after expiry of the prescribed period the property shall be given on rent only through a competitive process.

5.3.8.6 A basic necessity for leveraging land for revenue generation is the proper upkeep of land records. This is all the more important for citizens, as at present the system of keeping

[60]Source: Based on annual report of DDA.

of land and property records does not ensure a clear title. There is no convergence between the registration process, the property taxation system and the record of rights maintained by the revenue department of the State Government (if they are at all maintained). The increasing population density and skyrocketing real estate prices in urban areas underlines the importance of proper land management systems in urban areas. The Commission would be dealing with this subject in its Report on District Administration.

Box 5.12 : FSI as a Resource

With a transparent policy of according planning permission and keeping in view the need for road widening, the Government of Andhra Pradesh has permitted the Municipal Corporation of Hyderabad to undertake widening of roads by using Floor Space Index (FSI) as a resource. The Commissioner is authorised to grant building permissions for additional construction area over and above that permitted by the Zoning/ Building/FSI Regulations. Land surrendered horizontally is compensated by additionally permitted construction vertically. The Corporation rebuilds the demolished compound walls/other structures and grants permission to land-owners to go up vertically. The extent to which vertical construction is to be permitted depends on the extent of land surrendered by parties and the prevailing FSI in the area. If there is no scope for going vertical, the landowners can avail Transferable Development Rights (TDR) for using the same elsewhere or selling to other builders. In some cases even construction of buildings for non-residential use (commercial/ institutional) is permitted to induce the landowners to part with valuable residential land for road widening.

Source: Source: Innovative Urban Development Financing Practices: A Case Study of Hyderabad City, India , P K Mohanty; http://www.municipal-finance.org/downloads/ Hyderabad.pdf

5.3.8.7 Recommendations

a. **Municipal bodies should have a periodically updated database of its properties. IT tools like GIS should be used for this purpose. This database should be in the public domain.**

b. **Land banks available with the municipalities as well as with the development authorities should be leveraged for generating resources for the municipalities. However, such resources should be used exclusively to finance infrastructure and capital expenditure and not to meet recurring costs.**

c. **Until the development authorities are merged with urban local bodies, a proportion of the revenue realised by such agencies from the sale of land, say, 25%, should be made available to the municipalities for meeting their infrastructure financing needs.**

d. **The respective municipal laws should provide that any built up property of municipal bodies shall not be given on rent/lease without following a competitive process. Such a lease period shall not exceed five years.**

5.3.9 Raising Resources through other Measures

5.3.9.1 Apart from the traditional modes of revenue generation, there are many innovative levies which could be used to enhance the resources of municipal bodies. Several municipal bodies, for example, have used FSI as a resource, rationalised the fee structure for different services provided by the municipal bodies, levied congestion charges on vehicles in general or on vehicles entering a congested zone etc. It would be advisable that the Ministry of Urban Development gathers details about all innovative levies. This would bring out the potential of revenue generation and other implicationsof each of such levy and act as a guide for the municipal bodies for additional resource mobilisation.

5.3.9.2 Another popular mode of resource mobilisation is Public-Private-Partnerships (PPPs). PPPs are an ideal model which brings together the social concerns of the municipal bodies and the professional competence of the private sector. Urban transport, waste management, housing and road and bridges are some of the sectors where PPP models have been successful. PPP models, however, require utmost care on the part of municipal bodies as inadequate scrutiny, faulty contracts, weak monitoring and evaluation mechanisms and above all financial weakness may lead to skewed arrangements in which the public interest may suffer in the long run. Therefore, the institutional capability of municipal bodies needs to be enhanced as a necessary pre-condition for successful PPP projects. Government of India has already circulated PPP guidelines on urban infrastructure.

5.4 Infrastructure and Service Provision

5.4.1 Types of Services Provided by Urban Local Bodies

5.4.1.1 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.

5.4.2 Regulatory Services

5.4.2.1 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.

5.4.2.2 *Simplification:* Regulatory services provided by local governments are bound by rules and procedures. It has been observed that most of these procedures are complex and outdated, putting citizens to a lot of hardship. There is also a causal relationship between the complexity of procedures and the degree of corruption involved. Added to this are factors like inadequate delegation of powers, decision-making through a process involving multiple layers of hierarchy and red tapism. The Commission is of the view that State Governments should comprehensively review rules and procedures in order to simplify and demystify them.

5.4.2.3 *Transparency:* A transparent organisation is one in which its decision making system and working procedures are open to public scrutiny. Transparency in local governments not only induces greater accountability but helps engender effective public participation and reduces arbitrariness in decision-making.

5.4.2.4 India took a major step towards transparency in administration with the enactment of the Right to Information Act, 2005. The Commission has examined all aspects of 'Freedom of Information' in its First Report titled 'Right to Information: Master Key to Good Governance', and made comprehensive recommendations.

5.4.2.5 *Objectivity:* The extent of corruption in an organisation is related to the degree of discretion enjoyed by its functionaries. In most of the regulatory functions performed by local governments, it is possible to minimise, if not totally eliminate discretion. Assessment

of property tax based on 'unit area method' is one such example. Where it is not possible to eliminate discretion, then the exercise of such discretion should be bound by well-defined guidelines.

5.4.2.6 *Convergence:* In a city, different services are provided by different departments of local governments, agencies of State Government and parastatals. This multiplicity of service providers, if not properly converged, forces citizens to access each one of these separately thereby increasing their hardship. Creation of 'one stop service centres' can address this problem besides expediting processing of requests of citizens. A successful example of 'one stop service centres' is the 'E-seva' model of Andhra Pradesh. By proper use of Information Technology, convergence can be brought among different service providers at such service centres.

5.4.2.7 *Speedy Disposal:* Delays in processing requests of citizens is one of the major hurdles in good urban governance. Not only does this delay lead to harassment of citizens, it encourages use of 'speed money'. All applications for regulatory approvals must be disposed off within a specific time frame. A citizen's charter laying down specific deadlines for disposal of different categories of applications should be prescribed, wherever not already done, and thereafter scrupulously complied with. The charter should also specify the relief available to the citizens if the charter is not adhered to.

5.4.2.8 In order to expedite decisions on various requests of the citizens it is necessary that decisions are taken on these applications at the zonal or sub-zonal level, under delegated authority. To avoid delays by the functionaries in processing applications, a system of deemed sanctions after the expiry of self imposed time limits should be adopted. A system of voluntary compliance backed up with stringent penalties for violations should be put in place. To give a specific example, in respect of approval of building permits, an activity that is notoriously prone to delays and corruption, a system of self-certification by registered architects (particularly for residential units) followed by approvals over the counter, should be made mandatory. This must be accompanied by test checks to curb misuse.

5.4.2.9 Recognising the need to upgrade the quality of various services, including regulatory services offered by the ULBs, Government of India has launched the National Mission Mode Project for e-Governance in Municipalities (NMMP), with an outlay of Rs.787 crores which, over five years, will cover 423 Class I cities (with over one lakh population, - '35 million plus' cities will be covered by 2008 itself). Several services of municipalities would be covered under the scheme including: Registration and issue of birth and death certificate, Payment of property tax, Utility Bills and Management of Utilities that come under ULBs, Water Supply, Grievances and suggestions, Building plan approvals, Procurement and

monitoring of projects, E-procurement, Project/ward works, Health programmes, Licenses Solid Waste Management, Accounting systems, Personnel Information System, Grievances handling, including implementation of the Right To Information Act, acknowledgement, and resolution monitoring is envisaged. This is a welcome initiative which needs to be implemented in a time-bound manner.

5.4.2.10 Recommendations:

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.

5.4.3 Infrastructure Services

5.4.3.1 *Creating a Responsive Institutional Framework*

5.4.3.1.1 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.

5.4.3.1.2 Provison of basic amenities in cities is characterised by a multiplicity of agencies. Since Municipal Administration is a State subject under the Constitution, State governments control the regulatory and financial policies of ULBs. Functions in the Twelfth Schedule which have not yet devolved to local governments, are under the State Government through departments and quasi government organisations. While some States have devolved powers and functions to local governments, many State Governments have retained responsibility and authority for provision of certain services through parastatals. Such parastatals mushroomed in the 1960s and 1970s, in the hope that they would provide technical competence for the provision of various services and utilities. While the argument for this is greater capacity and professionalism, this structure also directs the accountability of these officials upward rather than towards local governments. Citizens as well as their representatives have no ability to hold parastatal officials accountable for their performance, which in turn limits citizens' ability to hold local officials, and elected representatives, accountable. This has also resulted in atophy of the competence built up at least in some local bodies.

5.4.3.1.3 In this context, allocation of responsibility and accountability between the urban local bodies and the State Government departments/parastatals has to be clearly demarcated. To an extent, the larger State Government agency may have a final responsibility and ownership, at least of those services and utilities which have a presence beyond the ULB jurisdiction. But wherever, and to the extent it is possible to demarcate the managerial and technical "boundaries" of a civic activity, it should be possible to earmark responsibility to a local body.

5.4.3.1.4 In other words, all 'downstream activities' of a particular utility, within the jurisdiction of a ULB should ideally become the activity of the ULB. In a Metropolitan Corporation, for example the distribution of water should primarily be the responsiblity of the local body. This task could be undertaken by the local body itself or through an agency such as the Water Supply Board. In such cases, the head of the Water Supply Board should be responsible to the Mayor for all activities related to distribution of water. In other words, the functionaries of the parastatals have to accountable to the Municipal Council.[61]

[61]The term council here is broadly used, to cover the council that would govern any urban body, by whatever name. The term is thus used in a generic sense.

5.4.3.1.5 Recommendations:

a. The local government should be responsible for providing civic amenities in its jurisdiction.

b. In respect of all downstream activities of a particular State utility, as soon as it enters the geographical and administrative boundary of an Urban Local Body, the Government utility/parastatal should become accountable to the ULB.

5.4.3.2 *Water Supply*

5.4.3.2.1 According to the 2001 Census, out of 53.69 million urban households only 36.86 million had tap water sources. A very large percentage of the urban poor have no access to safe water. The Government programme of accelerated urban water supply scheme, as on 31.3.2006, has supported 612 schemes for Rs 695 crores. This is absolutely inadequate when compared to the assessment made by the Central Public Health Engineering (CPHEEO) of Rs 1,72,905 crores for 100 per cent coverage of the urban population under safe water supply and sanitation services by 2021.[62] A benchmark estimate for the Urban Basic Services for the Poor (UBSP) programme at the turn of the century indicated that there is significant variation in water supply within the municipal areas, with very low supplies in slum and poor localities. (Often less than 25 lpcd to slum dwellers).[63] Sufficient funds must be provided on priority to meet the necessary MDG norms at least for safe water supply.

5.4.3.2.2 Institutions for Water Supply: Three broad institutional frameworks are discernible in ULBs in India with regard to water supply and sewerage services. First are the ULBs where the entire system is with a department or a parastatal of the State Government; second, where the ULBs themselves handle the entire activity and, third, as in some large cities, where exclusive water supply and sewerage boards have been set up for the city. Irrespective of the institutional framework, the failure of the public sector to provide adequate service delivery have been ascribed to public monopoly, organisational inefficiency, technical flaws in the form of high leakages, lack of preventive maintenance, unaccounted water as well as over staffing and lack of autonomy.

5.4.3.2.3 Management of water supply should be the primary function of a municipal body. The Commission in paragraph 5.4.3.1.5 has recommended that in respect of all downstream activities of a particular utility, as soon as they enter the geographical and administrative boundary of an urban local body, the Government utility/parastatal should become accountable to the ULB. Studies that have compared the institutional set up of

[62]The data is mainly from the website of the Ministry of Urban Development and from the World Bank Report India Water Supply And Sanitation: Bridging The Gap Between Infrastructure And Service.
[63]See Mukesh P. Mathur, Norms and standards for basic Urban Infrastructure and Services, p. 268, in Urban Government and Management : Indian Initiatives, ed. P.S.N.Rao, IIPA, New Delhi.

large Water Boards in Delhi and Chennai with Metropolitan Corporations of Kolkata and Mumbai, do not lead to a definite conclusion that a Board or a corporate structure necessarily ensured a higher level of autonomy and faster decision making as compared to the Water Supply Department of a Corporation. It has to be recognised, however, that in general, water supply boards are financially more autonomous and have built up higher levels of technical capacities as compared to Municipal Corporations other than the very large corporations such as Mumbai. Therefore, the transfer of these responsibilities from parastatals to the ULBs would have to be appropriately phased in with capacity building of the ULBs. Thus while the largest Corporations should certainly take charge of the entire gamut of water supply from development to distribution, for most 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 arrangement.

5.4.3.2.4 Tariff: An allied but equally important issue is that of recovery of costs/tariff. There is understandable reluctance on the part of local governments to pass on the actual costs to consumers – this, however, often results in grossly uneconomical tariff structures. In a large number of cities, the revenues are not even sufficient to cover the operational costs. Apart from low tariffs, the gap between the cost and revenue is also due to operational inefficiencies and pilferage.

5.4.3.2.5 The gap between the revenues and costs of water supply prevents the municipal bodies from making any substantial investments on improving or even maintaining the quality. As a result the quality of water deteriorates. Decline in the quality of water hits the poor most, as the economically well off people resort to other safe modes of drinking water supply like bottled water, filteration etc.

5.4.3.2.6 The Commission in paragraph 3.5.2.18 (h) has recommended that the SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations for improvements in their working. This should necessarily include detailed analysis of water supply systems of the local governments. The SFCs should lay down principles for fixation of water tariffs and its periodic revision. The underlying approach should be the recovery of at least full running costs of these services.

5.4.3.2.7 Water supply schemes have to be environmentally sustainable. With a burgeoning urban population, the traditional water sources are inadequate to meet the requirements. As a result, new sources have to be developed, but this raises the cost of water. Local bodies need to prepare infrastructure development plans which should be integrated with the CDPs. In order to reduce the strain on the urban water supply systems, the demand could

be tempered by adopting water harvesting measures and recycling of waste water for non-potable purposes. Municipal bye-laws should initially provide incentives for the adoption of such practices and progressively make them compulsory for all buildings.

5.4.3.2.8 Recommendations:

a. **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.**

b. **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.**

c. **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.**

d. **Municipal bodies must focus on increasing operational efficiencies – through reduction in pilferage, improving efficiency of staff and use of technology.**

e. **The municipal bodies should meter all water connenction 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.**

f. **Infrastructure development plans for water supply should be integrated with the CDPs.**

g. **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.**

5.4.3.3. *Sewerage Management*

5.4.3.3.1 Unlike in rural areas, where only about one in five persons have toilets, three out of four have this facility in the cities. However, the population covered by sewerage connections remains abysmally low, at about 28 per cent. According to World Bank field estimates, as against 90 per cent coverage in Hyderabad, 83 per cent in Chennai and 78 per cent in Bengaluru, coverage is as low as 52 per cent in Delhi and 56 per cent in Mumbai. Kolkata is not much better at 62 per cent.[64]

5.4.3.3.2 The reasons for the poor sanitation levels in our cities are many. These include a lack of awareness and appreciation of the need for proper sanitation and hygiene as also the inadequate public investment due to the dismal state of municipal finances. The National Commission on Urbanisation was of the view that, for this very reason, there should be *"a disaggregated approach" to sewerage. According to that Commission, "This does not mean that no main sewerage projects are undertaken, but that there should be ready acceptance of alternative systems which may be cheaper and more appropriate to Indian conditions."*

Box 5.13: Pollution in Yamuna River

Delhi alone contributes around 3,296 MLD (million litres per day) of sewage by virtue of drains outfalling in Yamuna. This is more than that of all the Class two cities of India put together. The low perennial flow in Yamuna and the huge quantity of waste it receives have given it the dubious distinction of being one of the most polluted rivers of the country. Rapid urbanisation in Delhi has further compounded the pressure on the sewerage system. Poor condition of trunk sewers, shortage of sewage treatment capacity and lack of sanitation facilities in unsewered areas of Delhi which account for nearly 50% of population are responsible for continued pollution of yamuna in Delhi. The problem is compounded by lack of minimum perennial fresh water flow in the river along the 22 km stretch between Wazirabad and Okhla.

Source: Yamuna Action Plan, National River Conservation Directorate, Ministry of Environment & Forests; http://yap.nic.in/yamuna-in-delhi.asp

5.4.3.3.3 The problem of sewerage management has two aspects. First, as large parts of cities are not covered by underground sewerage disposal systems, the wastes find their way into storm water drains, natural water courses and ultimately into major rivers. The problem gets aggravated in case of rivers near major cities. Second, the sewage carried by the underground system has to be ultimately let off in the natural drains, but after proper treatment. In most of the cities the capacity of the treatment plants is much less than the sewage flow and in a large number of cities, there is no treatment of water.

5.4.3.3.4 Sewerage systems along with treatment facilities are capital intensive. While granting approvals to new lay-outs, it should be ensured that adequate provisions for internal sewerage systems are made and enforced. Local bodies may even 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

[64]World Bank : *India Water Supply and Sanitation Bridging the Gap Between Infrastructure and Service.,* Background Paper, January 2006.

governments to generate additional resources for sewerage management, matching grants may be provided by the Union and State Governments.

5.4.3.3.5 Normally little or no charge is levied by the local bodies for sewerage facility. This approach must change. The Commission recommends that a separate user charge be introduced in all municipalities, even as a minimum levy, for sanitation and sewerage, as distinct from water charges. It is necessary to emphasise the need to redeploy these funds into operation and maintenance of the sewerage system.

5.4.3.3.6 That the position with regard to sanitation in slums is much worse needs no explanation. The position with regard to these services in slum areas is given in Table 5.11.

5.4.3.3.7 The Commission notes that the provision of water and sanitation within the slums is skewed very strongly towards notified slums. In the case of latrines, 17 per cent of people in notified slums do not have access to latrines, while the percentage is 51 in the case of non-notified slums. In some States, the situation is abysmal. This is an area of concern, as certain basic steps to prevent human degradation cannot be based on notification of areas.

5.4.3.3.8 Several NGOs and civic society groups have set up 'pay and use toilets', especially in slum areas. Co–production[65] of sanitary services has been tried successfully in slum areas. The concept includes setting up of a CBO (Community Based Organisation) at the grass roots, carrying out IEC activities, collecting a significant percentage of the initial capital cost from the beneficiary followed by the construction of a collective toilet block. Such efforts need to be encouraged by municipal governments by providing appropriate incentives. Sewerage facilities have to be provided in slum areas on a priority basis by the municipal bodies.

5.4.3.3.9 Recommendations:

a. 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.

b. 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

[65]Co-production implies that citizens or consumers of service themselves contribute in production of these services.

Table 5.11: Access to Water and Sanitation Facilities for Urban Households Living in Slums (per cent) (2002)

	Percentage of households living in		Modes of water Access (per cent)					Per cent with underground sewerage		Per cent without any drainage		Per cent without latrines	
	NS	NNS	NS			NNS		NS	NNS	NS	NNS	NS	NNS
		Per cent Tap	Per cent Tubewell	Per cent Other	Per cent Tap	Per cent Tubewell	Per cent Other						
Jammu & Kashmir	59.6	40.4	100	0	0	98	2	0	0	0	100	100	61	76
Punjab	75.6	24.4	43	57	0	0	100	0	34	0	0	95	48	95
Delhi	20.5	79.5	100	0	0	71	29	0	0	3	31	24	31	52
Rajasthan	2.2	97.8	100	0	0	27	0	73	0	0	67	98	33	98
Uttar Pradesh	50.6	49.4	34	67	0	59	41	0	35	11	1	71	1	51
Bihar	37.8	62.2	0	100	0	0	100	0	0	0	34	75	34	100
West Bengal	52.1	47.9	89	11	0	72	18	10	63	23	0	39	0	30
Orissa	14.2	85.8	100	0	0	57	44	0	0	0	0	90	100	100
Chhattisgarh	46.9	53.1	31	69	0	71	25	4	0	0	0	25	69	100
Madhya Pradesh	65.7	34.3	68	20	12	75	25	0	24	0	31	38	12	75
Gujarat	38.7	61.3	33	2	65	74	26	0	83	7	2	73	6	69
Maharashtra	74.7	25.3	95	3	2	91	3	6	34	27	10	23	18	25
Andhra Pradesh	85.1	14.9	87	2	11	46	55	0	12	0	21	66	10	68
Karnataka	65.6	34.4	89	11	0	77	16	7	23	24	36	24	66	53
Tamil Nadu	53.5	46.5	85	0	15	93	3	4	57	11	16	44	15	68
Pondicherry	29.0	71.0	100	0	0	97	3	0	0	7	0	10	29	93
Total	65.1	34.9	84	10	6	71	22	7	30	15	15	44	17	51

Notes: 1. NS—Notified Slum; NNS—Non Notified Slum

2. According to the NSS data, a slum is a compact settlement with a collection of poorly built tenements, mostly of temporary nature, crowded together in unhygienic conditions usually with inadequate sanitary and drinking water facilities. Such an area is considered as a 'non notified slum' if at least 20 households lived in that area. 'Notified slums' are those areas notified as slums by urban local bodies or development authorities.Squatter settlements are excluded from the survey.*Source:* NSSO (2003a), reported in India Infrastructure Report, 2006

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.

c. Community participation and co-production of services should be encouraged by municipal bodies. This should be supplemented by awareness generation.

d. 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.

5.4.3.4 *Solid Waste Management*

5.4.3.4.1 Urban sanitation is closely linked to solid waste management. The waste generated in urban India in 2000 was estimated to be over 33 million tonnes and is expected to nearly double by 2010 and double again by 2020.[66] Waste collection and disposal is a statutory function of all municipal bodies. Indeed more than half of the staff employed by municipal bodies is engaged in this task. This big complement of staff performs tasks like street cleaning, collection of garbage, transportation and dumping of garbage. Besides, a substantial number of workers in the informal sector (rag pickers) are also engaged in recyling of certain components of garbage. Several municipal bodies have also started outsourcing garbage collection. Besides, civic society organisations are also involved in some municipal bodies. There is today an increased awareness of the need for adequate and efficient solid waste management in our cities. Serious Public health problems, such as the plague in Surat in 1994, have drawn attention to the dangers of neglecting waste management, which is a relatively inexpensive aspect of clean environment.

5.4.3.4.2 However, in spite of deployment of such a large workforce for solid waste management, the results are not satisfactory. In a typical city, the 'public dust-bin' approach is very common for garbage disposal. This approach has several drawbacks. Not all households and other commercial units put the garbage in the dustbins. Thus the garbage collection efficiency is very low, and whatever garbage gets collected is not segregated. This composite garbage is transported by municipal vehicles to the outskirts and on open ground. Very few municipal bodies adopt technically sound garbage disposal techniques. The Ministry of Environment and Forests have issued Municipal Solid Wastes (Management and Handling) Rules, 2000. These Rules cover various aspects of solid waste management.

[66]World Bank : Improving Management of Municipal Solid Waste in India : Overview and Challenges

5.4.3.4.3 The weaknesses of the existing system of solid waste management are: (i) the professional and managerial capacities of the municipal bodies are limited and this is more pronounced in case of smaller cities; (ii) no charges are levied for garbage collection or disposal, nor are there any incentives for reducing garbage generation or recycling waste; (iii) no separate costing is done for this function; (iv) indiscriminate use of plastic bags and goods; (v) recourse to modern technology is rare and; (vi) segregation of garbage at the source is not enforced.

5.4.3.4.4 The management of waste has three basic components: (a) collection (b) segregation for different types of disposal and (c) disposal. The first lends itself to community participation and also privatisation and must be made a part of the activities of Area Sabhas and local NGOs/CBOs who may charge for this. A large number of community based systems of garbage collection have been tried in different cities. These need to be scaled up. The second component requires segregation into categories for different types of disposal. Unfortunately, our pattern of disposal is mainly one of indiscriminate dumping. It is essential to initiate a civic programme especially in the larger cities to segregate household waste according to its degradability. This would ease the burden on civic authorities. The third component is that of efficient disposal, which can also be carried out either by the local bodies themselves or with private sector participation. The Municipal Solid Wastes (Management and Handling) Rules, 2000 prescribe the manner of disposal of solid wastes. It is important that before any task is outsourced, municipal bodies develop the capacity for managing such contracts.

5.4.3.4.5 Commercial Exploitation of Waste: An important aspect of this civic service is the scope of commercial exploitation of garbage. This can come out of energy generation, compost heaping or other innovative uses. The conversion of waste into energy for local consumption could provide for a part of the finances of the city. According to the India Infrastructure Report 2006, there is potential for generating about 1500 MW of power from urban and municipal wastes and about 1000 MW from industrial wastes in the country while the installed capacity of waste to energy projects stands at 25 MW. Other disposal methods like composting also generate revenues. Scientific solid waste management will lead to reduction in the emission of green house gases, and could also be a source of revenue.

5.4.3.5 *Scavenging*

5.4.3.5.1 The practice of manual scavenging is an abomination. The fact that it is broadly caste based makes it particularly abhorrent. As local government and public health and sanitation are subjects mentioned in List-II (State List) of the Seventh Schedule, in pursuance of Article 252(1) of the Constitution, all the Houses of Legislature of the States of Andhra

Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal passed resolutions to enable the Union Government to enact the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (No. 46 of 1993).[67] But, this Act could be notified only in January, 1997. [68] Even today, all States have not adopted this Act. The Act {Section 3 (1)} prohibits the engagement or employment of any person for manually carrying human excreta or constructing or maintaining a dry (non-flush) latrine. Apart from the legislative framework provided by this Act, the Union Government has approached the problem with a two-pronged strategy: first, by providing an alternative to dry latrines by way of low cost sanitation units under the Integrated Low Cost Sanitation Scheme (ILCSS) which is in operation from 1980-81 and second, by providing training and rehabilitation in alternative occupations under the National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents (NSLRS) which is in operation since 1991-92. In the case of ILCSS, while the budget allocation was Rs 150 crores during 2002-07, the RE was reduced to Rs 74.60 crores and the actual expenditure was only Rs 61.60 crores.[69] Further, while the total number of dry latrines yet to be converted by the end of 2006-07 was estimated to be 6 lakhs, the source of this data is not impeccable and in some cases is based on a 1989 NSSO Report.[70] Similarly, in the case of NSLRS, Rs. 747.11 crores was released up to 2004-05 and 1,72, 681 scavengers have been provided training and 4,43, 925 assisted in rehabilitation up to 2003-04. No funds were allocated for the Annual Plans for 2005-06 and 2006-07. [71]

5.4.3.5.2 Thus, not only is there a lack of reliable data on the number of manual scavengers in the country, there is also lack of focussed attention. As the schemes (for conversion of dry latrines) are demand driven and State-centric, the lack of active interest at the field level has led to its tardy implementation. Following the announcement made by the Prime Minister in his Independence Day Address of 2002, the Planning Commission prepared a National Action Plan for Total Eradication of Manual Scavenging by the year 2007. This action plan also laid stress on the basic issues which need to be addressed viz. identification of manual scavengers, adoption of the legal framework by the States and incentivising implementation. The National Human Rights Commission in its review meeting on eradication of manual scavenging in March 2007 also proposed a similar approach.[72] The Commission is of the firm view that national urban renewal and manual scavenging should not and can not co-habit the same space. Extensive surveys should be carried out by the State Governments to identify manual scavengers and estimate the number of dry latrines in existence within six months. Following this, separately earmarked funds should be allocated to address and remove this abomination within a one year time frame. Central Assistance to States Annual Plan should be tied to this. Funds allocated under the JNNURM should also be linked to it.

[67]Source: Preamble of the legislation extracted from http://www.hrw.org/reports/1999/india/India994-19.htm
[68]Source: Review meeting on eradication of manual scavenging, National Human Rights Commission, March 2007; http://nhrc.nic.in/disparchive.asp?fno=1396
[69]Source: Para 13.5, Annual Report 2006-07, Ministry of Housing & Urban Poverty Alleviation
[70]Source: Para 13.4, ibid
[71]Source: http://mhupa.gov.in/programs/upa/nsdp/NSLRS.htm, extracted on 29.08.2007
[72]Source: http://.nic.in/disparchive.asp?fno=1396, extracted on 29.08.2007

5.4.3.5.3 Recommendations:

a. 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.

b. Municipal bye-laws/rules should provide for segregation of waste into definite categories based on its manner of final disposal.

c. Special solid waste management charges should be levied on units generating high amount of solid waste.

d. Extensive surveys should be carried out by the State Governments to identify manual scavengers and estimate the number of dry latrines in existence within six months.

e. Following the survey, adequate funds should be allocated for the purpose of eradication of manual scavenging within one year.

f. Central Assistance to States Annual Plan should be tied to eradication of manual scavenging. Funds allocated under the JNNURM should also be linked to it.

5.4.3.6. *Power Utilities and Municipal Bodies*

5.4.3.6.1 Urban Local Bodies do not usually have a role in the supervision or operation of power utilities. Mumbai is an exception, where the premier power distribution utility (BEST) is with the Municipal Corporation. Power sector in India has been undergoing large scale restructuring for more than a decade. The main planks of this restructuring include enactment of new electricity laws, unbundling of utilities, constitution of regulatory authorities etc. At a conference of Chief Ministers/Power Ministers on Power Sector Reforms, in 2001, it was resolved that commercial viability has to be achieved in distribution in 2-3 years through any or all of the following:

- Creating profit centres with full accountability
- Handing over local distribution to Panchayats/local bodies/franchisees/users association, wherever necessary
- Privatisation of distribution etc.

5.4.3.6.2 In spite of these efforts, not much headway has been made in setting up decentralised power distribution utilities. Local distribution utilities have several advantages: they can adapt to local conditions and problems with greater flexibility, the decision making authorities come closer to the consumers enabling citizens to have a sense of ownership of such utilities and giving them a greater sense of responsibility and, it becomes possible to achieve convergence with other civic amenities like water supply, street lighting, sanitation etc. An option could be to hand over distribution of power to the municipal bodies; however, with the existing organisational and technical capabilities of the municipal bodies, this may not be possible. Therefore, as a pre-requisite, the capacity of the municipal bodies needs to be enhanced, and then in a phased manner they could take over the function of power distribution, starting with small manageable areas within their jurisdiction.

5.4.3.6.3 Municipal bodies can also play a major role in proper planning of the distribution networks along with other networks like water supply and telecommunication. Common ducts could be planned by the municipal bodies for all these networks and even charges could be levied on the users of these ducts. The local bodies can also help in the power conservation efforts by incorporating power conservation features in the building bye-laws.

5.4.3.6.4 Recommendations:

a. Municipal bodies should be encouraged to take responsibility of power distribution in their areas. This, however, should be done after adequate capacity building in these organisations.

b. Municipal building bye-laws should incorporate power conservation measures.

c. Municipal bodies should coordinate the layout plans for the distribution networks of power and other utilities.

5.4.4 Services for Human Development

5.4.4.1 *Education*

5.4.4.1.1 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. Between 1950–51 and 2004–05, the number of primary schools more than trebled from 209,671 to 767,520 respectively, of which 90.2 per cent were managed

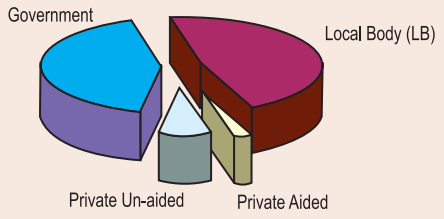
by government or local bodies.[73] But the role of private schools increases rapidly as the level of education goes up. The percentage of private schools (both aided and unaided) in secondary/ senior secondary education is 58.95 as against 9.79 in primary education.

5.4.4.1.2 The National Policy of Education, 1992, has indicated three thrust areas in elementary education:

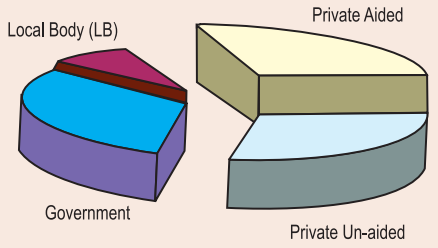
(i) Universal access enrolment;
(ii) Universal retention of children up to 14 years of age; and
(iii) A substantial improvement in the quality of education to enable all children to achieve essential levels of learning.

The 'Sarva Siksha Abhiyan' is a flagship scheme which seeks to achieve these objectives. The Mid-Day Meal Scheme is also complementing the 'Sarva Siksha Abhiyan'.

Fig. 5.4 : (a) Primary Schools by Management During 2004-05



(b) Secondary/Senior Secondary Schools by Management During 2004-05



Source: Selected Educational Statistics 2004-05 (as on 30th September, 2004); Ministry of Human Resource Development, 2007.

5.4.4.1.3 The 7th All India School Education Survey by the NCERT, indicates that there was a substantial increase in the number of urban schools between the 6th and 7th Surveys (1993 and 2002 respectively). Though segregated data for urban and rural schools is not available, the trend of growth in schools also indicates that between the 6th and the 7th Surveys, growth in government schools was 2.6 per cent, while those of local bodies was 0.4 per cent. Interestingly, in the early 1990s, there was actually a decline in the number of local bodies' schools, presumable because many such institutions were taken over by the State Governments. Incidentally, the numbers of private aided schools have also been on the decline, perhaps for the same reason. But, importantly, in a situation where much of the school level education should be at the local bodies' level, 71 per cent of the new schools added between 1993 and 2001 were government schools and only 10 per cent were schools set up by the local bodies.

5.4.4.1.4 Irrespective of whether schools for the common people are run by the government or the local bodies, the biggest challenge is to impart quality education. According to studies, a large percentage of urban poor school going children can barely read.[74] Education depends

[73]Source: 'School Educational Statistics 2004-05' (as on 30th September, 2004); Ministry of Human Resource Development, 2007.
[74]A study by the NGO, Pratham, into the status of education among urban poor children of Northern and Western India, found that the percentage of children in urban government schools who can barely read the alphabet is about 40% except in Mumbai-Pune.
http://72.14.235.104/search?q=cache:i6bFQz_ZRfUJ:www.pratham.org/documents/dipsticksurvey.doc

not just on the number of schools but on the facilities that the school provides including the quality of teaching. The NCERT data indicates that basic facilities such as blackboards, furniture and recreational as also toilet facilities, especially for girls, were inadequate in most schools run by government agencies though interestingly, more of a problem in government schools than in municipal ones. It is necessary that all schools are made functionally self-sufficient, in as much as the basic facilities and classroom requirements are provided in all urban schools within the next two years.

5.4.4.1.5 The Sarva Sisksha Abhiyan aims to provide elementary education of satisfactory quality for all by 2010. This must be a factor in the efforts of all municipal schools. Continuing retraining is essential. Attempts must be made also to recruit better teachers and provide a more conducive environment in the schools to encourage better teachers to join. Since an appropriate salary is difficult for the ULBs to provide, it should be increasingly necessary for the municipalities, especially the larger ones, to seek the help of NGOs and individual volunteers. Indeed, it would be useful to initiate a voluntary service element to our social sector to improve service delivery.

5.4.4.1.6 Stakeholders' empowerment is equally important to ensure quality education in public funded schools and to secure development entitlements for those who are vulnerable, poor and voiceless. The real challenge is to craft delivery systems that can address diversity of needs and give a voice to the poorest of the poor. This issue can be best addressed by fostering local level partnerships with community organisations at the habitation level such as organisations of women, self-help groups and stakeholders. In the field of education, this may be achieved by creating empowered school management committee with involvement of parents.

5.4.4.1.7 Crafting a credible service delivery system requires a shift from a system that provides employment guarantees to the service providers to one that provides service guarantees to the citizens. Accountability in such a new system should lie with local governments and local institutions/Societies/Management committees. The focus has to be on creating delivery systems that are based on a respect for communitisation, flexible financing, monitoring standards, innovations in engagement of human resources and capacity building at all levels.

5.4.4.2 *Public Health*

5.4.4.2.1 India's achievements in the health sector in the post-Independence era, have been in some respects creditworthy. Longevity has doubled from 32 years in 1947 to 66 years in 2004; Infant Mortality Rate (IMR) has fallen to 58[75]; malaria has been

[75]Source: SRS Bulletin - October 2006, Registrar General of India

contained at 20 lakh cases; smallpox and guineaworm have been completely eradicated and leprosy and polio are nearing elimination.[76] However, there are areas of serious concern like levels of malnutrition and rates of infant and maternal deaths are worse than the neighbouring countries. Investment in the health sector is much less than what is desirable (see Table 5.12).

Table 5.12: Health Sector: India in Comparison with Other Countries

Indicator	India	China	USA	Sri Lanka	Thailand
IMR/1000 live-births	68	<30	2	8	15
Under-5 mortality/1000 live-births	87	37	8	15	26
Fully Immunized (%)	67	84	93	99	94
Births by skilled attendents	43	97	99	97	94
Health expenditure as % of GDP	4.8	5.8	14.6	3.7	4.4
Government share of Total Expenditure (%)	21.3	33.7	44.9	48.7	69.7
Government health spending to total government spending (%)	4.4	10	23.1	6	17.1
Per capita spending in international Dollers	96	261	5274	131	321

Source: Report of the National Commission on Macroeconomics and Health (Ministry of Health and Family Welfare, GOI, 2005)

5.4.4.2.2 The percentage of dispensaries and hospitals in urban areas was 46 per cent and 67 per cent respectively of the total facilities in 1998, covering less than a third of the population. However, the quality of urban public health services is generally of a very poor standard. This perhaps explains why about 80% of people in our country avail of private healthcare facilities.[77]

Table 5.13: Number of Urban Hospitals, Beds and Dispensaries per 100,000 Population

Year	Hospital	Dispensaries	Beds
1981	3.12	261.56	3.23
1991	3.50	241.04	7.24
2001	3.60	178.79	3.60

Source: Central Bureau of Health Intelligence, Health Information of India, retrieved from http://www.cehat.org/flib.html

[76]Source: Report of the National Commission on Macroeconomics and Health (Ministry of Health and Family Welfare, Government of India, 2005)
[77]"The impact of the poor quality of service delivery in public hospitals is seen more acutely in the hospitalised care of the richest quintile. This figure stood at 50 per cent in public hospitals in 1986-87. However, by 1995-96 this had fallen to slightly over 25 per cent" : India Infrastructure Report 2006. http://www.3inetwork.org/reports/IIR2006/The%20Infra.pdf

5.4.4.2.3 According to the *India Infrastructure Report, 2006,* data on urban health infrastructure is not collected by the Ministry of Health and Family Welfare. In urban areas, public hospitals, dispensaries and clinics are generally more focused on curative aspects of medicine, rather than primary health care and dissemination of information. As a result, private health care plays a critical role in bridging a need gap for the urban population. The trend in urban areas to shift towards private healthcare needs to be seen as an opportunity by the city authorities. It gives them an opportunity to concentrate on public health as distinct from clinical services, and on preventive and not only curative aspects of healthcare.

5.4.4.2.4 A fundamental shortcoming in the present arrangements for public health management in urban areas is lack of primary health care. The urban poor are even worse off than their rural counterparts because of the grossly inadequate primary health care arrangements. Municipal dispensaries, restricted as they are in numbers, do not extend facilities to urban poor which the PHCs do in the rural areas.

5.4.4.2.5 Public health is dependent on primary health care systems, nutrition, safe drinking water, and sanitation and health education. The Commission, therefore, feels that convergence of these services is as important as upgradation of primary health care in urban areas. Therefore, there should be a task force in each local government responsible for all services which impact public health, with members from the State Government and other agencies in the field of public health.

5.4.4.2.6 The points made in paragraph 5.4.4.1.6, about stakeholders' involvement and the need to craft credible service delivery systems accountable to the local communities apply equally to the health sector.Schools and hospitals require more financial resources to improve performance but they also require institutional autonomy and flexibility to deliver guaranteed service outcomes.The role of the head of the institution has to be strengthened in a framework of decentralisation that allows for accountability to local communities. Flexibility in meeting local needs within a framework that guarantees certain minimum service delivery standards also requires a shift from non-accountable State level recruitment to accountable local government and local institution level recruitment.

5.4.4.2.7 The Report of the National Commission on Macroeconomics and Health (Ministry of Health and Family Welfare, GOI, 2005) had this to say on devolution of power and the health sector:

> *"In the health sector in India, decentralization has to be viewed in the context of devolving authority and power to the States by the Centre, to the districts by the States and from the districts to the mulitlayered local bodies. Such devolution of authority*

has taken place only in Kerala, which invested time and resources in systematically building capacity for governance by local bodies. Leadership and governance means having the ability to plan, budget, implement, manage, monitor, review and accept responsibility for decisions taken.

Devolution of power in the health sector has, however, not been easy, even in Kerala. This is because of the lack of technical guidance at the Panchayat level, lack of standardization of facilities laying down clearly the functions, duties, responsibilities and outcomes of health personnel and facilities located at different levels, and an absence of priorities in the interventions that need to be focused upon. Lack of integration between different systems of medicine, problems of compatibility between the highly educated doctor, and functionaries of the local government, dual control, multiplicity of bodies handling health budgets are other reasons that have complicated matters. As these issues were not resolved, fiscal devolution did not really make the desired impact. Because of these factors, utilization of local bodies as agents of change or in social mobilization has been minimal and perfunctory.

While the 73rd and 74th Amendments do give us a great opportunity to foster a democratic system of governance in health, implementation has been tardy. In fact, besides functional delegation, fiscal devolution is more critical; it is more than the mere release of funds for carrying out public functions as an agent. It encompasses expenditure decisionmaking and responsibilities, as also revenue responsibilities and accountability to the community for service delivery.

Applying these principles will mean having a clear-cut delineation of duties and functions to be carried out by the local bodies at different levels vis-a-vis the Government departmental hierarchies; the financial implications of those functions and systems for utilization and reporting; and, finally, the kind of authority, powers, or control they have on the functionaries responsible for discharging those duties. Without such a systems approach merely 'orienting' locally elected representatives to be 'involved' in health activities will be of marginal value."

5.4.4.2.8 The Commission agrees with the views of the National Commission on Macroeconomics and Health. The Commission has underlined the importance of clear-cut delineation of functions and duties of the local bodies in different chapters of this Report.

5.4.4.2.9 The Commission is of the view that for all services provided by the local governments there is need to develop a set of performance indicators. The existing set of

performance indicators, wherever they exist, are not sufficient to monitor all important aspects of service delivery. The emphasis in these indicators has to be on quality of service and reliability. A closely linked aspect for improving the quality of services is maintenance of a reliable database about all the municipal services at the District, State and National level. This would also help in monitoring of these services as well as taking important policy decisions.

5.4.4.3 Recommendations:

a. **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.**

b. **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.**

c. **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.**

d. **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.**

e. **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.**

f. **Recruitment for hospitals and schools should be made to an institution/ Society, moving away from non accountable State level recruitment.**

g. **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.

h. 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.

i. 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.

5.4.5. Urban Transport Management

5.4.5.1 Urban transport is a key component of urban infrastructure. It is also a visible manifestation of the efficiency of urban governance in a city. As the urban share of the GDP in India grows, GDP growth will be closely linked to how efficiently transport systems in urban areas are able to move goods and people. Travel demand depends on a number of factors - population growth and economic development being the major determinants. The rapid increase in travel demand has been met (to a large extent) by increase in the number of vehicles. But the expansion of road space has not taken place at the same pace. Moreover, the growth in the number of vehicles has been rather skewed – with personalised vehicles inceasing at a much faster rate than public transport vehicles. This has led to traffic congestion in almost all major cities in India. This issue is of major concern not only in the larger cities such as the metros but also in the tier II and tier III cities.

5.4.5.2 With motorisation growing at over 15 per cent in larger cities, there are significant adverse effects on the urban quality of life due to road congestion, pollution and traffic accidents. In almost all our urban centres, bus transport is the only means of public transport. Rail based systems, in varying forms have been set up in Kolkata, Delhi, Mumbai and Chennai. Except Delhi, all others are run by the Ministry of Railways. The Delhi Metro and the Mumbai suburban rail system have significant passenger traffic. And the Delhi Metro is the only example among these of a modern mass transit system. A large number of tier II cities do not have an organised, properly planned public transport system, and the transport services are provided by a hetrogenous mix of private and State owned operators. Services like taxies, auto-rickshaws, cycle rickshaws also play an important role in the pubic transport system to fill the gap left by the formal public transport system.

5.4.5.3 Some cities like Mumbai and Bengaluru have exclusive organisations for providing

city bus services. In some cities, these services are directly run by the State's road transport corporation. Only a few cities in Maharashtra and Gujarat have bus services run by the municipalities themselves. The State owned transport corporations have generally been running on deficits and have been unable to fund expansion in capacities to the desired level. The resource crunch has also prevented them from improving their quality of services. A large number of factors have been responsible for the rather unsatisfactory performance of the State owned public transport corporations – ad hoc fare policy, indiscipline amongst staff, managerial and operational inefficiencies, unscientific route planning, unsound personnel policies and political interference are some of them. No well structured effort to involve the private sector in the provisioning of bus services is visible and small scale private operators continue to provide the bulk of the services in an undisciplined and unsafe environment in many cities.

