

Local Governance

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Evolution of Local Governance

Before the Amendments

1. Second Five Year Plan

1. 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.

2. Balwant Rai Mehta Committee

1. To operationalize this initiative, Government appointed a committee under the Mehta Committee in 1957.
2. It offered two broad directional thrusts:
 1. 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.
 2. It recommended that the CD blocks should be designed as administrative units with an elected Panchayat.
3. This Panchayat would need guidance of technical personnel in many matters; hence it should have line department officers of suitable competence under its control.
4. The Panchayat Samiti was also to be equipped with sources of income.
5. Certain powers of control were retained by the government; like supersession of Panchayat Samiti in public interest, suspension of a resolution of a Panchayat Samiti by the Collector.
6. The recommendations also suggested reservation for SC/ST and women.
7. It also recommended formation of a Zila Parishad at the district level consisting of all the Presidents of the Panchayat Samitis, MLAs and MP with district level officers of some line departments as members and the Collector as the chairman. It should just as an advisory body for the Panchayats.

3. Followup to Mehta Committee

1. Although a number of Panchayats were set up in different States, they had limited powers and resources and the essential idea that all developmental activity should flow only through the Panchayat Samitis lost ground.
2. Subsequently Panchayati Raj elections were postponed indefinitely and flow of funds for Block Development were reduced to a trickle. By the 1970s, these bodies remained in existence without adequate functions and authority.
3. 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.

4. 1st ARC

1. It 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 and be able to formulate a plan for the area.
2. It 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.

5. Ashok Mehta Committee

1. It chose the district as the first point of decentralisation below the State level.
2. The next level was the Mandal Panchayat which was to cover a population of around 10,000 to 15,000.
3. 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.
4. Similarly, at the village level it thought of a nominated village level committee consisting of local member elected to Mandal Panchayat, local member elected to the Zila Parishad and a representative of small and marginal farmers.
5. The Zila Parishad was recommended to take up planning for the district and to coordinate and guide the lower PRI tiers.
6. It also called for creation of a body of professionally qualified experts for drawing up the district plan. The plan thus prepared had to be placed before the Zila Parishad.
7. It called for transfer of all development functions and related government staff to the control of the Zila Parishad.
8. To assist the Zila Parishad, it recommended creating a senior post known as the CEO manned by an officer senior in rank to the Collector.
9. It recommended a constitutional backing for PRIs.

Core Principles for Local Governance Reforms

Democratic Decentralisation

1. Local democracy vs decentralization

1. Local democracy is sometimes treated as synonymous with ‘decentralisation’, but the two are in fact quite distinct. Sometimes decentralisation may not be conducive to local democracy.
2. 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 has consolidated their hold.

2. Advantages

1. Decentralisation tends to promote fiscal responsibility when there is a clear link between resource generation and outcomes. 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 to them.

2. In centralised structures, citizen participation and ownership are illusory despite national citizen sovereignty.

Principle of Subsidiarity

1. Definition

1. It means that what can best be done at the lower levels of government should not be centralised at higher levels. It is based on the idea that citizens are sovereigns and the final decision makers.
2. The citizen must exercise as much authority as practicable, and delegate upward the rest of the functions which require economies of scale and can be done more efficiently at a higher level only.

2. Advantages

1. Local decision-making improves efficiency, promotes self-reliance, encourages competition and nurtures innovation.
2. There will also be greater ownership by the local communities.
3. Democracy is based on the fundamental assumptions that citizen is the ultimate sovereign and has the capacity to decide what is in his best interest. Subsidiarity is the concrete expression of this assumption.
4. Once decision-making is delegated lower, people can better appreciate that hard choices need to be made.

Clear Delineation of Functions vis-a-vis State Governments and Among Different Tiers of Local Governments

1. PRIs vs State Governments

1. Since all local government subjects by definition are also state subjects, there should be clear delineation of roles of the two otherwise needless confusion and undue interference by the state will be inevitable.
2. An activity mapping must be done. For instance, while managing local schools should be a subject of PRIs, 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.

2. Intra-PRI Delineation

1. Within the local governments there is a need for clear functional delineation amongst the various tiers. Here again an activity mapping is essential.
2. For example, while school management can be entrusted to the Panchayat, most 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 should be managed by the Intermediate Panchayat, and the Community Health Centres and hospitals by the District Panchayat.

Effective Devolution in Financial and Personnel Terms Accompanied by Capacity Building and Accountability

1. Even legislated empowerment remains illusory unless public servants entrusted with the

discharge of responsibilities under the local governments sphere are fully under local government control.