Box 5.14: Benefits of Delhi Metro

- The city has benefited as a result of saved passenger time and fuel, reduction in capital and operating cost of vehicles, reduction in environmental damage, accidents and less maintenance cost on infrastructure.
- It has slowed the growth of personal vehicles. Till last year, it has taken the load of 22697 vehicles and this is projected to increase to 40,000 by the end of 2007.
- As a result of people switching over to metro, 16.6 lakh vehicle km are estimated to be saved till 2007 and this is likely to result in saving of various types such as maintenance cost of road vehicles by Rs 218 crores, fuel saving worth Rs 172 crores and saving in road maintenance cost of Rs 288 crores.
- The Metro has resulted in reduced consumption of petrol, diesel and CNG and till 2007, this figure is estimated to be 57858 tonnes.
- Reduced consumption in hydrocarbons has resulted in less emission of gases. This has prevented emission of poisonous gases like CO, HC, NOX weighing 2275 tonnes, by 2007 end.
- Travel conditions have improved as a person in the city saves 66 minutes every day at an average by travelling in the Metro.

Source: Study by Central Road Research Institute.

5.4.5.4 The infrastructural problems of this sector are compounded by the fact that responsibility for this sector in India, both at the State and Union levels is so diffused that no one can be held responsible for the failings. At the Union Government level, till 1996, there was no recognition of urban transport as a separate subject; it was not mentioned in the Government's Allocation of Business Rules and therefore went by default as a peripheral function for the ministries responsible for rail and road transport. Confusion and neglect as regards this sector are further confounded at the State and local levels. While the State Transport Department is responsible for urban transport planning in some States, in others it is entrusted to the Urban Development Department or department dealing with local Self-governments or municipal administration. And at the operational level, while the Transport department is responsible for vehicle licensing and tax collection, traffic control is with the police and road construction and maintenance with the State PWD or with the Municipality. In many cities, Central agencies like the Railways and the National Highway Authority are also

involved. For the ULBs, managing the urban transport system is not a priority area. Another drawback of the fragmented approach towards city transport has been the non-integration of transport planning and urban planning.

Box 5.15: Bus Based Public Transport System

Bus systems provide a versatile form of public transportation with the flexibility to serve a variety of access needs and unlimited range of locations throughout a metropolitan area. Buses also travel on urban roadways, so infrastructure investments can be substantially lower than the capital costs required for rail systems. As a result, bus service can be implemented cost-effectively on many routes. Yet, despite the inherent advantages of a bus service, conventional urban buses inching their way through congested streets don't win much political support. The essence of a Bus Rapid Transit is to improve bus operating speed and reliability on arterial streets by reducing or eliminating the various types of delay.

The bus system of Curitiba, Brazil, exemplifies a model Bus Rapid Transit (BRT) system, and plays a large part in making this a livable city. The buses run frequently—some as often as every 90 seconds—and reliably, and the stations are convenient, well-designed, comfortable, and attractive. Consequently, Curitiba has one of the most heavily used, yet low-cost, transit systems in the world. It offers many of the features of a subway system—vehicle movements unimpeded by traffic signals and congestion, fare collection prior to boarding, quick passenger loading and unloading—but it is above ground and visible. Around 70 per cent of Curitiba's commuters use the BRT to travel to work, resulting in congestion-free streets and pollution-free air for the 2.2 million inhabitants of greater Curitiba.

Source: http://urbanhabitat.org/node/344

5.4.5.5 *National Urban Transport Policy:* The Union Government has formulated a National Urban Transport Policy which seeks to redress to some extent the neglect of this sector. It has the following objectives:

- to bring about better integration of land use and transport planning so as to improve access to jobs, education, etc;
- to encourage public transport and non-motorised transport so that the dependence on personal motor vehicles is reduced;
- to offer Union Government support for investments in cycle tracks and pedestrian paths;
- to offer Union Government support for investments in mass transit systems;
- to have a more coordinated approach to urban transport management through Unified Metropolitan Transport Authorities;
- to offer support for capacity building at the State level;
- to design parking facilities in a manner that encourages greater use of public transport and non-motorised modes as also financial support for construction of parking complexes;
- to provide concessions for the adoption of cleaner fuel and vehicle technologies so that the pollution caused by motor vehicles gets reduced.

As is evident from above, addressing the public transport problems in cities requires a multi-pronged approach.

5.4.5.6 *Management of Transportation Demand:* In the past, the approach to solving the problem of congestion was to widen roads, build new roads, and construct flyovers etc – basically focussed on supply side management. Important as these measures are, unless they are complemented by demand management measures, congestion on roads would continue to grow. The use of personal vehicles needs to be discouraged by a judicious mix of fiscal and non fiscal measures. Singapore imposes an additional levy both on ownership of vehicles as well as use of vehicles. The Commission is of the view that in cities, a congestion levy may be imposed whenever a personalised vehicle enters a congested zone. Although there are implementation issues, proper use of IT can facilitate implementation. Apart from congestion levy, measures such as allowing entry into congested areas only through public transport system, complete pedestrianisation of certain areas, facilitating movement of people through walking and cycling by providing the required infrastructure would all help in limiting the use of personal motorised modes of transport.

5.4.5.7 Spatial planning is a major tool to contain travel demand. Interspersing small work areas and residential zones throughout the city rather than having work areas in one big zone far removed from the residential areas, planning high capacity transport corridors and permitting increased FSI along them and providing enough space for transport infrastructure would facilitate reducing travel demand.

5.4.5.8 Specific parking norms should be laid down in all CDPs/Master Plans with a long term perspective in order to take into account the increasing trend in the use of personal vehicles. Differential norms should be laid down for residential, commercial and institutional constructions to ensure that all such units are self sufficient in meeting their parking requirements and their parking load does not spill over into the public roads as is often the case as at present. Cities should adopt a holistic parking policy with realistic parking charges to deter use of personal vehicles and street parking. The parking policy should also lay down norms for parking tariffs which should reflect the cost of land that is used for parking. It has been observed that major developments in city area lead to congestion on roads. As recommended in paragraph 5.3.6.8 (b), "impact fee" should be levied on all such developments. Besides, it must be ensured all such major buildings/developments provide proper connectivity to major public roads at their own cost.

5.4.5.9 *Developing a Multi Modal Integrated Transport System for Cities:* A public transport system, viewed in its totality, comprises all modes of transport other than personalised vehicles. The main public transport modes are metro rail, elevated light rail, high capacity buses on dedicated corridors, mono rail, ordinary buses, mini- buses and other para transit modes such as taxies and auto rickshaws. No city can rely on a single mode of transport.

Box: 5.16 : The Mass Transit Options

Characteristic	Busway	LRT	Metro	Suburban Rail
Current Applications	Widespread in Latin America for 20 + years	• Widespread in Europe • Few in developing with 'high' ridership	Widespread, skewed to Europe and North America	Widespread, skewed to Europe and America
Segregation	At-grade	At-grade	Mostly elevated/ underground	At-grade
Space requirement	2-4 lanes from existing road	2-3 lanes from existing road	Elevated or underground little impact on existing road	
Flexibility	Flexible in both imp'n and op's robust operationally	Limited flexibility, risky in financial terms	Inflexible and risky in financial terms	Inflexible
Impact on Traffic	Depends on policy/design	Depends on policy/design	Reduces congestion somewhat	May increase congestion when frequencies high
PT Integration	Straightforward with bus operations. Problematic with paratransit	Often difficult	Often difficult	Usually existing
India Cost US $ mn/km	1-5	10-30	• 15-30 at-grade • 30-75 elevated • 60-180 underground	-
Practical Capacity Pss/hr/direction	10-20,000	10-12,000? (no examples)	60,000+	30,000
Operating Speed Kph	17-20	20? (no examples)	30-40	40-50+

Source: World Bank Urban Transport Strategy Review – Mass Rapid Transit in Developing Countries; Final Report July 2000.

Each mode has its advantages and limitations, and an ideal system would be a mix of multiple modes. The para-transit modes would also be required in all cities because of their flexibility and ability to access nearly all localities.

5.4.5.10 *Approach for Mode Selection:* A city has to decide on the type of mass transit mode it would like to adopt. It may have several mass transit modes but generally there is only one mode for a corridor. The choice of the mass transit system is based on the carrying capacity required and economic considerations. The high capacity bus system has the lowest initial cost but requires a share in the road space. The Light Rail Transit (LRT) at grade (on surface), gives better capacity than HCBS, is also more environment friendly but is more capital intensive and subject to availability of space. The Elevated Rail Transit System

Table 5.14: Technical Features and Capacity of Urban Transport Modes

	Features			Frequency Veh/hr/lane			System capacity Pass./hr/lane	
Modes	Right of way?	Recommended distance between stations in metres	Average traffic speeds**	Optimal	Maximum	Passengers carried per unit	Optimal	Maximum
Bus/ trolley bus	No right of way	500	10-20	20	60-90	60-90	2000	7000
Bus rapid transit@	Exclusive dedicated lane	500	15-25	30-60	90-120	60-90	5000	10000
Light rail***	Partial right of way	500	18-25	15	60	150-250	3000-4000	9000-15000
Rapid transit****	Grade separated	1000	25-35	30	40	300-1500	15000-30000	60000-80000
Commuter rail$	Grade separated	2000	40-60	20	30	1240-2500	30000-50000	60000-80000

**In High Capacity Bus Systems on dedicated lanes with overtaking facilities, capacities of 20000 are possible. The capacities can be much higher if there are two dedicated lanes in each direction*

*** This includes time spent during boarding, alighting and at traffic intersections.*

**** The American Public Transportation Authority (APTA) defines light rail as: "An electric railway with a 'light volume' traffic capacity compared to heavy rail. Light rail may use shared or exclusive rights-of-way, high or low platform loading and multi-car trains or single cars."*

*****Rapid transit systems are rail based, completely grade separated and operate at a high frequency*

@Bus rapid transit is a modern concept where buses are run on exclusively dedicated lanes.

$ Commuter rail is an electric or diesel propelled train for carrying passengers normally between the city centre and its suburbs.

Source: data taken from different sources.

does not take away road space, has more capacity, and is environment friendly but more expensive than the LRT (at grade). The Metro System, which could be a mix of underground and elevated rail, has the highest capacity but also the highest cost. Other factors which affect choice of mode are demand in the corridor, availability of Right of Way (ROW), nature of land use along corridor, development of major work places in the vicinity of the corridor, existing building lines etc. But it needs to be emphasised that the techno-economic considerations are the most important factors for deciding on the mode of mass transit for a particular corridor.

5.4.5.11 *An Integrated Approach:* Addressing the challenges of public transport would require an inter-departmental approach so that all efforts complement each other. For achieving this, it is necessary that a common platform be set up for urban transportation in each of the mega cities. This can be achieved only if there is a coordinated and empowered system of management, a special purpose vehicle which would build and then run, or coordinate all transportation needs of a major city. The Commission recommends that, in keeping with the national policy, in each Metropolitan Corporation, a Metropolitan Transportation Authority should be set up with appropriate powers, so as to integrate and coordinate city transport systems. Thus, a single Authority, by whatever name or structure, must become the repository of all responsibility and authority within the municipal limits for all transportation related activities and decision making. The national policy talks of a Unified Metropolitan Transport Authority (UMTA) in metropolitan cities for coordinated planning of urban transport. But what is also required is a common ticketing and fare system for different modes of public transport and their integration so that they complement and not compete with one another. To make that happen, UMTAs will need powers to regulate all modes of transport, decide on routes for each operator, fix fares, service standards, etc. In addition, UMTAs will need financial powers and resources to give financial support to operators on unviable routes.

5.4.5.12 Introduction of mass transit systems has to be carefully conceptualised as the investments required are quite large as is their socio-economic impact. All such systems should be meticulously planned. This requires a high degree of administrative and professional competence amongst officials handling the project. Therefore, capacity building of concerned officials is extremely important. Moreover, mass transit systems should not be planned and implemented in isolation. A holistic approach is necessary. An integrated transport system has various dimensions. In its widest sense it requires:[78]

- Coherence between transport, land use and other social and economic policies
- Consistent resource allocation criteria between transport modes
- Consistent budgeting across all modes and services
- Rational pricing, including externalities
- A coherent multi-modal system of regulation
- Design of services and facilities to reflect their individual strengths
- Facilities for easy interchange between modes and services
- Common fares and ticketing
- Co-ordinated timetabling where practicable
- Multi-modal passenger information

[78] World Bank Urban Transport Strategy Review - Mass Rapid Transit in Developing Countries Final Report July 2000

5.4.5.13 Some States have already taken steps in the light of the national policy. Karnataka, for example, has set up a Bangalore Metropolitan Land Transport Authority for the Bangalore region with the Chief Secretary as the Chairman and the Municipal Commissioner and various heads of department as members as well as a State Directorate of Urban Transport to give focussed attention to urban transport management in the city.

5.4.5.14 *Public – Private Partnership in Public Transport:* Involving the private sector in public transport helps in bringing in capital as well as managerial efficiencies. Various models of public-private partnership are possible. These are 'tendering of routes', wet lease of buses and outsourcing of specific services. Indore city in Madhya Pradesh has successfully operationalised the concept that "Cities with population of more than one million should have an Urban Bus Transport Corporation that owns 30 per cent of its own buses and contracts 70 per cent of buses from private contractors and operators." It has set up a SPV jointly funded by the local Corporation and the local development authority, under the chairmanship of the Mayor with the District Collector as the Executive Director, to meet the urban transport needs of the city. Several similar projects have been funded under JNNURM. The pre-requisites for a successful public private partnership are a meticulously structured agreement between the two parties and complete transparency and objectivity in the selection of the private partner.

5.4.5.15 Recommendations:

a. **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.**

b. **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.**

c. **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.**

d. 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.

e. Revitalisation of public transport services in cities should be taken up as priority projects under JNNURM and by tapping other sources of revenue as has been done in Indore and other cities. The aim should be to promote well structured public-private initiatives for modernising and redefining public transport. At the same time the efficiency of the existing State owned transport systems needs to be improved.

f. Public transport systems should generally be multi-modal. The modes should be based on economic viability. High capacity public transport systems like metro rail or high capacity bus systems should form the backbone in mega cities spplemented by other modes like a bus system.

g. While building transport infrastructure in cities, it must be ensured that the needs of the pedestrians, the elderly, the physically challenged and other users of non motorised means of transport are adequately met.

5.4.6 JNNURM – A Reform Process

5.4.6.1 The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is one of the biggest reforms-linked development programmes taken up by Government. The programme is intended to (a) trigger reforms in the urban sector, and (b) stimulate private-public partnership and private investment into urban infrastructure and services.

5.4.6.2 The Mission was launched by Government in December, 2005 for a seven year period beginning 2005-06 to undertake urban renewal projects in a mission mode. The Mission covers the development of infrastructural services in 63 selected cities. The Government of India's proposed allocation of Rs. 50,000 crore in the form of Additional Central Assistance (ACA) to States/UTs, would be in the form of grants towards meeting a part of project costs ranging from 35 per cent for mega cities to 90 per cent for the North Eastern States. The overall funding pattern, except for urban transport projects, desalination projects etc., where special norms apply, is given in Table 5.15.

Table 5.15 Funding Pattern in JNNURM

City Classification	Basis	Central Govt. Share	State Govt. Share	ULB Raised Finances
A	> 4 Million	35%	15%	50%
B	1-4 Million	50%	20%	30%
C	< 1 Million, Heritage	80%	10%	10%
D	North East, Jammu and Kashmir	90%	10%	0%

5.4.6.3 A range of conditions have been built into the programme, for governance reforms both at the State and the ULB level. The State Government concerned has to prepare city development plans with detailed project reports and sign memoranda of agreements indicating milestones for implementation of reforms.

5.4.6.4 The JNNURM has two sub-missions: Urban Infrastructure and Governance (UIG) and Basic Services to Urban Poor (BSUP) which are being implemented by two separate Directorates in two Ministries.

5.4.6.5 The programme has been hailed as the best hope for urban India, and its likely impact on urban services cannot be overemphasised. For one, it is the first time that a concerted attempt has been made to push simultaneously for urban reforms and infrastructure development. Besides, thanks to the City Development Plans (CDPs) and Detailed Project Reports (DPRs), this is perhaps a more definitive bottoms-up assessment of needs than attempted in the past.

5.4.6.6 The implementation of the programme is just picking up; however, certain aspects of the programme need consideration. A study done by the Ministry of Urban Development of the proposals received till now from the States throws up interesting issues for consideration. The first aspect, indeed, is the requirement of funds and the funding pattern. The 63 towns and cities that have been selected cover only 42 per cent of the total urban population and Rs 50,000 crores of additional assistance is expected to generate a programme worth Rs. 1,25,000 crores. But even this large amount may be an under funding of the infrastructure needs of these 63 urban bodies. The JNNURM overview document states, *"It is estimated that over a seven-year period, the Urban Local Bodies (ULBs) would require a total investments of Rs. 1,20,536 crores. This includes investment in basic infrastructure and services, that is, annual funding requirement of Rs. 17,219 crores."* However, not unexpectedly,

Table 5.16 : Sector Wise Demand in JNNURM (based on the requirements submitted by the States)

(Rs in crores)

State	No. of cities	Population (lakhs)	Urban Transport	Water Supply	Sewage/ Sanitation	Drainage/ SWD	MRTS	SWM	Others	Total
Maharashtra	5	239.0 (1)	31,901 (1)	3,729 (2)	4,523 (1)	3,156 (2)	0	718(3)	2695	46,722
Andhra Pradesh	3	81.2	8,488	7,186 (1)	3,389 (2)	3,733 (1)	8,680 (1)	1,291 (1)	500	33,267
Uttar Pradesh	7	100.2 (2)	9,646 (3)	2,714	2,383 (3)	1,771 (3)	0	376	2,802	19,692
Karnataka	2	65	11,046 (2)	2,843 (3)	1,375	0	170 (3)	870 (2)	228	16,532
Gujarat	4	98.3 (3)	7,030	1,681	1,571	1,068	0	433	1,167	12,950
Madhya Pradesh	4	46.27	2,024	721	840	365	620 (2)	115	593	5,278
Rajasthan	2	28.31	1,987	1,599	272	132	0	30	787	4,807
Tamil Nadu	2	26.64	3,359	257	325	226	0	109	3	4,279
Bihar	2	20.92	762	190	455	1,538	0	98	530	3,573
Assam	1	8.19	841	1,077	306	400	0	66	370	3,060
Punjab	2	24.01	1,374	401	488	280	0	140	41	2,724
Orissa	1	6.58	508	691	496	130	0	25	9	1,859
Haryana	1	10.56	438	434	483	256	0	39	35	1,685
Manipur	1	2.5	379	236	509	0	0	37	328	1,489
Himachal Pradesh	1	1.45	379	236	509	0	0	37	328	1,489
West Bengal	1	10.67	554	316	174	134	0	30	100	1,308
Tripura	1	1.9	519	155	309	106	0	5	21	1,115
Chattisgarh	1	7	275	375	132	110	0	61	6	959
Nagaland	1	0.77	404	70	78	220	0	7	24	803
Chandigarh (UT)	1	8.08	183	162	46	27	0	6	0	424
Total	43	787.69	82,097	25,571	18,349	13,783	9,470	4456	10,239	163,965

Source: Report compiled by the Technical Cell, JNNURM Mission Directorate; status as on 1-1-2007

Table 5.17: Per Capita Investment Demand in JNNURM (based on the projects received) (all amounts are in Rs per capita)

State	No. of cities	Population (lakhs)	Urban Transport	Water Supply	Sewage/ Sanitation	Drainage/ SWD	MRTS	SWM	Others	Total
Maharashtra	5	239	13,344	1,560	1,892	1,320	-	300	1,127	19,544
Andhra Pradesh	3	81	10,445	8,843	4,171	4,594	10,682	(1) 1,589	615	40,939
Uttar Pradesh	7	100	9,625	2,708	2,378	1,767	-	375	2,796	19,649
Karnataka	2	65	16,994	4,374	2,115	-	262	(3) 1338	351	25,434
Gujarat	4	98	7,152	1,710	1,598	1,086	-	440	1,187	13,174
Madhya Pradesh	4	46	4,374	1,558	1,815	789	1,340	249	1,282	11,407
Rajasthan	2	28	7,019	5,648	961	466	-	106	2,780	16,980
Tamil Nadu	2	27	12,609	965	1,220	848	-	409	11	16,062
Bihar	2	21	3,642	908	2,175	(3) 7,352	-	468	2,533	17,079
Assam	1	8	10,269	(2) 13,150	3,736	4,884	-	806	(2) 4,518	37,363
Punjab	2	24	5,723	1,670	2,032	1,166	-	583	171	11,345
Orissa	1	7	7,720	(3) 10,502	7,538	1,976	-	380	137	28,252
Haryana	1	11	4,148	4,110	4,574	2,424	-	369	331	15,956
Manipur	1	3	15,160	9,440	(1) 20,360	-	-	(2) 1,480	(1) 13,120	59,560
Himachal Pradesh	1	1	(3) 26, 138	(1) 50,621	13,448	(2) 9,034	-	-	-	(2) 99,241
West Bengal	1	11	5,192	2,962	1,631	1,256	-	281	937	12,259
Tripura	1	2	(2) 27,316	8,158	(2) 16,263	5,579	-	263	1,105	(3) 58,684
Chattisgarh	1	7	3,929	5,357	1,886	1,571	-	871	86	13,700
Nagaland	1	1	(1) 52,468	9,091	(3) 10,130	(1) 28,571	-	909	(3) 3,117	(1) 104,286
Chandigarh (UT)	1	8	2,265	2,005	569	334	-	74	-	5,248
Average	-	-	10423	3,246	2,329	1,750	1,202	566	1,300	20,816

Source: Report compiled by the Technical Cell, JNNURM Mission Directorate; status as on 1-1-2007

this has turned out to be a gross underestimation. According to the CDPs prepared by 43 cities, that is just two thirds of the project cities, the cost of projects would be of the order of Rs 211,348 crores. On the same per capita basis, the total investment needs projected for all 63 cities and towns is Rs. 339,902 crores.[79]

5.4.6.7 The projections for 63 cities based on available CDPs for 43 indicate an average per capita investment proposal of a little over Rs. 28,000. In terms of the projected figures, Rs 267,629 crores would be spent on urban infrastructure and governance, Rs. 69,896 crores on basic services for the urban poor and only Rs 2377 crores for capacity building and institutional development. Out of the proportion of funds required for urban infrastructure and governance, which is Rs 163965 crores for 43 cities, the programmatic breakup is given in Table 5.16.

5.4.6.8. The per capita project costs vary drastically across the States, both in total terms and under different infrastructure segments. Significantly, different degrees of emphasis seem to be given to different sectors of urban infrastructure as is seen from Table 5.17. True, this may not indicate the facilities already available, but it is hardly likely that the needs for water in one State would be very different from another. It would be seen that only three States have sent proposals for drainage/storm water drainage. This "variety" in felt need should be a matter of some significance because a balanced economic growth of the country will to some extent depend on the availability of balanced urban infrastructure.

5.4.6.9 It can be a matter of debate as to why one State should get more than twice the amount per capita than another State. But that may happen if, say, the cost of supplying safe water per person is higher in one State than in another. The costs in hill States would indeed be higher. But the need to balance the distribution of scarce funds remains an imperative. And the first, essential priority must be certification by the States that drinking water and sanitation needs, on the lines of the millennium development goals, have been met. Thus, while a bottom-up approach is laudable, in certain aspects, a macro policy stand needs to be implemented.

5.4.6.10 Another issue is the interest shown by the States themselves. Some States, such as Maharashtra, Gujarat and Andhra Pradesh appear to have been more active in proposing projects for funding. Regarding those States that have been somewhat tardy in this respect, the question arises as to whether the ULBs in these States have the professional capacity to conceptualise and produce the documentation required to approach the Government of India and private technical and funding agencies. Most States and ULBs are taking the assistance of professional consultancy companies for project preparation assistance. Special

[79] JNNURM: Financial Analysis and Trends based on Capital Investment Plans, Detailed project reports and Release of Funds; compiled by Technical Cell, JNNURM Mission Directorate and Pricewaterhouse Coopers

attention needs to be given to ULBs which have not been able to submit/prepare project proposals.

5.4.6.11 An important issue is that the programme, no doubt still in its early days, has not yet seen much progress in the delegation of powers to the local bodies, as intended in its reforms agenda.

5.4.6.12 While the demand driven approach that underpins JNNURM has much to commend itself, it it imperative that its limitations too are taken note of. A study reveals that the predominant share in projects under the Scheme belong to the urban transport sector. This has worrying implications for other equally important sectors like sanitation. Further, the stipulation of the urban local body raising the prescribed share of investment cost, irrespective of the sector has similar implications. The Commission therefore feels that for sectors like sanitation, that have broader social and environmental benefits, there need to be earmarked outlays with lower requirement of share of the ULBs.

5.4.6.13 Capacity building within the ULBs is critical for successful implementation of the scheme. The Commission is of the view that even ULBs not yet included in the Scheme must benefit from capacity building initiatives as this has marginal additional costs with benefits of a very significant order.

5.4.6.14 Recommendations:

a. **On the basis of projections, the total investment needed for urban renewal appears to be far in excess of the funds available. Government must find ways and means to fund this flagship programme – JNNURM – adequately.**

b. **The conditionalities linking reforms with fund flows should be enforced as per the schedules agreed between the ULBs and the Government of India without exceptions or relaxations.**

c. **There should be sectoral allocations for sanitation and solid waste management.**

d. **Capacity building measures should not be confined to only the selected towns and should be available for all cities/towns.**

5.4.7 A Critical and Urgent Area of Reform - Regulating the Real Estate Sector

5.4.7.1 In different chapters in this Report, the importance of urban land management, land records, proper records of rights, leverage of public land for raising urban resources have been mentioned. In this chapter, the reform measures proposed under JNNURM for development of infrastructure and basic services in cities have been mentioned in the previous section. There is one critical and urgent area of reform without attention to which all others will not achieve the objectives and may, in fact, be brought to naught. This relates to the regulation of real estate sector by an independent regulatory authority. The most important obstacle to sustainable growth of cities is the total lack of regulation of this sector. The steep rise in land prices, speculation, illegal constructions, encroachment on public lands, 'land grab', 'land mafias' are all in the news all the time. It is also recognised that existing laws on land registry, transfer of property, contracts and related matters are themselves inadequate in this context, are implemented by different authorities and they cast no responsibility (or liability) on the builder/developer for observing certain core norms in the contracts with home-buyers. In recent years, considerable progress has been made in setting up empowered regulatory bodies for the financial sector for investments in corporates, companies and mutual funds. Similar legislation and setting up of a regulatory body for investment in real estate (which is one of the main avenues of investment now for unaccounted and ill-gotten moneys), is urgently necessary. Builders/Developers investing above a certain sum (say Rs.50 lakhs) in real estate (land and construction), in notified urban and urbanising areas, should be required to register and bind themselves to specified core norms of contract and for compliance with all relevant laws and regulations applicable to land and construction (including appurtenant services) in such areas. There should be civil and criminal liability for breach (including payment of compensation to public body/ home-buyers) and the regulatory body should also have power to impose fines, deregister and/or black list offenders and publish the names.

5.4.7.2 Recommendation:

a. There is urgent need to bring in legislation to regulate the Real Estate sector on the lines mentioned in paragraph 5.4.7.1.

5.5 Mega Cities - Metropolitan Corporations

5.5.1 Re-Forming Mega Cities

5.5.1.1 In 1950, the only megacity in the world, that is a city with a population of over 10 million, was New York City. In 2006, there were 21, including India's three biggest cities,

Mumbai at third place, Delhi sixth and Kolkata seventh in the list.[80] Chennai, Hyderabad and Bengaluru are rapidly reaching that level and are in the top 40.[81] It is essential to pay special attention to the growth, development and management of these cities. In First World and Third World countries alike, rapid urbanisation has led to a number of social and economic problems, including poverty, hunger, and homelessness, crime, and disease transmission. In addition, the resulting demand for land and resources has led to numerous environmental problems, including issues of pollution, sanitation, water, and energy. In their efforts to manage the well being of over 10 million people within the confines of city limits, local municipalities have found it difficult to keep pace with demands of the growing population. To put it simply, the cost of implementing programmes to effectively serve the majority of the inhabitants skyrockets with each added individual.The unruly development of these cities, with some of the most densely populated but poorly serviced urban areas in the world, must give way to an orderly, planned, urban world.

5.5.1.2 The largest cities of India need to be provided a special administrative and legal status. Apart from well known cities such as Singapore, Dubai and Monaco, which have a position as small Nation States, there are examples of City States within a larger country. Berlin, Bremen and Hamburg are traditional examples in Germany. In line with the principle of subsidiarity, there should be little reason why State Governments should continue to exercise control over most of the activities of Metropolitan Corporations.

5.5.2 Metropolitan Corporations

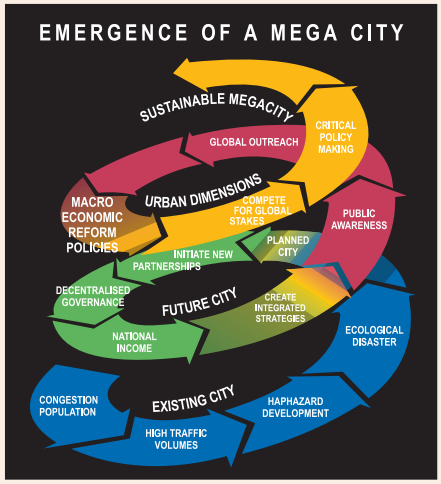
5.5.2.1 The three largest cities of India are agglomerations each with more than ten million people. While the term "megacity" is generally used for cities of this magnitude, some of India's cities below that size, such as Chennai, Bengaluru and Hyderabad, are themselves gigantic and are domestically and internationally of economic significance. Each of these large agglomerations could be considered a megacity, too large and bulky to be governed in the traditional manner.

5.5.2.2 Cities like Mumbai and Kolkata wield disproportionate economic influence within the States of which they are the capitals. They are also among the largest pool of human beings living in one single urban continuum. Their activities are specialised and complex, with a growing international flavour. Because of their increasing economic clout, their requirement of financial and other resources far outstrip the capacity of the States that they formally represent. The city of Mumbai, apart from being the capital of Maharashtra is also the financial capital of India.

[80]http://www.citymayors.com/features/urban_areas1.html
[81]ibid

5.5.2.3 Indian megacities are bustling metropolises but the quality of living in these cities continues to deteriorate. The recent incidents of flooding and waterlogging in Mumbai have highlighted its creaking infrastructure even as it is set to become the second most populous city in the world, after Mexico city, by the year 2020 (with an estimated population of 25 million). There is constant influx of migrants into the city, taking the level of the informal sector to two thirds of the working population and putting further pressure on land and services. Less than a quarter of the population have the physical and financial access to good housing, and the shortage of housing stock makes it one of the most expensive cities in the world. At the same time, Mumbai is, according to one report[82], the tenth most important financial hub in the world today. Government had set up a high level committee to suggest measures for development of Mumbai as an international financial centre. In addition to economic policy changes required to accelerate the development of the financial sector in the city, this calls for world class infrastructure and amenities for the city which can only happen through the reform process spelled out in this Report.

Box 5.17: Planned Development of a Mega City



Prepared by M/s Sundaram Architects and Consultants, Bengaluru

5.5.2.4 Delhi is a mix of the old city, the new one created by Lutyens, and the large tracts of new developments, both planned and unplanned, which have come up after independence. Administratively controlled by three different civic bodies, the differences between the various constituents of the city are enormous. Kolkata, which had become a bye-word for urban decay is now experiencing a revival with rapid economic growth under-pinning a regeneration of the city. Other large cities like Chennai, Hyderabad and Bengaluru also have their new and old parts, where tradition and modernity, rich and poor, coexist.The Commission believes that some of the recommendations made in this Report would help in improving equity and efficiency in the functioning of these megacities.

5.5.2.5 The problems that impinge on these sprawling metropolises, in a generic sense, are:

i. Insecure and hesitant leadership resulting in lack of foresight and low quality of governance;

[82]2007 report by Mastercard Worldwide

ii. The enormous size and population, which itself leads to complexities in governance;
iii. Shortage of resources to improve civic services;
iv. Traditional bureaucratic systems with general lack of professionalism;
v. The poverty and deprivation amongst a sizeable section of citizens and the continuing inability to solve shortages arising out of inward migration.

5.5.2.6 The ills that afflict these mega cities also affect other urban and peri-urban areas in the country but are more acute in the metros. The continuing, ineluctable process of agglomerisation will create more megacities over the next few decades, and the demand for systemic solutions will sharpen. Beyond the needs of political democratisation there will increasingly be a need for optimum utilisation of the best talents in the city and for greater citizen-government interface for the better governance of these enormous cities. Development/redevelopment of these megacities would require an integrated holistic approach. These cities would have to be socially, economically and ecologically sustainable. The main challenges in this direction would be of stabilising population levels, establishing an efficient public transport network, addressing the housing problem especially for the poor and adopting environment friendly technologies to develop infrastructure for energy, traffic and waste and water management.

5.5.2.7 For India, it would be useful to define all cities with a recognised metropolitan area and a population of five million as a megacity - in the context of this Report as a Metropolitan Corporation - and plan for its future with a long term perspective of at least 30 years. The planning perspective has to be based on a integated and holistic approach combining environmental, economic, cultural and social aspects with a combination of collaborative planning and learning processes ensuring widespread communication and dissemination. The megacity vision should help transform these major cities towards ecological regeneration, political participation and economic vitality. For all these cities, the Master Plan would need to be prepared as a preconceived and predetermined path for development. Spatial planning should use high resolution remote sensing and 3D visualisation of surface and subsurface with modern simulation techniques to achieve the goal of sound planning and land use management. At the same time, since the development of these cities is not on a clean slate but in the context of an existing "living city", redevelopment of the existing communities and infrastructure has to be the first priority.

5.5.2.8 *Redevelopment of the Existing Cities:* For land developers, the ease of acquiring land in areas outside city limits, the lower costs, and the economies of scale that can result from large residential and commercial complexes in greenfield areas, all translate into huge profit margins. On the other hand, the cost of redeveloping inner city properties – brownfield

redevelopment – is much higher. At the same time, for the city, 'brownfields redevelopment'[83] is a fiscally-sound way to bring investment back to neglected neighborhoods, cleanup the environment, reuse existing infrastructure that is already paid for, utilise existing markets and labour pools, and relieve development pressure on our urban fringes and farmlands. Consequently, there must be incentives to encourage better development in the cities, rather than in the distant suburbs.

5.5.2.9 Recommendation:

a. Public-Private Partnership projects for redevelopment of inner city areas need to be encouraged through a transparent and well structured regulatory regime of incentives and penalties.

5.5.3 Developing 25-30 World Class Mega Cities in India

5.5.3.1. India has to focus on developing at least 25-30 world class mega cities across the country in the next decade in order to give a boost to planned urbanisation in the country. The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) has in a sense, made a beginning in this direction by taking up urban renewal projects in mission mode in 63 selected cities. These include 7 cities that have been selected on the basis that their population exceeds four million and 28 on the basis that their populations were in excess of one million.The programme involves a quantum jump in resource allocations to the urban sector and has for the first time explicitly linked funds flow to governance reforms in order to promote democratic decentralisation.

5.5.3.2 However, any such programme also has to be backed by a zero tolerance regulatory regime, one that enforces all civic laws, major and minor, in an impartial and unforgiving manner so that the present climate of impunity that prevails in our big cities can be brought to an end. The "Broken Windows" syndrome was referred to in the Commission's Report on Public Order as an example of why law enforcement and civic regeneration must go hand in hand. That report also cited significant international examples, notably of Singapore and New York, showing how this can be achieved. This requires development of regulatory systems that can ensure that all violations of civic laws and rules, from the most minor to the most blatant, are punished without fail and for citizens to develop a culture built on civic pride and obedience to the rule of law,

5.5.3.3 A zero tolerance strategy towards violations of civic laws will help to forestall the kind of widespread and blatant violations of building bye laws and land use norms that led to the Delhi demolitions. For this to happen, in addition to the decentralisation oriented

[83]2007 Brownfields redevelopment is used here in the sense of re-developing older areas of the cities.

reforms that form the conditionalities for fund flows under the JNNURM, there is need to focus on encouraging and inducing cities to mount a massive crackdown on civic violations of all kinds so that infrastructure development under schemes such as the JNNURM is combined with genuine civic regeneration in our mega cities.

5.5.3.4 Recommendations:

a. **Government should prepare an action plan to redevelop about 25-30 cities (having a population of more than a million) to achieve international level amenities and services as modern megacities of the future.**

b. **Reform linked initiatives like JNNURM are an opportunity to complement physical development with enforcement of civic laws and general law enforcement in order to usher in genuine civic regeneration in our cities. In addition to infrastructure development in our cities, such large capital investment programs for city development should be invariably linked with a zero tolerance strategy towards civic violations.**

c. **As mentioned in the Commission's report on "Public Order", a "zero tolerance strategy" can be institutionalised in the enforcement departments of local bodies by using modern technology to monitor the levels and trends in various types of civic offences. These can then be linked to a system of incentives and penalties to hold accountable the officials working in these departments. On the spot fines and other summary penalties should be used to inculcate civic discipline and deter and prevent minor civic violations that are at present largely ignored.**

5.5.4 Authorities for Metropolitan Corporations

5.5.4.1 Given the scale and complexity of the issues involved in the management of these cities, the manner and extent to which various functions should be devolved to them would also differ from other urban areas. Democratic decentralisation would have to be combined with professionalisation to find the appropriate and efficient institutional mechanisms for providing infrastructure and running the services of the city. The approach proposed would lead to better infrastructure provisioning and more efficient delivery of services by creating institutional platforms for cohesive, integrated and proactive measures in various spheres of local governance through professional, autonomous Authorities or Committees as detailed below:

1. Metropolitan Police Authority
2. Metropolitan Transportation Authority
3. Metropolitan Planning Committee
4. Metropolitan Environmental Authority

5.5.4.2 *Metropolitan Police Authority:* In its report on Public Order, the Commission had recommended as under:

a. All cities with population above one million should have Metropolitan Police Authorities. This Authority should have powers to plan and oversee community policing, improving police-citizen interface, suggesting ways to improve quality of policing, approve annual police plans and review the working of such plans.

b. The Authorities should have nominees of the State Government, elected municipal councillors, and non-partisan eminent persons to be appointed by the government as Members. An elected Member should be the Chairperson. This Authority should not interfere in the 'operational functioning' of the police or in matters of transfers and postings. In order to ensure this, it should be stipulated that individual members will have no executive functions nor can they inspect or call for records. Once the system stabilises, this Authority could be vested with more powers in a phased manner.

5.5.4.3 The Commission would reiterate these views. Besides, as has been proposed for smaller urban bodies also, a Municipal Police Force must be set up to enforce municipal and civic laws.

5.5.4.4 *Metropolitan Transportation Authority:* The need to set up a Unified Metropolitan Transport Authority to coordinate urban transport solutions for the metropolitan areas has already been explained in paragraph 5.6.7.11. These must be set up in the six largest cities within the next year on priority.

5.5.4.5 *Metropolitan Planning Committee:* For coordinated urban planning in respect of the megacities, the Constitution provides for the setting up of Metropolitan Planning Committees (MPCs). While the Constitution requires the State Legislature to make provision, by law, for the composition of the MPC and the manner in which the seats in such Committees shall be filled, it also lays down that not less than two-thirds of the members of the MPC would be elected from among the elected members of the Municipalities and Chairpersons of the Panchayats falling in the metropolitan area. It has already been noted in paragraph 3.7.9.2 that despite the mandate of the Constitution, an MPC has been constituted in Kolkatta alone with the Chief Minister as the Chairman whereas for Mumbai, the proposal for constitution of an MPC is said to be at an advanced stage. The Maharashtra

MPC Act stipulates that the State Government will nominate the MPC chairperson. The Commission is of the view that for the megacities, it would be useful to follow the Kolkata example and have the Chief Minister as the Chairperson of the MPC. This would give the requisite impetus and priority to the process of formulating and implementing the city development plans for such megacities and will also obviate the need for the CDP/Master Plans to be submitted to the State Government for approval, as is the current practice.

5.5.4.6 *Metropolitan Environmental Authority:* In the management of the urban environment, civic bodies have not played a prominent role so far. Although it may not be possible to entirely delegate this function to the urban local bodies, an effort in that direction has to be made. In the first instance, there must be an environment audit of cities. Environmental audit, in this context, would be an overarching assessment of compliance with environmental laws and the achievements and shortfalls of the city's environment protection efforts in the context of sustainable development. Besides, an environment authority may be set up in each city with a population above five million in the first instance, for urban environment management, with powers as appropriate to be delegated by the State Government. Certain activities can be delegated over time to smaller bodies also. Basically, while the laying down of the regulations and the overall inspection powers would remain with the Pollution Control Board or any other appropriate body, the actual effort on the ground must, as far as is feasible, be undertaken by the Municipality/Corporation itself.

5.5.4.7 Recommendations:

a. **As recommended in the Commission's report on "Public Order", a Metropolitan Police Authority should be set up in all cities with a population above one million to oversee community policing, improve police-citizen interface, suggect ways to improve quality of policing, approve annual police plans and review the working of such plans.**

b. **As recommended in para 5.4.5.15 of this Report, a Unified Metropolitan Transport Authority should be set up in an all mega cities for coordinated planning and implementation of urban transport solutions with overriding priority to public transport.**

c. **For all Metropolitan Corporations, which may be defined as cities with a population exceeding 5 million, MPCs may be constituted with the Chief Minister as the Chairperson in order to give the required impetus to the process of planning for such urban agglomerations.**

d. In all cities with a population exceeding five million, a Metropolitan Environment Authority needs to be set up with powers delegated by the State Government from the State Pollution Control Board and related authorities. It should be vested with adequate powers for urban environmental management within the city limits.

5.6 Urban Poverty

5.6.1 Overview

5.6.1.1 Poverty is a pernicious and distressing feature of our country and in urban areas, it is excruciatingly visible. That eradication of poverty should receive the topmost priority of urban local bodies cannot be over-emphasised. The reasons are obvious. First, the development of the society would be skewed if large sections live in abject poverty. Second, the constant and daily struggle of the urban poor to earn their livelihoods prevents them from participating and contributing in a meaningful way in the democratic functioning of the local bodies. This results in silencing of the voice of the poor in urban local governments. Third, the upliftment of the urban poor would enable all citizens to contribute more meaningfully to the societal development. To sum up, incidence of poverty translates into deprivation, minimised role in decision-making, lesser access to infrastructure and services and truncated access to relevant information. As UNESCAP puts it, the urban poor *". . .are the least able, as individuals, to influence how cities are governed"*.[84] The Constitution recognises the important role of the urban local bodies in poverty alleviation and slum upgradation. Thus, the Twelfth Schedule to the Constitution includes 'slum improvement and upgradation' and 'urban poverty alleviation' in its list.

5.6.2 Beneficiary Identification

5.6.2.1 Alleviation of urban poverty necessarily calls for identification of the urban poor to be able to chalk out an appropriate strategy. About two-third of the urban population live in small towns, and according to a 1993-94 estimate, 43% of the population of towns with a population below 50,000 were below the poverty line, as compared to only 20% in larger urban centres with a population of over 1 million. In 1997-98, the figures were higher at 47% and 27% respectively.[85] The Planning Commission had estimated that 23.62% of the population in urban areas in 1999-2000 was living below the poverty line based on the consumer expenditure data yielded of the 55th Round of NSSO survey.[86] On the release of data by NSSO for its 61st Round, the Planning Commission has estimated the extent of poverty in 2004-05 using both the Uniform Recall Period (URP) and Mixed

[84]UNESCAP http://www.unescap.org/pdd/publications/urban_poverty/urban_poverty.asp
[85]Planning Commission - Report of the Committee on Urban Development for the 10th 5 year Plan (2002-2007)
[86]Source: para 11.1, Report of the 11th Five Year Plan (2007-12) Working Group on Urban Housing with Focus on Slums, Ministry of Housing and Urban Poverty Alleviation; http: planning commission.nic.in/aboutus/committee/wrkgrp 11/wg11_housing.pdf

Recall Period (MRP) consumption distributions.[87] The URP consumption distribution data yields a poverty ratio of 25.7% in urban areas, while the MRP data yields a ratio of 21.7%. The MRP based estimate is roughly comparable with the poverty estimate of 1999-2000 as mentioned earlier, indicating some decline in the ratio in the intervening period.[88] It is also a fact that 68.8% of the urban slum population was concentrated in 300 Class I cities.[89] Thus, presently, roughly one-fifth to one-fourth of the urban population is living below the poverty line. The schemes for poverty alleviation have to be designed in such a way that they are able to reach out to large numbers.

5.6.2.2 Various parameters are currently being used for identifying the beneficiaries for poverty alleviation schemes. Thus, the Swarna Jayanti Shahari Rozgar Yojana (SJSRY), the flagship scheme of the Government of India for addressing the problem of urban poverty through self-employment and wage employment, uses a complex seven criteria approach for beneficiary identification.[90] This requires assignment of points on account of (i) roof, (ii) floor, (iii) water, (iv) sanitation, (v) educational level, (vi) type of employment, and (vii) status of children in a house. The poverty alleviation mission of the Government of Kerala, Kudumbashree, combines nine diverse criteria as indicators, which, in 2000, was modified, on the basis of feedback received, to include (i) no land or less than 5 cents of land, (ii) no house/dilapidated house, (iii) no sanitary latrine, (iv) no access to safe drinking water within 150 meters, (v) women headed house holds/presence of a widow, divorcee/abandoned lady/unwed mother, (vi) no regularly employed person in the family, (vii) socially disadvantaged groups(SC/ST), (viii) presence of mentally or physically challenged person/chronically ill member in the family, (ix) families without colour TV. [91] The 'Report of the Eleventh Five Year Plan (2007-12) Working Group on Urban Housing with Focus on Slums' (Union Ministry of Housing and Urban Poverty Alleviation) lays stress on the need for an exhaustive survey to identify the poor. It has been pointed out that such a survey should be city specific correlating with the specific conditions of the urban poor in that area and the parameters should be such that are easily comprehensible to the general public and should be made public before conducting the survey. This Report also suggests that after identification, the beneficiaries may be issued multi-utility cards.[92] While agreeing with the above, the Commission feels that the parameters for identifying the beneficiaries should be such which could be ascertained in an objective and simple manner during a survey without any discretionary element. The basic parameters should be spelt out at the national level. The identification should be based on a door-to-door survey and the survey teams should include at least one person from the concerned Area Sabha. The urban poor

[87]One set of data is based on a uniform reference period using 30-day recall period for all the items of consumption. The other set is obtained with reference to 365-day recall period for five infrequently purchased non-food items, namely, clothing, footwear, durable goods, education and institutional medical expenses and 30-day recall period for the remaining items of consumption. These two consumption distributions have been termed as Uniform Recall Period (URP) consumption distribution and Mixed Recall Period (MRP) consumption distribution respectively.
[88]Source: Planning Commission Press Release dated 21st March, 2007; http://pib.nic.in/release.asp?relid=26316
[89]National Conference on "Urban Poverty Alleviation through Sustainable Livelihoods" – CII Background paper, Feb 15, 2005.
[90]Source: http://mhupa.gov.in/pdf/guidelines-scheme/urbanemp-povallev/Swarna%20Jayanti/swarnjayanti.pdf
[91]Source: html version of the file http://www.kudumbashree.org/Publication/Final%20report.doc, retrieved on 31.08.2007
[92]para 11.5; http: planning Commission.nic.in/aboutus/committee/wrkgrp 11/wg11_housing.pdf

so identified should be issued multi-utility cards. These cards will help monitoring the impact of the poverty alleviation programmes on the beneficiaries as also in measurement of additions to the urban poor by way of immigration or otherwise.

5.6.2.3 Recommendation:

a. 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.

5.6.3 Measures for Poverty Alleviation

5.6.3.1 The main reason for urban poverty is unemployment and low incomes. Therefore, the poverty alleviation programmes seek to address the problem by building capacity of the poor on the one hand and providing employment opportunities on the other. These programmes also seek to improve their quality of life by providing access to services and amenities.

Box 5.18 Rural Development and Self Employment Training Institute

To provide rural youth with opportunities to be self employed, a Voluntary organisation has joined hands with Canara Bank and Syndicate Bank to set up training institutes that aim at providing youth with the skills to set up entrepreneurial ventures of their own. The free residential centres, with separate courses for men and women, provide training in the practical skills needed to establish and run enterprises. Whether it is for an electrical repair shop, a small dairy or any other venture, the alumni are also given a solid foundation in management and book keeping. Loans are provided by the banks to the new entrepreneurs and guidance given by the project faculty until the businesses stabilize. The rudset model has proved itself to be a highly effective. *(Taken from the Website of RUDSET)*

5.6.3.2 *Employment*

5.6.3.2.1 With high poverty levels in both rural and urban India, reduction in unemployment becomes a major issue for planners and administrators. It is clearly at the intersection of the rural and urban divide that a strategy and special thrust is required. Poverty in small towns appears to be higher than in the larger cities, at the first point of rural to urban migration.

5.6.3.2.2 In the past, various programmes, like, the Nehru Rozgar Yojana, Urban Basic Services for the Poor etc. were designed for alleviation of poverty in urban areas. The

Nehru Rozgar Yojana targeted the urban poor through three schemes: (a) the Scheme of Urban Micro Enterprises (SUME) which assisted in upgrading their skills and setting up self-employment ventures, (b) the Scheme of Urban Wage Employment (SUWE) which provided wage opportunities to the poor by utilising their labour, and (c) the Scheme of Housing and Shelter Upgradation (SHASU) which provided the poor assistance for shelter upgradation. The Urban Basic Services Programme was aimed at creating a facilitating environment for improvement in the quality of life of the urban poor. Presently, the Union Government's attempt at reducing urban poverty through employment generation is based on the Swarna Jayanti Shahari Rozgar Yojana (SJSRY), which was introduced in December 1997. This followed various earlier programmes such as the Nehru Rozgar Yojana, launched in 1989, and the Prime Minister's Integrated Urban Poverty Eradication Programme along with the programme for Urban Basic Services for the Poor. The present scheme is funded by the Centre and the States on a 75:25 ratio and has two components: (a) The Urban Self Employment Programme, and (b) The Urban Wage Employment Programme

5.6.3.2.3 While the Ninth Plan allocation for the SJSRY was Rs 1009 crores, the release of funds by the Union Government from 1997-98 to 2005-06 has been Rs. 978.86 crores. Broadly, an amount ranging from Rs. 38.31 crores in 2001-02 to Rs. 155.88 crores in 2005-06 was spent on this programme, not including Rs. 158 crores spent in 1998-99, which was the first full year of the new programme and had unspent balances of the earlier programmes to utilise. During the financial year 2006-07, the allocation was Rs. 250 crores.[93] The number of beneficiaries assisted for setting up micro-enterprises till December, 2006 was 7.25 lakhs and the number of persons trained about 9.80 lakhs.[94] The number of women's groups under the component of Development of Women and Children in Urban Areas (DWCUA) was only 54050 and only 201412 women were assisted under this scheme. Further, only 178307 thrift and credit societies were formed till December 2006.[95] Since the number of urban poor is over 60 million, this level of funding is far too inadequate. The lower numbers for women indicates that much needs to be done to upgrade their skills and provide them gainful employment. According to the UNFPA's – *State of World Population 2007* – "*as women are generally the poorest of the poor…eliminating social, cultural, political and economic discrimination against women is a pre-requisite of eradicating poverty…in the context of sustainable development. Compared with rural areas, cities offer women better educational facilities and more diverse employment options. Women stand to benefit from the proximity and greater availability of urban services, such as water, sanitation, education, health and transportation facilities; all of these can reduce women's triple burden of reproductive, productive and community work and, in so doing, improve their health status and that of their children and families.*"

[93]Source: Annual Report 2006-07, Ministry of Housing and Urban Poverty Alleviation
[94]ibid
[95]ibid

5.6.3.2.4 Such schemes generally suffer from constraints such as low individual project ceilings (e.g. Rs. 50,000/- in case of SJSRY[96]) and less scope for innovative/special projects.[97] Further, as the urban poor form part of the informal sector, they have difficulty in accessing finance through the formal system. Access to micro-finance, both through the formal system as well as through NGOs, can help in providing the much needed capital for the poor. The concept of 'micro-finance' essentially rests on the premise that (a) self-employment/ enterprise formation is a viable alternative means of alleviating poverty; (b) lack of access to capital assets/credit acts as a constraint on existing and potential micro-enterprises; and (c) the poor are capable of saving despite their low level of income.[98] There is need to promote utilisation of micro-finance facilities through self-help groups (SHGs). Institutions and NGOs with good track record need to be encouraged to promote SHGs in availing of micro-finance and impart training for acquiring necessary skills. Group activity would assist in better capital utilisation and institutional guidance would keep the group attuned to market forces of supply and demand. The Commission is also of the view that once the poor have been identified in the manner described in paragraph 5.6.2.3 above, the issue of urban poverty alleviation would have to be addressed in a systematic and time-bound manner by adopting the mission mode approach. The success of the Kudumbashree model in Kerala serves as a good example. The main thrust area should be on providing skill upgradation and training to the poor. The urban local bodies should also have their own poverty alleviation schemes with adequate backward and forward linkages and convergence. The schemes should have adequate flexibility with regard to type of projects and amount of finance keeping in mind the forces of demand and supply. For training the urban poor, self-employment training institutes on the lines of RUDSETI's (see Box 5.18) may be replicated in urban areas.

5.6.3.2.5 Recommendations:

a. **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.**

b. **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.**

[96]ibid

[97]Source: para 11.3, Report of the 11th Five Year Plan (2007-12) Working Group on Urban Housing with Focus on Slums, Ministry of Housing and Urban Poverty Alleviation; http: planning Commission.nic.in/aboutus/committee/wrkgrp 11/wg11_housing.pdf

[98]Source: http://planningcommission.gov.in/aboutus/committee/strgrp/stg_udsc.pdf, para 10.4

c. In case of setting up of micro-enterprises, the urban poverty alleviation schemes should be flexible in selecting projects and providing financial assistance.

d. 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.

5.6.3.3 *Literacy*

5.6.3.3.1 The number of illiterates in our urban areas is about a quarter of all urban population. As per the 2001 census data, literacy in slums stands at 73.1 per cent with 80.7 per cent male and only 64.4 per cent female literacy, as against non-slum literacy of 81 per cent, covering 87.2 per cent for males and 74.2 per cent for females. A third of urban slum women have not learnt to read and write. As per an IMRB study conducted in the third quarter of 2005, around 21 lakh children were out of school in urban areas (4.34% of the eligible population) out of a total of 134 lakh children out of school in the country.

5.6.3.3.2 The educational facilities for the urban poor are generally unsatisfatory as most of the urban poor are concentrated in slums where space is at a premium. As mentioned earlier, the civic services such as sanitation, water supply, electricity supply are also poor in these areas. Most of the dwelling units do not have proper land titles and hardly any space is available for construction of public facilities like schools. Low family income levels prevent parents from sending their children to schools. Furthermore, the hetrogeneous nature of the population which includes certain disadvantaged sections like child labourers, rag pickers, pavement dwellers, migrants etc. compounds the problem further. The problems are even more acute in areas which are not recognised as slums. In such areas city authorities are reluctant to provide any civic amenities.

5.6.3.3.3 The Commission, therefore, feels that providing education in poor urban areas cannot be viewed in isolation and there has to be convergence between socio-economic development and education. This convergence can be brought by the local bodies. The municipal bodies should ensure that the basic amenities are provided to such areas immediately and also ensure that adequate space is provided for setting up of schools. The education plan should form an integral part of the development plan for the city. In congested areas, innovative approaches should be adopted like running schools in shifts, running schools in community buildings, providing free transport, running schools on

holidays etc. Other issues related to 'education' are discussed in paragraph 5.4.4.1 of this Report.

5.6.3.3.4 Recommendation:

a. The education plan should form an integral part of the development plan for the city.

5.6.3.4 *Health and Nutrition*

5.6.3.4.1 Estimates indicate that 13 per cent of all urban poor reporting ailments do not receive treatment. Poverty is a major hurdle in receiving adequate medical care.[99] The Report of the Task Force to advise the NHRM on "Strategies for Urban Health Care", Ministry of Health and Family Welfare indicates, inter alia, that with regard to under-five children, infant and neonatal mortality rates are considerably higher among the urban poor than the national and State averages. About 60 per cent of the deliveries are at "home" in a slum environment and over half of urban poor children are underweight and/or stunted. For improving the lot of the urban poor, the Commission feels that urban local bodies should adopt the concept of providing Primary Health Care Centres as is being done in the rural areas. These should preferably cater to slum areas where the urban poor are concentrated and should include community based auxiliary health staff to focus on reduction of IMR and MMR. The main issues related to 'health and nutrition' are discussed in paragraph 5.4.4.2 of this report.

Box 5.19: Health and Sanitation

Poor people live in unhealthy environments. Health risks arise from poor sanitation, lack of clean water, overcrowded and poorly ventilated living and working environments and from air and industrial pollution. Inadequate diet reduces slum-dwellers' resistance to disease, especially because they live in the constant presence of pathogenic micro-organisms.

Source: UNFPA State of World Population 2007

5.6.3.4.2 Recommendation:

a. Urban Local Bodies should adopt the concept of 'Primary Health Care' for providing health and medical facilities to the urban poor, particularly to women and children with the help of auxiliary health staff. These should specifically cater to the population living in slum areas.

5.6.3.5 *Slums in Urban Areas*

5.6.3.5.1 An NSSO survey of urban slums carried out in 2002[100] indicated that about 8 million households, that is nearly 14% of urban households, lived in slums. Every seventh person in urban India is a slum dweller. An earlier nation-wide survey of slums conducted

[99]"About 72 per cent of the urban rich ascribe not receiving treatment to 'ailment not serious', whereas only 48 per cent of the urban poor identify the same reason. Lack of facilities also does not show up as a significant cause of no treatment for the urban poor. Not surprisingly, a third among the poor not getting any treatment, ascribe it to the lack of funds. This figure for the rich is only about one-tenth." : *India Infrastructure Report, 2006*

[100]The sample covered 360 notified and 332 non-notified slums

by NSSO during 1993, estimated the total number of urban slums to be 56311 of which 36% were notified by the respective urban bodies. The 2002 survey estimated the number of slums to be 52,000, a reduction from the position ten years earlier. About 51% of the slums in the 2002 study were notified, but they covered 65% of the population. Significantly, for about 11% of the dwellings in slums there was no drinking water, toilets or electricity facilities.

5.6.3.5.2 The population of slum dwellers is a good proxy, but not an exact indicator, for urban poverty. Some, whose earnings may be higher than $1 per day – the millennium development goals norm for poverty and hunger as mentioned earlier - would still be living in slums for want of better, affordable accommodation. Television antennae in many urban slums indicate that the owners of these television sets are not likely to be BPL persons. Incomes in Dharavi reportedly range from Rs 300 to Rs 3,00,000 a month![101] Significantly, while the total urban population below the poverty line has dropped from 75.2 million in 1987-88 to 67.1 million in 1999-2000 and the poverty ratio declined from 38.2% to 23.6% in the same period, the overall urban slum population has grown from 26 million in 1981 to 46.2 million in 1991 and then to 61.8 million in 2001. A recent survey for the Mumbai Sewerage Disposal Project found that 42 per cent of slum dwellings in the city had an area of less than 10 square metres and only 9 per cent had an area of more than 20 square metres. Almost half the households in slums got their water from shared standpipes and only 5 per cent had direct access to water through individual taps. The city's sanitation situation was even more alarming: 73 per cent of the city's slum households

Box 5.20: In-situ Rehabilitation of Slum Dwellers – The Tehkhand Project

In the area of Tehkhand in South Delhi, the Delhi Development Authority(DDA) called for bids in the year 2006, from private developers for participation on public private partnership basis, in a slum rehabilitation project with a difference.

The Project was for construction of 3,500 (EWS) houses for resettlement of slum dwellers squatting on a part of the Project site. They would be provided with rehabilitation housing units with specified covered area and specifications and a maximum number of 750 premium category houses (free sale houses) would also be allowed to be built along with development of the site for various other facilities as per specified norms, on a total project area of 14.3 hectares. The reserve price for the right to participate in the project was fixed at Rs.204.4 crores. For the resettlement housing component comprising 3500 units for slum dwellers, a minimum area of 28 sq.mtr. Per unit was prescribed to be laid out in five storied blocks. Minimum specifications were also prescribed for the EWS units to ensure that the slum dwellers were given acceptable standards of housing. In addition, institutional facilities including primary and secondary school sites, community centre, religious site and police station as well as parks and convenient stores were specifically provided for in the layout to be followed by the developer.

To cross subsidise the EWS housing; the developer was allowed to construct a maximum of 750 premium category flats for free sale with a maximum total built up area of 80,000 sq.mtr. and maximum ground coverage of 15,000 sq.mtr. For the free sale housing area also, the lay out provided for institutional facilities such as schools, parks etc. The developer was also expected to provide all infrastructure facilities including electric sub-station and other service lines including water supply and sewerage within the complex.

[101]*Dharavi: A View from Below*, Good Governance India magazine, Vol. 2 No. 1, Jan-Feb 2005 Jockin, President, National Slum Dwellers Federation, Mumbai, Sheela Patel, Director, Society for the Promotion of Area Resource Centers (SPARC), Mumbai, Sundar Burra, Adviser, Society for the Promotion of Area Resource Centers (SPARC), Mumbai

housing 3.86 million residents – depended exclusively on public toilets. Moreover, overuse and poor maintenance had made public toilets a health hazard, especially in areas where the user group was undefined.Less than one per cent of the slum population had access to individual toilets or to payper-use toilets constructed by private agencies or NGOs.[102]

5.6.3.5.3 The slum dwellers suffer several 'urban penalties'.[103] Essential services – health, sanitation, education – even when available, are grossly overstrained and the poor find it difficult to access them. The quality of housing is very poor as defective land titles make redevelopment difficult. The location of slums on the marginal lands makes them more vulnerable to disasters, which take a heavy toll whenever they strike, because of the high population density. Poverty prevents children, particularly girls from attending school as they have to work to earn. The poor conditions coupled with high rate of unemployment and weak governance, often make these slums breeding grounds for criminals. In spite of all these 'penalties' the slums contribute to the economic growth of the city by providing cheap labour for almost all kinds of activities.

5.6.3.5.4 As stated in the UNFPA Report – State of World Population 2007 – running the poor out of town through evictions and discriminatory practices is not the answer. Helping the urban poor to integrate into the fabric of urban society is the only lasting solution to the growing urbanisation of poverty. The Report has brought out certain misconceptions– (i) rural-urban migrants are primarily responsible for urban poverty; (ii) the poor are a drain on the economy, and (iii) migrants would be better off remaining in rural area. In fact, attempts to control rural-urban migration not only infringe individual rights but also hold back overall development. The Report rightly concludes that lack of adequate shelter is at the core of urban poverty and that much can be done to improve the lives of people through better policies in this area.

5.6.3.5.5 Slum Development: Till recently, two schemes pertaining to slum development existed in the Minstry of Housing and Urban Poverty Alleviation The first was the National Slum Development Programme (now discontinued), the second the Valmiki Ambedkar Awas Yojana (VAMBAY). VAMBAY and the discontinued NSDP have been subsumed in a new scheme, the Integrated Housing and Slum Development Programme (IHSDP), launched along with JNNURM in December 2005.

5.6.3.5.6 Under the National Slum Development Programme (NSDP), launched in August 1996, Additional Central Assistance (ACA) was provided to the States/UTs for the development of urban slums. The objective of this programme was the upgradation of urban slums by providing physical amenities like water supply, storm water drains,

[102]UN-Habitat State of World Cities 2006/7
[103]UN-Habitat State of World Cities 2006/7

community bath, widening and paving of existing lanes, sewers, community latrines, street lights etc., apart from improving community infrastructure and social amenities like pre-school education, non-formal education adult education, maternity, child health and primary health care including immunisation etc.

5.6.3.5.7 Till the NSDP was discontinued in 2005-06, a total amount of Rs. 3089.63 crores was released to the States and UTs under this programme. As per reports, an amount of Rs. 2496.18 crores has been spent and about 4.58 crores of slum dwellers area said to have benefited from this programme. Under the IHSDP, by December 2006, 101 projects were approved and Central Assistance of Rs 408.52 crores was released.[104]

5.6.3.5.8 The Valmiki Ambedkar Awas Yojana (VAMBAY) was introduced in 2001 to provide adequate shelter to urban slum dwellers living below the poverty line. This was the first scheme of its kind meant exclusively for slum dwellers with a Government of India subsidy of 50 per cent; the balance 50 per cent was to be arranged by the State Government, from HUDCO and elsewhere, with ceiling costs prescribed both for dwelling units/community toilets. The scheme required the submission of proposals by the nodal agencies of State Governments to HUDCO who would, in turn, process and forward them to this Ministry with their recommendations. The Economic Survey for 2005-06 remarks that *"Since its inception and up-to December 31, 2005, Rs. 866.16 crore had been released as Central subsidy for the construction/upgradation of 4,11,478 dwelling units and 64,247 toilet seats under the Scheme. For 2005-06, out of the tentative Central allocation of Rs. 249 crore, up to December 31, 2005, an amount of Rs.96.4 crore had been released covering 60,335 dwelling units and 381 toilet seats."* These numbers, especially for toilets, make pathetic reading, as the achievements are miniscule as against the national requirements.

5.6.3.5.9 The total allocation for housing for the urban poor has been grossly insufficient and must be increased substantially to make any impact on the paucity of shelter for the urban poor. Government should review the present scheme and the approach towards housing for the poor, which may require total concentration on slum improvement. It would be essential to improve the entire area covered by a slum rather than spend on individual hutments. The basic approach needs reorientation into a composite programme. If it is accepted that there is no ownership of property individually in a slum, then it gives scope for the authorities to easily prepare an integrated, socially inclusive colony covering the entire area. The need for temporary accommodation as an essential facility has, of course, to be considered.

5.6.3.5.10 The value of real estate has skyrocketed in India's larger cities, indeed in all urban areas. This creates an opportunity for Government and the urban authorities to involve

[104]Source: Annual Report 2006-07, Ministry of Housing and Urban Poverty Alleviation, page 13.

the private builders to provide housing for the slum dwellers and use a part of the land for profit as shown in Box 5.18 and as is being attempted in Dharavi.

5.6.3.5.11 The Commission has given due consideration to this complex issue and recommends that the following suggestions could be kept in view while preparing slum development policies or specific schemes:

a. All projects for slum redevelopment must be finalised only after sufficient disclosure and discussion with the slum dwellers and their representatives. This does not mean that all the demands of the residents must be accepted. The Commission is aware of the possibility of narrow or vested interests on "either side" and also that larger city issues of, say, environment management or traffic requirements must also be addressed. Nevertheless, the felt needs of the beneficiaries must be noted and no top down enforcement approach should be adopted.

b. The maximum possible floor area may be provided to the beneficiaries. This must take into account the needs of privacy in a joint or even a unitary family system. The area per dwelling unit can be maximised by vertical housing, with relaxation if necessary in existing FSI norms in the area for the sole purpose of retaining as much space as possible for other facilities and greenery. The present limit of four floors on slum/poor housing reconstruction also needs to be reviewed.

c. Only a small percentage of the land may be offered for profit based development and all needs of public spaces must be built into the scheme. The facilities to be provided should include total sanitation, adequate water supply, and depending on factors such as space, location, population and proximity to existing facilities; schools, crèches, libraries, dispensaries, cultural activities centres, transport shelters and relevant civic offices.

d. A small percentage of the cost of the dwelling unit can be met by the beneficiary. There are benefits of redevelopment and the costs attached to it which to some extent must be paid for by the slum dweller, if he wishes to use those benefits.

5.6.3.6 *Land Use Reservation for the Urban Poor*

5.6.3.6.1 Apart from the realignment and redevelopment of existing slums, it has to be expected that further migration and population increase could create more slums. To avoid this, and to improve the housing stock for the poor, it is necessary to earmark and reserve a

certain percentage of land in each town and city for the urban poor. This must be a part of the spatial planning process and must apply to all private developers as well. If a particular construction cannot allocate housing for the poor, the developer must, at his own cost, provide suitable housing in any other appropriate place acceptable to the authorities. In the proposed National Urban Housing and Habitat Policy-2007, there is a provision to earmark at all levels, including the new Public/Private housing colonies a portion of land at affordable rates for housing for the Economically Weaker Sections and Low Income Group. This could be 10-15% land area to accommodate 20-25% dwelling units for Economically Weaker Sections and Low Income Group.[105] Thus, to prevent ad hoc action, the policy and rules in this regard must be clearly laid down.

5.6.3.6.2 Shelter for Pavement Dwellers: Pavement dwellers are worse off than slum dwellers. And they are often lost sight of while planning housing for the poor. The Commission would not like to go into details, but parallel to housing for slum dwellers, a part of all programmes must include housing for pavement dwellers. An immediate requirement would be construction of night shelters, which could be built by the State Governments and the civic bodies, and handed over to NGOs to run. A detailed programme needs to be drawn up in all cities, beginning with large cities having Metropolitan and Municipal Corporations for implementation.

5.6.3.6.3 Recommendations:

a. There has to be total redevelopment of slum areas. While redeveloping, it should be ensured that adequate provision has been made for schools, health centres, sanitation etc.

b. For slum redevelopment, the approach suggested in para 5.6.3.5.11 may be considered while formulating policy or specific schemes.

c. It is necessary to earmark and reserve a certain percentage of land projects in each town and city for the urban poor. If a construction cannot allocate housing for the poor, the developer must, at his own cost, provide suitable housing in any other appropriate place acceptable to the authorities.

d. A detailed programme for the provision of night shelters needs to be drawn up in all cities, beginning with large cities having Metropolitan and Municipal Corporations, for implementation.

[105]This was stated by the Minister of State (Independent Charge) for Housing and Urban Poverty Alleviation, in a reply to a question by Smt. Supriya Sule, MP, in Rajya Sabha on 26th April, 2007 (Source: http://pib.nic.in/release/release.asp?relid=27157)

5.7 Urban Planning

5.7.1 Specific Issues in Urban Planning

5.7.1.1 The key concern when it comes to the urbanisation process in India is the fact that in the fastest growing cities in the country, urbanisation has taken the form of ugly urban sprawls, comprising slums and unauthorised colonies, which provide entry level housing to migrants from the rural areas who come to the cities in search of jobs and cannot afford to live in the planned layouts and authorised colonies. "*Large parts of cities today completely escape mainstream planning. Half of the population of Delhi and Mumbai lives in unauthorised areas*".[106]

5.7.1.2 How this indiscriminate process of urbanisation can be controlled and planned to take care of the demand and supply side when it comes to provision of both housing and infrastructure services for the rich and the poor, is a major challenge.

5.7.1.3 The National Commission on Urbanisation in its report in 1988 made the following telling observation:

> *"Several factors today prevent a city from developing along desirable lines. One is the plethora of laws, rules and regulations which restrict rather than encourage. Ahmedabad has few unauthorised colonies because the provisions relating to town planning schemes permit the owners of open land to get layouts approved, exchange land on an equitable basis where the planning norms so require, and develop housing layouts. Almost half the populations of Delhi and Bombay live in unauthorised colonies because the system of planning militates against landowners developing their own lands and therefore, when demand outstrips supply, people build unauthorisedly. Whether the restrictive laws relate to planning or whether they arise from misplaced social legislation, the Commission recommends that they be done away with so that new lands can come on the market at rates commensurate with demand."*

5.7.1.4 *The Commission further said*

> *"In order to professionalise the administration in both town and city, the Commission has further recommended a clear-cut codification of powers and functions between the deliberative wing (which will frame policy and generally oversee implementation to ensure that it conforms to the policy guidelines) and the executive wing (which will enjoy full autonomy and powers within the policy frame). The present conflict between Commissioner and Standing Committee, for example, is sought to be done away with by taking purely administrative and executive issues out of the purview of Standing Committees. Once*

[106]Planning for Urban Infrastructure - Olivier Toutain and S Gopiprasad in India Infrastructure Report, 2006

the urban administration is reorganised on these lines, it would not be necessary to retain functional agencies and development authorities, which could be merged into local governments, thus eliminating the present scope for conflict between them and local bodies. The only exception would be regional planning authorities which might cover regions which contain several towns and cities. But there also, by giving equal representation to every local body in the regional authority, an effort would be made to ensure operation through consensus rather than imposition of authority by a superior body".

5.7.1.5 The manner in which space is organised and used in a city is a physical expression of its economy, environment and equity. The better the planning of urban space, the greater is the ease of administration and governance. Naturally, a holistic approach is of the essence. The India Urban Space Conference, held at Goa in February 2006, made, inter alia, the following ecommendation:

"We advocate a new paradigm for planning our cities. Not one that takes a myopic view of planning as zoning and land use, but a development plan that is informed by the issues of public governance, the need for connectivity, environmental cost of urban expansion, of the impact on depleting resources and vanishing ecological diversity, the requirements of water, power and infrastructure. Of planning that ensures social housing, that fosters the building of communities. One that gives us public realms that are inviting. That allows street vendors to earn their living and provide a valuable service and yet is not unreasonable or inconvenient. That allocates space for new industries and businesses to thrive but builds in flexibility for changing economies. That provides and works towards a vision for a city that all its citizens can own"

5.7.1.6 In India, between 1901 and 2001, the urban population grew over eleven times, from 25 million to 285 million; but the number of urban centres only doubled. The overall availability of land per person in India has declined steadily, from 1.28 hectares per person in 1901 to 0.32 hectares in 2001. The average number of persons per urban settlement today is 71,800 and is expected to double in fifty years.[107]

5.7.2 The Town and Country Planning Act(s)

5.7.2.1 The system of creating Comprehensive Development Plans (Master Plans) post-Independence in India is derived from the Town and Country Planning Act, 1947, of the UK. That legislation was followed by administrative instructions in 1955 on the creation of green belts, and updated by an Act of 1990. While City Improvement Trusts existed in India, since the 19th century, it was only in 1948 that a conference of Improvement Trusts proposed that all towns with a population above 10,000 should have Master Plans and all

[107]Source: Urban Local Bodies and Decentralised Urban Planning, Ribeiro

schemes of the Trusts should be within the framework of these Master Plans. The model Town and Country Planning law of 1960, prepared by the Town and Country Planning Organisation (TCPO) under the Ministry of Urban Development, led to various State level Acts, which formed the basis for a certain momentum in urban planning during the early 1960's. During the Third Five-year Plan, the Union Government provided full funding to the States to set up Town and Country Planning Departments which took up the process of preparing Master Plans. A 1995 survey by the TCPO put the number of Plans prepared under various relevant legislations such as TCP Acts, CIT Acts, City Development Acts existing at that point of time at 879 with 319 under preparation. At State level, urban planning is governed by respective State Town Planning Acts and other development Acts. State Town & Country Planning Departments in one form or the other have been established on almost all the States and Union Territories of the country. Although the role and functions of Town Planning Departments may vary from State to State by and large, preparation of Master Plans/Development Plans, Regional Plans, Town Planning Schemes, Zonal Plans, Development Scheme, Area Schemes, implementation of Central and State sector schemes, development control and planning permissions are their major functions. The Model TCP Law has provisions for (a) the preparation of comprehensive State level Master Plans for urban areas, (b) the constitution of a Board to advise and to coordinate the planning and plan formulation by the Local Planning Authorities, and (c) the implementation and enforcement of the Master Plans. This model law was revised in 1985 as the Model Regional and Town Planning and Development Law in which planning and plan implementation is proposed to be entrusted to the same agency, which would be in the nature of a Planning and Development Authority. This was further amended in 1991. Most States have enacted Town and Country Planning Laws. In some cities, urban development is governed by the State Development Authority Act (s).

5.7.2.2 'Town Planning' in the real sense is planning for the future development of a city including optimum utilisation of the available resources to provide the required civic amenities to the citizens. Thus town planning is a holistic concept. But in most cities, even today, town planning ends with preparation of zoning regulations. The enforcement of these regulations has not been up to the mark and in several cases the local bodies and other authorities as well as the citizens have violated these regulations. There is need to establish town planning as an important tool for future development of the cities.

5.7.2.3 It needs to be emphasised that urban planning can be conceptualised at three levels, at the level of a broad perspective plan for a large urban or urbanising area (usually called the master plan), at the level of zonal plans within that area (where the actual detailing of land use patterns is done) and the layout level (where the focus is on neighborhoods and

the linkages with infrastructure service networks become explicit.) In the context of the 74th Amendment, the inference thus is that the DPCs and the MPCs have to do the function of preparing plans for the regional levels (master plan and zonal plans) while the layout plans have to be prepared by the local bodies (Panchayats and Municipalities/Corporations). The Commission has already made it clear in Chapter 3.7 that DPCs and MPCs should be the sole planning authorities for urban areas (and for bridging the rural-urban divide) in the country.

5.7.2.4 Inextricably linked to the planning process for the urban areas is the process of land development in line with the Master Plan and of regulating and enforcing the parameters laid down in the plans. As far as development of land for urbanisation or to put it simply, changing land from agricultural to various urban uses (residential, commercial, institutional); is concerned, the models followed in Indian cities range from a pure monopoly of a public agency over the acquisition, planning, development and disposal of land for urban uses (e,g, the Delhi Development Authority) to laissez faire models of unplanned, barely regulated private sector led growth (in many towns) and a middle path wherein public authorities (DAs and Housing Boards) develop land but also allow private agencies to develop, under regulation, layouts particularly for housing (Haryana Housing Development Authority, Bengaluru Development Authority etc).There are also a few examples of townships set up by industries, mainly in the public sector and one radically different model of a private township developed by erstwhile farmers in Magarpatta, near Pune. Various policy mechanisms for assemblage of land have been in force as part of urban planning and development. The concept of Accommodation Reservation (AR) and Transfer of Development Rights (TDR) are the new policy instruments for resolving the problems of land acquisition/land assembly to some extent. Large scale acquisition, development and disposal of land under the Land Acquisition Act's mechanism, negotiated land purchased under Haryana Development and Regulation of Urban Areas Act, 1975 and the joint sector approach of the Uttar Pradesh Government empowering development authorities to provide land to private developers on license basis for development and construction of dwelling units are some other techniques followed for land assembly and development. In addition, Town Planning Schemes for pooling of land of identified owners for development as a unit by the planning agency is an important and pooling technique in vogue since beginning of the twentieth century. Under this technique, land is adjusted by sharing the same in a common pool where land-owners become partners in the city planning process, which help in implementation of city Master Plans in various States.

5.7.2.5 Experience also shows that public sector monopoly over the land development process leads to under provisioning of housing stock and other urban spaces and to over regulation, while the supply-demand mismatch leads to black marketing and corruption. Ideally, the

planning authority of a city should be able to leverage land use as an economic resource to create physical and social infrastructure for its citizens and to redevelop its old and decaying portions through a combination of public investments and public-private partnership projects. In addition, the land banks of the development authorities and control over land use can be utilised to generate significant revenues for cash strapped local bodies.

5.7.2.6 A public agency which focuses on provision of housing for EWS combined with development of major city level urban infrastructure and facilities while encouraging public-private partneship in all other types of real estate development appears to be the golden mean when it comes to the urbanisation process in our cities. In all public sector housing projects an effort should be made to ensure that the principle of inclusive housing is followed on the same same lines as followed by Singapore Housing Board.

Box: 5.21 : The Mumbai Floods – Reasons

July 26th witnessed 944 mm rainfall in Mumbai, a city used to heavy monsoons which claimed 1058 lives and 451 other rain related deaths.

1. While unprecedented rainfall was the main reason for the Mumbai flood in 2005, major contributing factors were unplanned urban development in complete disregard of the delicate environment and ecology of the area, such as:
   - 900 green plots were de-reserved to make way for real estate developments.
   - 730 acres of mangrove wetland filled in Mahim creek for the development of Bandra-Kurla complex.
   - Western Expressway was widened despite objections from BMC thereby seriously compromising the drainage system.
   - Course of Mithi river diverted for expansion of airport runway.
   - Transerable Development Right was allowed indiscriminately without consideration of carrying capacity of the area.
2. The drainage system was clogged by solid wastes.
3. The Disaster Management Plan was not updated.
4. Community was not involved in the planning process.

(Source: National Institute of Disaster Management)

Box: 5.22 : Land Encroachment in Bengaluru

The land that should have been earmarked for parks, playgrounds, roads and civic amenities for public utilities have been converted into sites, which was a gross violation of the laws in which the local bodies had connived with promoters.

A large tract of forestland under the Banneraghatta National Park had been encroached, but the officers concerned failed to stop this. This helped the encroachers in obtaining stay orders against the notices and the department had failed to vacate the same and former have continued to enjoy the land.

About the sorry state of affairs in the Lake Development Authority, constituted to protect 24 lakes in Bangalore city, the committee alleged that the Chief Executive Officer of the authority had failed to evict the encroachers.

The various urban local bodies failed to act against private land developers from encroaching tank beds. Strangely, the report said that commencement certificates had been issued for constructing multi-storeyed buildings under section 15 of the Town and Country Planning Act.

Similar was the case with the Karnataka State Pollution Control Board and it had failed to punish those, who let sewage into the lakes and not issued notices for not installing sewage treatment plants within the apartments.

Source: The Hindu, February 2, 2007.

5.7.2.7 *Disaster Management in Cities:* Natural disasters have become more frequent and impact a larger population. The United Nations Environment Programme (UNEP) reports

that, between 1980 and 2000, 75 per cent of the world's total population lived in areas affected by a natural disaster. The poor people living in slum areas are most vulnerable to disasters as most of these slums are located in low lying areas, or along water courses or slopes.

5.7.2.8 Planning plays a major role in disaster management. The spatial planning should take care of the natural geographical and geological parameters. For example, spatial planning should take into account the natural drainage system of region, as any obstruction with it may lead to a major catastrophe in the event of a flood. Construction of disaster resistant buildings/houses can help in mitigating the adverse effects of disasters.

5.7.2.9 The Commission in its 3rd Report – Crisis Management – has dealt at length with the issue of preparation and prevention of calamity related damages through appropriate planning measures. The Commission wishes to reiterate the imperative need to mainstream disaster specific concerns in the process of urban planning. Special attention is invited to the recommendation about making the National Building Code (NBC) available free of cost and to prepare pamphlets and handbooks on local building bye-laws etc. Making municipal building bye-laws, NBC compliant is an urgent need. An aspect of disaster prevention that needs greater focus within the process of urban planning is the relative neglect of aspects like natural drainage, and proper care of water bodies and valleys in the close vicinity of urban areas. The existing processes of town planning need to be suitably updated so as to take greater cognizance of hydrological implications of urban renewal, expansion and urbanisation.

5.7.2.10 Mere drawing up of good spatial plans is not sufficient. The enforcement of these plans – in whatever form they exist – leaves much to be desired. The zoning regulations are many a time not sacrosanct – with authorities giving permission to change the land use or relax the regulations. More often than not, such 'conversions' are not based on merit. Violations of the zoning regulations are common in our cities. The Commission is of the view that once the City Development Plan (CDP) is finalised, no authority should have any discretion to grant any exemption or waiver. The CDP should have a thirty-year perspective to be revised after every ten years through a participative and transparent process.

5.7.2.11 With land prices in cities soaring, the tendency to encroach on public lands is very common. Such lands include water bodies, natural drains etc. Such encroachments also threaten the ecology of the region and aggravate the problems during any crisis or disasters. The municipal authorities should underake a special drive to clear such encroachments. Responsibility should be fixed on officials in whose jurisdiction such encroachments take place.

5.7.2.12 Recommendations:

a. **The City Development Plan (CDP) and zoning regulations once approved should remain in force for ten years. No authority should normally have any power to change the CDP.**

b. **Infrastructure plans should be made an integral part of the City Development Plan (CDP) in order to ensure that urban planning in cities become a truly holistic exercise.**

c. **The existing system of enforcement of building regulations needs to be revised. It should be professionalised by licensing architects and structural engineers for assessment of structures and for certification of safe buildings. The units of local bodies dealing with enforcement of building bye-laws and zoning regulations also need to be strengthened.[108]**

d. **Prevention of Disaster Management must find a prominent place in spatial planning. Specific guidelines need to be framed by the Ministry of Urban Development. These should be addressed by including them in the zoning regulations and building bye-laws.**

Box 5.23 : Inclusive Growth in a Small Corner

In 1993, long before Special Economic Zones or land acquisi-tion had become concepts loaded with tension, a delegation of farmers from the Hadapsar suburb of Pune submitted a proposal for an integrated township to the city's municipal commissioner. It had been in the making for a couple of years and had been meticulously outlined with the help of experts – architects, landscape-designers, civil engineers – for all the civic amenities and facilities stipulated in the Maharashtra Regional Town Planning Act of 1966…in 1995, the agricultural land for the proposed township had acquired the status of a residential zone, and the proposal moved to Mumbai and the State government. Four years and some modifications later, the Master Plan of Magarpatta City was approved in a Gazette Notification….

Magarpattta City occupies 400 acres of fertile agricultural land, owned for generations by 122 farmers. They have watched the township grow on land they still own through a closely-held, limited company they formed;… their shares in proportion to their landholdings.

The Magarpatta Township Development and Construction Company Limited (MTDCC) develops the land for various businesses, commercial enterprises and residential properties …. Unlike a one-time payment for their parcels of land, the shareholders' share is the market valuations of their holdings that the company buys from them and then develops. Thus, there is a two-part benefit; proceeds from the sale of lands as and when the company decides to develop a project within the township and the revenues from the sale of the finished project – say, a residential block – less the cost of the project, both in proportion to their holdings… The enterprise is also self-motivating because it has opened several windows of opportunity. Many second-generation shareholders have floated companies of their own, for construction, landscaping and stone quarrying.

Source: The Hindu Business Line, 8th June, 2007.

[108]Para 5.7.2.3.13.e of the Commission's Fourth Report entitled 'Crisis Management – From Despair to Hope'

e. The standards prescribed by Bureau of Indian Standards (BIS) for disaster resistant buildings should be available in the public domain, free of cost. They should also be posted on websites of the concerned government agencies to promote compliance.[109]

5.7.3 Peri-urban Areas

5.7.3.1 Peri-urban is a term that is most commonly used for the outskirts of a large urban area, more accurately areas which are outside urban jurisdiction but are in the process of urbanisation and have certain characteristics of urban areas. Such areas are created partly by the influx from the deeper countryside, but also from those in the cities seeking to move out – some migrating from congested areas to larger residences or new industries and some shifting away from expensive city living. In this process of urbanisation, there is the usual unplanned jungle of living spaces, lifestyles and facilities. There are certain difficulties in managing the urban and rural interface. There are issues of (a) land use change, from agricultural to residential or industrial, (b) changes in the use of natural resources such as water and forestry, (c) new forms of pollution and waste management, (d) creation of infrastructure, and (e) managing a new cultural ethos. Typically, the villages adjoining a city become extensions of the city, but without the norms, however insufficient, being laid down in the city for civic lifestyles and infrastructure. An appropriate planning process of the MPC covering the peri-urban areas is essential.

5.7.3.2 Further, to be able to control untidy sprawls, it is necessary to allow, indeed ensure, that the planning laws applicable to a present city area are also applicable to future areas of the city. It cannot be that a village Panchayat gives permission for a certain type of land use which a few years later would go against the city's land use when that area is absorbed into the city. At least for the metropolitan areas, planning for the larger area must take into consideration the problems of the peri-urban areas. With inclusion in a MPC area, and common land use and infrastructure planning and uniform regulations applicable to both the city and periurban areas, it should be possible to take peri-urban areas into the planning process of the larger cities. It is essential that a set of land rules with a limited vision and land use requirements in the peri-urban Panchayats do not create a problem for the future development of the cities. All regional planning must be implemented in a manner so as to ensure that there is no hiatus between planning and permission giving for urban land use.

5.7.3.3 Finally, when it comes to regulating and enforcing the plan drawn up by the MPC for the entire Metropolitan region including the peri-urban areas, it is obvious that such enforcement has to be done by a single agency i.e. the concerned local body (Municipalities

[109]Para 5.7.2.3.13.f; ibid

and Corporations or Gram Panchayat) since they already have the statutory powers to do so and since it ties in with their responsibilities with regard to enforcement of building bye-laws, etc.

5.7.4 Regional Planning Focussing on Corridors and not Cities

5.7.4.1 Efficient infrastructure with development of corridors together with liberalisation and harmonisation of transport markets are a pre requisite for economic growth today. It is increasingly accepted that static city specific planning processes and documents have to be replaced by dynamic regional planning models based on economic corridors and transport nodes.Corridor concept is land planning by design in a manner that maximises the quality of life for inhabitants, habitat for nature and easy transportation with faster links and profits for the developers and investors. Corridors integrate transportation, housing, utility services, industries, etc with reference to the most optimal land use. Corridor based development can help decongest urban areas, improve access to arterial transport systems, and promote balanced urbanisation and development. The government's recent initiative to develop a Mumbai-Delhi Industrial Corridor is a timely recognition of this reality in which planning has to focus on regional growth corridors extending into the peri-urban areas and covering the Extended Metropolitan Regions (EMRs). Several States have also taken the lead with initiation of projects based on the corridor concept including the Hyderabad Knowledge Corridor and the Bangalore-Mysore Infrastructure Corridor both of which are focussed on the development of knowledge-based industries and residential townships along important link roads with laid down trunk infrastructure services like power, water, sewerage, public transport etc.

5.7.4.2 The Commission's recommendations with regard to the process of urban planning, for ensuring a single planning authority (DPC/MPC) for urban areas, encouraging public-private partnership in land development and strict enforcement of the plan through the concerned local bodies, and leveraging land as a resource, have already been spelt out in the earlier Chapters.

5.7.5 Development Areas

5.7.5.1 In many urban areas of the country, New Okhla Industrial Development Authority (NOIDA) and Delhi being prominent examples, development authorities were set up as the sole planning authority for ensuring planned development and were also simultaneously given monopoly powers with regard to development of land. This policy saw large tracts of land being declared as "Development Areas" wherein planning and development functions were made the exclusive responsibility of the development authorities. It has already been

mentioned in Chapter 3 that with the setting up of Metropolitan Planning Committees (MPs) and District Planning Committees (DPCs) in accordance with the 74th Constitutional Amendment the task of charting out planned development of metropolitan/urban areas, would solely become the preserve of the DPCs/MPCs and the development authorities would become the technical arm of the MPCs/DPCs. Their role as monopoly real estate developers would also change substantially with an increased focus on public-private partnership.

5.7.5.2 In addition, wherever townships including satellite towns have been set up by the development authorities, a clear cut time table for transfer of jurisdiction of these planned colonies from the development authorities to the concerned municipal bodies has to be ensured. The Commission is aware that while in Delhi, the colonies developed by the DDA are transferred to the Municipal Corporation of Delhi once the area is fully developed; such a transfer is often not carried out for decades in other so called 'development areas' that fall under the jurisdiction of development authorities. Thus, in Gurgaon, NOIDA and other such cities, property taxes are not collected from the residents and colonies continue to remain within the jurisdiction of development authorities for decades ultimately leading to loss of revenue and poor services.

5.7.5.3 Recommendation:

a. In respect of all townships and satellite towns developed under the development authorities, it should be ensured that as soon as the development process is completed, jurisdiction over the township should be transferred to the local bodies.

5.7.6 Private Townships

5.7.6.1 Planned townships and gated localities exist across the world. In 1965, less than one per cent of all US citizens lived in private communities; in 2005, that rose to 18 per cent, covering about 55 million people who lived in various kinds of homeowners' associations. There are about 100,000 privately developed and primarily privately operated, communities, some very small, others reaching thousands of acres.[110]

5.7.6.2 *Private Colonies and Gated Cities:* The term "private cities" has increasingly come into common use in the last few years. These are really private colonies, or "gated cities" as they are often called, and engage in all municipal activities but do not have municipal authority.

[110]See Local Government in a World of Postmodern Pluralism – Robert H. Nelson. and Private Cities : J. Bryan Phillips; Advocates for Self Government; http://www.theadvocates.org

5.7.6.3 *Private Cities:* A good example of a private city in India is Jamshedpur, founded by Sir Jamshed N. Tata, which started out as an industrial township but has grown to be a large city of 1.6 million people.[111] The city, privately built and "owned", grew out of the need to house the employees of TISCO (Tata Iron and Steel Co.), and then other Tata companies, but has now evolved into a multi-dimensional city. Out of its needs came the Jamshedpur Utilities and Services Company (JUSCO), a wholly owned subsidiary of Tata Steel, which, according to the Tata Group, "is the first corporate in the private sector to provide comprehensive municipal and allied services to a township. These services encompass town planning and construction, municipal solid waste management, public health, water and wastewater management, power distribution, fleet management, education and hospitality."[112]

5.7.6.4 The new posh private housing colonies in Delhi/Noida/Gurgaon, Bangalore, Hyderabad and those that are likely to come up in the SEZs are not really in the direction of "private cities". They are much smaller and are only private or gated colonies. Apart from bulk receipt of services and utilities, they have no other contact with the local civic authorities. All internal maintenance is done by the developer. These "townships" are an inevitable part of the process of increasing urbanisation and fulfil a need that the public institutions are unable to provide. However, it is necessary that the establishment of these colonies must be allowed only within the broad parameters of the larger regional urban planning process where the development plans must clearly indicate spaces for private expansion and integrated into the availability of water, sewerage etc. A part of the land must be earmarked for housing the poor who, in any case, would provide various services to the "township". With underground water becoming a fast depleting public resource, such townships which cater to the urban rich, need to be allowed with caution. Most importantly, the gated townships must be placed squarely under the jurisdiction of the concerned local body and be subordinate to their rules and laws.

5.7.6.5 Recommendations:

a. Private townships and gated communities must be placed under the jurisdiction of the concerned local body and subject to its laws, rules and bye-laws. However, they can have autonomy for provision of infrastructure and services within their precincts and /or for collection of taxes and charges (para 5.7.7.2).

b. The establishment of private, gated colonies must be allowed only within the broad parameters of the larger regional urban planning process where the development plans must clearly indicate spaces for private expansion

[111]Much of the early civil work at Jamshedpur was done by Lawrence Samuel Durrell, the father of the naturalist Gerald Durrell and the novelist Lawrence Durrell.
[112]From Tata Group web pages.

make mandatory provision for low cost housing and should be integrated with the availability of infrastructure services.

5.7.7 Special Economic Zones (SEZs)

5.7.7.1 The Special Economic Zones Act, 2005 came into effect on 10th February, 2006. Since the announcement of the new SEZ policy, India has seen a rush of developers wanting to set up Special Economic Zones in different parts of the country. There are many policy and rehabilitation issues relating to SEZs that are being addressed by the Union and State Governments. But one issue of governance that needs to be resolved is the link between SEZs and local governments. Clearly, no islands can exist within the country outside the jurisdiction of constitutionally elected governments. Therefore, a SEZ must be in conformity with the laws and rules relating to local governments. Integration of SEZs in the local governments, even as their functional autonomy is assured, is a key challenge.

5.7.7.2 In Andhra Pradesh, in 1996, the Industrial Infrastructure Corporation created a viable and successful model. The local entrepreneurs were handed over the management of the industrial estate, and were given the authority to raise service charges ('taxes') from the units/plots in the area. An agreement was concluded between the local government and the industrial estate, transferring 30% of the taxes raised to the municipality. In effect, the industrial township helped the municipality while quality of services and local autonomy were protected. Such an approach would be ideal for SEZs.

5.7.7.3 The Commission is of the view that local bodies should have full jurisdiction with regards to enforcement of local civic laws in the SEZs. A degree of autonomy for the SEZs to enable them to provide infrastructure and civic services in their areas would be desirable. Taxes raised by the local bodies from the SEZ area can be shared with the SEZ Management in lieu of civic amenities provided by them. By such an arrangement, the autonomy of SEZ is protected, the local government's authority is preserved without a drain on the revenues, and resources are mobilised to supplement local government revenues for building additional infrastructure required.

5.7.7.4 Recommendations:

a. As in the case of private townships, concerned local bodies should have full jurisdiction with regard to enforcement of local civic laws in the SEZs.

b. SEZs may be given autonomy for provision of infrastructure and amenities in the SEZ area. A formula for sharing the resources raised in the SEZ area needs to be developed.

5.8 Urban Local Bodies and the State Government

5.8.1 The law governing Urban Local Bodies (ULBs) as prevalent in the States contains various provisions prescribing measures regarding governmental control over these bodies. Such controls are in the form of:

i. Necessity to seek approval of major projects by the State Government.
ii. Power of the State Government to require production of documents.
iii. Power of the State Government to inspect the offices or works of the ULBs.
iv. Power of the State Government to issue directions to the ULBs.
v. Power of the State Government to suspend or cancel any resolution(s) passed by the ULBs.
vi. Power of the State Government to dissolve or supersede the ULBs.

5.8.2 Such powers are exercised through the District Collector, the Municipal Commissioner and other officials of the State Government. Excerpts from the Tamil Nadu District Municipalities Act, 1920; the Kolkata Municipal Corporation Act, 1980 and the Punjab Municipal Corporation Act, 1976 are provided in **Annexure-V(2)** for illustrating the point.

5.8.3 The Commission is of the view that since local bodies (both urban and rural) constitute the third tier of governance, they must have full autonomy in the areas assigned to them. At the same time, it should also be the responsibility of the State Government to ensure that the local governments carry out their activities in accordance with law. But this should not translate into State Government exercising day-to-day control over the functioning of local governments. Thus, a balance has to be struck between the functional autonomy of the local governments and the State Government's responsibility to ensure proper governance under law. The powers of the State Government should be confined to a few items like suspension or cancellation of any resolution and dissolution or supercession, of the local body under special circumstances. But even such powers should be used sparingly and only after a report from the local body Ombudsman. The Commission has already recommended the constitution of a local body Ombudsman for a group of districts in para 3.8.4 of this Report. It has also recommended that where a group of districts includes a metropolitan city within its fold, there should be a separate local body Ombudsman for it. In case of resolutions passed by the ULBs which are considered by the respective State Government to be beyond their purview or where the State Government is of the opinion that on grounds of absolute breakdown of the administrative machinery or financial bankruptcy or entrenched corruption etc. the ULB(s) needs to be dissolved or superseded, it should place the records before the local body Ombudsman concerned for investigation. The Ombudsman should

present his/her report on the matter to the Governor of the State. Further, if the State Government has within its possession, records or adequate reasons, which indicate that action should be initiated against any ULB or its elected representatives, in such cases also it should place the records before the Ombudsman for investigation. In these cases also, the Ombudsman should send its report within a specified time to the Governor.

5.8.4 Recommendations:

a. **Municipal governments should have full autonomy over the functions/ activities devolved to them.**

b. **If the State Government feels that there are circumstances that make it necessary to suspend or rescind any resolution passed by the Urban Local Bodies or to dissolve or supersede them, it should not do so unless the matter has been referred to the concerned local body Ombudsman and the Ombudsman recommends such action.**

c. **If, on any occasion, the State Government is in possession of records or has adequate reasons to initiate action against the Urban Local Bodies or its elected representatives, it should place the records before the local body Ombudsman concerned for investigation.**

CONCLUSION

Democratic governance and citizen sovereignty are the bedrock of our Constitution. Democracy flourishes and citizens get the fruits of good governance only when most decisions are taken closest to the people. Such a people-centred governance process not only enhances participation and legitimacy of our political system, but also ensures greater effectiveness in delivery of services and accountable governance. A democracy matures only when the link between the vote and public good is firmly established in the citizens' mind. People would be willing to pay taxes only when the tax money is deployed for better services in the locality in a manner that the tax-payer appreciates where the public money is going. Unless authority at each level matches the responsibility, we will continue to preside over a dysfunctional system of alibis, and citizens will continue to be disenchanted with our democratic process. This report and the Commission's recommendations are based on this clear and unambiguous logic of democracy, legitimacy and efficacy.

Three basic issues need to be addressed while empowering local governments. First, democratic institutions need careful nurturing, abundant patience, and institutional designs that maximise the benefits and ensure constant self-correction. Second, transfer of power in any form is painful and difficult. Local governments are only now taking roots after 60 years of independence. As state governments have come into their own over the decades, there is a natural tendency to hold on to their turf, and resist empowerment of local governments. Giving up power is never easy, and is unsually resisted. The states should therefore be enabled to discover a new and vital role, even as local governments become stronger and more vibrant. In some ways, the union government discovered such a role in respect of the states over the past two decades. Political, economic and legal changes completed transformed the union's role vis-à-vis states, and yet while union control has declined, its leadership and coordination role are more important than ever before. Such a transformation in the role of states vis-à-vis local governments is critical. Third, local government empowerment must ensure continuity and accountability. There cannot be a wholesale extinction of existing institutions and negation of current practices overnight. A careful transition and utilisation of the strengths of the present arrangements are important. Equally, decentralised power should lead to greater efficacy and accountability, not merely decentralised corruption and harassment.

The Commission has attempted to balance all these considerations while making its recommendations. All democratic transformation is based on continuity and change. We believe India is ready for a fundamental governance transformation, and empowered, citizen-centric, accountable local governments are at the heart of this transformation. We

are confident that within the next decade Indian democracy will mature to a point where most decisions affecting citizens' lives will be taken at the grass root level in stakeholders' groups and local governments; citizens will have a direct and effective role in managing the affairs of the collective; and service delivery and day-to-day governance will be effective, fair and transparent. This Report gives practical shape to this vision, and the recommendations of the Commission should be viewed holistically in pursuit of this vision.

SUMMARY OF RECOMMENDATIONS

1. (Para 3.1.1.12) The Principle of Subsidiarity

a. Article 243 G should be amended as follows:
"Subject to the provisions of this Constitution, the Legislature of a State shall, by law, vest a Panchayat at the appropriate level with such powers and authority as are necessary to enable them to function as institutions of self government in respect of all functions which can be performed at the local level including the functions in respect of the matters listed in the Eleventh Schedule".

b. Article 243 W should be similarly amended to empower urban local bodies.

2. (Para 3.1.2.4) Strengthening the Voice of Local Bodies

a. Parliament may by law provide for constitution of a Legislative Council in each State, consisting of members elected by the local governments.

3. (Para 3.1.3.11) Structure of Local Bodies

a. Article 243B(1) should be amended to read as follows:
"There shall be constituted in every State, as the State Legislature may by law provide, Panchayats at appropriate levels in accordance with the provisions of this part".

b. The Constitutional provisions relating to reservation of seats (Article 243 D) must be retained in the current form to ensure adequate representation to the under-privileged sections and women.

c. Members of Parliament and State Legislatures should not become members of local bodies.

d. Article 243 C(1) should be retained.

e. Article 243 C (2 & 3) should be repealed and supplanted by Article 243 C(2) as follows:

243 C(2) Subject to the provisions of this part, the Legislature of a State may, by law, make provisions with respect to composition of Panchayats and the manner of elections provided that in any tier there shall be direct election of at least one of the two offices of Chairperson or members.

Provided that in case of direct elections of members in any tier, the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State. Also, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

f. There shall be a District Council in every district with representation from both urban and rural areas.

g. 243 B (2) should be substituted by:

"There shall be constituted in every District, a District Council representing all rural and urban areas in the District and exercising powers and functions in accordance with the provisions of Articles 243 G and 243 W of the Constitution."

4. (Para 3.2.1.12) The Electoral Process

a. The task of delimitation and reservation of constituencies should be entrusted to the State Election Commissions (SECs);

b. Local government laws in all States should provide for adoption of the Assembly electoral rolls for local governments without any revision of names by SECs. For such a process to be effective it is necessary to ensure that the voter registration and preparation of electoral rolls by Election Commission of India is based on geographic contiguity. Similarly the electoral divisions for elections to local bodies should follow the Building Blocks approach;

c. **The Registration of Electors Rules, 1960, should be amended to define a 'Part' as a compact geographical unit.**

d. **In order to achieve convergence between census data and electoral rolls, the boundaries of a 'Part' and an 'Enumeration Block' should coincide.**

e. **Reservation of seats should follow any one of the two principles mentioned below:**

   i. **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.**

   ii. **Instead of single-member constituencies, elections can be held to multi-member constituencies by the List System, ensuring the reservation of seats. This will obviate the need for rotation thus guaranteeing allocation of seats for the reserved categories.**

f. **The conduct of elections for the elected members of District and Metropolitan Planning Committees should be entrusted to the State Election Commission.**

5. (Para 3.2.2.6) Constitution of the State Election Commission

a. **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.**

b. **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.**

6. (Para 3.2.3.4) Correcting the Urban Rural Imbalance in Reperesentation in Legislative Bodies

a. **In order to set right the electoral imbalance between the urban and rural population in view of rapid urbanisation, an adjustment of the territorial constituencies - both for the Lok Sabha and the Legislative Assembly – within a State should be carried out after each census. Articles 81, 82, 170, 330 and 332 of the Constitution would need to be amended.**

7. (Para 3.3.1.7) Devolution of Powers and Responsibilities

a. 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.

b. 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.

c. 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.

d. 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:

- **School education;**
- **Public health, including community health centres/area hospitals;**
- **Traffic management and civic policing activities;**
- **Urban environment management and heritage; and**
- **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.

8. (Para 3.4.20) Framework Law for Local Bodies

a. Government of India should draft and place before Parliament, a Framework Law for local governments. The Framework Law could be enacted under Article 252 of the Constitution on the lines of the South African Act, for the States to adopt. This Law should lay down the broad principles of devolution of powers, responsibilities and functions to the local governments and communities, based on the following:

- **Principle of Subsidiarity**
- **Democratic Decentralisation**
- **Delineation of Functions**
- **Devolution in Real Terms**
- **Convergence**
- **Citizen Centricity**

9. (Para 3.5.2.18) The State Finance Commission (SFC)

a. This Commission endorses and reiterates the views of the Twelfth Finance Commission regarding the working of the SFCs as listed in paragraph 3.5.2.8.

b. Article 243 I (1)of the Constitution should be amended to include the phrase "at such earlier time" after the words "every fifth year".

c. Each State should prescribe through an Act, the qualifications of persons eligible to be appointed as Members of the State Finance Commission.

d. SFCs should evolve objective and transparent norms for devolution and distribution of funds. The norms should include area-wise indices for backwardness. State Finance Commissions should link the devolution of funds to the level/quality of civic amenities that the citizens could expect. This could then form the basis of an impact evaluation.

e. The Action Taken Report on the recommendations of the SFC must compulsorily be placed in the concerned State Legislature within six months of submission and followed with an annual statement on the devolution made and grants given to individual local bodies and the implementation of other recommendations through an appendix to the State budget documents.

f. Incentives can be built into devolution from the Union to the States to take care of the need to improve devolution from the States to the third tier of governments.

g. Common formats, as recommended by the Twelfth Finance Commission (TFC) must be adopted, and annual accounts and other data must be compiled and updated for use by the SFCs.

h. SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations for improvements in their working. In case of smaller local bodies such recommendations could be broad in nature, but in case of larger local bodies, recommendations should be more specific. With historical data being available with the SFC, and with the improvement in efficiency of data collection, the SFC would be in a position to carry out the required detailed analysis. The special needs of large urban agglomerations particularly the Metropolitan cities should be specially addressed by the SFC.

i. SFCs should evolve norms for staffing of local bodies.

j. It is necessary that a mechanism be put in place which reviews the implementation of all the recommendations of the SFCs. If considered necessary, devolution of funds could be made conditional to local bodies agreeing to implement the recommendations of the SFCs.

10. (Para 3.6.16) Capacity Building for Self Governance

a. Capacity building efforts in rural and urban local self governing institutions must attend to both the organisation building requirements as also the professional and skills upgradation of individuals associated with these bodies, whether elected or appointed. Relevant Panchayat and Municipal legislations and manuals framed thereunder must contain clear enabling provisions in this respect. There should be special capacity building programmes for women members.

b. State Governments should encourage local bodies to outsource specific functions to public or private agencies, as may be appropriate, through enabling guidelines and support. Outsourcing of activities should be backed by development of in-house capacity for monitoring and oversight of outsourced activities. Likewise, transparent and fair procurement procedures need to be put in place by the State Government to improve fiscal discipline and probity in the local bodies.

c. Comprehensive and holistic training requires expertise and resources from various subject matter specific training institutes. This can be best achieved by 'networking' of institutions concerned with various subjects such as financial management, rural development, disaster management

and general management. This should be ensured by the nodal agencies in State Governments.

d. As an aid to capacity building, suitable schemes need to be drawn up under State Plans for Rural and Urban Development for documentations of case studies, best practices and evaluation with reference to the performance of the prescribed duties and responsibilities of such bodies.

e. 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.

f. Academic research has a definite role to play in building long-term strategic institutional capacity for greater public good. Organisations like the Indian Council of Social Science Research must be encouraged to fund theoretical, applied and action research on various aspects of the functioning of local bodies.

g. A pool of experts and specialists (e.g. engineers, planners etc.) could be maintained by a federation/consortium of local bodies. This common pool could be then accessed by the local bodies whenever required for specific tasks.

11. (Para 3.7.5.6) Decentralised Planning

a. A District Council should be constituted in all districts with representation from rural and urban areas. It should be empowered to exercise the powers and functions in accordance with Articles 243 G and 243 W of the Constitution. In that event, the DPCs will either not exist or become, at best, an advisory arm of the District Council. Article 243 (d) of the Constitution should be amended to facilitate this.

b. In the interim and in accordance with the present constitutional scheme, DPCs should be constituted in all States within three months of completion of elections to local bodies and should become the sole planning body for the district. The DPC should be assisted by a planning office with a full time District Planning Officer.

c. For urban districts where town planning functions are being done by Development Authorities, these authorities should become the technical/ planning arms of the DPCs and ultimately of the District Council.

d. A dedicated centre in every district should be set up to provide inputs to the local bodies for preparations of plans. A two-way flow of information between different levels of government may also be ensured.

e. The guidelines issued by the Planning Commission pertaining to the preparation of the plan for the district and the recommendations of the Expert Group regarding the planning process at the district level should be strictly implemented.

f. Each State Government should develop the methodology of participatory local level planning and provide such support as is necessary to institutionalise a regime of decentralised planning.

g. States may design a planning calendar prescribing the time limits within which each local body has to finalise its plan and send it to the next higher level, to facilitate the preparation of a comprehensive plan for the district.

h. State Planning Boards should ensure that the district plans are integrated with the State plans that are prepared by them. It should be made mandatory for the States to prepare their development plans only after consolidating the plans of the local bodies. The National Planning Commission has to take the initiative in institutionalising this process.

(Para 3.7.6.2.4)

a. The function of planning for urban areas has to be clearly demarcated among the local bodies and planning committees. The local bodies should be responsible for plans at the layout level. The DPCs/District Councils – when constituted – and MPCs should be responsible for preparation of regional and zonal plans. The level of public consultation should be enhanced at each level.

b. For metropolitan areas, the total area likely to be urbanised (the extended metropolitan region) should be assessed by the State Government and an

MPC constituted for the same which may be deemed to be a DPC for such areas. As such an area will usually cover more than one district, DPCs for those districts should not be constituted (or their jurisdictions may be limited to the rural portion of the revenue district concerned). The MPCs should be asked to draw up a Master Plan/CDP for the entire metropolitan area including the peri-urban areas.

c. The planning departments of the Development Authorities (DAs) should be merged with the DPCs and MPCs who will prepare the master plans and zonal plans.

d. The task of enforcement and regulation of the master plans/CDPs drawn up by the MPCs should be the specific statutory responsibility of all the local bodies falling within the extended metropolitan region concerned.

e. The monopoly role of Development Authorities (DAs) in development of land for urban uses, wherever it exists, should be done way with. However, public agencies should continue to play a major role in development of critical city level infrastructure as well as low cost housing for the poor. For this purpose, the engineering and land management departments of the DAs should be merged with the concerned Municipality/Corporation.

12. (Para 3.8.6) Accountability and Transparency

a. 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.

b. There should be a separate Standing Committee of the State Legislature for the local Bodies. This Committee may function in the manner of a Public Accounts Committee.

c. A local body Ombudsman should be constituted on the lines suggested below. The respective State Panchayat Acts and the Urban local Bodies Acts should be amended to include provisions pertaining to the local body Ombudsman.

i. Local body Ombudsman should be constituted for a group of districts to look into complaints of corruption and maladministration against functionaries of local bodies, both elected members and officials. For this, the term 'Public Servant' should be defined appropriately in the respective State legislations.

ii. Local body Ombudsman should be a single member body appointed by a Committee consisting of the Chief Minister of the State, the Speaker of the State Legislative Assembly and the Leader of the Opposition in the Legislative Assembly. The Ombudsman should be selected from a panel of eminent persons of impeccable integrity and should not be a serving government official.

iii. The Ombudsman should have the authority to investigate cases and submit reports to competent authorities for taking action. In case of complaints and grievances regarding corruption and maladministration against local bodies in general and its elected functionaries, the local body Ombudsman should send its report to the Lokayukta who shall forward it to the Governor of the State with its recommendations. In case of disagreement with the recommendations of the Ombudsman, the reasons must be placed in the public domain.

iv. In case of a Metropolitan Corporations, a separate Ombudsman should be constituted.

v. Time limits may be prescribed for the Ombudsman to complete its investigations into complaints.

d. In case of complaints and grievances related to infringement of the law governing elections to these local bodies, leading to suspension/

disqualification of membership, the authority to investigate should lie with the State Election Commission who shall send its recommendations to the Governor of the State.

e. In the hierarchy of functionaries under the control of local bodies, functions should be delegated to the lowest appropriate functionary in order to facilitate access to citizens.

f. Each local body should have an in-house mechanism for redressal of grievances with set norms for attending and responding to citizens' grievances.

g. For establishing robust social audit norms, every State Government must take immediate steps to implement the action points suggested in para 5.9.5 of the Report of the Expert Group on 'Planning at the Grass roots Level'.

h. It should be ensured that suo motu disclosures under the Right to Information Act, 2005 should not be confined to the seventeen items provided in Section 4(1) of that Act but other subjects where public interest exists should also be covered.

i. A suitable mechanism to evolve a system of benchmarking on the basis of identified performance indicators may be adopted by each State. Assistance of independent professional evaluators may be availed in this regard.

j. Evaluation tools for assessing the performance of local bodies should be devised wherein citizens should have a say in the evaluation. Tools such as 'Citizens' Report Cards' may be introduced to incorporate a feedback mechanism regarding performance of local bodies.

13. (Para 3.9.22) Accounting and Audit

a. The accounting system for the urban local bodies (ULBs) as provided in the National Municipal Accounts Manual (NMAM) should be adopted by the State Governments.

b. The financial statements and balance sheet of the urban local bodies should be audited by an Auditor in the manner prescribed for audit

of Government Companies under the Companies Act, 1956 with the difference that in the case of audit of these local bodies, the C&AG should prescribe guidelines for empanelment of the Chartered Accountants and the selection can be made by the State Governments within these guidelines. The audit to be done by the Local Fund Audit or the C&AG in discharge of their responsibilities would be in addition to such an audit.

c. **The existing arrangement between the Comptroller & Auditor General of India and the State Governments with regard to providing Technical Guidance and Supervision (TGS) over maintenance of accounts and audit of PRIs and ULBs should be institutionalised by making provisions in the State Laws governing local bodies.**

d. **It should be ensured that the audit and accounting standards and formats for Panchayats are prepared in a way which is simple and comprehensible to the elected representatives of the PRIs.**

e. **The independence of the Director, Local Fund Audit (DLFA) or any other agency responsible for audit of accounts of local bodies should be institutionalised by making the office independent of the State administration. The head of this body should be appointed by the State Government from a panel vetted by the C&AG.**

f. **Release of Finance Commission Grants to the local bodies may be made conditional on acceptance of arrangements regarding technical supervision of the C&AG over audit of accounts of local bodies.**

g. **Audit reports on local bodies should be placed before the State Legislature and these reports should be discussed by a separate committee of the State Legislature on the same lines as the Public Accounts Committee (PAC).**

h. **Access to relevant information/records to DLFA/designated authority for conducting audit or the C&AG should be ensured by incorporating suitable provisions in the State Laws governing local bodies.**

i. **Each State may ensure that the local bodies have adequate capacity to match with the standards of accounting and auditing.**

j. **The system of outcome auditing should be gradually introduced. For this purpose the key indicators of performance in respect of a government scheme will need to be decided and announced in advance.**

k. **To complement institutional audit arrangements, adoption and monitoring of prudent financial management practices in the local bodies should be institutionalised by the State Governments by legislating an appropriate law on Fiscal Responsibility for local Bodies.**

14. (Para 3.10.1.2) Information and Communication Technology

a. **Information and Communication Technology should be utilised by the local governments in process simplification, enhancing transparency and accountability and providing delivery of services through single window.**

15. (Para 3.10.2.8) Space Technology

a. **Space technology should be harnessed by the local bodies to create an information base and for providing services.**

b. **Local governments should become one point service centres for providing various web based and satellite based services. This would however require capacity building in the local governments.**

16. (Para 4.1.3.5) Size of the Gram Panchayat

a. **States should ensure that as far as possible Gram Panchayats should be of an appropriate size which would make them viable units of self-governance and also enable effective popular participation. This exercise will need to take into account local geographical and demographic conditions.**

17. (Para 4.1.4.4) Ward Sabha - its Necessity

a. **Wherever there are large Gram Panchayats, States should take steps to constitute Ward Sabhas which will exercise in such Panchayats, certain powers and functions of the Gram Sabha and of the Gram Panchayat as may be entrusted to them.**

18. (Para 4.1.5.4) Personnel Management in PRIs

a. Panchayats should have power to recruit personnel and to regulate their service conditions subject to such laws and standards as laid down by the State Government. Evolution of this system should not be prolonged beyond three years. Until then, the Panchayats may draw upon, for defined periods, staff from departments/agencies of the State Government, on deputation.

b. In all States, a detailed review of the staffing pattern and systems, with a zero-based approach to PRI staffing, may be undertaken over the next one year in order to implement the policy of PRI ownership of staff. The Zila Parishads, particularly, should be associated with this exercise.

19. (Para 4.1.6.8) PRIs and the State Government

a. The provisions in some State Acts regarding approval of the budget of a Panchayat by the higher tier or any other State authority should be abolished.

b. State Governments should not have the power to suspend or rescind any resolution passed by the PRIs or take action against the elected representatives on the ground of abuse of office, corruption etc. or to supersede/ dissolve the Panchayats. In all such cases, the powers to investigate and recommend action should lie with the local Ombudsman who will send his report through the Lokayukta to the Governor.

c. For election infringements and other election related complaints, the authority to investigate should be the State Election Commission who will send its recommendations to the Governor.

d. If, on any occasion, the State Government feels that there is need to take immediate action against the Panchayats or their elected representatives on one or more of the grounds mentioned in 'b' above, it should place the records before the Ombudsman for urgent investigation. In all such cases, the Ombudsman will send his report through Lokayukta to the Governor in a specified period.

e. **In all cases of disagreements with the recommendations made by the local Ombudsman/Lokayukta, the reasons will need to be placed in the public domain.**

20. (Para 4.1.7.8) Position of Parastatals

a. **Parastatals should not be allowed to undermine the authority of the PRIs.**

b. **There is no need for continuation of the District Rural Development Agency (DRDA). Following the lead taken by Kerala, Karnataka and West Bengal, the DRDAs in other States also should be merged with the respective District Panchayats (Zila Parishad). Similar action should be taken for the District Water and Sanitation Committee (DWSC).**

c. **The District Health Society (DHS) and FFDA should be restructured to have an organic relationship with the PRIs.**

d. **The Union and State Governments should normally not setup special committees outside the PRIs. However, if such specialised committees are required to be set-up because of professional or technical requirements, and if their activities coincide with those listed in the Eleventh Schedule, they should, either function under the overall supervision and guidance of the Panchayats or their relationship with the PRIs should be worked out in consultation with the concerned level of Panchayat.**

e. **Community level bodies should not be created by decisions taken at higher levels. If considered necessary the initiative for their creation should come from below and they should be accountable to PRIs.**

21. (Para 4.2.3.10) Activity Mapping

a. **States must undertake comprehensive activity mapping with regard to all the matters mentioned in the Eleventh Schedule. This process should cover all aspects of the subject viz; planning, budgeting and provisioning of finances. The State Government should set-up a task force to complete this work within one year.**

b. **The Union Government will also need to take similar action with regard to Centrally Sponsored Schemes.**

22. (Para 4.2.4.2) Devolving Regulatory Functions to the Panchayats

a. **Rural policing, enforcement of building byelaws, issue of birth, death, caste and residence certificates, issue of voter identity cards, enforcement of regulations pertaining to weights and measures are some of the regulatory functions which should be entrusted to Panchayats. Panchayats may also be empowered to manage small endowments and charities. This could be done by suitably modifying the laws relating to charitable endowments.**

b. **Regulatory functions which can be performed by the Panchayats should be identified and devolved on a continuous basis.**

23. (Para 4.3.5.3) Resource Generation by the Panchayats

a. **A comprehensive exercise needs to be taken up regarding broadening and deepening of the revenue base of local governments. This 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. Government may incorporate this as one of the terms of reference of the Thirteenth Finance Commission.**

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

c. **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.**

d. **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.**

e. **The expanded tax domain could interalia include levies on registration of cattle, restaurants, large shops, hotels, cybercafés and tourist buses etc.**

f. **The role of State Governments should be limited to prescribing a band of rates for these taxes and levies.**

g. **PRIs should be given a substantial share in the royalty from minerals collected by the State Government. This aspect should be considered by the SFCs while recommending grants to the PRIs.**

h. **State Governments should consider empowering the PRIs to collect cess on the royalty from mining activities. In addition they should also be given power to impose and collect additional/special surcharge from such activities (mines/minerals/plants).**

i. **Innovative steps taken by the States and the PRIs to augment their resources must be rewarded by linking Central Finance Commission and State Finance Commission grants to such measures. States may reward better performing PRIs through special incentives.**

j. **In the tax domain assigned to PRIs, Village Panchayats must have primary authority over taxation. However, where such taxation has inter-Panchayat remifications, the local government institutions at higher levels - Intermediate Panchayat and Zila parishad could be given concurrent powers subject to a ceiling. Whenever a tax/fee is imposed by the higher tier, such taxes should be collected by the concerned Village Panchayats.**

24. (Para 4.3.7.5) Transfer of Funds to the Panchayats

a. **Except for the specifically tied, major Centrally Sponsored Schemes and special purpose programmes of the States, all other allocations to the Panchayati Raj Institutions should be in the form of untied funds. The allocation order should contain only a brief description of broad objectives and expected outcomes.**

b. **State Governments should modify their rules of financial business to incorporate the system of separate State and District sector budgets, the later indicating district-wise allocations.**

c. **There should be a separate Panchayat sector line in the State budget.**

d. **State Governments should make use of the software on "fund transfer to Panchayats" prepared by the Union Panchayati Raj Ministry for speedy transfer of funds.**

e. **State Governments should release funds to the Panchayats in such a manner that these institutions get adequate time to use the allocation during the year itself. The fund release could be in the form of equally spaced instalments. It could be done in two instalments; one at the beginning of the financial year and the other by the end of September of that year.**

25. (Para 4.3.8.2) PRIs and Access to Credit

a. For their infrastructure needs, the Panchayats should be encouraged to borrow from banks/financial institutions. The role of the State Government should remain confined only to fixing the limits of borrowing.

26. (Para 4.3.9.5) Local Area Development Schemes

a. 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.

b. As recommended by the Commission in its report on "Ethics in Governance", the Commission reiterates that the schemes of MPLAD and MLALAD should be abolished.

27. (Para 4.4.7) Rural Development

a. The Commission while endorsing the views of the Expert Group on Planning at the Grass roots Level as given at Annexure-IV(2) to this Report, recommends that there has to be territorial/ jurisdictional/functional convergence in implementing Centrally Sponsored Schemes.

b. The centrality of PRIs in these schemes must be ensured if they are to deal with the matters listed in the Eleventh Schedule.

(i) In all such schemes, the Gram/Ward Sabha should be accepted as the most important/cutting edge participatory body for implementation, monitoring and audit of the programmes.

(ii) Programme committees dealing with functions under the Eleventh Schedule and working exclusively in rural areas need to be subsumed by the respective panchayats and their standing bodies. Some others having wider roles may need to be restructured to have an organic relationship with the Panchayats.

(iii) In the programmes, where the activities percolate to areas and habitations below a Panchayat/Ward level, a small local centre

committee should be formed to support these activities. This Centre committee should be only a deliberative body with responsibility to provide regular feedback to the Gram Sabha/Ward Sabha and be accountable to it.

c. The Ministry sanctioning the programme should issue only broad guidelines leaving scope for implementational flexibility so as to ensure local relevance through active involvement of the Panchayats.

d. All Centrally Sponsored programmes should have properly demarcated goals and there should be a mechanism to assess their socio-economic impact over a given period of time. The NSSO may be suitably strengthened and assigned this task.

28. (Para 4.4.8.6) Information, Education and Communication - IEC

a. 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.

b. 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.

c. 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.

29. (Para 4.5.4) Rule of Panchayats in Delivery of Services

a. In terms of the Eleventh Schedule of the Constitution, local level activities of elementary education, preventive and promotive health care, water supply, sanitation, environmental improvement and nutrition should immediately be transferred to the appropriate tiers of the PRIs.

b. **State Governments need to prepare an overarching Service Delivery Policy outlining the framework within which each department could lay down detailed guidelines for preparation of Service Delivery Plans.**

30. (Para 4.5.5.6) Resource Centre at the Village Level

a. **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.**

b. **These Resource Centres should also be used for documenting local traditional knowledge and heritage.**

c. **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.**

31. (Para 4.6.1.2.3) Local Government in the Fifth Schedule Areas

a) **The Union and State legislations that impinge on provisions of PESA should be immediately modified so as to bring them in conformity with the Act.**

b) **If any State exhibits reluctance in implementing the provisions of PESA, Government of India may consider issuing specific directions to it in accordance with the powers given to it under Proviso 3 of Part A of the Fifth Schedule.**

32. (Para 4.6.1.4.4) Effective Implementation of PESA

a. **Regular Annual Reports from the Governor of every State as stipulated under the Fifth Schedule, Part A (3) of the Constitution must be given due importance. Such reports should be published immediately and placed in the public domain.**

b. **In order to ensure that women are not marginalised in meetings of the Gram Sabha, there should be a provision in the PESA Rules and Guidelines that the quorum of a Gram Sabha meeting will be acceptable only when out of the members present, at least thirty-three per cent are women.**

c. **Each State should constitute a group to look into strengthening of the administrative machinery in Fifth Schedule areas. This group will need to go into the issues of (i) special administrative arrangements, (ii) provision of hardship pay, (iii) other incentives, and (iv) preferential treatment in accommodation and education. All expenditure in this regard should be treated as charged expenditure under Article 275 of the Constitution.**

33. (Para 4.6.1.5.3) Effictive Implementation of the Tribal Sub-Plan (TSP)

a. **Keeping in view the inadequacy of the past efforts, State Governments should form a special planning unit (consisting of professionals and technically qualified personnel) to prepare their Tribal-Sub Plan.**

b. **A certain portion of the allocation under TSP should be made non-lapsable on the pattern of the Non Lapsable Central Pool of Resources (NLCPR) created for the North-Eastern States. A special cell may be set up in the Ministry of Tribal Affairs to monitor expenditure from this fund.**

c) **The government may consider preparing an impact assessment report every year with respect to the States covered under PESA. This exercise may be assigned to a national level institute which has done similar work in the past e.g. National Council for Applied Economic Research (NCAER), National Institute of Public Finance and Policy (NIPFP), National Sample Survey Organisation (NSSO) or some other suitable agency. This agency will rate the performance of the State on predetermined indices.**

34. (Para 5.1.4) Urbanisation and Growth

a. **A new National Commission on Urbanisation should be constituted by Government to suggest measures to deal with the rapid urbanisation, including the large cities and bring about more balanced and efficient urbanisation in the country.**

35. (Para 5.2.2.4) Proposed Basic Structure - Ward Committees and Area Sabhas

a. **Government may consider the adoption of a common categorisation of urban bodies across the country to improve clarity in their definition so as to assist a systematic planning process and devolution of funds. A categorisation on the lines proposed given in Table 5.6 could be adopted.**

b. There should be three tiers of administration in urban local governments, except in the case of Town Panchayats, where the middle level would not be required. The tiers should be:

i. Municipal Council/Corporation (by whatever name it is called);

ii. Ward Committees; and

iii. Area Committees or Sabhas.

c. Each Area Sabha comprising all citizens in one or two (or more) polling station areas, should 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 State may, by law, prescribe the procedure and other details for such election;

d. Ward Committees should be set up in every Ward/Corporator's Division, The present system of having more than one ward in a Ward Committee needs to be given up;

e. Ward Committees need to be given legitimate functions which can be handled at that level. These functions could include street lighting, sanitation, water supply, drainage, road maintenance, maintenance of school buildings, maintenance of local hospitals/dispensaries, local markets, parks, playgrounds, etc;

f. Funds allocated for the functions entrusted to the Ward Committee should be transferred en-bloc to the Ward Committee. The budget proposed by the Ward Committee in respect to the functions allotted to it should be taken into account in formulating the overall municipal budget;

g. Meetings of the Ward Committee should be widely publicised to ensure maximum citizens' participation;

h. Ward Committees should be given a share of the property taxes collected from the ward, depending on the locality;

i. The allocation of functional responsibilities between the tiers must be clearly spelt out. While doing so, the principle of subsidiarity should be

followed. Broadly, the Area Sabha should perform functions similar to the Gram Sabha such as prioritising developmental activities and identifying beneficiaries under various schemes; and

j. A process of activity mapping similar to the one taken up for PRIs should be carried out for all ULBs within one year.

36. (Para 5.2.3.2) Zonal System for Large Cities

a. 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.

37. (Para 5.2.4.3) The Office of the Mayor/Chairperson

a. The functions of chairing the municipal council and exercising executive authority in urban local government should be combined in the same functionary i.e. Chairperson or Mayor.

b. The Chairperson/Mayor should be directly elected by popular mandate through a city-wide election.

c. The Chairperson/Mayor will be the chief executive of the municipal body. Executive power should vest in that functionary.

d. The elected Council should perform the functions of budget approval, oversight and framing of regulations and policies.

e. In municipal corporations and metropolitan cities, the Mayor should appoint the Mayor's 'Cabinet'. The members of the Cabinet should be chosen by the Mayor from the elected corporators. The Mayor's Cabinet shall not exceed 10 per cent of the strength of the elected Corporation or fifteen, whichever is higher. The Cabinet will exercise executive authority on matters entrusted to them by the Mayor, under his overall control and direction.

38. (Para 5.2.5.4) Management Structure of Urban Local Governments

a. **The Mayor should be the Chief Executive of the municipal body while the Commissioner should perform the functions delegated to him/her.**

b. **The responsibility for selection and appointment of the Commissioner and other staff may be given to the Metropolitan Corporations within a period of two years. For other bodies this may be done within three years. States should, however, by law, lay down the procedure and conditions of such appointment. For the duration that the Commissioner/Chief Officer continues to be drawn from the State Government, selection should be made by the Mayor from out of a panel of names sent by the State Government.**

c. **The Directorates of Municipal Administration, wherever they exist, should be abolished. In case there are State-wide cadres of municipal employees, no fresh appointments to these may be made and the employees should be absorbed in municipal bodies through a due process.**

39. (Para 5.3.3.8) Property Tax Reforms

a. **State Governments should ensure that all local bodies switch over to the 'unit area method' or 'capital value method' for assessment of property tax in a time-bound manner.**

b. **The categories of exemptions from property tax need to be reviewed and minimised.**

c. **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, in itself, confer any right of ownership, in case the property is found to be constructed in violation of any law or regulation.**

d. **Tax details for all properties should be placed in the public domain to avoid collusion between the assessing authority and the property owner.**

e. **The State law should also provide for tax on properties belonging to the municipal authorities which are given on lease, to be payable by the occupants.**

f. The law should provide for the levy of service charge on properties belonging to the Union and State Governments. This service charge should be in lieu of various services provided such as solid waste management, sanitation, maintenance of roads, streetlighting and general civic amenities.

g. A periodic physical verification of the properties and the taxes levied on them should be carried out in each municipal area by a separate wing directly under the control of the Chief Executive.

h. A computerised data base of all properties using GIS mapping should be prepared for all municipal areas.

i. Randomly selected cases of assessment should be audited by the government auditors as is done by C&AG in case of Union taxes.

40. (Para 5.3.4.2) Octroi

a. Octroi should be abolished, but the States should evolve mechanisms to compensate the local governments for the loss of revenue caused by such abolition.

41. (Para 5.3.5.2) Other Taxes

a. 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) may be amended to enhance the upper ceiling on Profession Tax and this ceiling should be reviewed periodically.**

42. (Para 5.3.6.8) Non Tax Revenues

a. **A significant portion of grants to the municipalities must be linked with their own efforts at resource raising.**

b. **An impact study should be carried out for all major developments in the city. A congestion charge and/or betterment levy in relation to such projects may be levied wherever warranted.**

c. **The power to impose fines for violation of civic laws should be given to municipal authorities. The relevant laws may be suitably modified.**

d. **The fines prescribed for civic offences need to be enhanced. The amount of fine should be regulated by Rules under the law so that it could be revised periodically without the necessity of an amendment to the law.**

43. (Para 5.3.7.7) Borrowings

a. **The limits of borrowings for various municipal bodies in a State may be fixed on the recommendation of the SFC.**

b. **Municipal bodies should be encouraged to borrow without Government Guarantees. However, for small municipalities, pooled financing mechanisms will have to be put in place by the State Government.**

c. **The capacity of the municipalities to handle legal and financial requirements of responsible borrowing must be enhanced.**

44. (Para 5.3.8.7) Leveraging Land as a Resource

a. **Municipal bodies should have a periodically updated database of its properties. IT tools like GIS should be used for this purpose. This database should be in the public domain;**

b. **Land banks available with the municipalities as well as with the development authorities should be leveraged for generating resources for the municipalities. However, such resources should be used exclusively to finance infrastructure and capital expenditure and not to meet recurring costs.**

c. **Until the development authorities are merged with urban local bodies, a proportion of the revenue realised by such agencies from the sale of land, say, 25%, should be made available to the municipalities for meeting their infrastructure financing needs.**

d. **The respective municipal laws should provide that any built up property of municipal bodies shall not be given on rent/lease without following a competitive process. Such a lease period shall not exceed five years.**

45. (Para 5.4.2.10) Regulatory Services

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.**

46. (Para 5.4.3.1.5) Creating a Responsive Institutional Framework

a. **The local government should be responsible for providing civic amenities in its jurisdiction.**

b. In respect of all downstream activities of a particular State utility, as soon as it enters the geographical and administrative boundary of an Urban Local Body, the Government utility/parastatal should become accountable to the ULB.

47. (Para 5.4.3.2.8) Water Supply

a. 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.

b. 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.

c. 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.

d. Municipal bodies must focus on increasing operational efficiencies – through reduction in pilferage, improving efficiency of staff and use of technology.

e. The municipal bodies should meter all water connenction 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.

f. Infrastructure development plans for water supply should be integrated with the CDPs.

g. 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.

48. (Para 5.4.3.3.9) Sewerage Management

a. **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.**

b. **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.**

c. **Community participation and co-production of services should be encouraged by municipal bodies. This should be supplemented by awareness generation.**

d. **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.**

49. (Para 5.4.3.5.3) Solid Waste Management and Scavenging

a. **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.**

b. **Municipal bye-laws/rules should provide for segregation of waste into definite categories based on its manner of final disposal.**

c. **Special solid waste management charges should be levied on units generating high amount of solid waste.**

d. Extensive surveys should be carried out by the State Governments to identify manual scavengers and estimate the number of dry latrines in existence within six months.

e. Following the survey, adequate funds should be allocated for the purpose of eradication of manual scavenging within one year.

f. Central Assistance to States Annual Plan should be tied to eradication of manual scavenging. Funds allocated under the JNNURM should also be linked to it.

50. (Para 5.4.3.6.4) Power Utilites and Municipal Bodies

a. Municipal bodies should be encouraged to take responsibility of power distribution in their areas. This, however, should be done after adequate capacity building in these organisations.

b. Municipal building bye-laws should incorporate power conservation measures.

c. Municipal bodies should coordinate the layout plans for the distribution networks of power and other utilities.

51. (Para 5.4.4.3) Services for Human Development

a. 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.

b. 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.

c. 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.

d. 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.

e. 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.

f. Recruitment for hospitals and schools should be made to an institution/ Society, moving away from non accountable State level recruitment.

g. 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.

h. 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.

i. 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.

52. (Para 5.4.5.15) Urban Transport Management

a. 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.

b. 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.

c. 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.

d. 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.

e. Revitalisation of public transport services in cities should be taken up as priority projects under JNNURM and by tapping other sources of revenue as has been done in Indore and other cities. The aim should be to promote well structured public-private initiatives for modernising and redefining public transport. At the same time the efficiency of the existing State owned transport systems needs to be improved.

f. Public transport systems should generally be multi-modal. The modes should be based on economic viability. High capacity public transport systems like metro rail or high capacity bus systems should form the backbone in mega cities spplemented by other modes like a bus system.

g. While building transport infrastructure in cities, it must be ensured that the needs of the pedestrians, the elderly, the physically challenged and other users of non motorised means of transport are adequately met.

53. (Para 5.4.6.14) JNNURM - A Reform Process

a. On the basis of projections, the total investment needed for urban renewal appears to be far in excess of the funds available. Government must find ways and means to fund this flagship programme – JNNURM – adequately.

b. The conditionalities linking reforms with fund flows should be enforced as per the schedules agreed between the ULBs and the Government of India without exceptions or relaxations.

c. There should be sectoral allocations for sanitation and solid waste management.

d. Capacity building measures should not be confined to only the selected towns and should be available for all cities/towns.

54. (Para 5.4.7.2) A Critical and Urgent Area of Reform - Real Estate

a. There is urgent need to bring in legislation to regulate the Real Estate sector on the lines mentioned in paragraph 5.4.7.1.

55. (Para 5.5.2.9) Re-Forming Mega Cities

a. Public-Private Partnership projects for redevelopment of inner city areas need to be encouraged through a transparent and well structured regulatory regime of incentives and penalties.

56. (Para 5.5.3.4) Developing 25-30 World Class Mega Cities in India

a. Government should prepare an action plan to redevelop about 25-30 cities (having a population of more than a million) to achieve international level amenities and services as modern megacities of the future.

b. Reform linked initiatives like JNNURM are an opportunity to complement physical development with enforcement of civic laws and general law enforcement in order to usher in genuine civic regeneration in our cities. In addition to infrastructure development in our cities, such large capital investment programs for city development should be invariably linked with a zero tolerance strategy towards civic violations.

c. As mentioned in the Commission's report on 'Public Order', a "zero tolerance strategy" can be institutionalised in the enforcement departments of local bodies by using modern technology to monitor the levels and trends in various types of civic offences. These can then be linked to a system of incentives and penalties to hold accountable the officials working in these departments. On the spot fines and other summary penalties should be used to inculcate civic discipline and deter and prevent minor civic violations that are at present largely ignored.

57. (Para 5.5.4.7) Authorities for Metropolitan Corporations

a. As recommended in the Commission's report on 'Public Order', a Metropolitan Police Authority should be set up in all cities with a

population above one million to oversee community policing, improve police-citizen interface, suggect ways to improve quality of policing, approve annual police plans and review the working of such plans.

b. As recommended in para 5.4.5.15 of this Report, a Unified Metropolitan Transport Authority should be set up in an all mega cities for coordinated planning and implementation of urban transport solutions with overriding priority to public transport.

c. For all Metropolitan Corporations, which may be defined as cities with a population exceeding 5 million, MPCs may be constituted with the Chief Minister as the Chairperson in order to give the required impetus to the process of planning for such urban agglomerations.

d. In all cities with a population exceeding five million, a Metropolitan Environment Authority needs to be set up with powers delegated by the State Government from the State Pollution Control Board and related authorities. It should be vested with adequate powers for urban environmental management within the city limits.

58. (Para 5.6.2.3) Beneficiary Identification

a. 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.

59. (Para 5.6.3.2.5) Measures for Poverty Alleviation - Employment

a. 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.

b. **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.**

c. **In case of setting up of micro-enterprises, the urban poverty alleviation schemes should be flexible in selecting projects and providing financial assistance.**

d. **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.**

60. (Para 5.6.3.3.4) Measures for Poverty Alleviation - Literacy

a. **The education plan should form an integral part of the development plan for the city.**

61. (Para 5.6.3.4.2) Measures for Poverty Alleviation - Health and Nutrition

a. **Urban Local Bodies should adopt the concept of 'Primary Health Care, for providing health and medical facilities to the urban poor, particularly to women and children with the help of auxiliary health staff. These should specifically cater to the population living in slum areas.**

62. (Para 5.6.3.6.3) Slums in Urban Areas and Land Use Reservation for the Poor

a. **There has to be total redevelopment of slum areas. While redeveloping, it should be ensured that adequate provision has been made for schools, health centres, sanitation etc.**

b. **For slum redevelopment the approach suggested in para 5.6.3.5.11 may be considered while formulating policy or specific schemes.**

c. **It is necessary to earmark and reserve a certain percentage of land projects in each town and city for the urban poor. If a construction cannot allocate housing for the poor, the developer must, at his own cost, provide suitable housing in any other appropriate place acceptable to the authorities.**

d. **A detailed programme for the provision of night shelters needs to be drawn up in all cities, beginning with large cities having Metropolitan and Municipal Corporations, for implementation.**

63. (Para 5.7.2.12) The Town and Country Planning Act(s)

a. **The City Development Plan (CDP) and zoning regulations once approved should remain in force for ten years. No authority should normally have any power to change the CDP.**

b. **Infrastructure plans should be made an integral part of the City Development Plan (CDP) in order to ensure that urban planning in cities become a truly holistic exercise.**

c. **The existing system of enforcement of building regulations needs to be revised. It should be professionalised by licensing architects and structural engineers for assessment of structures and for certification of safe buildings. The units of local bodies dealing with enforcement of building bye-laws and zoning regulations also need to be strengthened.**

d. **Prevention of Disaster Management must find a prominent place in spatial planning. Specific guidelines need to be framed by the Ministry of Urban Development. These should be addressed by including them in the zoning regulations and building bye-laws.**

e. **The standards prescribed by BIS for disaster resistant buildings should be available in the public domain, free of cost. They should also be posted on websites of the concerned government agencies to promote compliance.**

64. (Para 5.7.5.3) Development Areas

a. **In respect of all townships and satellite towns developed under the development authorities, it should be ensured that as soon as the development process is completed, jurisdiction over the township should be transferred to the local bodies.**

65. (Para 5.7.6.5) Private Townships

a. **Private townships and gated communities must be placed under the jurisdiction of the concerned local body and subject to its laws, rules and**

bye-laws. However, they can have autonomy for provision of infrastructure and services within their precincts and /or for collection of taxes and charges (para 5.7.7.2)

b. The establishment of private, gated colonies must be allowed only within the broad parameters of the larger regional urban planning process where the development plans must clearly indicate spaces for private expansion make mandatory provision for low cost housing and should be integrated with the availability of infrastructure services.

66. (Para 5.7.7.4) Special Economic Zones (SEZs)

a. As in the case of private townships, concerned local bodies should have full jurisdiction with regard to enforcement of local civic laws in the SEZs.

b. SEZs may be given autonomy for provision of infrastructure and amenities in the SEZ area. A formula for sharing the resources raised in the SEZ area needs to be developed.

67. (Para 5.8.4) Urban Local Bodies and the State Government

a. Municipal governments should have full autonomy over the functions/ activities devolved to them.

b. If the State Government feels that there are circumstances that make it necessary to suspend or rescind any resolution passed by the Urban Local Bodies or to dissolve or supersede them, it should not do so unless the matter has been referred to the concerned local body Ombudsman and the Ombudsman recommends such action.

c. If, on any occasion, the State Government is in possession of records or has adequate reasons to initiate action against the Urban Local Bodies or its elected representatives, it should place the records before the local body Ombudsman concerned for investigation.

Speech of Shri M Veerappa Moily,
Chairman, Second Administrative Reforms Commission
at the
National Colloquium on Decentralisation in Rural Governance
held at ISS, New Delhi

1st March, 2007

I am delighted to be here today to participate in the National Colloquium organised by the Administrative Reforms Commission in association with the Institute of Social Sciences, New Delhi to discuss local governments and approaches towards reforms of Panchayati Raj System in the country.

It is widely held today that the colonial legacy of district administration, while it may have its strong points when it comes to regulatory functions such as maintenance of law and order, has been unable to restructure itself into a responsive and transparent agency to implement development programmes in post-independence India. There is a view therefore, that what is required is a wholesale replacement of the existing framework by a third tier of government in order to usher in "grass roots democracy" so that development and civic functions at the local level can be discharged by this "third tier of government". This school of thought also seeks a separate 'local list' in the Constitution for the third tier of government in order to provide for 'exclusive functional domains' backed up by adequate financial resources for the Panchayats. It is stated further that these Institutions should not only be autonomous in their respective domains but that their relationship with the first and second tiers of government at the central and state level should be in the form of cooperative federalism with each tier respecting the autonomy of the others. This may be described as the maximalist approach towards the whole issue of devolution of functions and resources to the local bodies.

The other 'minimalist' approach takes the contrary position i.e. that in a vast country with huge regional disparities in development, endowments and cultures, the notion of Panchayati Raj Institution being able to successfully discharge a wide variety of regulatory and developmental roles, is a romantic rather than practical idea. In order to ensure greatest good of the greatest number; factors such as economies of scale, as well as technical and institutional capacities that cannot be diffused at lower tiers of government have to be taken into account and therefore, only certain minimal civic functions such as primary education, primary health care, sanitation, implementation of poverty alleviation programme etc. can be successfully devolved to Panchayati Raj Institutions.

The whole issue of democracy and development has been the subject of much academic debate given the varying experiences of different countries in Asia and Africa in the post-colonial era. The experience of "guided democracy" as in Singapore and the transformation it has brought to the development status of the city state, and which has been replicated in a large measures in China through a one-party State, appear to indicate that development goals can sometime be addressed faster in an institutional set up wherein decision making is not subject to the daily pulls and pressures of a raucous democracy. Others have argued however, that apart from the issue of respect for human rights, a democratic path to development has inherent advantages and point to India's success in

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preventing large scale deaths due to famine in the post-independence era as compared to China, where deaths on massive scale due to famines were being reported even in the seventies.

The existing district administration does not take into account the fundamental change in the character of the State. The dichotomy between the democratic system at the centre and the State Head Quarters and the opaque, non-accountable and non-responsive District Administration still continues to be an unsolved conundrum in the Indian polity and governance system. It is said that there is 'democracy at the central and state levels', at all lower levels there was only bureaucracy.

In most parts of the world the role of the local government remains confined to the delivery of civic services. The post amendment panchayats are functioning, like before, within the framework of what may be called 'permissive functional domain'.

In any case, India has chosen the path of democracy to achieve its developmental goals and has stuck steadfastly to it. India has never seen democracy and development as mutual exclusive choices. As far as the issue of devolution of functions to local level Panchayati Raj Institutions is concerned, here too, we must follow a "middle path" on the basis of recognised principles of subsdiarity. This has to be done in a pragmatic manner, based on the list of matters mentioned under the Constitution (in the Eleventh Schedule) and by mapping the activities in relation to each of these matters which could best be transferred to the local bodies among the different tiers of the Panchayati Raj Institutions. Such activity mapping would have to be based on objective criteria such as economies of scale, capacity available for performing an activity, externalities relating to that activity etc. Once these activities are mapped, these should be transferred to the concerned local bodies along with staff responsible for these activities and with the concomitant resources to enable them to implement such activities.

The core function of the local level Panchayati Institutions comprising civic functions, elementary education, primary health, local roads and rural infrastructure and implementation of poverty alleviation schemes should constitute the autonomous functional domain of the Panchayati Raj Institutions for which they should be armed with the requisite technical, financial and human resources to carry out these tasks in an effective and accountable manner. Whether this set of functions should ultimately constitute a separate "local list" to be inserted into the Constitution, is for this colloquium to consider although extensive re-writing of the Constitution is a subject on which one tends to have reservations.

As per Article 243ZC, Part IX of the Constitution is not applicable to areas included in the Fifth and Sixth Schedules. The Fifth Schedule provides for the administration and control of Scheduled Areas and Scheduled Tribes excluding those of the States of Assam, Meghalaya, Tripura and Mizoram. The Sixth Schedule stipulates provisions for the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. However, Parliament may, by law, extend the provisions of Part IX to these Scheduled Areas and the Tribal Area {Article 243ZC(3)}. Accordingly, Parliament has enacted 'The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996' (PESA), extending the provisions of Part IX to areas under the Fifth Schedule. However, it has been mandated that the Legislature of a State shall not make any law which is inconsistent with the customary law,

social religious and traditional practices of the community. But no law has been passed for extending provisions of Part IX to the areas included in the Sixth Schedule. Out of the 200 districts, 63 districts have areas in the Fifth Schedule and 6 districts have areas in the Sixth Schedule. The development of model guidelines for conferring original jurisdiction on Gram Sabhas as envisaged in the PESA was examined by the "Expert Group on Planning at the Grassroots Level". In the report it has been highlighted that powers statutorily devolved upon Gram Sabhas and Panchayats are not matched by the concomitant transfer of funds and functionaries resulting in the making the Panchayats ineffective. To tackle the problems of this unique area and to preserve the democratic traditions and cultural diversity of its people, the framers of the Constitution conceived of the instrument of tribal self-rule. This stands embodied in the Sixth Schedule to the Constitution.

Careful steps should be taken to devolve political powers through the intermediate and local-level traditional political organisations, provided their traditional practices carried out in a modern world do not deny legitimate democratic rights to any section in their contemporary society. The details of state-wise steps to devolve such powers will have to be carefully considered in a proper representative meeting of traditional leaders of each community, opinion builders of the respective communities and leaders of State and national stature from these very groups. A hasty decision could have serious repercussions, unforeseen and unfortunate, which could further complicate and worsen the situation. To begin with, the subjects given under the Sixth Schedule and those mentioned in the Eleventh Schedule could be entrusted to the Autonomous District Councils (ADCs). The system of in-built safeguards in the Sixth Schedule, should be maintained and strengthened for the minority and micro-minority groups while empowering them with greater responsibilities and opportunities, for example, through the process of Central funding for Plan expenditure instead of routing all funds through the State Governments. The North Eastern Council can play a central role here by developing a process of public education on the proposed changes, which would assure communities about protection of their traditions and also bring in gender representation and give voice to other ethnic groups.

Traditional forms of governance must be associated with self-governance because of the present dissatisfaction. However, positive democratic elements like gender justice and adult franchise should be built into these institutions to make them broader based and capable of dealing with a changing world.

The implementation of centrally funded projects from various departments of the Union Government should be entrusted to the ADCs and to revive village councils with strict audit by the Comptroller and Auditor-General of India.

All the states have chosen to assign functions to the PRI not through the statute, but by delegated legislation in the form of rules or executive orders. The task of assigning functions to the panchayats was given to the state legislatures, but the same seems to have been usurped by the state governments. The Constitution did not guarantee assignment of a set of exclusive functions for the panchayats. (The Eleventh Schedule is only an indicative list). Hence, the kind of role they would be expected to play in the system of governance depends on the policies of the regime that controls the government

Annexure-I(1) Contd.

of a State. In other words, like before the issue of empowerment of panchayats still remains at the mercy of the State Governments.There should be an exclusive functional jurisdiction or an independent sphere of action for each level of panchayats. There may be a sphere of activities where the State Government and the Panchayats would work as equal partners. There may also be a sphere where Panchayat Institutions would act as agencies for implementing State or Union Government schemes or programmes. Among these three spheres, the first two should predominate. The agency functions should not be allowed to overshadow the other two spheres of action, for it is in the latter sphere that the local government institutions will have autonomy. Panchayat at each level is an institution of local government. Hence, there cannot be a hierarchical relationship between a higher level panchayat and the lower level panchayat. There cannot be on principle hierarchical relationship between the PRIs and the State Government also.

Whether certain types of regulatory function could also be devolved to the Panchayat should also be considered by this colloquium. Ideally, certain types of regulatory functions such as birth and death registration, building bye-laws community policing and even local level courts could be considered for bringing under the domain of Panchayati Raj Institutions.

The whole approach to devolution has to be built around the twin criteria of speed and simplicity instead of an overtly ideological approach. The fact is that over the years, a certain level of institutional and technical capacity, as well as departmental fiefs, have been built up at state levels and for these to be dismantled and decentralised from the State to local levels is not a painless process has also to be recognised. Focused implementation of core functions would ensure building up of the capacity as well as the trust in these institutions to carry out the functions entrusted to them. At the same time, it would be essential to bring in accountability for the functions that are devolved to the local level institutions because it is almost inevitable that decentralisation of functions will in the initial phase be accompanied by "decentralisation of corruption". For ensuring accountability, ensuring rigorous annual audits, empowering the Gram Panchayats, providing a frame work for social audit and substitution of oversight of Panchayats by government officials or the state governments by means of a statutory Ombudsman with full authority for taking action against defaulters and institutions would need to be considered.

There are five important issues which I will like this National Colloquium to address in some detail.

First, we have to bear in mind that democratic decentralisation can greatly enhance the capacity of the state to accelerate local development and reduce poverty, but only if it is effectively designed. Panchayati Raj Institutions need considerable autonomy, including fiscal autonomy, as well as considerable support and safeguards from the Government. Moreover, Panchayati Raj Institutions need mechanisms to ensure high levels of participation in the design and monitoring of the programmes and policies by all sections of the population to be served. Are the existing PRIs designed to do these?

Second, the Panchayati Raj Institutions need fiscal autonomy to plan their activities. But locally raised revenues are often a small part of the budget of the PRIs, weakening ownership of locally designed

policies threatening their sustainability. For example, at present the Panchayati Raj Institution's own revenues as a share of their revenue expenditure is just 9.26% on average and they are entirely dependant on the State/Central grants for their functioning. In order to strengthen these institutions from the financial point of view, setting up of State Finance Commissions every five years in order to provide a institutional basis for the fiscal relationship between the state and local bodies would have to be ensured. It is also equally important that while the PRIs need an adequate budget base, enforcement of hard budget constraints is also essential in order to make them accountable. The local bodies themselves would need to get away from their dependency prone mindset towards responsible fiscal behaviour by not only making adequate use of the existing process of revenue but also mobilising additional sources of both tax and non-tax revenues including user's charges.

The third important issue relates to the need for strengthening administrative and managerial capabilities in the PRIs. Studies of successful democratic decentralisation indicate the importance of creating administrative capacity. Almost all PRIs lack the administrative capacity for large-scale decentralisation and need training in accounting, public administration, financial management, public communications, and community relations. Let me also hasten to add that if PRIs have strong administrative capacity and accountability mechanisms, it can reduce the scope for corruption. If they do not, it can increase corruption as has been the experience in Central Asia, the South Caucasus and the Baltics.

The fourth issue is about elite capture of the PRIs. Safeguards need to be put in place to monitor financial probity and discourage the capture of PRIs by powerful elites. Given the unequal power structure that is the characteristic feature of most Indian villages, we have to ensure that the process of democratic decentralisation is to not made subserve the vested interests of the rich and powerful in rural India to the detriment of the poor and the marginalised.

Last but not the least, the PRIs should play a very critical role in resolving social fragmentation and conflict at the local level and in the local context. This, to my mind, is the most critical determinant of the success of the PRIs. Unless the PRIs offer forums for mediating inter-group rivalries and forging cross-cutting ties among diverse competing groups, these cleavages can lead to conflicts, tearing a society and economy apart, leaving everyone vulnerable to poverty. Breakdowns in governance and institutions of conflict resolution create conditions for social unrest and further conflict. In order to crate a functioning society, we need the PRIs to be institutions of conflict mediation, which, I am afraid, our PRIs have not been. So the important question is: What can be done to make the PRIs the institutions of conflict resolution at the local level and in the local context.

Putting in place a well-delineated activity mapping, allocating specific activities between the state as well as different tiers of the panchayats should be the starting point of the proposed reforms. Funds and functionaries need to be devolved upon each tier with clear responsibility and accountability.

Grants to the PRIs must be untied so that the PRIs can decide their own priorities.

Decentralised planning starting from the Gram/Ward Sabha has to be strictly enforced and the Planning Commission while giving approval to the state plans must verify whether the State Plans have incorporated the panchayat plans at appropriate places.

Annexure-I(1) Contd.

While making financial provisions for implementing schemes in respect of the subjects entrusted to the panchayats, it must be ensured that the allocated funds go directly to the panchayat concerned from the state exchequer without being routed through the concerned State Departments, whose role should be limited to monitoring and evaluation of the implementation.

The Union and State Governments may function as funding agencies for projects to be approved by them, but their roles should be like that of any other funding agency. They may periodically evaluate and monitor the projects to ensure that the objectives set forth in the approved projects are fully achieved.

The central ministries and state departments dealing with the activities that are entrusted to the PRIs should be deliberately downsized over the next five years. In any case, sanctioning additional staff in these ministries should be prohibited forthwith. There shall be no further recruitment of the field staff at the cutting edge level by the state governments. This should be left to the local governments themselves.

Capacity building of panchayat functionaries – the elected representatives and the officials – should be given high priority to enable them to discharge their roles effectively.

The panchayats can also arrange interaction of the service providers with the beneficiaries to create an enabling atmosphere for better performance. A disturbing feature noticed in several states is the fact that the service providers' responsible for physical delivery of benefits are not fully accountable to the PRIs. The only relationship between these officers and the panchayats is that they are ex-officio members of the concerned sub-committees of the panchayats and are therefore obliged to attend the meetings of the sub-committees.

Several structures and bodies have been in existence for delivering sectoral benefits in rural areas prior to the 73rd Constitution Amendment. In the presumed interest of unity of command, professional integrity, operational efficiency and achievement of sectoral targets, departments, boards, authorities and corporations in each sector grew into large numbers creating their own vertical hierarchy down to the local level. These parastatals continue to exist even after the Constitution Amendment, without being integrated into the new system. A conscious decision has to be taken to annul these parallel structures or to bring them under the respective tier of PRIs, by amending the relevant sectoral legislations.

Neither the National Planning Commission nor the State Planning Boards are Constitutional bodies. In that context, making DPC a constitutional entity is somewhat incongruous. Secondly, in a developmental state, planning is an essential function of government at any level. If a committee is needed for undertaking the exercise of planning, the concerned government itself can constitute the same. Creating a separate authority independent of the structures of governance for undertaking the exercise of development planning has no logic. Thirdly, DPC is the only body in the decentralisation scheme of the constitution where at least one-fifth of the total members can be nominated. A nominated member can also be the chairperson of DPC. Nomination is a convenient tool available to the ruling party of a state to induct members on narrow political considerations. Some states have taken the liberty to nominate a minister as head of the committee, thus converting the DPC as a

power centre that is stronger than the elected local bodies. Fourthly, DPC is a stand-alone committee within the panchayat-municipal system and there is no organic linkage between the two. Last but not the least, the very legitimacy of the DPC is doubtful, because it has no accountability. Being constituted partly through indirect election and partly by nomination, it is neither accountable to people directly, nor to the PRI-municipal system. With all these odds against it, DPC in its present form is hardly making any contribution to the project of democratic decentralisation. This needs to be debated.

District Panchayat as District Government

In the strict sense of the term, only the Gram Panchayat and the Municipality qualify for being regarded as local government. It is also significant that taxing power, which is an indicator of governmental authority, is enjoyed by these two bodies among all the local bodies. On the other hand, traditionally district has been an indispensable unit of our country's administration. Hence if democratisation of local administration is the goal, then there has to be a representative body at the district level.

- The district tier of local government may represent both rural and urban population.
- Article 243(d) need to be amended facilitating election of a single representative body at the district level for both rural and urban population.
- Article 243 ZD may be deleted, since with district tier representing both rural and urban areas, DPC in its present form will be redundant.

The factors that would have to be taken into consideration for determining the minimum size of a GP may be: (a) potentialities of local resource generation, (b) sustainability of maintaining essential staff for service delivery, (c) suitability as a unit of planning for the core functions, (d) geographical cohesiveness, (e) terrain conditions and the communication facility within the GP area. It is necessary that States, which have small-sized GPs (population below, say, 6000 in the non-hilly regions), should undertake detailed exercises to reconstitute them after considering the factors mentioned above. The over sized GPs also have problems, for normally the population of a GP should not exceed 15000, unless habitation patterns demand otherwise. Large GPs pose problems for popular participation. Here instead of Gram Sabha, emphasis should be given on Ward Sabha for encouraging participation. Appropriate solution will have to be evolved.

In the paradigm shift as obtained after the 73rd Amendment to the Constitution of India, it needs to be debated whether there is any scope left for the continuation of the office of District Collector/Deputy Commissioner which will negative the democratic ethos contemplated under the Amendment. It should also be debated whether the role of District Magistrate/Collector could be assigned to the CEOs of ZPs as a delegated power from the State Government in addition to the duties to be discharged as CEO of ZP.

Controlling Power of the State Government

Some of the traditional methods of supervision and control are as follows:

- Powers of sanction of budget
- Powers of suspension and cancellation of resolution and orders

Annexure-I(1) Contd.

- Powers of suspension and removal of chairpersons, vice chairpersons and members
- Powers of suspension and supersession of PRIs

A highly coercive instrument at the hands of the State Government is the power to suspend and remove the Chairperson or Vice Chairperson and also Members of the Panchayats.

The very idea of removing an elected person by the executive on the basis of its own judgment is a relic of the colonial practice that is still not abandoned.

There should be uniform provisions in the State Panchayat Acts that an elected person can be removed only on two grounds: (a) 'No confidence' motion passed by the elected members against the office bearers, and (b) being subject to any of the disqualification clauses.

The strongest coercive power at the hands of the State Government to control the PRIs is the power to supersede the elected local body.

Immediately thereafter it should refer the matter to an independent Tribunal or Ombudsman.

Accountability and Transparency of Panchayats

These are: (a) accountability for what, (b) accountability to whom, and (c) means of ensuring accountability of the institution.

Thus in designing the components of accountability of the PRIs, it is necessary to focus on the following:

- Integrity in the use of resources and preventing rent-seeking tendencies of public officials/ representatives.
- Adherence to the rule of law in conducting public affairs
- Exercise of administrative powers of officials and political executives in fair manner
- Responsiveness of the PRIs to the urgent needs of people
- Performance of the PRIs in terms of efficiency and effectiveness

There may be various ways by which the accountability of panchayats can be ensured – both upward and downward.

One of the weak links in the system of rural governance has been in the field of human resource. Maharashtra has the distinction of creating 'district service' (technical and general) of Zila Panchayats. This needs to be studied carefully to evolve a system of human resource in rural governance.

The Resource mobilisation is yet another aspect which has not been properly addressed. The fiscal powers of the PRIs may be strengthened by empowering them to (a) levy and collect some taxes, (b) by assigning to them certain taxes levied and collected by the State Government, and (c) by expanding the sources of non-tax revenue. The non-tax revenue may be collected from various sources: (i) tolls and various kinds of fees, (ii) various user charges, and (iii) return from remunerative assets.

In reality, most State Governments have so far failed to adopt rational and consistent policies in this regard. Major reform issues involved in the matter of inter governmental transfer of resources appear to be as follows:

- Most of the panchayats of the country are operating with tied funds – either schematic funds or specific purpose grants. Activities related to the schematic funds are agency functions. Very meagre funds are available with the PRIs to discharge the activities assigned to them. The quantum of untied funding has therefore to be increased in order to enable the PRIs to discharge their core functions and improve the delivery of basic services in terms of both coverage and quality.
- There is no predictability and consistency in allocating funds to the local bodies. The State Governments should frame legislations defining the principles and formulae to allocate specific purpose and untied grants to the different tiers of PRIs. The principles of funding should have a direct relationship with the devolution of activities.
- There should be a local body component in the budgets of every State Government indicating the allocations to each local body.
- The State Governments do not demonstrate seriousness in considering the reports of the SFCs or in implementing their recommendations. There should be legislations defining specifically the responsibility of the State Government with regard to the consideration and implementation of the recommendations of the SFC within a definite time frame.
- In most cases, the periods covered by the SFCs and the Central Finance Commission do not coincide. This creates difficulties for the Central Finance Commission in assessing the requirements of resources of different states for transfer to the local bodies. It is necessary to synchronise the two periods. In order to realise this objective it is necessary to empower the state governments to set up the SFCs not only 'at the expiry of every fifth year', as envisaged in Article 243 I, but also at earlier time. Accordingly, this Article may be amended by inserting the words 'or at such earlier time as the governor considers necessary' after the words 'at the expiry of every fifth year'. Such amendment will bring Article 243 I in conformity with Article 280.

The quality of all SFC reports is not good. Nor do they cover same grounds making inter-state comparison possible. It is necessary that each Central Finance Commission gives a guideline to be followed by the future SFCs.

Honestly, I expect great things from the deliberations of this National Colloquium. I hope that through the instrumentality of this colloquium, the Administrative Reforms Commission will be enabled to not only engender an illuminating debate on the issues of local government in India but would also be in position to glean from its proceedings some practical, simple and meaningful suggestions that can help enrich development in India's rural landscape. I wish all the best for the deliberations of the colloquium.

Annexure-I(2)

National Colloquium on Decentralisation in Rural Governance
1st and 2nd March, 2007

LIST OF PARTICIPANTS

GOVERNMENT OF INDIA

1. Shri B. N. Yugandhar, Member, Planning Commission
2. Smt. Meenakshi Dutt Ghosh, Secretary, Ministry of Panchayati Raj
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6. Shri N. Sivasailam, MD, KSBCL, Karnataka
7. Shri M. Samuel, Principal Secretary, Andhra Pradesh
8. Shri Sunil Kumar Gupta, IAS, Commissioner and Spl. Secretary, Govt. of West Bengal
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10. Shri K. S. Vatsa, Secretary, Department of Rural Development Maharashtra
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41. Shri M. Veerappa Moily, Chairman, ARC
42. Shri V. Ramachandran, Member, ARC
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44. Smt. Vineeta Rai, Member-Secretary, ARC
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Annexure-I(3)

National Colloquium on Decentralisation in Rural Governance

1st and 2nd March, 2007

Recommendations made by Working Groups

Participants at the Colloquium were divided in to five groups to discuss various issues pertaining to Rural Governance. The issue wise recommendations of the respective groups are as follows :

I. CONSTITUTIONAL ISSUES, ELECTIONS AND DEVOLUTION OF FUNCTIONS

- Subsidiary is important. Transfer of subjects/functions/activities should be mandatory and to be mentioned in the concerned State Acts clearly.
- There should be clear-cut separate lists of activities for GP/Block/District level subject to the provisions of Article 243G.
- The intermediate and district level panchayat should have supervisory/monitoring role and plan for the village level panchayats.
- State level departments to be re-trained and re-oriented for skill development and professional development.
- The present 3 tier PRIs are over-structured and under-powered.
- The intermediate level should be constituted with elected representatives from GP and district levels. Block should continue as an administrative unit.
- In smaller states, the option should be left to the concerned State to have block level/district level panchayat.
- The geographical boundary of the census/revenue village and the Gram Panchayat should be co-terminus and the revenue village should not be split up to have more GPs in view of viability and economies of scale.
- The block should be coterminus with revenue taluk.
- Single district level body namely District Council/District Panchayat/Zila Parishad is long overdue.
- The ZP should have overall responsibility for both urban and rural areas and should act as DPC also under Article 243ZD.
- As an interim arrangement, the Chairman, ZP should be the Chairman, DPC and CEO, ZP should be made the Secretary, DPC immediately.
- The District Council should have jurisdiction for planning of both urban and rural areas.
- The Legislative Council in bigger States is an extension of the provisions of the 1935 India Act.
- After the 73rd and 74th Amendments, there is no relevance of the Legislative Council in the earlier form.
- To have an organic linkage among the 3 tier PRIs and the State Legislative Assembly, there shall be a Legislative Council of Local Authorities being elected by the elected representatives from 3 tier PRIs and Urban Local Bodies separately. The second chamber should be designated as Council of Local Government.
- The State Election Commissioner (SEC) should hold the elections for MLAs/MPs also.
- The Election Commission of India should be involved in the selection of SEC.
- The process of selection of SEC should be institutionalised. SEC and Chief Election Officer (CEO) should be one and the same.
- To conduct of elections for MLAs/MPs, the SEC shall be under the superintendence and control of the Election Commission of India.

- Constitution of panchayats shall be decided by a separate Delimitation Commission.
- Tenure of the office bearers should be co-terminus with the life of the elected body.
- The election of the Pradhan at GP level directly/indirectly and the election of President at Block/District level indirectly should be left to the discretion of the State Government.
- One term reservation is inadequate and should be for minimum two terms for membership but not for office bearers.

II. PRIs, INSTITUTIONS OF THE STATE AND COMMUNITY/CITIZENS ORGANISATIONS

- Removal of elected representatives by an administrative authority has no legitimacy.
- In case the question is of removal on grounds of criminal case, the normal procedure of Court can be followed.
- Members of the PRIs should not be removed.
- Chairperson or Vice-Chairperson can be removed by way of no-confidence motion.
- In case Panchayats are non-functional, they can be dissolved on the basis of report of a local body Ombudsman. In such cases, elections should be conducted within six months after its dissolution.
- District Panchayat should not be enlarged into District Council. This should be allowed to happen in the due course of evolution.
- Historically the role of development came to the District Collector (DC)/District Magistrate (DM) very late and as now agencies like Panchayat has come into existence, the power should be given to them.
- DC/DM can remain associated with law and order, elections, revenue collection. They can also be secretary of the District Planning Committee (DPC). The President of Zila Parishad should be Chairman of DPC and there should be separate Secretary for Zila Parishad.
- DC works independently for election, revenue and law and order matters and for work related to Panchayat, he should be subordinate to it. Powers which are with the DCs now should be shifted with entire structure to the Zila Parishad.
- Powers of Gram Sabha as given under PESA can be adopted in all the States' Act, particularly the following powers:
  - power to plan and budget
  - power to select and finalise the list of beneficiaries
  - ownership of natural resources
  - social audit
  - utilisation certificate
  - imposing prohibition
- Various existing legislations such as Mines and Minerals Act, Land Acquisition Act, Forest Act and Environment Protection Act etc. need to be reviewed to bring them in conformity with PESA.
- For securing women representation, one-third of women should be there in quorum of Gram Sabha. Separate Mahila Sabha as a part of Gram Sabha should be formed.
- The money for Centrally Sponsored Schemes should go directly to the respective recipient, be it Gram Panchayat, Zila Parishad or Block Panchayat. Monitoring can be done by following organic link between the different levels of Panchayats.
- Parallel institutions like DRDA should be merged in function with the Zila Parishad and physical fusion is also important.
- There should be District Coordination Committee together from representatives of Zila Panchayat, Civil Society and Public.
- Chairman/Vice-Chairman should be from Zila Parishad and from Civil Society – it will create synergy, avoid duplication of work and will also secure accountability.

Annexure-I(3) Contd.

- The following steps are essential for Empowerment of Citizens:
  - Empowering Gram Sabha
  - Ward Committees should have power to select beneficiaries
  - Citizens Charter.
  - Better grievance redressal system
  - Social Auditing
  - Jan Sunvai and Panchayat Jama Bandi
  - Effective enforcement of RTI
  - Scheme specific beneficiary committee
  - Institutionalise citizens' forum

III. PANCHAYAT FINANCES

- There is a mismatch between activity mapping and corresponding funding in the various budget heads.
- Currently only seven States (Rajasthan, MP, Chhattisgargh, Kerala, Karnataka, Gujarat and Maharashtra) have budget windows for PRIs. It should be expanded to the remaining states also.
- Centrally Sponsored Schemes (CSSs) funding which currently adds up to Rs.72,000 crores - can be channelised through CFC which, in turn, can give to local bodies through the State Finance Commissions.
- Appropriate norms and criteria are to be designed for Inter-State transfers.
- Central Government is also to be brought into the scheme of fiscal decentralisation.
- The size of the GP should be viable.
- ZP and IP can jointly assess professional and property tax while GP can collect them.
- In addition to Union, State and the Concurrent lists, a fourth list of tax items need to be prepared for local bodies. The fourth list should include property tax, profession tax, entertainment tax and cess on land revenue.
- Given the fact that certain State Governments like Rajasthan have given up property tax, this type of compulsory list seems essential.
- Innumerable nuisance taxes that run to be over twenty-five can be abandoned.
- As local bodies will lose Octroi and Entertainment Tax, the revenue from Goods and Services (GST) should be shared with local bodies from 2010, onwards.
- PRIs should be encouraged to use their entrepreneurial skill to utilise their assets efficiently.
- Based on their assets, each PRI can be allowed to borrow. Market borrowing is to be linked with fiscal accountability and responsibility
- While the same language of the Central Finance Commission (CFC) has been used for State Finance Commission (SFC) also in the Constitution, it is regrettable that SFCs are invariably constituted with serving bureaucrats (especially from the Department of Local Administration and Finance) and political party loyalists.
- It is equally important to point out that SFC recommendations have not attracted public debate or scrutiny.
- Ministry of Panchayati Raj needs to be expanded as Ministry of Local Government by including Municipalities and Corporations.

IV. DECENTRALISED PLANNING

- The Constitutional scheme of institutionalising decentralised planning has not been realised. One of the reasons for this is that in many of the State Acts, the Panchayats, particularly the GPs and IPs, have not been empowered to take up the planning function. Obviously, such Acts should be amended to make this function a mandatory task of all the tiers of Panchayats as emphasised in the Constitution.

- Even in the States where such function is made mandatory by the Statute, the Panchayats do not take up this function seriously. There are various reasons for this:
  (i) First, in most States, devolution of functions has not taken place. In fact the concept of devolution, as opposed to delegation of power, functions or activities is not clear even today. Till such devolution is made, it is useless to talk about planning. It is necessary to understand that in a regime of delegated function for the Panchayats, planning becomes an activity of the agency that delegates such function to a lower body. If autonomous jurisdiction of functions to the Panchayats is denied it cannot be expected that the PRIs undertake planning function effectively for the simple reason that the agency that makes a plan has no authority to implement it. Hence, devolution of functions must precede before decentralised planning can make any headway.
  (ii) If the lack of functional devolution is one constraint, the other constraint is the lack of untied funds. These calls for restructuring of panchayat finances in such manner that the Panchayat bodies have sufficient untied funds under their disposal. Grass roots planning cannot be made a reality if the Panchayats have in their hands only a corpus of schematic funds to play with. This is a stark reality which is not properly recognised.
- On top of this, it must be admitted that till recently the national Planning Commission had not taken much interest in the local government level planning and in integrating the local plans with the State plans. Among the State Planning Boards (SPBs), with the notable exception of the one of Kerala, none others showed any inclination to prepare viable frameworks for preparing local plans. This has been a great omission. Recent instructions of the Planning Commission to initiate the District Planning Process and to make it an integral part of the preparation of the State Eleventh Plan came too late for any significant impact. The framework emphasised by the Planning Commission does not go into the details of planning mechanism at the GP or IP levels. These gaps should have been filled by the SPBs but the SPBs have, by and large, failed to do this. As the matters stand now, tailor-made workable methodologies of preparation of panchayat level plans are still not in place.
- In the circumstances, the Planning Commission has to take further initiatives in respect of institutionalising local planning process. Its intention to prepare Eleventh Five-Year Plans of the States, on the basis of local plans integrated into the District Plans, do not seem to have been realised. It may now try to ensure that at least future annual plans of the States are based on local plans. Simultaneously, the Commission has to motivate the respective SPBs and the Planning Departments of the States to take initiatives in the matter, so that they can become a catalising agents providing knowledge support to the PRIs/DPCs in preparation of local plans. Both in the national Planning Commission and in the SPBs, dedicated cells may be created to work out the nitty-gritty's of local planning function and to provide institutional support at the district level and taluka/block level.
- In many CSSs, provisions are made to prepare sectoral plans like health plans and educational plans. In many cases, these are the blessings of the Planning Commission. Since local plans have to be holistic in nature, cutting across sectors, such plans should be considered as the sub-plans of the local plans. But the CSSs tend to take a truncated outlook and encourage preparation of stand-alone sectoral plans, sacrificing the need to take a holistic approach to local development. The Planning Commission will have to look into this aspect of the design of the CSSs.
- There are confusions about the district plans. One set of confusion relates to its nature. Is it a collection of PRI and Municipal plans? Or is it something more? What are the things that cannot be addressed at the micro-levels of Panchayats or Municipalities, but require a macro-view for proper appreciation of the problems and issues? The other sets of confusion relates to the domain and planning. Will it consist of only those functions, which have been devolved to the local bodies? Or they should also relate to activities that

Annexure-I(3) Contd.

are under the jurisdiction of other levels of government but have an impact upon the economy, society or the physical environment of the district. This is a bigger issue and raises the question as to whether the local democratic institutions will have a say over certain decisions impacting upon the local area are taken unilaterally. Recent controversies in West Bengal and elsewhere over the issue of land acquisition for industrialisation or infrastructural development have brought the issue to the fore. Should not the local people have the rights to be consulted if any development project undertaken by the State or Central Government has the effect of creating the problems of homelessness, loss of livelihoods or food insecurity, degradation of the living environment for the people at the grass roots? These confusions about the nature of the district plans need to be resolved.

- In any exercise of development planning, knowledge input is an important element. How to expand the knowledge base, especially at the grass roots levels, is a problem that confronts the decentralised planning process and hence has to be tackled. In a regime of multi-level planning, providing knowledge inputs at every level is a problem to be addressed. Innovations are needed to tackle this problem. A start can be made by establishing Knowledge Support Centers to PRIs and ULBs at the district level during the Eleventh Plan. This may be expanded to the Talukas/Blocks in the Twelfth Plan.
- Closely associated to these issues is a necessity of developing a process of the flow of information and dialogue from top to bottom and from bottom to top. Such a process does not exist now. Flow of information of ideas is still a one-sided process; it travels from top to bottom but not from bottom to top. The Knowledge Support Centres for planning at the district and Taluka/Block levels will address this gap.
- A major of decentralised planning is community participation in the planning process. It is necessary to take into consideration the fact that we are trying to introduce local democracy within an inegalitarian social structure. Such a structure invariably produces power asymmetry resulting ultimately into an elite capture of democratic institutions. If an inclusive outcome is intended out of local level participatory planning then it is necessary to recognise this possibility of elite capture of the Panchayats. Even after admitting this fact that democracy has an inbuilt corrective mechanism to take care of this aberration in the long run, it is necessary to install sufficient safeguards in the short run to prevent abuse of power and violation of democratic practices. Introducing a Proportional Representation system of election of members, various forms of safeguards eg. transparent beneficiary selection norms etc, fine-tuning accountability mechanism are some important elements that have to be taken into consideration simultaneously with the strengthening the hands of the local government institutions.
- The DPC has so far failed to emerge as an effective institution in most States. There are various problems associated with it. A major problem is that it is only a planning body, while the PRIs and the municipalities are executing bodies. Such dissociation of planning from the executing functions is doing more harm than good. One of the roles purported to be fulfilled by the DPC is the rural-urban integration within a district for the purpose of preparing a common development framework. In the context of the above we suggest that in the long term we should have a vision of creating a District Government. In the short run, we should think in terms of expanding the role of the Zila Parishad to cover both rural and urban areas. In that case, it would be a Zila Panchayat in the true sense of the term and would solve many problems now being confronted by the DPC.

V. MANAGEMENT OF PANCHAYAT PERSONNEL, THEIR CAPACITY ENHANCEMENT AND ACCOUNTABILITY AND TRANSPARENCY IN THE PRIs

- The requirement of personnel will depend on the following factors: -

- Devolution of functions
- Size of panchayat
- Availability of resources (internal and external)
- Availability of the personnel with requisite qualification
- Organic links among 3 tier:

(i) Structural linkage

(ii) Supervision and control mechanism

- There is a need of State level technical and administrative cadre. Specialised technical cadres will depend on the functions assigned to the PRIs. Members of these cadres can be deputed to Intermediate District level PRIs or State level Directorate.
- Personnel can be taken on deputation from the line department of the State Government as and when required to fill up gaps.
- All aspects of management of panchayat personnel should be dealt by the Directorate of Panchayat.
- For State level cadres, recruitment can be done by the State Public Service Commissions.
- For secretariat assistance, the appointments should be made by the PRIs concerned in accordance with the requirement and recruitment rules. The Directorate of Panchayat can finalise the recruitment rules and oversee their implementation.
- To reduce the long-term burden of the panchayat, PRIs should out-source as many functions and services as possible e.g. house keeping, civic services, tax collection etc.
- All personnel shall be answerable to the Chief Executive Officer of the Intermediate/District Panchayat and the Chief Executive Officer will be answerable to the head of the concerned PRI`s.
- All Gram Panchayats should have at least one full time employee to assist in its day-to-day functioning. If required, the existing size of Gram Panchayat could be re-configured from the point of view of its financial viability.
- Capacity building is essential for both elected representatives and personnel of panchayats. However, it is a continuous process, therefore orientation programmes have to be organised periodically.
- Need for strengthening existing State owned Training Institutes both in terms of physical infrastructure and faculty personnel. It should also be ensured that the Training Institutes must be adequately funded to be operational.
- For elected representatives, following steps are suggested for capacity building:
  1. Immediately after the constitution of the panchayat, one spell of training should be given to all elected representatives within 6 months to 1year.
  2. The training should be in cascading mode and for this purpose, a network of institutions has to be identified that may include NGOs, Civil Society, Organisations etc. at all levels.
  3. In order to have uniformity, coordination and training requirement in terms of modules, development of materials etc., a national level Apex Training Institution such as NIRD should be given the responsibility.
  4. After initial training, the elected functionaries should be exposed to various development programmes of the State/Centre and some specialised training programme should be organised for certain special category of representatives.
  5. The elected representatives may also be exposed to various innovative and best practices within and outside the State as exposure visit to inculcate various strategies for development and local governance issues.
- In case of Panchayat personnel, the capacity building measures could be as follows:
  1. Panchayat personnel should be given comprehensive foundation course after their recruitments.

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2. They should also be re-oriented at least once in a year to enable them to enhance their productivity and performance.
3. Some panchayat personnel should be given specialised training on various subjects.
4. The panchayat functionaries should also undergo test after the completion of training and their performance thereafter should be monitored for further continuation in position/promotion.
5. The panchayat employees may also be exposed to various innovative and best practices within and outside the State as exposure visit to inculcate various strategies for development and local governance issues.

- Accountability and transparency are the essential elements of the good governance that they have to be reflected prominently in the panchayat system.
- There is a need for an independent audit for all PRIs. Existing departments such as Local Fund Audit need to be strengthened for carrying out this function.
- In addition to the above-mentioned independent audit, there is a need for carrying out regular interval audit under the control of Department of Panchayat/Directorate of Panchayat.
- There should be a social audit mechanism in place and following steps would be necessary in this regard:
  - Convening meetings of the Gram Sabha at regular intervals should be made compulsory. At these meetings, elected representatives of Gram Panchayats and its employees must present before the Gram Sabha detailed record and account of its activities.
  - Regular IEC campaign should be organised at the village level to acquaint the villagers about the social/developmental programmes being carried out by the Government or the PRI in that village.
  - Information about the ongoing social/developmental programmes must be displayed on the information board of public buildings and work sites.
  - The state Panchayati Raj Act be amended and the members of the Gram Sabha be given the right to "recall" elected representatives of the Gram Panchayat.
  - State Government/PRI should ensure strict compliance of the provision of Right to Information Act.
  - The report of the institutional audit/internal audit and the reply of thereon of the PRI should be presented and discussed in the Gram Sabha.
  - Local NGO and community-based organisations should also be involved in social audit. These institutions could profitably be used in increasing awareness of programmes and all components of social audit.

Annexure-I(4)

QUESTIONNAIRE ON DECENTRALISATION IN RURAL GOVERNANCE

I. ROLE OF THE PANCHAYATI RAJ INSTITUTIONS IN THE GOVERNANCE SYSTEM

It is now more than fourteen years since the Constitutional Amendment on Panchayati Raj was passed by the Parliament in 1993. Yet, there is considerable ambiguity about the role the panchayats have to play in the overall governance system of the country. In a weak compliance to the Amendment, the States have half-heartedly enacted Panchayati Raj Acts and created rural level institutions which have, broadly speaking, been superimposed on the existing administrative hierarchy at the district level. The administrative frame consisting of the field establishments of the line departments of the State Government and the offices under the control of the District Collector/Deputy Commissioner such as the offices of the Sub Divisional Officer/Tehsildar/Block Development Officers remains intact and continues handling all the regulatory, developmental and residual functions of the Government as usual: with the elected Panchayati Raj Institutions being given symbolic attention and some sprinkling of minor roles in rural development schemes.

Looking back at the 73rd Amendment, which is based on one of the major directive principles of the State policy enshrined in the Article 40 of the Constitution "the States shall take steps to organise panchayats and vest them with such powers and authority as may be necessary to enable them to function as units of self government"; the spirit behind this measure is to instal effective institutions of self government at the local level. Article 243(G) widely empowers these bodies to enjoy devolution of powers and responsibilities with regard to (a) preparation of plans for economic development and social justice (b) implementation of schemes for the above relating to matters listed in the Eleventh Schedule. The implicit requirement is that most of the functions/activities now being performed by the state government agencies at the local level have to be withdrawn from them and handed over to the panchayats together with functional autonomy and adequate resources in discharging those activities. But, in most of the States this has not happened. Often, there is a tendency to look at panchayats as another extension of the field machinery of the State Government. The questions that require to be addressed in this connection are as follows:

II. PANCHAYAT AS THE THIRD TIER OF GOVERNMENT

(a) Can we identify functions and activities which would be exclusive domain of the PRIs?
(b) Which are the areas of activities where the State Government and Panchayat should work as equal partners (concurrence jurisdiction)?
(c) Should these institutions also act as agencies of the State Government for implementing some State Schemes or Centrally Sponsored Schemes or other programmes of the government? (For example, execution of the Centrally Sponsored Poverty Alleviation Schemes).
(d) What other activities are required to enable the PRIs to emerge as the local government?
(e) What should be the relative importance between (b and c) and (d)?
(f) Should there be any hierarchical linkages between different tiers of panchayats and/or between the panchayats and the State/Union Governments?
(g) What are the goals of decentralisation? Effective service delivery, fair distribution of the fruits of development, accountability, people's involvement in participatory planning or all these?
(h) What outcomes do we expect when we build PRIs on an in-egalitarian social structure?

III. CONSTITUTIONAL ISSUES

(a) Delegation of functions to PRIs have to be made in accordance with Article 243G and the matters listed in the Eleventh Schedule. "Legislature of the State may, by law, endow the Panchayats with such powers

Annexure-I(4) Contd.

and authority as may be necessary to enable them to function as institution of self-government….." Do you support the view that the wording of Article 243G leaves considerable leeway with the State Government in the whole scheme of things?

(b) Will the issue of decentralisation be served better if there is a third list of local functions in the Seventh Schedule itself along with the presently occurring Union, State and the Concurrent List?

(c) At present, 29 matters have been identified in the Eleventh Schedule which could be transferred to the PRIs by the State Governments. On the basis of the experience gathered in past 14 years, do you support the view that there is a need for an amendment in this schedule and if so, what are the additional matters which could be targeted for inclusion in this list?

(d) As it is, many of the States have transferred functions falling under the Eleventh Schedule through excutive instructions. Do you feel that the process of decentralisation will be served better if the functions are transferred by an Act of Legislation?

(e) As per Article 243B, all the States necessarily have to constitute three layers of PRIs at village, intermediate and district levels. Will it be advantageous if some flexibility is introduced in this provision and the States are free to make it a two/three tier system as per their individual assessment?

(f) Is there any need for having a Zila Parishad only for rural areas; or should we have an elected District Council for both rural and urban areas as a single federal body?

IV. ISSUES RELATING TO THE FIFTH SCHEDULE AND THE SIXTH SCHEDULE (ARTICLE 244) AREAS

(a) In view of the existence of a large number of autonomous councils both under the Sixth Schedule as well as under specific State enactments in the North-Eastern States, how do we ensure administrative decentralisation in those areas?

(b) In view of the fact that many of the areas also have institutions of the Panchayati Raj elected under the State Panchayati Raj Act, how to harmonise/integrate their functioning and obtain effective decentralisation as envisaged in the 73rd/74th Amendment?

(c) Panchayati Raj (extension to Scheduled Areas) Act, 1996 (PESA) extends Part IX (Panchayats) of the Constitution to the Fifth Schedule Areas. It consists of 9 states (i) Andhra Pradesh, (ii) Gujarat, (iii) Maharashtra (iv) Madhya Pradesh (v) Orissa (vi) Rajasthan (vii) Himachal Pradesh (viii) Jharkhand and (ix) Chhattisgarh. This Act empowers Gram Sabhas and Panchayats through delegation of mandatory executive functions and the need to obtain compulsory consultation and recommendations in most of the activities in the area.

  (i) In the interest of effective decentralisation, what, in your opinion, could be the elements of model guidelines to be issued by the States in this regard?

  (ii) Do you think there is a case for establishing a forum at the Central level to deal with the violation of the provisions of this enactment?

  (iii) Will it be appropriate to insist on getting a regular report from the Governor with respect to the Scheduled Areas as provided in the Fisth Schedule of the Constitution and place it in the public domain?

  (iv) Though women play an important part in the whole socio-economic life of these areas but tribal councils are dominated by males. Will it be desirable to introduce provisions in PESA rules and guidelines that for a Gram Sabha, 33% membership should be of women?

  (v) What are the State laws which need to be hormanised immediately with the provisions of PESA?

  (vi) What are the Union laws which need to be hormanised with PESA?

  (vii) Should the Tribal Sub Plan (TSP) of the State level departments also follow an activity mapping exercise which assigns responsibilities to each level of panchayats for TSP programmes?

V. JURISDICTION OF PANCHAYATS

When the local self-governments were introduced in the pre-independence days, local bodies were in charge of civic functions like local roads, street lights, drinking water supply, sanitation, controlling epidemic etc. In most countries, the civic functions remain the only function of the local governments. But, in India, since the days of the Balawantray Mehta Committee report (1957), the panchayats have been conceived as a development agency. Even though the Asoka Mehta Committee made a significant contribution in recognising these institutions as political institutions deserving their legitimate space in the governance of the country, it did not visualise their role beyond the sphere of development. The 73rd Constitution Amendment has expanded the development role further and envisaged these institutions as an essential organ of the State to achieve the goal of 'economic development and social justice'. At the same time, the Constitution also defines panchayat as 'institution of self-government'. If so, is it necessary that it should be seen only as a development agency? Since Article 243G can be implemented in both a restricted and a liberal sense, the following issues may be raised for consideration:

(a) Apart from the functions described in the Eleventh Schedule for PRI domain, should some regulatory functions be given to them in such matters as, for example, (i) granting licences, (ii) enforcing provisions of some regulatory laws, (iii) police functions/local crime control?
(b) Should judicial functions be given to the panchayats?
(c) Can some legislative functions also be given to them in the matter of taxation, use of natural resources etc?

VI. DEVOLUTION OF FUNCTIONS

The state of assignment of functions to the PRIs in most States leaves much to be desired. The major issues that remain unsettled in most States are mentioned below:

(a) Given the fact that the panchayats are autonomous institutions, is it necessary to divide their functions into 'obligatory' and 'discretionary' functions, as some State Acts have done?
(b) When the same subject (like primary education or primary health care or roads etc) is addressed by the higher-level governments and the panchayats, the specific role of the latter within a broad functional area needs to be spelt out. To ensure this, it has been suggested that the individual activities within a specific subject should be identified first and thereafter it could be considered which of the activities should be transferred to which tier of the PRIs. The issues involved here are as under:
    - Should the activities be identified from the existing plan and non-plan schemes or other activities of the State Government, as has been done in some States? Could we discern the activities through some other means, for example, by working backward from the agreed goals of a development sector? After devolving an activity, should the panchayats be given liberty to devise the means of performing that activity? When an activity is transferred to the panchayat, should it have the right to determine whether a particular State Government scheme attached to it should be discontinued or modified?
    - Most of the exercises on activity mapping in different states have remained essentially a bureaucratic exercise. Should an extensive consultation with the civil society precede the formulation of devolution schemes by the State Governments?
(c) There may be several criteria for assigning functions/activities to the different tiers of panchayats. The general principle in this regard is, of course, the principle of subsidiarity. But it is not always possible to apply this principle by subjective assessment. Some objective criteria have to be taken into consideration to determine what can be done better at which level of governance. Some relevant criteria are economies of scale, managerial or technical capacity needed for performing an activity, area which will benefit from a certain activity, spill over of benefits across panchayats, size of individual units of an activity and

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information needs for designing, implementing and monitoring them, role of community participation in implementing the activity etc. Should there be some more criteria other than these?

(d) Should the devolution of an activity be accompanied by the placement of the State Government staff attached to the devolved activities to the appropriate tiers of PRIs under the condition they remain fully responsible to and under the disciplinary control of the elected authority?

(e) Do you think there is a need for creation of Nyaya Panchayat at Gram Panchayat level to try petty offences? What could be the types of cases entrusted to them?

(f) Should the State Panchayat Acts contain provisions empowering the State Governments to withdraw by executive orders any activity from or amend any entry of the statutory schedules of the activities earmarked for panchayats?

(g) Should each state prepare a roadmap for endowing all the 29 matters of the Eleventh Schedule on the PRIs at least in the near future, so as to facilitate preparation of village level plans in all the areas assigned to them under the Constitution?

VII. CORE FUNCTIONS OF PANCHAYATS

(a) How much powers and authority of the State Government should be devolved to the local Councils will be determined by the respective State Legislatures/Governments. Hence, the profile of decentralisation will vary from state to state and the panchayats will have varying patterns of functional jurisdiction. But it is perhaps necessary that there should be certain core activities, which should be common for the panchayat systems of all the States. These activities may be chosen from the subjects mentioned in the Eleventh Schedule and from other subjects addressed by the State Governments, but not mentioned in that schedule. Is it not necessary to reach a national consensus for identifying certain vital areas in which the panchayat systems of all the States should have important roles to play?

(b) There are certain development subjects where substantial involvement of panchayats is not only possible, but essential from the point of view of ensuring efficient service delivery and people's control over programmes that aim at their development and welfare. Most important subjects where the logic of decentralisation is very strong are: elementary education, adult and non-formal education, primary health care, drinking water, sanitation, women and child development, civic services, roads and rural infrastructure that may include rural electrification. All of them, except civic services, are mentioned in the Eleventh Schedule. One subject that is not specifically mentioned in the Eleventh Schedule, is the management of natural resources. The panchayats, particularly the Gram Panchayats, have to assume substantial responsibility in respect of optimum, but sustainable, utilisation of natural resources. In fact, this should constitute a focused aspect of the panchayat plans. Besides the above subjects, there are two poverty alleviation programmes of the Union Government where panchayats' roles are well recognised. The most ambitious Centrally Sponsored Scheme (CSS) of poverty alleviation, namely, NREGS assigns crucial role to the PRIs. The other major CSS of poverty alleviation, namely SGRY, which is applicable in the districts where NREGS is not in operation, also assigns similar role to the PRIs. Apart from these livelihood schemes, there is another important programme of poverty alleviation. This is Public Distribution System (PDS). The starvation deaths, which continue to occur in many pockets of extreme poverty in various States, from time to time, clearly indicate the importance of targeted Public Distribution System in our country. Since the targeting capacity of the local government is far superior to the governments at higher levels, it stands to reason that panchayats should have substantial responsibility in making the targeted PDS work at the grass roots. Hence, all the rural livelihood schemes of the Union Government and the targeted public distribution scheme may also form parts of the core functional jurisdiction of panchayats.

(c) Can there be a consensus that (i) there should be a core functional area common for the Panchayati Raj Systems of all the States and that (b) such area should consist of the following?
- Elementary education, adult and non-formal education.
- Primary health care, drinking water and sanitation.
- Women and child development.
- Roads, culverts, bridges.
- Rural infrastructure that may include rural electrification for improving economic activities in productive sectors.
- Natural resource management.
- Livelihood for the poor: (a) Implementation of the poverty alleviation schemes, and (b) Targeted Public Distribution System.
- Civic amenities.

(d) What steps should be taken to identify the activities under each of the core functions that could be devolved to the different tiers of PRIs and constitute the sphere where they can act independently within the framework of broad guidelines given by the higher-level government?

(e) If the PRIs have to play a more meaningful role in future in respect of delivery of basic services like water supply, sanitation, power, primary health care and primary education, what kind of support and monitoring system should be developed to ensure reliable and efficient delivery of services and their equitable distribution?

VIII. TRANSFER OF INSTITUTIONS

(a) The local level institutions for delivery of services are managed by the line departments centrally. Mention may be made of the following
- Primary schools
- Secondary schools, including students' hostel
- Literacy centres
- Public libraries
- Sub-centres for primary health care
- Primary health centres
- Block Health Centre
- Veterinary centres
- Anganwadi centres

Following the principle of subsidiarity, should not these institutions along with the staff attached to them be placed under the control of the appropriate tiers of panchayats?

IX. CONTROLLING POWER OF THE STATE GOVERNMENT OVER THE PRIs

(a) Should there be any provision in the State Act to suspend an elected office bearer by the State Government or any other authority prescribed by it?

(b) Should the grounds for removal of an elected member or an elected office bearer be restricted to only (i) 'no confidence' of elected members, and (ii) being subject to any of the 'disqualification' clauses? Whether in the case of the latter, it will be desirable to conduct a quasi-judicial enquiry by a neutral authority, such as, Ombudsman or State Election Commission, to determine whether one has become subject to 'disqualification'?

(c) Should the power to dissolve a Panchayat be used in the rarest of rare cases? Before exercise of such power, do you think it should be mandatory to hold a quasi-judicial enquiry by an independent authority?

Annexure-I(4) Contd.

X. INSTITUTIONAL ISSUES:

(a) The size of Gram Panchayats (GPs) in different States varies widely. (Population of GP in Arunachal Pradesh is only 300, while an average GP of Kerala has a population of 25000). In a GP, which has a small population, there will be greater scope for people's participation, but the GP may not be financially viable. On the other hand in a large GP, there may be financial viability, but it will offer lesser opportunities for people's participation. To ensure a proper combination of providing opportunities for people's participation and financial viability of Panchayat, should there be a stipulation for minimum and maximum number of population for the GPs?

(b) There is a tendency among some States to give executive powers to the committees of Gram Sabha (for example, Gram Swaraj Scheme of Madhya Pradesh) or Ward Sabha (for example, West Bengal). Is it proper to create an executive authority below the GP?

(c) Should we continue with the rotation policy prescribed for reservation of seats under the Constitution? If so, what should be the minimum period desirable for such rotation?

(d) Can we find an alternate sustainable model for leadership development in the context of reservation in the PRI election?

(e) There is a view that the Local Area Development Fund for the Members of the Parliament and (in many States) for the Members of the Legislative Assemblies cannot be justified under a regime of democratic decentralisation. Do you agree?

(f) If PRIs are suitably empowered through substantial devolution of functions and resources, will there be any necessity of such agencies as DRDA, FFDA, District Health Society etc? If not, what should be the relationship between these agencies and the PRIs?

(g) What are the State Acts/Rules that need to be reviewed to empower PRIs in the areas earmarked for them? Should there be a time frame for each State Government to get this done? Should the Union Government monitor the implementation of this process?

(h) What could be the mechanism for integration of PRIs/ULBs at the district/urban level for preparation of a composite development plan and for effective delivery of services in their areas?

(i) At present, at the district level the functions of the administration may roughly be classified into (a) Executive Magistracy; (b) Land Administration; (c) Disaster Management; (d) Election authority; (e) Facilitator of public services/civil supplies; (f) Welfare administration; (g) Cadre management functions; (h) Grievance/vigilance officer. What should be role of, and interface with, District Collector, once panchayats and municipalities are empowered? What kind of role could be envisaged for the existing bureaucratic structure at the district level under the emerging PRI/ULB set up?

(j) What steps are needed to secure gender equality/empowerment in PRIs? Do you think the present provisions in the State Panchayati Raj enactments for reservation of women in panchayat institutions is enough to give an equal partnership to them in local government? What other affirmative constitutional, structural and institutional measures are necessary to achieve significant results in this direction?

XI. ELECTIONS

(a) Should the task of delimitation of constituencies of different tiers of panchayats and reservation of constituencies including rotation should be conducted under the full control and supervision of the SEC? Similarly, will it be appropriate if electoral powers like publication of election results, election of office bearers, handling disputes about the election of office-bearers etc be given to the SEC, instead of the government officials as is the practice in many States?

(b) There is a Chief Electoral Officer in each State who conducts the elections for the State Legislature and the Lok Sabha, whereas the State Election Commissioner performs a similar role in respect of elections to the local bodies. Is there a case for merging these two offices? With a view to ensuring preparation of common electoral

rolls as well as securing optimum utilisation of election materials and other resources- will it be advantageous to abolish the office of the CEO and entrust his activities to the State Election Commission?

(c) What are the possible modifications in Panchayati Raj Legislation in view of the experience of last 10 years such as elections of Chairpersons at various levels, rotational policy, powers of Election Commission?

(d) Under Article 243C(5)(b), the Chairperson of the panchayat at the intermediate level or district level shall be elected by and from amongst the elected members thereof but under Article 243C(5)(a), the Chairperson of the village level panchayat shall be elected in such manner as the State Legislature may by law provide. Do you think that provisions of Article 243C(5)(b) should be applicable to the post of Chairpersons of PRIs at all levels and 243C(5)(a) should be scrapped?

(e) Does the composition of the PRIs at different level need a change?

(f) Should all the three PRI levels have separate direct election system?

XII. PRIs AND CENTRALLY SPONSORED/CENTRAL SECTOR SCHEMES

At present, there is a large number of Centrally Sponsored Schemes being implemented across the country by Ministries of the Union Government through the state agencies. Out of these, about 8 major programmes account for the bulk of investment almost to the tune of 65-70%. These major programmes are NREGS, SSA, NRHM, ICDS, Mid Day Meal, Drinking Water Mission, IAY and PMGSY. Together these programmes have an allotment of Rs. 50,000 crores approximately. There is a tendency on the part of the Union Ministries to devise separate delivery mechanism for such schemes without or with nominal involvement of the PRIs. Exceptions among them are NRHM and NREGS. The latter programme, particularly, is a notable example, which has dovetailed the programme delivery structure to exactly fit into the Panchayati Raj system including Gram Sabha. With regard to the other CSSs, the following issues deserve attention:

(a) Since almost all the subjects handled by CSSs find place in the Eleventh Schedule of the Constitution, do you think it is essential that the structural involvement of panchayats is ensured in the implementation of the CSSs? (A note of warning here is called for: Inclusion of panchayat representatives in the committees formed under a scheme does not amount to the involvement of institutions of panchayat).

(b) CSSs in general have a tendency to prescribe formation of programmatic committees, which are outside the permanent structures of the State and Local Governments. In some cases like ICDS and SSA, the committee structures go down to the village or neighbourhood level. These committees are (i) outside the permanent institutional structures and processes, and (ii) their relationship with permanent structures is not clear. How to integrate the stakeholder agencies and the civil society organisations with the panchayats or should they work in conjunction? Or should one avoid the 'external' committees altogether and make use of the permanent structures only in implementing these programmes?

(c) Most programmes look forward to developing perspective plans and annual plans from the grass roots level. Here again the linkages with the normal institutional processes of planning are missing, each programmatic plan is seen as a stand alone process. Do you think it is necessary to ensure that the programmatic planning forms an integral part of the planning process envisaged in Article 243G of the constitution?

(d) The fund flow of most CSSs bypasses the panchayats. NREGS and NRHM are notable exceptions. How will it work if the funds are channelised through the panchayats?

XIII. LEGISLATIVE COUNCIL AS COUNCIL OF PRIs/ULBs

Article 171 of the Constitution provides for the formation of Legislative Councils. With the emergence of PRIs as the constitutionally mandated third tier of governance, would it be appropriate if the Legislative Council becomes the Council of PRIs/local governments. Once such a Council is elected by these representatives, it will protect the interests of PRIs/ULBs. Do you think that such reform in the composition of the Legislative Council is necessary? What could be the possible alternative composition of this body?

Annexure-I(4) Contd.

XIV. RELATIONSHIP BETWEEN PANCHAYATS AND CITIZENS/STAKEHOLDER GROUPS/ COMMUNITY BASED ORGANISATIONS/OTHER CIVIL SOCIETY BODIES

(a) A large number of NGOs and stakeholder groups/Community Based Organisations (CBO) like Self Help Groups, User Groups, Mahila Mandals etc are functioning in the villages. Very often these organisations are involved in implementing various State/Union Government programmes/schemes. What kind of relationship should exist between them and the PRIs?

(b) What steps should be taken to institutionalise the coordinating mechanism between such stakeholder groups/organisations and the panchayats?

(c) Will it be appropriate if these bodies are asked to attend Gram Sabha/Intermediate Panchayat meetings and brief the members on their ongoing activities in the area? Could they be co-opted as special invitees of the panchayats or their Standing Committees. Do you think it will create an environment of complementarity? What could be the modalities for such interactions?

(d) Do you think such co-ordinations between stakeholders/CBO groups and PRIs will lead to convergence of various development programmes in the area?

What are the implications if such organisations function under the overall umbrella of the local government?

XV. EMPOWERMENT OF CITIZENS

(a) What are the areas in which citizens can directly be empowered as stakeholders?

(b) Because of a long tradition of governmental dominance and citizens' subordination to the State, people's initiatives have not been given due value or encouragement in our system. Would you suggest some constitutional and institutional measures which will give encouragement to such initiatives and ultimately lead to citizens' empowerment?

(c) *Co-operatives and Micro Finance:* These are the two sectors which have been recognised as powerful tools for economic resurgence of the rural areas. What are the constitutional/legal/other measures required to inject life to them? Is there any need to amend Article 19 of the Constitution in this context?

XVI. PANCHAYATS AND THEIR FINANCES: DEVOLUTION AND INTERNAL RESOURCES

One of the major areas of concern in the exercise of PRI empowerment is the critical state of the panchayat finance. So far, most of the States have in their possession at least two reports of the SFCs constituted by them.

(a) The recommendations of the SFCs are expected to lay the foundations of a sound system of local finance, promote regional balance in respect of basic services and thus be an important step towards effective decentralisation. How do you think the State Governments can be made to act on these reports? How will you react if the transfer of Central Finance Commission grants for local bodies and other devolutions are made conditional on the achievements made in respect of devolution to the PRIs?

(b) The State Governments have, by and large, failed to adopt definite policies on allocation of funds to the PRIs. Should it be made mandatory for the states to frame legislation in this regard clarifying a definite formula for such devolutions?

(c) One of the important tasks of SFC is to determine the size of the divisible pool taking into account the functional domain of the State Government and that of the local bodies. The issues are: (i) Should the divisible pool include sharing of only tax revenue or both tax and non-tax revenue? (ii) Should central revenue devolution be included? (iii) Do the local bodies have a claim on the central kitty?

(d) In order to synchronise the periods covered by the SFCs and the Central Finance Commission, it is necessary to amend Article 243I (1) by inserting the words 'or at such earlier time as the Governor considers necessary' after the words 'at the expiry of every fifth year' to bring it in conformity with

Article 280. Such synchronisation is considered necessary for making the SFC reports relevant to the period covered by the Central Finance Commission. What is your view?

(e) The status of resources raised by the PRIs from own sources is highly unsatisfactory in most of the States. The Gram Panchayat is the only institution among the PRIs that enjoys revenue raising powers. Do you support the view that Intermediate and Zila Panchayats should also have revenue raising powers? Should the State transfer of funds to the panchayats be made conditional/incentivised (through a prise scheme or through a grant of matching funds) upon the performance of the local bodies in generating local resources?

(f) Apart from the already assigned revenue raising powers on (i) land and buildings; (ii) entertainment taxes; (iii) vehicle tax on non-motorised vehicle; (iv) advertisement and hoarding tax, (v) pilgrim fees, (vi) market fees, (vii) cattle registration fees, (viii) parking fees, (ix) grazing fee, what other taxation areas could be assigned to PRIs.

(g) Do you think the State Government's power to give tax concession (without consulting panchayats) in lucrative tax sources such as large industries in rural areas is justified?

(h) In view of the weakness of the panchayat functionaries in estimation or collection of taxes, what measures do you suggest for their capacity building?

(i) In view of the growing importance of PRIs, is there a need to create a permanent SFC cell at the State Headquarters to collect data continuously and make them available to the SFC as and when constituted?

(j) The 12th Finance Commission (FC) recommended Rs. 20,000 crores as block grants to panchayats for 2005-10 (just 4% of the central transfers). A jump of Rs. 8,000 crores over the recommendation of the 11th FC. In 2002-03, the expenditures incurred at the local body level were just about 1.8% of the GDP and constituted about 5% of the total government expenditure. The 12th FC recommended these transfers to be used for water supply and sanitation. Is this quantum of grant adequate? Secondly, will it be more useful to make such transfers unconditional or continue with the present system of specific purpose transfers?

(k) What could be the mode of transfer of funds for the Central Schemes? Should it be rooted through the Consolidated Funds of the States or given directly to the PRIs?

(l) What could be the possible measures to insulate such transfers from the ways and means problems of the States?

(m) What other measures would you suggest for enhancing/improving the resource base of the PRIs?

(n) Is there a need to have a baseline standard on Accounting and Auditing for PRIs?

(o) Instead of multiple transfers, should there be cross sectoral convergence of allotments into block funds such as anti-poverty fund, a water security fund, the public health fund, an education fund, a family welfare and child development fund, a housing fund and a rural connectivity fund.

(p) Should the State widely publicise such transfers on public domain or otherwise?

(q) On the basis of activities assigned to panchayats, should each State Government create a Panchayat Sector Line item in the budget to emphasise such allocations?

(r) Similarly, do you suggest similar action on the part of Union Government Ministries?

(s) What are the implications if the funds allocated and transferred to panchayats are made non-lapsable?

(t) Should the hierarchical procedure for furnishing technical/administration sanction for a project be done away with? What alternative models could be tried in this context?

(u) Do you agree that a fiscal responsibility regime with details on timing and periodicity of fiscal transfers to PRIs and preconditions for release of funds is required?

Annexure-I(4) Contd.

XVII. ADMINISTRATIVE REFORMS FOR PANCHAYAT PERSONNEL

1. Personnel Management

(a) What should be the human resource policy for the panchayats to discharge their functions in the assigned areas effectively? Should there be cadres specifically earmarked for Panchayats both at the District and the State levels? If so, what are the implications of the same?

(b) What should be the best mode for staffing of PRIs? Should the staff be on contract or on permanent basis?

(c) How will career progression be ensured for permanent staff of PRIs?

(d) Should the personnel policy of the panchayats allow lateral as well as inter panchayat movement? Should there be convergence of cadres at some level?

(e) What ideally should be the relationship between the panchayat Chairperson and the CEO? Should the appointment of CEO remain confined only to the IAS? What could be the alternatives?

(f) Should the PRIs be allowed to outsource some activities to civil society groups?

(g) What are the measures needed to be taken to ensure administrative control of the PRIs over the State Government functionaries dealing with the matters listed in the Eleventh Schedule of the Constitution?

(h) Some State Governments have faced difficulty in placing the services of the concerned government staff to the PRIs consequent upon devolution of certain activities or institutions. In this context, should there be an enabling provision in the Constitution permitting the State Legislatures to make, by law, provisions that would empower the State Governments to depute their staff to the panchayats and to enable the latter to exercise full power of administrative and functional control over such staff?

(i) Do you think there is a need to have a continuous scheme of programmes and training for PRIs officials? Should these training programmes have a basic curriculum common to all panchayats across the country? What could be the contents of this curriculum?

(j) In the spirit of decentralisation envisaged in the 73rd Amendment, what are the measures needed to simplify the process of technical scrutiny of schemes at various levels of hierarchy? Should the criterion remain based on financial outlay and not on the technical complexity of the schemes?

(k) What are the measures needed to redraft technical codes in order to make them citizen-friendly so that the projects could be taken up with participation and involvement of the people and civil society groups?

(l) At present, the state Public Works Department (PWD), and in some States, other technical departments provide technical sanction/scrutiny/guidance to projects, what are the measures needed to liberalise the system and involve private technical bodies, retired technocrats and civil society institutions having technical wing in providing technical support services to panchayat project?

(m) Should panchayats be entrusted with the task of monitoring the attendance of village level staff of different departments?

(n) At present, Gram Panchayat grade C employee is from the district administration. In view of the gradual empowerment of this structure in terms of both volume of work as well as their financial outlay, is there a need to upgrade this post to grade B level or at least to a senior grade C status with appropriate qualification and experience requirement?

(o) Should the PRIs be encouraged to take up ventures where people/stakeholders make a part contribution with the government making available the balance amount? Is there a need to monetise Shramdan (voluntary working) in such works?

(p) Apart from institutional monitoring through Standing Committee of the PRIs, what could be other forms of an effective monitoring regime?

2. Capacity Enhancement

(a) There is a general feeling that the State Institute of Rural Development (SIRD) are not given due care and attention in all the States. What are the steps needed so that the SIRDs are adequately strengthened and dedicated fully for building the capacity of the elected members of the PRIs and the officials attached with them?

(b) What are the implications of transferring/outsourcing the functions of the SIRDs to competent NGOs/Educational Institutions including the Universities both in the Public and the Private Sectors?

(c) It is quite often seen that for every Centrally Sponsored Scheme (CSS), a new Capacity Building (CB) arrangement is made, probably because this service is not seen as a continuous process, but as an external, temporary and a time bound input. Will it be rational to dovetail the individual capacity building elements of various CSSs into the continuous process of CB of the PRIs through the permanent institutional arrangements, namely the NIRD, the SIRDs and similar other institutions?

(d) Should the NGOs/other Civil Society Groups be involved in capacity building of the PRIs?

(e) What should be the special arrangements to build the capacities of the representatives from among women and other weaker sections of the society, especially in the context of the rotation system?

(f) Do you think there is a necessity to set up a composite extension centre at the level of each delivery panchayat so as to cater to the training requirements of all PRIs falling in that areas?

(g) Is there a need to have a formal certification course for the secretariat and technical staff working with panchayats through institutions such as IGNOU?

(h) Since many of the elected represented of the PRIs are not sufficiently educated/trained on issues of governance both administrative as well as technical, will it be desirable to have a short training course for such representatives immediately after elections?

XVII. DECENTRALISED PLANNING – GROSS ROOTS PARTICIPATION

Planning from below

In terms of Article 243G, planning is a mandatory function of panchayats. Yet, panchayat level planning has not been institutionalised in any State other than Kerala. The important issues involved are:

(a) In many State Acts, planning has not been made a mandatory task of the panchayats, particularly at the levels of Gram Panchayats and Intermediate Panchayats. Is this not unconstitutional? What amendments are necessary in these Acts to make 'planning' a mandatory task of all the tiers of panchayats?

(b) Most panchayats cannot undertake planning function, because of paucity of untied funds, among other things. Despite recommendations of many State Finance Commissions, most State Governments fail to provide substantial funds to the PRIs in untied form, presumably because they face serious financial constraints.

In the circumstance, what are the initiatives needed on part of the Union Government to create a pool of resources drawing funds from various sources including the Central Finance Commission grants and channellise them to the PRIs to enable them to prepare local level development plans under broad guidelines to be given by the respective State Planning Boards?

(c) (i) Should the Planning Commission take initiatives in creating a framework for institutionalising panchayat level planning and for integration of panchayat plans with the State and National Plans?

Annexure-I(4) Contd.

(ii) What are the initiatives the Planning Commission can take to activate the State Planning Boards so that they become a catalising centre providing directions, advice and support to PRIs for preparation of participatory panchayat level plans?

(d) The Planning Commission has emphasised that implementation of grass roots level planning by PRIs. What specific initiatives can the Planning Commission take?

(e) Comprehensive and workable methodology for preparation of plans at different levels of panchayat has not been developed by most States. What could be done to ensure this?

2. Role of the District Planning Committee

The District Planning Committees (DPCs) have failed to emerge as effective institutions. Some States have not formed the DPC. A few States tried to make it more powerful than the PRIs. In most States, they are not functioning. Moreover, the concept of 'District Plan' has not yet taken a concrete shape. There are many issues surrounding DPC and the 'District Plan' that need to be addressed.

(a) Under Articles 243G and 243W, Panchayats of all three tiers and the Municipalities will prepare plans for their areas. These plans are not draft plans, but are final and actionable plans. But the District Plans to be prepared by the DPC under Article 243ZD are draft plans. How to remove this anomaly and reconcile Articles 243G/243W with Article 243 ZD?

(b) Article 243ZD gives two tasks to the DPC, namely to integrate the panchayat and municipal plans and to prepare a consolidated district plan. This means that the district plan goes beyond consolidating the individual plans of local bodies. It is expected to address certain issues, which are beyond the capacity of individual panchayats and municipalities. Are these things restricted to sub-clause (a) of clause (3) of Article 243ZD, namely rural-urban integration, environmental conservation, balanced and sustainable use of natural resources and financial or other kinds of resources? Whether the district plan should have a larger scope, for example, inclusion of programmes of various line departments on subjects/activities not devolved to the local bodies? Is it possible to suggest an alternative model for integration of PRIs/ULBs at the district/urban level for preparation of a composite development plan and for effective delivery of services in their areas?

(c) Legitimacy of the DPC – In view of the existence of Zila Parishad as the apex elected PRI at the district level, is there a need to create a separate constitutional body, DPC to prepare the draft plan for the district under Article 243Z D? What, in your opinion, justifies this special constitutional recognition to the DPC, when neither the National Planning Commission nor the State Planning Boards have been given this status?

(d) Do you find weight in the view that the DPC, being a stand-alone committee outside the PRI-Municipal system, a body of indirectly elected and nominated members, will have no accountability either to the local bodies or to the local people?

(e) Expanding the role of District Panchayat – Keeping in view the overall pattern of democratic decentralisation envisaged under the 73rd and 74th Constitution Amendments, do you think the task given to the DPC can be performed by the District Panchayat itself? In that case, will the District Panchayat be the government for the entire district, including the urban areas? The task of preparing the district plan for the entire district can then be given to this body and there is no necessity of a separate constitutional body like DPC. What are the possible implications? What are the constitutional amendments and institutional arrangements needed to create such an enlarged/empowered District Panchayat (taking care of both PRIs/ULBs)?

(f) If the above is accepted, is there a need to have an advisory body of officials/technical experts/scholars to replace the DPC which will advise the District Panchayat in preparing a district plan or to coordinate

the planning exercises at the local level or to examine the local plans for, among other things, prevention of overlapping and duplication of schemes/projects at the inter-panchayat level.

(g) When the district level panchayat represents both rural and urban population, it has to become the District Government in which case the Chief Executive Officer of the District Government will automatically become a key functionary at the district level. What will be the possible implications of merging the present post of Collector/Deputy Commissioner with that of the CEO?

XVIII. ACCOUNTABILITY AND TRANSPARENCY IN THE PRI

(a) What specific steps are required to incorporate transparency guarantees in the State Panchayat Acts?

(b) What kind of administrative/accounting framework do you suggest for holding panchayats to account for transparency and for voluntary disclosure of information?

(c) Do you think that auditing of PRIs needs to be done by Director of Local Accounts alone or in conjunction with the State CAG unit?

(d) What are the measures needed for computerisation of PRIs account at all levels of panchayats?

(e) Is there a need to have a continuous scheme of training programme for PRI officials? Should this training have a basic curriculum common all across the country? What could be the broad contents of this common curriculum?

(f) What are your suggestions regarding introduction of Citizens' Charter in every PRI?

(g) How to institutionalise Social Audit?

(h) Apart from the propriety issues, it is necessary that the PRIs should be judged in terms of efficiency and effectiveness of the public goods and services they provide to the citizens. In this context, will it be appropriate to suggest that the statutory auditors also evaluate each PRI against certain performance indicators, which can be measured quantitatively?

(i) Should specific functions and powers be assigned to the Gram Sabhas/Ward Sabhas to ensure downward accountability of the panchayats, as has been done under the PESA?

(j) Should the NGOs/CBOs working within a Panchayat area report about their activities to the Gram Sabha and the Panchayat? What would be the modalities for it?

(k) The Administrative Reforms Commission in its report on "Ethics in Governance" has strongly recommended creation of Ombudsman at local bodies. How can this be best synchronised/organised? Parameters/qualifications for appointment as Ombudsman.

Annexure-I(5)

Speech of Shri M Veerappa Moily,
Chairman, Second Administrative Reforms Commission
at the
National Colloquium on Urban Governance
held at IIM, Bangalore

20th September, 2006

I am happy to be here with you all in this National Colloquium on Urban Governance jointly organised by the Administrative Reforms Commission and Janagraha. What we are deliberating upon today and tomorrow in this National Colloquium here at the Indian Institute of Management is, to my mind, a topic of great national importance. As you all know, urbanisation and unprecedented growth of cities is one of the most significant trends in the modern world. Cities are made, quite literally, by the imposition of human design on the natural environment; and urbanisation is essentially the redistribution of populations from villages and hamlets to towns and cities. However, once the population has crossed the threshold to claim urban status, various factors come into play in determining whether a city will grow or decay - well-being or impoverishment of the hinterland, availability of raw materials, industrial enterprises, natural disasters, state of public services and infrastructure and so on.

Unfortunately, India has not been able to extract optimum economic benefits from its natural resources nor has it succeeded in rejuvenating and reviving its reproducible portions. Increasing population and economic pressures have resulted in the decline of area under the forest cover. Our economic structure has evolved in such a manner that the demand on forest resources far exceeds their regeneration capacity.

The link between industrialisation and urbanisation is becoming stronger each day. There has been a rapid demand for built space, which has circumvented planning, and building regulations that are formulated with the specific aim of preventing environmental degradation. The increasing industrial activities, trade opportunities, population growth and migration from rural areas are expanding Indian cities at an unprecedented scale.

Special Economic Zones

The Special Economic Zones Act, 2005 has been legislated to enable creation of world-class infrastructure through private participation and hassle-free regulatory regime in various areas including taxation, customs, labour, etc. in SEZs.

The concept no doubt is going to create world-class infrastructure and make many states to dream for many Shanghai's.

The developments are also chased by the developers e.g. after the announcement of the ONGC project in Mangalore, the developers not only in the country but also all over the world have started coming and investing in acquisition of lands.

The CDP which expired in 2002 is yet to find the nod of approval from the Government of Karnataka. This may be the case in respect of many other cities also. Unless urban planning are planned anticipating the development, it could become totally unmanageable and lead to urban anarchy.

A deluge of infrastructure and development may have to be appropriately channelised, planned and executed, otherwise, this may alone pose a big problem of urban explosion.

The subject of urban governance becomes even more important when we consider the extent and magnitude of urban poverty. Poverty in India has been the focus of many debates and policies for decades. Most of this focus has been on rural poverty issues, but the size and acceleration of urban poverty mandates that this sector gets equal attention from our policy-makers. The bigger cities are growing faster than smaller towns. India's mega-cities have the highest percentage of slum-dwellers in the country. There are several questions that we need to consider while talking about urban poverty. First, the importance of pursuing an "empowerment" approach vs. a "delivery" approach that treats beneficiaries as mere recipients and not as participants in the change process. Second, we need to understand the economies of urban poverty in the design of our programmes. Third, we have to accord priority to urban poverty on line with rural poverty. The National Commission on Urbanisation had recommended that the government adopt an integrated approach to address poverty in rural and urban areas. This was because rural and urban economies are interdependent and failure in any one sector will cause failures in the other sector. The number of Government sponsored Urban Poverty Alleviation Initiatives being introduced year after year has increased, indicating that urban poverty has seen a gradual rise in importance for the policy-maker. While the change in approach is an improvement that reflects the growing urgency of urban poverty, funding for urban poverty still lags behind the magnitude of the problem. I hope the National Colloquium will deliberate at length on these aspects and suggest suitable palliatives.

As per the 55th National Sample Survey (NSS, 1999-2000), the poverty line for urban areas was Rs. 854.96 (IS $ 19.02) per capita per month. According to this definition, 26.11% of Indians fall below the poverty line. According to the 2001 census, 42.83% of the urban population was below the poverty line.

There will be an inevitable response about slums. For the first time, the 2001 Census collected data on slums and 607 cities/towns (populations more than 50,000) reported such data. Four per cent of India's population, 22 per cent of the population of these towns/cities, 32 per cent of Maharashtra's population, 49 per cent of Mumbai's population (other metro figures are only slightly less) lives in slums.

In the 2001 census, 37% of urban households had only one room in which to live, with this percentage rising to 65% in Mumbai, for an average household size of almost 5 individuals. Only half of the dwellings have running water and 26% have no toilet (53% in Mumbai). Moreover, 23% of the urban population lives in slums - squatter settlements and hovels - and this percentage is even higher in the largest municipalities: a quarter of the population of Chennai and rising to

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almost half in Mumbai. In response to the size and persistence of the slums, public authorities have resorted to measures of various types: demolition with relocation, provision of basic services, in-situ rehabilitation etc, that do not however tackle the root of the problem.

The enactment of 73rd and 74th Constitutional Amendments in 1992, has added a new dimension to fiscal federalism and the decentralisation process in the country, by assigning a Constitutional status to local bodies. The Amendment provided for, among other things, the gradual transfer of powers and authority of State Legislatures to Urban Local Bodies (ULBs) so that they function as institutions of self-government; clear demarcation of ULB's responsibilities under the Twelfth Cchedule of the Constitution and the formation of State Finance Commissions (SFCs), in line with the Central Finance Commission (CFC), to identify avenues for municipal finance and recommend criteria to devolve resources from states to ULBs.

These provisions, although not fully implemented, provided functional and financial autonomy within the framework of a democratic government structure, and made ULBs directly accountable to their citizens. But the exact demarcation of powers, functions and finances between the State Government and ULBs is left to be determined by the State Governments through their conformity legislations and subsequent Amendments therein.

When we look for reasons, I am reminded of Amartya Sen quoting his old teacher, Joan Robinson, as saying about our country -"Whatever you can rightly say about India, the opposite is also true". Thus, a centrally administered city with large initial investments, like Chandigarh has been a model of urban planning but its success could not be scaled up and replicated elsewhere. Delhi, on the other hand, after major initial successes in urban planning has now become trouble prone, saddled with a multiplicity of agencies, of which the judiciary has now become a part, and massive demographic pressure coupled with rampant commercialisation. The most unfortunate aspect is that there are almost no small and medium towns which can be considered as model towns boasting of a high quality of life.

A complete matching of expenditure and revenue decentralisation is inconceivable in a federal set up. Therefore, the appropriate structure of local finance - the mix of taxes, user charges and transfers - is critical to ensure that ULBs have access to the financial resources that they deserve, given the functions that are being devolved to them.

Unfortunately, fourteen years after the 74th Constitutional Amendment, urban local bodies find themselves in a financially precarious situation on all fronts - own revenues through taxes and non-tax sources, transfers as well as grants. As a result, ULB finances are in a mess. This has serious consequences for how Municipalities will finance their capital investments that are desperately required, let alone meet their revenue expenditure obligations. Hence, what is required is action to improve the state of municipal finances in the country.

It is estimated that over a seven-year period, the urban local bodies would require a total investment of Rs. 120536 crores for upgrading basic infrastructure and services, implying an annual funding requirement of Rs 17219 crores.

Urbanisation Policies are Creating Artificial Scarcities

The year 2006 (or 2007) is significant in the history of human civilisation, because that's when the world's urban population will exceed the world's rural population for the first time. Of course, levels of urbanisation vary widely, ranging between 80 per cent in high income countries and 30 per cent in low income countries. Urbanisation is correlated with economic development and India's 28 per cent urbanisation figure is still low by global standards, although there are some problems with cross-country definitions of what is urban.

Not only is India's urbanisation figure low, it is growing at a rate slower than that in many other countries. For instance, between 1990 and 2003, India urbanised at an annual average rate of 2.5 per cent. The rate was 3.3 per cent for low income countries and 4.6 per cent for sub-Saharan Africa. The correlation between urbanisation and development is also obvious if one considers inter-state data. Tamil Nadu, Maharashtra and Gujarat are at the top of the urbanisation pecking order and Bihar is towards the bottom with a figure of 10.47 per cent. Around 2025, projections suggest 40 per cent of India's population will be urban, with 75 per cent urban in Tamil Nadu, 60 per cent in Maharashtra and more than 50 per cent in Gujarat and Punjab. Tamil Nadu should cross the 50 per cent threshold in 2007. In 2025, Karnataka and Haryana will also be largely urban and Uttaranchal will be more urban than Andhra Pradesh, West Bengal or Kerala.

Our urban population of 320 million is already the second largest in the world. The urban areas already account for a disproportionate share of the Nation's GDP, over 50% and this share too is expected to rise to 65% by 2011. Thus, while the old cliche's are still current, the dynamic urban reality of a country that is a world leader in pharmaceuticals, telecommunications and outsourced computing services and which is growing at a rate of above 7% per annum fuelled mostly by its urban centres, cannot be concealed.

I want to say something about urban planning. As India continues to urbanise, with greater percentages of its citizens migrating from rural areas to cities, a conscious and disciplined approach to managing existing city resources and effectively planning for growth will be critical to the well-being of increasing numbers of its population. A well articulated and implemented urban plan will thus make the difference between a vibrant living environment that affords sustainable access to economic opportunities and public services and a situation where increasing numbers of India's citizens are exchanging a cohesive rural fabric for a disconnected existence in urban areas without any sense of ownership or pride in their surroundings. I hope the Colloquium discusses at length these dimensions of urban planning and propose solutions.

Let me say something about the peri-urban areas. The peri-urban areas show the ugly face of urbanisation. These areas represent the fault lines beneath the smoothness of the urban surface, with all the attendant problems. These are huge slums, without even the legal positions of slums; this is where the poor lives in abysmal conditions, and without the benefit of public services like water, power and healthcare. I would request the Colloquium to spend some time on the problems and prospects of the peri-urban areas and suggest measures of amelioration.

Annexure-I(5) Contd.

The urban environment is of great importance. Industrialisation has been the main spring of the urban phenomenon. In the developing countries like India, rapid urbanisation is taking place unaccompanied by modernisation in terms of infrastructure and planning. There is growing concern about the problems connected with urbanisation i.e. congestion, pollution, slum settlements, and inadequate services and facilities. The rate of urbanisation is posing a threat to not only the natural environment but also to the man-made environment. The objective of urban planning must not only be the achievement of economic goals but also achievement of the better quality of environment.

Let me give you an example. When cities are built, the construction of roads and buildings is done in flat areas. But as the cities grow, the surroundings hillocks are flattened and low-lying areas are filled to enable construction. This disturbs the natural features of the land. The slope of land is a very important aspect especially in respect of water channeling. The rainwater flows from the high lying slopes to the water catchments areas at the foot of the slopes and these low-lying areas become the lakes, tanks and ponds. Indiscriminate flattening of slopes and the filling up low lying areas ad marshes, adversely affects the flow of the rainwater into the water bodies which, in turn, leads to issues such as scarcity of water, soil erosion, silting of water bodies and storm water drain which results in flooding. The lack of awareness on part of the planning officials and the citizens about the hazards of haphazard urbanisation further exacerbates the problem. The recent Mumbai flood is an example, which highlights the gravity of the situation. I will like to flag the attention of this Colloquium to such serious environmental issues and request the participants to propose ways in which the quality of environment can be sustained, but enhanced as well.

Urban Traffic and Transportation is an important issue choking the metro cities and other two-tier cities. Many public transport modes are Metro Rail, Commuter Rail, High Capacity Bus System (HCBS), Electric Trolley Bus (ETB), Light Rail Transit (LRT) and the Monorail. Metro/Commuter Rail are high capacity modes.

The Colloquium needs to discuss about the criteria for choice of modes particularly with reference to cost-benefit ratio and appropriate gauging. Wherever the circular railways are in existence, the connectivity of urban transport can be taken into consideration. Elevated Rail Transit System is one of the options in respect of availability of circular railways.

While working on the Mass Rapid Transit System, the designing of metro lines with a vision for 25 years has to be taken into consideration.

There is no part of India where there should be a natural shortage of urban land or housing. These are artificial scarecities caused by government policies, Centre, State and Municipal, all taken together. If one eliminated legislation on urban land ceilings, rent control and tenancy, unrealistic Master Plans and restrictions on land conversion once Master Plans are in place, high stamp duties, low property taxes, unrealistic building restrictions and large tracts of land owned by the government that do not come onto the market, artificial scarcities would simply disappear. But so would corruption, which is the main reason why discretion continues. We know these unrealistic regulations are not meant to be enforced. One can bribe one's way through them unless a High Court intervenes to upset the status quo. Once the court intervenes, the Municipal Corporation of Delhi tells us that

70 to 80 per cent of Delhi's 3.2 million buildings have major or minor legal violations, 1,600 of Delhi's 3,000 colonies are illegal and that 18,299 buildings have to be demolished. Since taxes and electricity bills have often been paid on these, presumably MCD and other government officials knew about these illegalities. Artificial scarecities should lead to high prices, except that such high prices manifest themselves through bribes. That's also a kind of contract, except that such contracts aren't legally binding.

Urban Governance Issues/Indicators

1. Consumer satisfaction (survey/complaints)
2. Openness of procedures for contracts/tenders for municipal services
3. Equity in tax system
4. Sources of local government funding ((taxes, user charges, borrowing, central government, international aid)
5. Percentage of population served by services
6. Access of public to stages of policy cycle
7. Fairness in enforcing laws
8. Incorporation of excluded groups in the consultation process
9. Clarity of procedures and regulations and responsibilities
10. Existing participatory processes
11. Freedom of media and existence of local media
12. Autonomy of financial resources

Finally, a word about the initiatives of the present government. JNNURM, which was launched in December 2005, is a commendable initiative to enhance the quality of urban life in India. It is a seven-year mission. The objective of JNNURM is to create economically productive, efficient, equitable and responsive cities. The approach of JNNURM is essentially in three directions. First, the cities selected under JNNURM will have to prepare a City Development Plan that will be the vision statement for the city for next three decades. Second, the concerned city has to prepare detailed project reports in terms of the vision statement that will set forth its financial requirements. Third, a timeline will have to be stipulated for implementation of the urban reforms. The thrust areas for project assistance under JNNRUM ranges from solid waste management to basic services for the urban poor. On the whole, JNNRUM is an outstanding national initiative, encompassing as it does wholesome reforms, financial incentives and rigorous review process.

Urban governance is characterised by the principles of sustainability, subsidiary, equity, efficiency, transparency and accountability, civic engagement and citizenship, and security.

- Sustainability in all dimensions of urban development
- Subsidiarity of authority and resources to the closest appropriate level
- Equity of access to decision-making processes and the basic necessitates of urban life
- Efficiency in the delivery of public services and in promoting local economic development
- Transparency and Accountability of decision-makers and all stakeholders
- Civic Engagement and Citizenship

Annexure-I(5) Contd.

- Security of individuals and their living environment

Participatory Budget can be defined as a "a mechanism through which the population decides on or contributes to decisions made on the destination of all or part of the available public resources."

But there are still substantive issues that have not been comprehensively covered in JNNURM, and these are issues that our Colloquium should concentrate on. I will like to flag at least five of them.

1. Improvement in the overall financial position of municipalities
2. Environmental issues
3. Urban poverty issues
4. Capacity Building and Training
5. Urban Democracy

There are certain general questions that we have to ask ourselves to guide us in our deliberations today and tomorrow.

1. After more than a decade since the passing of the 74th Amendment, it is important that the discussion starts with an assessment of how well this path-breaking directive and policy have been implemented. What are the positive things achieved so far? What are the problem areas and failures that need to be addressed? What lessons should we learn and what are their implications for administrative reform?
2. What are the overarching issues thrown up by these reflections and reviews/assessments? If the basic problems have their origin in the political system and context, should they be considered by the Commission? Or should the Commission confine itself to the technical or procedural issues of a second or third order?
3. What kinds of problems are highlighted by the feedback from citizens about the basic services of ULBs? What clues do they give us on the reform areas we should focus on?
4. What does the feedback of the economic factors in cities tell us about the functioning of the regulatory performance of ULBs? What are the weak spots in planning, zoning and infrastructure that we should address based on their experience?
5. In the past few decades, major reforms have taken place in urban governance in many countries? What lessons and best practices can we learn and adapt from them? Or should we limit ourselves only to our experiences and desk studies?

The most recent major programme, launched in December, 2005, the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), which targets major cities (populations over 1 million) is path-breaking in that it makes access to financial resources dependent on the introduction of a number of reforms (focusing on modern municipal accounting systems, use of e-governance tools, reform of property tax using GIS, rationalisation of users' charges and provision of basic services for the poor) and the production of City Development Plans, encouraging municipalities to project themselves into the future and improve the economic productivity and efficiency of cities, while, at the same time, ensuring that they are trying to make their cities equitable and inclusive. The mission has two Sub-missions, one for urban infrastructure and governance and the other for basic services

to the urban poor. The mission addresses the issues of governance, of reforms in laws, systems and procedures so as to align them to the contemporary needs of our towns and cities. Its focus is two-pronged i.e. improved urban infrastructure and improved public services to be achieved through reforms in the systems of governance of our urban centers.

To what extent will this initiative work, does it require fine tuning and flexibility given the huge regional variations that are characteristic of our country, is it a little too complicated for easy implementation; all these are the imponderables on which this gathering of experts can, I am sure throw light. I hope this seminar will throw up new ideas and out of the box thinking on the way ahead so that the objectives of equitable development and improved qualify of life in our cities become a reality.

I am sure this National Colloquium will spend some time discussing these issues and come up with suitable suggestions. I wish the Colloquium all success in their endeavours.

M Veerappa Moily

Annexure-I(6)

National Colloquium on Urban Governance
held at IIM, Bangalore
20th and 21st September, 2006

LIST OF PARTICIPANTS

GOVERNMENT OF INDIA

1. Shri Abhijit Sengupta, Secretary, Government of India
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3. Shri M. Rajamani, Joint Secretary, Ministry of Urban Development
4. Shri P.K. Mohanty, Joint Secretary, Ministry of Housing and Urban Poverty Alleviation
5. Shri R.N. Ghosh, Pr. Director, CAG
6. Shri K.P. Krishnan, Joint Secretary, Ministry of Finance

STATE GOVERNMENTS

7. Shri Gaurav Gupta, Spl. Commissioner, Bangalore Mahanagar Palika (BMP)
8. Shri Sanjay Jaju, Municipal Commissioner, Hyderabad
9. Shri Vinay Kohli, Chairman, Meghalaya Electricity Regulatory Commission
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11. Smt. Lakshmi Venkatachalam, Principal Secretary, Government of Karnataka
12. Shri K. Jairaj, Commissioner, BMP
13. Shri Vasanth Rao, Dy. Commissioner, BMP
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15. Shri M.K. Shankarlinge Gowda, Commissioner, Bangalore Development Authority
16. Shri Malay Srivastava, Secretary, Urban Development, Government of Madhya Pradesh
17. Shri N.C. Muniyappa Chairman-cum Managing Director, Bangalore Water Supply and Sewerage Board (BWSSB)
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19. Shri P. Venkataramana Setty, Chief Engineer, KUWSSB
20. Shri P. Manivannan, Commissioner, Hubli Dharwad Municipality
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22. Shri P.R. Baviskar, Chief Executive Officer, Kolkata Metro Development Authority
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54. Smt. Vineeta Rai, Member-Secretary, ARC

Annexure-I(7)

National Colloquium on Urban Governance
held at IIM, Bangalore
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Recommendations of Working Groups

Participants at the Colloquium were divided in to six groups to discuss various issues pertaining to Urban Governance. The issue wise recommendations of the respective groups are as follows :

I. OVERALL URBAN GOVERNANCE FRAMEWORK & CAPACITY BUILDING

- The devolution of functions in the Twelfth Schedule of the Constitution to local governments should be with clear assignment on functions, functionaries and funds.
- Key municipal services should rest with ULBs.
- Accountability of service delivery agencies to the local government must be ensured.
- There should be well laid coordination mechanisms between various service delivery agencies.
- The elected representatives should be accountable to their constituencies with clear demarcations of their functions.
- Citizen participation in appropriate structures below the ward level is a key element for better service delivery.
- Regional platforms should be established through the MPC/DPC. The present Development Authorities can act as secretariat for MPCs/DPCs.
- Embracing technology is important to manage information to facilitate planning and thereby improving service delivery.
- Appropriate capacity in administrators and personnel across ULB's should be built up to cope with current technologies and trends with the aim to professionalise these institutions.
- The ULBs should have autonomy in recruitment of the personnel and their performance measurement with suitable incentives and penalties.

II. MUNICIPAL FINANCES

- The key challenges in this areas are: (i) to decide on key functions for which matching finances are required, (ii) to identify new sources of finances for funding capital expenditure, and (iii) to incentivise local level revenue reforms.
- Accordingly, the key changes required for this purpose are: (i) rationalising functions of local bodies (ii) integrating technology to improve service delivery, (iii) adopting participative approach, and (iv) capacity building.
- The disclosure practices of finances and service levels at the ULB's as recommended in the Model Municipal Law should be followed.
- Water supply and sewerage, Roads, Solid waste management, Land related issues and Public health and environment (monitoring, preventive measures) should be key functions of the ULBs.
- Apart from the existing source of revenue such as Motor Vehicle tax, Professional tax, Entertainment tax, Entry tax and any other locally relevant taxes, Surcharge on VAT and Share of Service tax could be considered as the additional source of revenue for these local bodies.
- The new sources should be collected at State level; however, each local body is entitled to the share collected in its region. Bulk of such collection should be transferred to the local bodies.
- A smaller but significant part of the revenue so collected should be used for equalisation between various local bodies across the state.

- Once the taxation domain for the local bodies is decided, the state should provide complete freedom to them for its implementation as envisaged under the model Municipal Law.
- A fast track mechanism should be provided to handle litigations in renewal and revisions of the municipal properties. The valuations of these properties should be linked to the capital value system so that market value is fully realised by the local bodies. Steps should be taken to ensure recurrent revenue from the properties rather than one time sale.
- There is a need to bring reforms in levy and collection of Property tax. System of self-assessment should be adopted for simple and discretion free tax regime. The exemptions should be gradually eliminated and effort should be made to collect equivalent tax from Government properties as well. Periodic revision must be statutorily enforced. Use of technology (MIS & GIS) should be encouraged.
- The local bodies must be given freedom to implement suitable user charge mechanism. Use Local Fiscal Responsibility Act (the Karnataka Act) and let the local bodies determine the correct levels.
- The revenue collection efforts at local level should be incentivised. Part of state transfers should be linked to collection performance at local level (Revenue incentive grant).
- *The Municipal borrowings should be encouraged with following mechanism in place:*
  - A system for credit rating
  - Guidelines for borrowing limits
  - State level mechanism for handling defaults
- *All these reforms must be on a sound financial management system with:*
  - Accrual based double entry accounting reforms
  - Independent, internal and external audit
  - Statutory audit should be in parallel
- *The Private-Public Partnership (PPP) should be scaled up. Special Purpose Vehicle (SPV) for project implementation and maintenance with:*
  - Clarity on what will be vested with SPV and what will remain with local body
  - Professional operations and management
  - Oversight by local body (through board participation)
  - Maximise PPP in key services
  - Ensure universal service obligation
  - Awareness raising to demolish myths about PPP
- A structured mechanism for PPP (including laws and regulation) should be adopted.
- ULB budgetary exercises should be outcome and impact oriented.
- Fund allocation should be based on a ward development index.

III. URBAN SERVICES & ENVIRONMENTAL ISSUES

(a) Urban Poverty

- Although most poor people live in slums, we should guard against marginalising poor by associating poverty alleviation interventions purely in slums.
- The general impression is water and sanitation, and other basic services but it is important to be more robust in each community.
- A basic minimum could be subsidised. Another opinion was also expressed that a basic minimum should be free.
- Land for the urban poor is the first priority before other reforms and definite land tenure policy is necessary.

Annexure-I(7) Contd.

- Encroachments is both by the poor and the rich and should be taken care of by local bodies and Ward and-Sub Ward Committees before they become stabilised.
- Ensuring the participation of poor through Ward Committees.
- The programs and policies if expanded enough and equitable, we can resolve this problem.

(b) Services and Utilities

- Different models for different ULBs but with a coordinating and enforcing authority.
- The notion of specialised agencies was accepted but needs to be applied according to context.
- Linked to ULB structures, involvement in planning, implementation and enforcement and instilling a customer culture.

(c) Water Supply and Sanitation

- Intermittent, poor quality, inequitable and poorly priced services are major areas of concern regarding urban water supply.
- Quality information, better management, clear accountability, sustainability, clear performance indicators are the tools for improvements in this area.
- Twenty-four hours water supply is required, along with the above being addressed.
- Better demand management is necessary based on accurate pricing and pay as you use, supported by cross subsidy to the poor.
- Credible regulation is necessary.

(d) Solid Waste Management

- Lack of coverage, efficiency and utilisation of waste.
- No solution for effluents - in general.
- Good scope for PPP with safeguards and models for the poor.

(e) Public Health

- Preventive for the ULBs and clinical services for the state.
- This sector did not see any participation from elected representatives and hardly any from civil society.

IV. URBAN PLANNING, POVERTY AND SLUMS

- Three levels of planning; apex level for national planning, regional level and finally city agglomeration level to carry forward the Constitutional mandate.
- The planning machinery may be opened up to private interested players with following measures:
  - Prescribed qualifications.
  - Delineated areas and items to be planned for.
  - Fixed remunerations and timelines.
- A mechanism should be formed to provide a platform to Ward Committees to express local requirements and ascertain activities by the ULBs.
- Intermediary level planning authorities to take into account inter-city and peri-urban requirements and interfaces.
- District Planning Committees/MPCs to induct specialists from a pre-existing panel of qualified experts.
- Inter-dependencies between urban agglomerations and peri-urban areas to be monitored by a special group.
- Following are essential ingredients of an Urban Plan:
  - Assessment of geographic assets of the Urban area – preparation of an accurate GIS.

  - Prescribing zones for economic and quality life pursuits.
  - Optimal transport flow patterns.
  - Waste disposal channels and areas.
  - Redeveloping areas for rejuvenated housing.
- The credibility of land records should be prescribed and it should be kept open to public.
- Public gathering and maintenance of land related information – maps, land-uses, land records/ownership, perspective plans etc. - should be encouraged.
- The land use pattern should be allowed to change only at an appellate higher body – if necessary through public hearing processes.
- Standards should be set for minimum quality of life to be pursued in an urban area. The deficiencies against the minimum prescribed standard should be surveyed and assessed at regular intervals.
- Provisions for housing, education, medical and recreational space should be ensured.
- A special Cess on land transfers and registrations should be levied which can be used exclusively for rehabilitation/upgradation of facilities among the weaker section.
- Incentives should be given to corporate bodies that work towards urban poverty alleviation.
- Rainwater harvesting, green area preservation and upgradation, emission controls, energy efficiency, disaster and safety features and threat mitigation from man-made or natural sources are the important aspects concerning environment.

V. URBAN TRANSPORT PLANNING AND TRAFFIC MANAGEMENT

- As in most other areas, in the field of Urban Transport also, prevention is better than cure. Provide infrastructure first and then regulate growth according to its availability.
- Supply-side solutions alone will not suffice any more in the urban transport field. Travel demand management is also required.
- Chaos in the area of urban transport in most of our metro cities is the result of lack of urban planning and its ineffective enforcement.
- A high quality transport in urban areas enhances the quality of life of citizens, helps in attracting economic investment for growth and gives a competitive edge to the cities.
- Ministry of Urban Development, Government of India has come out with a **National Urban Transport Policy** in April 2006. The main object of this Policy is to ensure provision of safe, affordable, comfortable, quick, reliable and sustainable means of transport for growing urban areas. This is sought to be achieved among others by:
  - Including urban transport as an important parameter at the urban planning stage rather than treating it as a consequential requirement.
  - Focus on the establishment of multi-modal public transport systems.
  - Provision of institutional mechanisms for enhanced coordination in planning and management of transport systems.
  - Introduction of Intelligent Transport Systems in traffic management.
  - Promoting the use of cleaner technologies and reduction in pollution levels.
  - Ensuring improved road safety.
  - Raising finances for UT infrastructure by tapping land as a resource.
- In order to make the Public Transport System sustainable, it is desirable to free public transport systems of corruption and thefts and also to enable them to revise the fares at regular intervals or, at least, whenever fuel prices are raised. In all policies, preferences should be given to public transport over private ones.

Annexure-I(7) Contd.

(a) Major Causes of Urban Transport Problems

- Inadequate use of the expertise in transportation planning in India
- Impact of land use planning on reducing transport demand in cities is not appreciated
- Haphazard growth of cities in the absence of planning
- Non-conformity of actual development to Master Plans
- Inadequate carrying capacity of roads not recognised
- Transportation impact analysis of new development is rarely carried out
- Indiscriminate grant of building licenses to multi-storied and commercial buildings
- Grossly deficient parking norms
- On street parking of vehicles
- Pedestrian footpaths and cycle tracks not available
- Lack of institutional focus on urban transport etc.

(b) Measures for Tackling Metropolitan Transport Problems

(i) Urban Form and Layout

- Transport demand in cities is greatly influenced by its form, layout, land use pattern and population.
- Linear cities (Mumbai) are more transit friendly than others.
- Traffic demand along the length of such cities can be managed through bus/rail transport systems and that along the width by buses, individual transport, bicycles etc.

(ii) Land Use Policy : Means to Reduce Travel Demand

- Proximity of work places and education centres to residential layouts (rental housing) will substantially reduce transport demand
- Mixed land use in multi-storied buildings combining residential housing on the upper floors with offices/shops on the ground floor/first floor can also bring down the transport demand
- Development of air space above sub-urban railway stations and major bus terminals
- Development of cities on the basis of poly-nuclear urban forms
- While planning new arterial roads for growing cities, provision of service roads and cycle tracks to cater to local traffic and cyclists and reserving of space for future road widening is absolutely necessary
- For mega cities, reservation of right of way at the surface level for exclusive bus ways and rail transport to be built in future has the potential of saving huge sums of money in future.

(iii) Putting Urban Transport in Concurrent List

- 'Urban Transport' does not appear in any of the three legislative lists of the Seventh Schedule of our Constitution. Putting Urban Transport in the 'Concurrent List' would enable the Union Government to :
  (a) enact a comprehensive Multi-modal Urban Transport Act covering railways, road and water transport besides other modes in metropolitan cities; and
  (b) set up United Metropolitan Transport Authorities (UMTAs) in such cities for integrated planning and coordination of all modes of urban transport, making arrangements for inter-modal transfers, raising resources through taxation and otherwise to finance Urban Transport projects, evolving integrated fare structures and providing for common ticketing devices for different modes. Other functions like land use-transport integration, control of environmental pollution arising out of the transport system and energy conservation, etc. could also be assigned to UMTAs through the proposed legislation.

(iv) Organisational and Institutional Changes Required

- Creation of a separate Department of Urban Transport to be manned by Transportation planners, Transport economists and other experts under the Union Ministry of Urban Development for improved planning & coordination of metropolitan transport issues at national level.
- Creation of State Directorates of Urban Transport in the States having at least 10 Class I cities or 2 cities with a population of 5 lakhs or more each. These Directorates will take up Traffic & Transport planning in all Class I cities in the State and coordinate their plans for metropolitan cities with those of the Union Government.
- Setting up of UMTAs by Central law in all million plus (to begin with 2 million plus) cities in the country.
- Operating Mass Transport Systems through corporate modes like Urban Mass Transit Corporations (UMTCs).
- Setting up Traffic Engineering Cells in all Municipal Corporations.
- Creation of a Municipal Police Force in all cities to Engineering Departments:
  - regulate city traffic (in lieu of the State Police);
  - prevent encroachment of roads and enforce;
  - parking regulations & metered parking in the city; and
  - support the Engg deptt. of the municipal body in the control/demolishing of unauthorised constructions and recovery of encroached land.

(v) Long-term Measures to tackle Metropolitan Transport Problems

1. The Urban Bus

- Existing city buses in India built on truck chassis not suitable for urban transport. These need to be replaced by the URBAN BUS , which has the following features:
  - Lower floor height;
  - Wide doors;
  - Lighter body;
  - Better driver ergonomics, including power steering; and
  - Efficient engine to give economic fuel consumption at lower speeds.
- With exclusive grade separated bus ways, an urban bus can provide a system capacity of 15000-25000 pphpd, which is the likely traffic load on busy corridors in medium-sized cities.

2. Mono-rail

- Mono-rails have a system capacity of 10000-15000 pphpd.
- Although the exact cost of mono-rail in the Indian conditions has not been worked out, a rough cost estimate indicates a figure of Rs. 100 crores per km.
- Mono-rails may be suited for certain routes in some of our metropolitan cities under appropriate traffic conditions or as feeder systems to the existing metro lines.

3. Light Rail Transit (LRT) System

- The LRT system developed in the mid-50's is a synthesis between the conventional tram car and the modern metro and can normally provide a system capacity between 30000 to 45000 pphpd.
- The system involves operation of smaller trains of light weight vehicles with an axle load of 8-10 tons only, running predominantly on segregated or exclusive tracks.
- The LRT would suit the traffic conditions prevailing on some corridors in cities having a population between10-30 lakhs in India.

Annexure-I(7) Contd.

4. The Bus Rapid Transit (BRT) System

- Chief characteristics of a BRT System which distinguish it from a normal Bus service are:-
  - Segregated bus lanes
  - Prepaid/Automated ticketing systems
  - Enclosed Metro-like stations
  - Platform level boarding
  - Route restructuring with trunk & feeder systems
  - Quality service contracting
  - Branding & Marketing of a High Quality Bus Service
  - BRT Buses can move at high speed & high frequency.
  - In the City of BOGOTA, BRT buses are carrying over 20,000 pphpd.
  - In India, Ahmedabad City is planning to introduce BRT buses on selected routes (March, 2006) shortly.

5. The Mass Rapid Transit (MRT) System

- For traffic corridors with load > 45000 pphpd, a high capacity railway system consisting of suburban EMUs or elevated or underground metros provides the most effective solution.
- The overall costs per km of 'at grade', elevated and under ground metro systems at current prices in India have been estimated to be in the proportion of 1:3.5:10. Both elevated and underground systems are high cost (though efficient) solutions, which must be accepted in the absence of availability of exclusive 'at grade' corridors for construction of such systems.
- It also follows from the above that reservation of corridors at the ground level for a future metro system for fast growing metropolitan cities would save huge costs to the future generations on building such systems by avoiding the need for under ground or elevated constructions.
- With much lower capital costs, 'at grade' metro systems are likely to be commercially viable under favorable traffic conditions, even where the elevated or under ground systems may fail to be so.
- Running on electric traction & exclusive tracks as they do, the MRT systems are non-polluting, high speed and possess high system capacities (up to 72,000 pphpd with headway of 2 minutes.) However, elevated metros cause noise pollution and may not be architecturally very pleasing.

VI. E-GOVERNANCE IN URBAN LOCAL BODIES

- *The Citizen Identity:* Urban citizen should have an Identity Number (ID), for availing the government services, the same as the (MNIC) programme being used for identification. This should converge with other Multi-purpose National Identity Card being planned on all-India basis.
- Capacity building requires emphasis on all the stakeholders to cover areas of policy, facilitations, restructuring system, organisation development, training, and knowledge management. Good urban management without requisite capacity is unattainable. Therefore it is very essential to give high priority for creation of a comprehensive Data Base on the time series, existing and projected capacities and actual experience of their utilisation. This is characterised by wide field formats, extensive data, need for timeliness, collation, collection, analysis and dissemination, of information, including info on capacity shortages, present and projected. In addition, because of the economic, social and political impact of such shortages, a computer network based approach is strongly recommended.
- Projects where the critical threshold of effectiveness has to exceed, instead of an incremental approach, a quantum jump approach has to be taken to bring the project above the threshold of effectiveness in the shortest possible time. In doing so, it is essential to bench mark the project against global standards.

- *System Analysis:* Before taking up any application, it is important to give sufficient time and effort to System Analysis involving the top management of the departments concerned.
- Projects of the Government to Citizen (G to C) Interface nature should have well worked out charging basis to the Citizen, from the very beginning of the project. This will enable Citizen Feedback to the project authorities for continuously improving the quality and variety of service, since it makes the service a revenue earning venture. However, during the initial stages, the extent of subsidy, wholly or partially should be linked to the nature of service involved and the class of citizen being served.
- *Delivery of G to C Services:* In many e-governance projects implemented in the country, PPP models of delivery of services are effective, provided the s/w/system is architected by such an entity which can provide continuity of service. Since very compelling services are proposed to be delivered on a PPP model, it is envisaged that the PPP model would not only be commercially viable but the public pressure and the public expectations will ensure its continuity. Where the private agency is unable to give continuity of service, after the project is completed by the private agency, organisations in the public domain like National Informatics Centre (NIC), Centre for Development of Advance Computing (CDAC), National Institute for Smart Governance (NISG) and State level organisations can be brought as buffer/transition organisations to ensure continuity. The preferred PPP model is BOO (Build, Own, Operate), which will be on long-term contract basis. In many of the PPP projects where there are complexities of the backend s/w, it is better to bring in buffer organisations at an early stage. Such an agreement should also insist upon a horizontal transfer of the know-how across Urban bodies having different environments within and outside the State.
- In the PPP model, wherever the tenure of PPP operator is fixed, the software should be got developed by the PPP operator actively involving NIC or any other organisation as a buffer for ensuring continuity. Good Service Level Agreements (SLAs) are to be prepared and enforced.
- Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) guidelines - 2005 and subsequent amendments issued by the Ministry of Urban Development, can be implemented in a streamlined manner only if e-governance strategies, including, those for guidelines, conformity and feedback is implemented on a fast rack, concurrently with the Eleventh Five-year Plan timeline. Urban Geographical Information System (GIS) based e-governance should be promoted by the Ministry of Urban Development, not only as a precondition to the release of funds to the State Government, but also by having a system of giving incentive grants based on completion of different milestones in introducing e-governance.
- Efficiency of Urban e-governance, will require large scale training of urban development engineer and town planners on GIS and other major tools of e-governance.
- Electronic data used for administrative purposes as well as for informing citizens should be maintained in a correlated database on common platform.
- Implementation of the project on Basic Services to the Urban Poor (BSUP) is being coordinated by the JNNURM. The early induction of e-governance will enhance the efficiency of implementation of the BSUP project by the JNNURM.
- In this direction, JNNURM may consider standardising the formats, databases and middleware component for the project and encourage the State Government to conform to these standardised formats and softwares to the maximum extent possible.
- There is a long term need to evolve during the Eleventh Five-year Plan, a 'e-City Platform' over which e-governance systems can be built upon with standardisation and interoperability.
- The following data integration technique will be concomitant with the evolution of the 'e-City Platform': Gateway, Data-warehouse, Federated Database and mediator/Wrapper systems.

Annexure-I(7) Contd.

- GARUDA (i.e. the National Grid Computing Initiative) shall support the Urban e-governance functions by providing a single window system to all the stakeholders. To this end, some of the representative cities and towns identified by JNNURM and those identified by the GARUDA project will conform to the extent the GARUDA project supplements the JNNURM, the latter shall consider making proportionate financial contributions to the former.
- Telecom Regulatory Authority of India (TRAI) shall lay regulatory and promotional norms to the telecom companies and cellular operators to enable the benefits of urban e-governance to reach the citizens, utilising the currently feasible features of Short Messaging Services (SMS) of cellular telephony.
- Urban e-Governance can benefit from the emerging concept of 'e-offices' by installing recently introduced technologies of kiosks over a broad-band grid network with Video-over-data, Voice-over-data and streaming technologies so that branches which handle only information can be made remote non-manual offices and supplementary call-centre based operations to handle public queries and transactions.
- A few practical areas of Research and Development (R & D) in urban e-governance is essential. Experience has shown that immediate projects should be launched in the following areas:
  - Website Privacy/Security, especially related to Web.
  - Citizen participation via Municipal/State Government website for enabling citizen feedback for quality up-gradation, as well as for those wanting to make contributions in terms of management, technology, knowledge base and systematic improvements.
  - Usability and content design and management.
  - Development of middleware and interoperability of strategies and services
  - Communication systems directly relevant to e-gov, like grid networking, internet II, etc.
- A set of Model Municipal Laws and Regulations to facilitate e-governance should be developed and made available to all the States.

Questionnaire on Urban Governance

(I) URBAN GOVERNANCE AND SERVICES

1. Overall Urban Governance Framework

1.1. Institutional Framework

1.1.1. The 74th Constitutional Amendment requires that 18 matters be transferred to urban local bodies, as per the Twelfth Schedule. Yet, it can be seen that many functions are still be held by State Governments, Parastatal bodies, etc. What are your thoughts on the extent of full decentralisation of functions? What challenges are facing state governments from implementing the 74th Constitutional Amendment? How can these be overcome?

1.1.2. The 73rd Constitutional Amendment envisages the transfer of 29 functions to Panchayati Raj Institutions (PRIs). These include functions that have not been mentioned in the Twelfth Schedule for ULBs. Some States have transferred additional functions to ULBs (e.g. education in Maharashtra). Do you feel that the list of functions in the Twelfth Schedule should be expanded, so that ULBs get more functions? What are the challenges in enabling this transfer, so that all functions, funds and functionaries are transferred.

1.1.3. Given the enormous number of special purpose vehicles and parastatal institutions that have been created, what institutional arrangement would you suggest as a credible and practical intermediary process for the migration of all functions to be transferred to local governments? What specific steps can be taken by State Governments to enable this transition.

1.1.4. Beyond the functions listed in the Twelfth Schedule, there are other areas of public administration that still fall outside the ambit of ULBs. Examples of this includes traffic police, enforcement of municipal codes, restricted judicial functions etc. In your opinion, what are some of these challenges facing municipalities? What arrangements do you suggest should be created to address these issues? How can these be established by State Governments in a manner that recognises the existing institutional structures?

1.2. Decentralised Planning

1.2.1. The 74th Constitutional Amendment envisages the creation of regional planning platforms like the District Planning Committee (DPC) and Metropolitan Planning Committee (MPC), which can integrate both rural and urban local government plans in their jurisdictions. These regional structures were meant to bridge the inter-jurisdictional issues that arise between different local governments, and between urban and rural. Yet, very few have been set up, and fewer still are operating in the intended manner. What are the challenges facing state governments in implementing DPCs and MPCs as intended in the 74th CAA? How can these challenges be overcome?

1.3. Administration

1.3.1. What are the best practices which could be adopted? Reducing corruption, process re-engineering, outsourcing of licensing functions etc?

1.3.2. Poor status of enforcement of laws related to urban governance – How to make enforcement effective?

1.3.3. What administrative changes are required for introducing e-governance?

Annexure-I(8) Contd.

2. Specific Sub-themes

2.1. Urban Poverty

2.1.1. What should be the way of beneficiary identification among the urban poor? The traditional form of Below Poverty Line (BPL) identification has been replaced in States like Kerala by a Poverty Index, which tracks more easily identifiable vulnerabilities.

2.1.2. What are the challenges in locating the urban poor, given that not all slum dwellers are poor, and not all the poor live in slums?

2.1.3. What are the services that the urban poor require? What are the challenges in delivering these?

2.1.4. How should public services be priced when they are delivered to the urban poor? What kind of monitoring mechanisms could be created so that the funds are used for the right purposes, and deliver the desired outcomes?

2.1.5. How should slum clusters be managed by municipalities, especially in cases where there are examples of encroachment on private or public property? What credible, implementable long-term solutions should municipalities and State Governments have to ensure that adequate low-income housing is made available for the poor, and what should be the mechanisms of delivering these? What should be the role of the community, the government and the market in developing these solutions?

2.1.6. How can the poor participate in decision-making about various issues that affect their quality of life? How can this be integrated into the decision-making of the municipality itself?

2.1.7. How should the poor and the non-poor stakeholders in a city engage with each other, if at all? How can the traditional adversarial positions between these groups be reduced, in specific, implementable ways?

2.2. Services and Utilities

2.2.1. General

2.2.1.1. In some cities, some municipal services (like drinking water) are provided by specialised agencies, which are outside the control of ULBs. Similarly, services like health and education are provided by ULBs as well as the State Government. Is there a case for ULBs being made responsible for all these services?

2.2.1.2. How to involve stakeholders in proper management of various utilities?

2.2.1.3. Generally, the quality of various services is unsatisfactory. Are there some successful models that have worked in improving the service quality?

2.2.2. Water Supply and Sanitation

2.2.2.1. How can urban water sourcing challenges be addressed in India, in a manner that is equitable to rural and urban areas?

2.2.2.2. What should be the institutional mechanisms for the sourcing and transportation of water supply taking the complex public good nature of water into account? What role should be played by the various tiers of the federal government structure in this arrangement?

2.2.2.3. What are the challenges being faced by municipalities in distribution of water supply in their areas? What are the credible solutions to these challenges?

2.2.2.4. Do Indian cities and Indian residents need 24X7 water supply? What are the pros and cons of this form of water supply arrangement? If this is indeed the way ahead, what is the migration path from the current system?

2.2.2.5. What are the economics of water supply and sanitation, both capital and revenue expenditures? How should this be financed? What portion of this should be claimed from users as charges? How can the poor be assured of access to water supply in these arrangements? What credible examples are there of such arrangements that can be adopted in India?

2.2.3. Solid Waste Management (SWM)

2.2.3.1. What are the challenges facing SWM in Indian municipalities?

2.2.3.2. What are the inter-jurisdictional issues in SWM, specifically between rural and urban areas? How can these be addressed?

2.2.3.3. How credible are community-based solutions in SWM? How can these be integrated into the larger municipal SWM processes, in a manner that is scalable and replicable?

2.2.4. Public Health

2.2.4.1. What are the challenges in public health in our cities? What role is currently being played by municipalities in public health management? How does this vary across the country?

2.2.4.2. Can municipalities solve the public health challenges by themselves? What institutional arrangements need to be established, both within government and with private providers?

2.2.4.3. What role can health insurance play in public health management? What solutions in health insurance can be taken up by municipalities? How can these be managed in a credible manner, given the complexities of insurance adminstration?

2.2.4.4. How is public health management related to other public service delivery issues? How can these be managed in an integrated manner, given the capacity constraints that municipalities face?

2.2.4.5. What role do communities play in public health management? How can we provide an integrated platform for community engagement on various public issues facing our municipalities, in a manner that is linked into the municipality's overall political structure, rather than treat communities differently for each service?

(II) MUNICIPAL FINANCES, USER CHARGES, PPP

1. Municipal Finances

1.1 Own Source Finances – Taxes

1.1.1. Is there a need to empower the ULBs to levy more taxes? Which subjects can be shifted from Union/States to ULBs for levying tax?

1.1.2. Property Tax remains the major source of revenue for the ULBs (where octroi has been abolished)? What improvements could be carried out in administration of this Tax?

1.1.3. What improvements could be carried out in other taxes such as Advertisement Tax, Entertainment Tax etc?

Annexure-I(8) Contd.

1.1.4. What are the best practices in tax administration which could be replicated?
1.1.5. What are your opinions about how well municipalities are maximising their own sources of funding?
1.1.6. Should municipalities have additional own sources of funds as fiscal handles?
1.1.7. Should municipalities have a share in some of the Union/State taxes?

1.2 Own Source Finances – Non-taxes

1.2.1. Municipal properties normally fetch a very low rate of return? What legal and administrative measures could be taken to improve returns from Municipal Properties?
1.2.2. ULBs normally own lands in prime locations. How could this be leveraged to augment the finances of ULBs?
1.2.3. Is there a case of levy of special cess for activities like solid waste management, street lighting etc?

1.3 Transfers

1.3.1. Please provide your comments on the functioning of State Finance Commissions.
1.3.2. Are there any best practices in the functioning of SFCs that can be replicated?
1.3.3. Should SFC recommendation periods be madantorily made to dovetail with that of the Central Finance Commission?
1.3.4. What should be the transfer formulae – vertical and horizontal – between the States and local governments, and horizontally, between rural and urban local governments?

1.4 Grants

1.4.1. What are your thoughts on the reliance of municipalities on grant funding for their activities?
1.4.2. Are there specific areas that you feel grant funding is acceptable, and areas where it is not?
1.4.3. Should grant funding be available to municipalities for capital expenditures? If so, under what circumstances?
1.4.4. Should grant funding be available to municipalities for revenue expenditure? If so, under what circumstances?
1.4.5. What should be the State/Union obligations for grant support to municipalities?

1.5 Accessing Capital Markets

1.5.1. Do you feel that it is appropriate for municipalities to access the debt/capital markets for funding for their capital projects?
1.5.2. Should there be any conditions/constraints that are placed on municipalities in their access to debt markets?
1.5.3. What are your thoughts on credit rating of municipalities. If you feel that this is necessary, how would you propose that this be done?

1.6 Overall

1.6.1 What should be a healthy mix of financial sources for municipalities, between own sources, transfers and grants, and debt?
1.6.2 How can municipalities be made to mandatorily spend a sufficient amount of their annual budgets resources on pro-poor programmes?

1.7. Municipal Financial Management

1.7.1. What are the challenges facing municipalities in implementing double-entry accounting? How can these be overcome?

1.7.2. Should audits for municipalities be done by State Government body, the CAG, or an independent audit firm? What are the relative merits and de-merits of each option?

1.7.3. Municipalities are now required to provide quarterly financial statements and annual audited statements, under the JNNURM Disclosure Law. What support do municipalities require to implement this law?

1.7.4. Municipalities are also required to publish their service levels for various municipal services, and how they are providing value-for-money for each of these services, under the Disclosure Law. What should these service benchmarks be, for various services? How should these standards be set for all municipalities to follow? Who should set these standards?

1.7.5. There are many challenges in reconciling budgets and accounting activities. Can you mention some of these challenges, and the solutions that could be adopted for these problems?

1.7.6. How should technology be used to help in managing municipal accounts and finances? How can this be integrated into a holistic municipal e-governance programme, without being a standalone initiative?

1.7.7. What role do you feel citizens, NGOs and external stakeholders can play in decentralised planning, prioritising and budgeting of municipal programmes? What are the similarities and differences between urban and rural areas on this front?

1.8 Municipal Finance and Regional Planning

1.8.1. How can decentralised planning processes that are envisaged in District Planning Committees (DPCs) and Metropolitan Planning Committees (MPCs) can be integrated into the budgeting and financial processes of the municipality?

1.8.2. Given that there are clear guidelines for rural decentralised planning and budgeting, can these be suitably modified and applied for urban planning and budgeting? What changes would be required? How can urban and rural plans be integrated at the District/Metropolitan level?

2. User Charges and Public-Private Partnerships

2.1 What items of public services can be classified as "local public good"?

2.2 What are the challenges facing municipal governments in delivering these local public goods?

2.3 What are the pros and cons in having private provision of these local public goods? How do these challages differ across services?

2.4 Should the concept of private provision of services be tried in India? If so, in what services, and under what specific structural conditions? How can these arrangements ensure that there will be equitable delivery of services to the poor? How will these arrangements ensure that there will be no monopolistic or oligopolistic pricing in services?

2.5 Should there be a regime of "user charges" for public services? What should be the economic considerations in considering user charges? How should these be structured, and for which services?

2.6 What are the examples of public-private partnership in public services that are relevant to India – either from within India or outside? What lessons can be learnt from these?

2.7 What role can communities and localised user groups play in being part of such new arrangements? How can these be integrated into the municipality's larger decision-making processes?

Annexure-I(8) Contd.

(III) URBAN DEMOCRACY AND CAPACITY BUILDING

1. Constitutional and Legal Issues

1.1 Should the subjects assigned to local bodies be included in a separate list like the Union, State and Concurrent Lists?

1.2 Is there a case to expand the functions assigned to the Urban Local Bodies?

1.3 Should the Upper House in the State Legislatures be a Council of Local Governments?

1.4 Should there be a District Government, with representation from rural and urban local bodies?

1.5 Who should have the power of delimitations of constituencies in local governments - State Governments or SECs?

1.6 Method of constitution of the Ward Committees? Should there be some norms?

1.7 What additional regulatory functions can be assigned to the urban local bodies. Should traffic control, controlling offences of a minor nature etc be brought under the purview of urban local governments?

1.8 What Union and State laws (illustrative) need to be amended to enable the local bodies to exercise the functions transferred to them?

1.9 Are there provisions in some of the State Municipal laws which may be adopted by others States – as a "best practice"?

2. Urban Democracy

2.1 What are the capacity issues being faced by elected representatives at the municipal level? How can these be addressed?

2.2 What are the challenges related to urban electoral rolls? Given the increasing urbanisation in the country, how can these electoral rolls be maintained with minimal errors? What specific role can voters themselves play in maintaining the integrity of the electoral rolls

2.3 Census divisions are not coterminous with the Wards, as a result ward wise statistics about population is not available? Under these circumstances how to ensure reservation of seats?

2.4 Do the State Election Commissions require more empowerment? What are the changes suggested?

2.5 What data is available on urban voter turnout in municipal elections? What inferences and lessons can be drawn from these data?

2.6 In light of the detailed processes being established in rural decentralisation, with a substantial role for participation and accountability being given to Gram Sabhas, what should be the space for participation for urban voters? How can this role be integrated into the municipal structures that have been required under the 74th Constitutional Amendment of the Wards Committee and the Municipal Council?

2.7 How can urban democracy issues be seen in the larger question of local democracy, with such divergent practices between rural and urban democratic structures? What changes can be brought to these structures, especially in light of the need to establish common regional platforms like the District Planning Committee and Metropolitan Planning Committee?

3. Capacity Building and Training

3.1 How should the term "capacity building and training" be defined in the urban governance context?

3.2 Who are the stakeholders for whom such capacity building and training is required? What are the areas where these interventions are required?

3.3 How should such capacity building and training processes be imparted? What should the role of government be in this? Who could be other stakeholders in this process? What should be the arrangements between government and these stakeholders?
3.4 How will we know if capacity building and training processes are effective? How can these processes be measured?
3.5 How to address the capacity issues being faced by elected representatives?
3.6 How to enhance the managerial capacity of ULBs? Would inducting professional managers help? How to attract professional managers?
3.7 Is it desirable to have a separate cadre of officials for municipal bodies? If yes should the cadre be limited to the municipality, the district or the State?

(IV) URBAN PLANNING, ENVIRONMENT, ECONOMICS

1. Urban Planning

1.1 General

1.1.1 How to ensure that there is one urban development plan for the city, as there is a multiplicity of authorities and each makes its own sectoral plan?
1.1.2 Enforcement of urban development plans has been particularly unsatisfactory. How to improve it?
1.1.3 Is there need for a special law to prevent encroachment of public lands?
1.1.4 What measures are required to strengthen the planning machinery in ULBs?
1.1.5 Peri-urban areas are beyond the territorial limits of ULBs but they heavily strain the infrastructure of ULBs. How to regulate growth in peri-urban areas?
1.1.6 Is there a case to regulate growth by providing incentives and dis-incentives? What should these incentives/disincentives be?
1.1.7 What should be the role of private sector in city development?

1.2 Land Records Management

1.2.1 What is the impact of unreliable land records on urban growth and planning?
1.2.2 What is the current state of land records management in urban areas? What challenges have emerged since the transfer of land records functions from the revenue department of the state government to municipalities, as in many cases?
1.2.3 What are the different implications between leasehold and freehold arrangements, as being practised in different states in the country?
1.2.4 What is the significance of, and what are the tangible benefits of computerised land record projects that have been under way in various states, especially as they relate to urban land issues?
1.2.5 Many policy insitutions in the country have advocated the need for a guaranteed system of land title. What are the pros and cons of guaranteed land title with respect to India?
1.2.6 What is the appropriateness and effectiveness of new instruments like Transfer of Development Rights (TDRs)? Many cities have already attempted to use TDRs, what is the learning from these cities? How can TDRs become effective tools in a larger planning process?

1.3 Land Use and Zoning

1.3.1 Most planning in urban areas is related to zoning and land use policies, and giving directions for urban growth. Is this a sufficient role for planning?

Annexure-I(8) Contd.

1.3.2 There are two streams of thought about planning: the first is that at the level of the region, i.e. the structure plan, it should be well-defined, and at the level of the local planning area, it should be loosely defined. the second is that is should be well-defined at both levels of the region and the local planning area. What is the preferred approach?

1.3.3 How should changes in land use be regulated and managed, once the planning process is completed? Should land use change even be encouraged?

1.3.4 How should the existing rampant violations in land use and zoning be addressed, in a credible, practical and equitable manner?

1.3.5 How can enforcement of land use and zoning provisions be ensured? What institutional and statutory changes are required to enable this?

1.3.6 Given the continuing urbanisation, and growth of our existing urban centres, what are the arguments for outward growth into brownfields and greenfields, as versus densification and vertical growth? What are implications of either choice on various related issues like public transport options, infrastructure etc?

1.3.7 Current urban growth in our cities tends to take place along major road corridors like national and state highways. Is this desirable or undesirable? Even if it is undesirable, is there any way to credibly prevent or manage this outcome?

1.4 Metropolitan Issues: Planning Processes and Governance

1.4.1 Platforms like the DPC and MPC were meant to integrate planning for their regions by producing structural plans. However, the track record on DPCs and MPCs leaves a lot to be desired. What are the issues plaguing State Governments in enabling these regional planning platforms? How can these be credibly addressed?

1.4.2 What kinds of data sources are required for effective planning that can also be credibly enforced? Where do these data currently reside? How much of this data is current? How much of this data is being integrated into the planning process?

1.4.3 How much of the above data can be stored and managed in a spatial form? What role does technology like GIS and Spatial Data Systems play in this management? What specific successes can be pointed to in India in such exercises? What is the track record of these examples in sustained successful management?

1.4.4 The National Urban Information Systems (NUIS) has laid out spatial data standards. How many State Governments and cities are adopting these standards in managing their spatial data? What are the constraints and challenges.

2 Environmental Issues and Management

2.1 How do we balance the increasing land demands of urbanisation with the protection of environmentally sensitive areas such as valleys, tanks, lakes, forests etc.?

2.2 How can planning and policy decisions to protect environmental assets (e.g. greenbelts in Master Plans) be safeguarded from becoming empty and prescriptive guidelines that are violated with impunity?

2.3 Water is a precious common resource often in short supply. Indiscriminate digging of borewells and wells has resulted in the depletion of groundwater resources and blocking and damaging of acquifers. Are measures like rainwater harvesting bye-laws, banning of borewells sufficient to address the issue of recharging acquifers? What specific additional measures can be taken to prevent such damage, and replenish the groundwater tables?

2.4 High levels of Nitrates due to sewage contamination are affecting the quality of ground water in our cities. How can these be addressed? How are these related to larger institutional processes of water supply, sanitation, solid waste management, public health etc?
2.5 How significant is the damage to the urban eco-system that is currently occurring – plant/animal/bird life? What specific, credible measures can be taken to address this?
2.6 Sixty per cent of air pollution in urban areas arises out of vehicular emissions. What can be done about this?
2.7 How can urban planning and enforcement address the issues of noise and visual pollution?
2.8 What role can citizens and communities play in addressing environmental issues in their cities? how can this role be integrated into the larger decision-making processes of their municipalities?
2.9 If integrated solutions are required to address environmental issues, how can these be imbedded into larger institutional mechanisms that are currently available, like the DPC/MPC?

3 Economic Growth in Urban Areas

3.1 Given that cities are engines of economic growth, what measures can be taken to ensure that this growth is equitable, and allows opportunities for all sections of society? What specific, implementable solutions can be created in terms of access to employment, markets, credit, infrastructure to make such outcomes a reality?
3.2 Statistics clearly demonstrate the contribution of urban areas to overall economic growth of the region and State. How can this be sustained, so that the city's inherent strengths and competitive advantage are maintained?
3.3 Urban local governments in India play no role in their city's economic well-being. Is this an acceptable situation? if not, how should this change? What does this mean in the relationship between Local and State Governments?
3.4 What data are we currently generating on economic activities in urban areas, across a variety of segments – organised and unorganised, primary, secondary and tertiary? Where do these data sources reside, how current are they, and how available are they to the decision-makers in government? How are these data being integrated into planning processes – for example provision of appropriate infrastructure? What institutional arrangements need to be in place for this to become more effective?
3.5 Can economic outcomes be designed within municipal jurisdictions, or do they spill over into the larger region? For example, arguments about whether a city should continue growing, or whether this should be distributed across a cluster of urban centres. Which of these are more appropriate, and under what circumstances? Can these outcomes actually be planned? If so, what institutional mechanisms need to be in place to address these larger regional challenges?
3.6 How should any institutional solutions or structures being suggested here be integrated into politically legitimate institutional mechanisms that are currently available and that need to be strengthened, like the DPC/MPC?

(V) URBAN TRANSPORT AND TRAFFIC

1. Integrated Transport

1.1 Should public transportation be a municipal function?
1.2 How to make public transport system self-sustaining?
1.3 Given the pace of urban growth, mass transit options are becoming a necessity. However, there are vast variations in the choices, from Metrorail, to Monorail to Bus Rapid Transit (BRT) systems,

Annexure-I(8) Contd.

each of which has its own implications for the city – financial, economic, ridership, environmental etc? How should cities make these choices for Mass Rapid Transit Systems?

1.4 How do these MRT sytems integrate into existing transport modes: bus, road, pedestrian, cyclists, rail etc. in a manner that specifically details issues like operations, functionality, administration, public-private partnerships, fare systems etc.

1.5 What should be the institutional arrangement for planning, implementing and managing such a complex multi-modal transport environment? How will this institutional mechanism be politically accountable, and at which levels? How should this integrate into other coordination and planning platforms like the DPC/MPC etc.

POWERS OF STATE GOVERNMENT UNDER SOME PANCHAYATI RAJ ACTS

Excerpts from Bihar State Panchayati Raj Act, 2006 :
150 – Power of Government to make model regulations
151 – Power of Government to dissolve and reconstitute Panchayats when the limits of Panchayat areas are altered
152 – Inquiry into the affairs of the Panchayats
153 – Inspection of the offices of Panchayats and records and accounts thereof
154 – Power of revision and review by Government
155 – Inspection of development schemes
156 – Directions from government
157 – Power of the District Magistrate with regard to conduct of special meetings called to consider no confidence motion – If the District Magistrate suo motu or upon information being received from any source, is of the opinion that any irregularity or mistake is being committed so far as provisions related to conduct of any special meeting of a Panchayat to consider a no-confidence motion is concerned, he shall have the power to issue such directions as considered necessary for complying with the provisions of the Act in that regard. He may also depute any officer to be present in such a meeting and to call for a report from such officer.
158 – Withdrawal of powers and functions from the Panchayats – (1)Notwithstanding the transfer of any powers, functions and duties in respect of any matter to a Panchayat under this Act, the Government on a proposal from the Panchayat in that behalf or where it is satisfied that by reason of a change in the nature of the matter, such as the conversion of a primary health centre into a secondary health centre or hospital or the conversion of a seed multiplication farm into an agricultural research farm or a road becoming a part of a highway, the matter would cease to be a matter on the relevant Panchayat Functions List and if it is deemed to be necessary to withdraw from the Panchayat, the powers, functions or duties in respect of such matter, may, by notification in the Official Gazette, withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the Panchayat and of the staff, if any, which may have been transferred to the Panchayat as the case may be. (2)The Government may, by notification in the Official Gazette, amend or add any activity, programme or scheme assigned to a Panchayat under this Act. On the issue of such notification, the relevant Panchayat Functions List shall be deemed to have been amended accordingly.

Excerpts from Karnataka Panchayati Raj Act, 1993 –

232. Power of inspection and supervision.
[An Officer specially authorised by the Government in this behalf] in case of the Zila Panchayat, Chief Executive Officer in case of Taluk Panchayat and the Executive Officer in case of the Grama Panchayat may,-

(a) inspect the officers or premises of or works taken up by, any Zila Panchayat, Taluk Panchayat or Grama Panchayat and for this purpose examine or cause to be examined the books of accounts, registers and other documents concerned and the Zila Panchayat, Taluk Panchayat or Grama Panchayat concerned shall comply with the instructions issued after such inspections;
(b) call for any return, statement, account or report which we may think fit to require the Zila Panchayat, Taluk Panchayat or Grama Panchayat concerned to furnish.

Annexure-IV(1) Contd.

233. Technical supervision and inspections.

I) The Heads of Departments concerned and the Officers in charge of the Departments at the Divisional level [may, with a view to ensure quality of implementation according to the technical and financial norms contained in the respective schemes or orders, inspect] works or development schemes relating to that department under the control of any Zila Panchayat, Taluk Panchayat or Grama Panchayat and also to inspect relevant documents pertaining to such work or development scheme in the manner specified by the Government.

(2) The scope of such inspections may cover technical aspects including feasibility, economic viability, the technical quality of the work, and the expenditure being incurred.

(3) The notes of inspections by such Officers after such inspections shall be forwarded to the Chief Executive Officer, Executive Officer or the Secretary, as the case may be, for appropriate action.

(4) The Zila Panchayat, Taluk Panchayat or Grama Panchayat concerned shall take follow-up action on the report of the inspecting officer within thirty days from the date of receipt of such report and failure to take such action may be construed as "default in the performance of the duty" for the purpose of Section 268.]

234. Government and Chief Executive Officer's powers in respect of Grama Panchayat, Taluk Panchayat and Zila Panchayat

(l) The Chief Executive Officer may in respect of Taluk Panchayat and Gram Panchayat exercise the following powers,-

(a) call for proceedings of any Grama Panchayat or Taluk Panchayat or any extract of any book or document in the possession or under the control of the Grama Panchayat or Taluk Panchayat or any return or statement of account or report;

(b) require a Grama Panchayat or Taluk Panchayat to take into consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such Grama Panchayat or Taluk Panchayat or any information which appears to him to necessitate the doing of anything by such Grama Panchayat or Taluk Panchayat or within such period as he might fix;

[(c) require a duty to be performed within a specified period if a Grama Panchayat or Taluk Panchayat has made default in the performance of any duty;]

(2) The Grama Panchayat or Taluk Panchayat may appeal to the [Government] against any order under clause (c) of sub-section (1) by the Chief Executive Officer within thirty days from the date of the order.

(3) The [Government] may in respect of Zila Panchayat exercise the following powers,-

(a) call for proceedings of any Zila Panchayat or any extract of any book or document in the possession or under the control of the Zila Panchayat or any return or statement of account or report;

(b) require a Zila Panchayat to take into consideration any objection which 6[appears to it] to exist to the doing of anything which is about to be done or is being done by such Zila Panchayat or any information which [appears to it] to necessitate the doing of anything by such Zila Panchayat or within such period as [it might fix;]

(c) require a duty to be performed within a specified period if a Zila Panchayat has made default in the performance of any duty;]

235. Power of Government, [Zila Panchayat and Taluk Panchayat] to provide for performance of duties in default of Grama Panchayat, Taluk Panchayat or Zila Panchayat.

(1) When the Government in case of a Zila Panchayat, [Zila Panchayat in case of] a Taluk Panchayat and

[Taluk Panchayat in case of] a Grama Panchayat is informed on complaint made or otherwise, that any Zila Panchayat or Taluk Panchayat or Grama Panchayat has made default in performing any duty imposed on it, by or under this Act, or by or under any law for the time being in force and if satisfied, after due enquiry that any Zila Panchayat, Taluk Panchayat or Grama Panchayat, has failed in the performance of such duty, [it may] fix a period for the performance of that duty:

Provided that no such period shall be fixed unless the Zila Panchayat, Taluk Panchayat or Grama Panchayat concerned has been given opportunity to show-cause why such an order shall not be made.

(2) An appeal shall lie, against the order of.-
   (i) the Taluk Panchayat, to the Zila Panchayat; and
   (ii) the Zila Panchayat to the Government, within thirty days from the date of such order.]

236. Inquiry into affairs of Grama Panchayat, Taluk Panchayat, Zila Panchayat by the Government.-

(1) The Government may, at any time for reasons to be recorded, cause an inquiry to be made by any of its officers in regard to any Grama Panchayat, Taluk Panchayat, or Zila Panchayat on to specific] matters concerning it, or any matters with respect to which the sanction, approval consent or orders of the Government is required under this Act.

(2) The Officer holding such inquiry shall have the powers of the civil court under the Code of Civil Procedure, 1908, to take evidence and to compel attendance of witnesses and production of documents for the purpose of the inquiry.

(3) The Government may make orders as to the costs of inquiries made under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and such order may, on the application of the [Chief Executive Officer] or of any person named therein he executed as if it were a decree of a civil court.

237. Power of suspending execution of unlawful orders or resolution.-

(1) If in the opinion of the [Adhyaksha of Taluk Panchayat], the execution of any order or resolution of a Grama Panchayat, or any order of any authority or officer of the Grama Panchayat or the doing of anything which is about to be done, or is being done, by or on behalf of a Grama Panchayat is unjust, unlawful or improper or is causing or is likely to cause injury or annoyance to the public or to lead to a breach of peace, he may by order suspend the execution or prohibit the doing thereof.

(2) When the [Adhyaksha of Taluk Panchayat] makes an order under sub-section (1), he shall forthwith forward to the [Adhyaksha of the Zila Panchayat] and the Grama Panchayat affected thereby a copy of the order with a statement of the reasons for making it, and the [Adhyaksha of the Zila Panchayat] may confirm or rescind the order or direct that it shall continue to be in force with or without modification permanently or for such period as he thinks fit:

Provided that no order or the [Adhyaksha of Taluk Panchayat] passed under sub-section (1) shall be confirmed, revised or modified by the [Adhyaksha of the Zila Panchayat] without giving the Grama Panchayat concerned a reasonable opportunity of showing cause against the proposed order.

(3) If in the opinion of the [Adhyaksha of the Zila Panchayat], the execution of any order or resolution of a Taluk Panchayat or any order of any authority or officer of the Taluk Panchayat or the doing of anything which is about to be done, or is being done, by or on behalf of a Taluk Panchayat is unjust, unlawful or improper or is causing or is likely to cause injury or annoyance to the public or to lead to a breach of peace, he may by order suspend the execution or prohibit the doing thereof.

(4) When the [Adhyaksha of the Zila Panchayat] makes an order under sub-section (3), he shall forthwith forward to the Government and the Taluk Panchayat affected thereby a copy of the order with a statement of the reasons for making it, and the Government may confirm or rescind the order or direct that it shall

Annexure-IV(1) Contd.

continue to be in force with or without modification permanently or for such period as he thinks fit:
Provided that no order of the [Adhyaksha of the Zila Panchayat] passed under sub-section (3) shall be confirmed, revised or modified by the Government without giving the Taluk Panchayat concerned a reasonable opportunity of showing cause against the proposed order.

(5) If the Government is of the opinion that execution of any order or resolution of Zila Panchayat or the doing of anything which is about to be done or is being done by on behalf of a Zila Panchayat is unjust, unlawful, or improper or is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace, it may, by an order suspend the execution or prohibit the doing thereof.

(6) When the Government makes an order under sub-section (5), it shall forthwith forward to the Zila Panchayat affected thereby a copy of the order with a statement of reasons for making it and the Government may confirm or rescind the order or direct that it shall continue to be in force with or without modification permanently or for such period as it thinks fit:
Provided that the Government shall pass no order under this sub-section without giving the Zila Panchayat concerned a reasonable opportunity of showing cause against the said order.

238. Purchase of stores and equipments.

(1) The Government may by general or special order provide for all or any of the following matters, namely,-
   (a) the manner in which purchase of stores, equipments, machineries and other articles required by a Zila Panchayat, Taluk Panchayat or Grama Panchayat shall be made by them;
   (b) the manner in which tender for works contracts and supplies shall be invited and examined and accepted;
   (c) the manner in which works and development schemes may be .executed and inspected and payment may be made in respect of such works and scheme; and
   (d) constitution of committee for the purpose of this section.

(2) Save as otherwise expressly provided in sub-section (1) in respect of all other matters relating to drawal of funds, form of bills, incurring of expenditure, maintenance of accounts, rendering of accounts and such other matters, the rules of implementation as applicable to Departments of the Government shall mutatis mutandis apply.

239. Power to appoint administrator in certain cases.

(1) Whenever,-
   (a) any general election to a Zila Panchayat or Taluk Panchayat under this Act or any proceedings consequent thereon has been stayed by an order of a competent court or authority; or
   (b) all the members or more than two-thirds of the members of a Zila Panchayat or Taluk Panchayat have resigned,
   the Government shall by notification in the Official Gazette appoint an Administrator for such period as may be specified in the notification and may, by like notification, curtail or extend the period of such appointment, so however the total period of such appointment shall not exceed six months.

(2) Notwithstanding anything contained in this Act, on the appointment of an administrator under sub-section (1) during the period of such appointment, the Zila Panchayat or Taluk Panchayat and the committees thereof and the Adhyaksha or Upadhyaksha of such panchayat, charged with carrying out the provisions of this Act, or any other law, shall cease to exercise any powers and perform and discharge any duties or functions conferred or imposed on them by or under this Act or any other law and all

such powers shall be exercised and all such duties and functions shall be performed and discharged by the administrator .

240. Government's power to specify the role of Panchayats.
The Government may, by general or special order, specify from time to time, the role of Grama Panchayat, Taluk Panchayat and Zila Panchayat in respect of the programmes, schemes and activities related to the functions specified in Schedules I, II and III, in order to ensure properly co-ordinate and effective implementation of such programmes, schemes and activities.

Excerpts from Assam Panchayat Act, 1994 –

Section 27 - "(1) Every Gaon Panchayat shall, at such time and in such manner as may be prescribed, prepare in each year a badget of its estimated receipts and disbursement for the following year and shall submit the budget to the Anchalik Panchayat, having jurisdiction over the Gaon Panchayat.

(2) The Anchalik Panchayat may within such time as may be prescribed, either approve the budget or return it to the Gaon Panchayat for such modification as it may direct. On such modification being mad the budget shall be re-submitted within such time as may be prescribed for approval of the Anchalik Panchayat.
(3) No expenditure shall be incurred unless the budget is approved by the Anchalik Panchayat. If the Anchalik Panchayat fails to convey its approval within the time prescribed for the purpose, the budget shall be deemed to have been approved by the Anchalik Panchayat."

Section 59 – Similar provision for budget of Anchalik Panchayat.

Section 96 – "(1) Every Zila Parishad shall, at such time in such manner as may be prescribed, prepare in each year in budget of its estimated receipt and disbursements for the following year and submit it to the Government through the Director of Panchayat and Rural Development, Assam.
(2) The Government may within such time as may be prescribed, either approve the budget or return it to the Zila Parishad for such modifications as it may direct. On such modifications being made, the budget shall be re-submitted within such time as may be prescribed for approval of the Government. If the approval of the Government is not received by the Zila Parishad within thirty days from the date of submission or re-submission, as the case may be, the budget shall be deemed to be approved by the Government."

Annexure-IV(2)

RECOMMENDATIONS OF THE EXPERT GROUP ON PLANNING AT THE GRASS ROOTS LEVEL ON CENTRALLY SPONSORED SCHEMES

- Currently, Central fiscal transfers assume many forms and go by several names. For instance, while most CSSs are operated by Line Ministries of the Central Government, others are borne on the State plan side as "Additional Central Assistance". Funds are also operated through Central corporate entities, such as Central SC&ST Development Corporations and Tribal Federations. It is recommended that all Centrally funded programmes and schemes that fall in the domain of States and Local Governments may be referred to by a common terminology as in earlier years. The term "Centrally Sponsored" is simple and well established enough to be used to describe all such transfers.
- Each Ministry operating CSSs pertaining to matters listed in the Eleventh Schedule of the Constitution ought to undertake an activity mapping exercise on the roles assigned to levels of government, including Panchayats, in the activities of that Ministry. This exercise should follow the principles of subsidiarity, by which tasks are placed at that level where it is best performed. CSS guidelines will need to be realigned in accordance with the Activity Mapping undertaken by the Ministries.
- Scheme guidelines ought to specify clear lines of administrative approval and sanction on the basis of Activity Mapping. Thus, powers for approval, administrative sanction, review and monitoring of CSSs will need to vest with local governments as appropriate, at different levels. This would include laying down processes that ensure democratic decision-making with respect to planning and implementation.
- The role of line departments in supporting Panchayats ought to be spelt out. While Panchayats are given clear-cut roles in planning and implementation of schemes, methods of providing technical support by line departments have to be laid down.
- There has to be a clear statement by each Central Ministry dealing with the core functions of Panchayats, such as Ministries of HRD (Both Departments of Education and Women and Child Welfare), Rural Development and Agriculture that all line department functionaries at the grass roots level, function under the control of Panchayats.
- A large number of different parallel bodies have been set up under various schemes to undertake the same tasks as Panchayats and compete with them for performing these functions. The justification that parallel bodies are required to exist as recipients of funds is no longer tenable as Panchayats are entitled to hold their own funds in accordance with Article 243H. But it is argued that they are needed for sectoral focus and attainment of targets. To the extent they are considered inevitable, parallel bodies ought to be brought under Panchayats to assist them.
- The Planning methodology in the CSS guidelines ought to be strictly in alignment with those prescribed in Article 243 ZD of the Constitution. Stand-alone planning methodologies prescribed in CSS guidelines, which have very little connection with other initiatives and schemes have to be modified to enable the preparation of integrated village plans by Panchayats at all levels so as to ensure easy consolidation by the DPC into the Draft Developmental Plan of the District.
- As part of efforts to deepen peoples' participation in the implementation of CSSs, there has been a tendency for line departments to create stand-alone committees or groupings of stakeholders to oversee implementation, certify completion, monitoring, maintain assets created, distribute benefits etc. Their creation and promotion takes precedence over the devolution of functions and powers to Panchayats. While strengthening and promotion of such autonomous social groups is required for augmenting social capital and deepening democracy and for greater involvement of concerned stakeholders, setting them up as substitutes for Panchayats has to be discouraged. Panchayats are local

governments performing a range of governance and development functions and are accountable to the entire population of a Panchayat. Besides, both for financial and social accountability, it is important that these bodies are made to function within the ambit of the Panchayati Raj system. Panchayats and these bodies have to learn to work together for common good instead of functioning as rivals.

- In ensuring a harmonious relationship between the Panchayat and such groups, it is best to conceive these groups as sub-systems and as a further step in democratic decentralisation. They could draw their powers and resources from Panchayats, either by positioning themselves as Standing Committees of the Panchayats or as subcommittees of the Gram Sabha, performing specific tasks that are delegated to them. Either way, the design elements should ensure synergy, harmony, sustainability and financial accountability of such arrangements.
- The obligation to make voluntary disclosure of all information ought to be made an integral part of CSS guidelines. Arrangements will also need to be made for reviewing whether these obligations have indeed been met by the Panchayats concerned.

Annexure-V(1)

Appointment of Executive Heads of City Governments: International Practice

Sl. No.	City/Country	Executive Head of the City Government	Method of Appointment
1.	New York/USA	Mayor heads the Executive Branch of the Government of New York City	Directly elected by popular vote for a four-year term. There is a two-term limit.[113]
2.	London/UK	Mayor of London, executive head of the Greater London Authority	The Mayor of London is directly elected for four-year terms by voters across Greater London. The system of election is the Supplementary Vote, where each voter expresses a first and second preference and if no candidate has 50 per cent or more first preferences then the second preferences of all candidates are reallocated to the two highest ranked candidates to determine the winner.[114]
3.	Tokyo/Japan	Governor of Tokyo is the Executive Head of the Tokyo Metropolitan Government	The Governor is directly elected by the citizens, and represents the Metropolis of Tokyo. He/she has a four-year term of office. In the area pertaining to 23 'special-wards', the Governor may take on the nature of mayor.[115]
4.	Sydney/Australia	Lord Mayor heads the City Council of Sydney and chairs the Central Sydney Planning Committee	Section 23 of the City of Sydney Act, 1988 states that the Lord Mayor of Sydney is to be elected by the electors. Section 23A states that a person who is a candidate for election as the Lord Mayor of Sydney must also be a candidate for election as a councillor of the City of Sydney at the same time. Section 230 of the Local Government, Act 1993 provides that a mayor, elected by the electors, holds the office of mayor for 4 years.[117]
5.	Shanghai/China	Mayor, Shanghai Municipal Government	Appointed by CPC Central Committee.[118]
6.	Paris/France	Mayor of Paris City Council	The mayor is elected by the municipal council. To be elected mayor, a candidate must obtain the absolute majority of votes cast in the first or second round. If after two rounds no candidate has obtained this, a third round takes place and the candidate with the most votes is elected.[119] Elections are conducted every six years.
7.	Johannesburg/ Republic of South Africa	Executive Mayor, City of Johannesburg	The Council elects an Executive Mayor from among its members by a majority vote. If no one receives a majority vote, the candidate receiving the lowest vote is eliminated and further vote is taken. The process is repeated till a candidate receives a majority vote. (Section 55 and Schedule 3 of the Municipal Structures Act, 1998)[120]

[113]Source: http://en.wikipedia.org/wiki/Mayor_of_New_York_City
[114]Source: http://www.citymayors.com/government/uk_government.html
[115]Source: http://www.metro.tokyo.jp/ENGLISH/PROFILE/overview08.htm
[116]Source: http://www.austlii.edu.au/au/legis/nsw/consol_act/cosa1988179/s23.html
[117]Source: http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s230.html
[118]Source: http://news.xinhuanet.com/english/2006-09/26/content_5140777.htm
[119]Source: http://www.diplomatie.gouv.fr/en/article-imprim.php3?id_article=8746
[120]Source: http://www.info.gov.za/gazette/acts/1998/a117-98.pdf

Powers of the State Government under Some Municipal Acts

Sl.No.	Name of the Act	Power	Provision
1.	The Tamil Nadu District Municipalities Act, 1920	Power of State Government and Collector for purposes of control	(1) The district collector may enter on and inspect, or cause to be entered on and inspected, any immovable property or any work in progress under the control of any municipal authority in his district. (2) The State Government or the District Collector may— (a) call for any document in the possession or under the control of any council or executive authority; (b) require any council or executive authority to furnish any return plan, estimate, statement, account or statistics. (c) require any council or executive authority to furnish any information on any municipal matter; (d) record in writing, for the consideration of the council for executive authority any observations they or he may think proper in regards to its proceedings or duties.[Section 34]
2.	The Tamil Nadu District Municipalities Act, 1920	Collector's power to enforce execution of resolutions	If it appears to the district collector that the executive authority of a municipality has made default in carrying out any resolution of the council, the said collector, after giving the executive authority a reasonable opportunity of explanation, shall send a report thereon together with the explanation, if any, of the executive authority to the State Government and at the same time forward a copy of the same to the Council [Section 35].
3.	The Tamil Nadu District Municipalities Act, 1920	Power to suspend or cancel resolutions, etc. under Act	The State Government may, by order in writing- (i) suspend or cancel any resolution passed, order passed, or license or permission granted, or (ii) prohibit the doing of any act which is about to be done or is being done in pursuance or under colour of this Act, if, in their opinion, (a) such resolution, order, licence, permission or act has not been legally, passed, issued, granted or authorised, or (b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or of any other law, or (c) the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray; Provided that the [State Government] shall before taking action under this section on any of the grounds referred to in clauses (a) and (b) give the authority or person concerned an opportunity for explanation [Section 36].

Annexure V(2) Contd.

Powers of the State Government under Some Municipal Acts

Sl. No.	Name of the Act	Power	Provision
4.	The Tamil Nadu District Municipalities Act, 1920	Emergency powers of Collector	The District Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which the council or executive authority is empowered to execute or to do, and the immediate execution or the doing of which is, in his opinion, necessary for the safety of the public and may direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid from the municipal fund [Section 37].
5.	The Tamil Nadu District Municipalities Act, 1920	State Government's power to appoint officers to supervise municipalities	The State Government may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the municipal councils established under this Act. [Section 38].
6.	The Tamil Nadu District Municipalities Act, 1920	State Government's power to undertake works for, or to take action in default of a municipality	If at any time it appears to the State Government that a municipal council, Chairman or executive authority has made default in performing any duty imposed by or under this or any other Act, by order in writing, fix a period for the performance of such duty [Section 39].
7.	The Tamil Nadu District Municipalities Act, 1920	State Government to remove Vice-Chairman	The State Government may, by notification, remove any Vice-Chairman, who in their opinion willfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, by-laws, regulations or lawful order issued thereunder or abuses the powers vested in him [Section 40].
8.	The Tamil Nadu District Municipalities Act, 1920	State Government's power to dissolve or supersede Council	If, in the opinion of the State Government, the municipality is not competent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers, the State Government may, by notification (a) dissolve the municipality from a specified date; and (b) direct that the municipality be reconstituted with effect from a date which shall not be later than six months from the date of dissolution [Section 41].
9.	The Punjab Municipal Corporation Act, 1976	Power of Government to require production of documents	The Government may at any time require the Commissioner- (a) to produce any record, correspondence, plan or other document in his possession or under his control; (b) to furnish any return, plan, estimate, statement, account or statistics relating to the proceedings, duties or works of the Corporation or any of the municipal authorities; (c) to furnish or obtain and furnish any report [Section 403].

Powers of the State Government under Some Municipal Acts

Sl. No.	Name of the Act	Power	Provision
10.	The Punjab Municipal Corporation Act, 1976	Inspection	The Government may depute any of its officers to inspect or examine any municipal department or office or any service or work undertaken by the Corporation or any of the municipal authorities or any property belonging to the Corporation and to report thereon and the Corporation and every municipal authority and all Corporation officers and other Corporation employees shall be bound to afford the officer so deputed access at all reasonable times to the premises and properties of the Corporation and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties [Section 404].
11.	The Punjab Municipal Corporation Act, 1976	Directions of Government	If, whether on receipt of any information or report obtained under Section 403 or 404 or otherwise, the Government is of opinion- (a) that any duty imposed on the Corporation or any municipal authority by or under this Act has not been performed or has been performed in an imperfect, insufficient or unsuitable manner, or (b) that adequate financial provision has not been made for the performance of any such duty; It may direct the Corporation or the Commissioner, within such period as it thinks fit, to make arrangements to its satisfaction for the proper performance of duty, or, as the case may be, to make financial provision to its satisfaction for the performance of the duty and the Corporation or the Commissioner concerned shall comply with such direction: Provided that, unless in the opinion of the Government the immediate execution of such order is necessary, it shall, before making any direction under this section, give the Corporation or the Commissioner an opportunity of showing cause why such direction should not be made.
12.	The Punjab Municipal Corporation Act, 1976	Power to provide for enforcement of direction under Section 405	If, within the period fixed by a direction made under sub-section (1) of Section 405, any action the taking of which has been directed under that sub-section has not been duly taken, the Government may make arrangements for the taking of such action and may direct that all expenses connected therewith shall be defrayed out the Corporation Fund [Section 406].
13.	The Punjab Municipal Corporation Act, 1976	Dissolution of Corporation	(1) If in the opinion of the Government, a Corporation is not competent to perform its duties or persistently makes default in the performance of duties imposed on it by or under this Act or any other law for the time being in force or exceeds or abuses any of its powers, the Government may, by an

Annexure V(2) Contd.

Powers of the State Government under Some Municipal Acts

Sl. No.	Name of the Act	Power	Provision
			order published, along-with the reasons therefore, in the Official Gazette, dissolved such corporation; provided that the Corporation shall be given a reasonable opportunity of being heard before its dissolution. (2) When a Municipal Corporation is dissolved under sub-section(1), - (i) all Councillors of the Corporation shall vacate their offices forthwith; (ii) all powers and duties of the Corporation during its dissolution shall be exercised and performed by such person or authority, as the Government may, by notification, appoint in this behalf; and (iii) all property in possession of the Corporation shall be held by the Government [Section 407].
14.	The Punjab Municipal Corporation Act, 1976	Government's power to suspend any resolution or order of Corporation	If the Government is of the opinion that the execution of any resolution or order of the Corporation or of any other Municipal authority or employee subordinate thereto or the doing of any act which is about to be done or is being done by or on behalf of the Corporation is in contravention of or in excess of the powers conferred by this Act or of any other law for the time being in force or is likely to lead to breach of the peace or to cause injury or annoyance to the public or to any class or body of persons, the Government may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act [Section 422].
15.	The Kolkata Municipal Corporation Act, 1980	Power of the State Government to call for records, etc.	The State Government may at any time require any municipal authority— (a) to produce any record, correspondence, plan or other documents, (b) to furnish any return, plan, estimate, statement, accounts or statistics, and (c) to furnish or obtain any report, and thereupon such authority shall comply with such requirement [Section 113].
16.	The Kolkata Municipal Corporation Act, 1980	Power of the State Government to depute officers to make inspection or examination and report	The State Government may depute any of its officers to inspect or examine any department, office, service, work or property of the Corporation and to report thereon, and such officer may for the purpose of such inspection or examination exercise all the powers of the State Government under Section 113 [Section 114].
17.	The Kolkata Municipal Corporation Act, 1980	Power of the State Government to require the municipal authorities to take action	If, after considering the records, requisitioned under Section 113 or the report under Section 114 or any information received otherwise by the State Government, the State Government is of opinion –

Powers of the State Government under Some Municipal Acts

Sl. No.	Name of the Act	Power	Provision
			(a) that any action taken by a municipal authority is unlawful or irregular or any duty imposed on such authority by or under this Act has not been performed or has been performed in an imperfect, insufficient or unsuitable manner, or (b) that adequate financial provision has not been made for the performance of any duty under this Act. The State Government may by order require such authority to regularise such unlawful or irregular action or perform such duty or restrain such authority from taking such unlawful or irregular action or direct such authority to make, to the satisfaction of the State Government, within a period specified in the order, arrangements, or financial provision, as the case may be, for the proper performance of such duty. Provided that the State Government shall, unless in its opinion the immediate execution of such order is necessary, before making an order under this section, give such authority an opportunity of showing cause, within such period as may be specified by the State Government, why such order should not be made [Section 115].
18.	The Kolkata Municipal Corporation Act, 1980	Power of the State Government to provide for enforcement of order under Section 115	If no action has been taken in accordance with the order under section 115 within the period specified therein or if no cause has been shown under the proviso is not to the satisfaction of the State Government, the State Government may make arrangements for the taking of such action and may direct that all expenses connected therewith shall be defrayed from the Municipal Fund [Section 116].
19.	The Kolkata Municipal Corporation Act, 1980	Power of the State Government to dissolve the Corporation	If, in the opinion of the State Government, the Corporation has shown its incompetence, or has persistently made default, in the performance of the duties or in the exercise of the functions imposed on it by or under this Act or any other law for the time being in force, or has exceeded or abused its powers, the State Government may by an order published in the Official Gazette, and stating reason therefore, declare the Corporation to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and dissolve it for such period not exceeding as may be specified in the order [Section 117].
20.	The Kolkata Municipal Corporation Act, 1980	Consequences of dissolution	(1) Notwithstanding anything contained in this Act or in any other law in force for the time being, with effect from the date of an order of dissolution made under sub-section (1) or sub-section (4) of Section 117, -

Annexure V(2) Contd.

Powers of the State Government under Some Municipal Acts

Sl. No.	Name of the Act	Power	Provision
			(a) all the members of the Corporation, the Mayor-in-Council and any Committee of the Corporation constituted under this Act, and the Mayor and the Chairman shall vacate their offices, and (b) all the powers and duties which, under the provisions of this Act or any rule or regulation made there-under or of any law in force for the time being, may be exercised or performed by the members of the Corporation or the Mayor or the Chairman, shall be exercised or performed, subject to such directions as the State Government may give from time to time, by such person or persons as the State Government may appoint in this behalf; provided that when the State Government appoints more than one person to exercise any powers and perform any duties it may, by order, allocate, in such manner as it thinks fit, such powers and duties among the persons so appointed; provided further that the State Government shall fix the remuneration of such person or persons, and may direct that such remuneration shall, in each case, be paid out of the Municipal Fund [Section 118].