2. The principles behind fiscal devolution should be:
 1. PRIs must be able to effectively fulfill its obligation.
 2. There must be sufficient room for flexibility through untied resources.
 3. There must be both opportunity and incentive to mobilize local resources.
3. The Upper House functions as the voice of constituent states. On similar grounds, Legislative Councils should be created in all states to be elected by the PRIs exclusively.
4. Equally important is the building of capacity. Revision of all laws impeding their functioning, bringing all institutions like parastatals and line department which are necessary for their functioning under their control, strengthening management capacity, training, ability to attract expertise available outside government are needed.

Integrated View of Local Services and Development Through Convergence of Programmes and Agencies

1. Rural-Urban Divide

1. The rural urban divide in the higher tiers of local governments is a colonial legacy.
2. At the primary level the needs of the rural population and the approaches required are different from those of urban people. So it makes sense to have Panchayats for rural areas and municipal bodies for urban areas at the lowest level.
3. However, with rapid urbanisation and peri-urban areas, such a distinction at higher level is artificial. Instead of a Zila Parishad, we should have a District Council for the integrated development of the district.

2. Integrating parastatals

1. The local functions of all the parastatals need to devolve on local governments, even as institutional mechanisms need to be devised to benefit from expert guidance.

3. Stakeholders vs Local Bodies

1. 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.
2. However, stake-holder empowerment should not be seen as antithetical to local government empowerment. Just as the tiers of local government have to function in close coordination, local government and empowered stake-holders' groups should work in concert.

Citizen Centric Governance

1. The citizen must be enabled to interact with all service providers through a single window.
2. Mechanisms should be there to measure citizens' satisfaction. Citizen report cards, feedback at delivery and service counters, call centres needs to be institutionalised.
3. In addition, social audit and strong grievance redressal system should be there.

Structure of PRIs

Number of Tiers

1. 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.
2. In a vast and complex country, it is not feasible to prescribe nationally any specific pattern of local governments. 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 unit of local government. In such a case again, Intermediate Panchayats may be redundant.
3. Also, the states should have freedom to experiment and improve the design from time to time.
4. If the States wish to have three tiers, they should be free to adopt them. So the tiers of local government should be left for the State legislature to decide.

Inclusion of MPs and MLAs in Local Bodies

1. Article 243 C stipulates that the State Legislature may by law provide for the representation of the MPs and MLAs at local government levels other than the village level.
2. But the imposing presence of MPs and MLAs in the Panchayats would subdue the emergence of local leadership. So they should not become members of local bodies.

District Council

1. 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.
2. Its negatives are as follows:
 1. 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. A district hospital does not cater to only the urban population in the district town.
 2. In a rapidly urbanising society, the boundaries between rural and urban territories keep shifting. It is absurd in an expanding city to have the peripheral areas managed by Panchayats. The need for coordination between rural and urban local governments at the district level gave rise to institutions like DPCs. But they have proved to be too weak and non-starters in many states.
 3. Finally, in the public eye there is no single, undivided local government at the district level. Not surprisingly, the office of collector continues to remain the real symbol of authority in the district. But this is not healthy for the growth of local self government bodies.
3. Planning is an essential function of government. Creating a separate authority in the form of DPC with no governmental authority has no logic.
4. So 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.

Size of the Gram Panchayat

1. The Constitution does not stipulate any size for Panchayats, either in terms of population or in area. Larger panchayats mean greater efficiency of scale in delivery of services.

Their negative is lower citizen participation in the Gram Sabhas.

2. There is a historical idealised notion that there should be one Panchayat for each village. But this leaves many Gram Panchayats too small to function meaningfully.
3. Option of ward sabhas can be explored.

Ward Sabha in Rural Areas

1. Larger panchayats mean lower citizen participation. Hence the creation of an intermediate body-Ward Sabha - is desirable as it would facilitate greater people participation and at the same time ensure administrative viability of the Gram Panchayat. It already exists in Karnataka.
2. A Ward Sabha should articulate the needs of the ward as a whole. They should be assigned the function of identification of beneficiaries. The list thus prepared should be placed before the Gram Sabha for its approval. They should also be given a role in prioritisation of schemes pertaining to their area.

Structure of Urban Bodies

Ward Sabhas in Urban Areas

1. Issues

1. In rural areas, the proximity and small size of the Village Panchayat facilitates greater participation by the citizens, whereas in urban areas, such participation becomes difficult.
2. The Constitution makes creation of such Ward Committees mandatory in all cities exceeding a population of 3 lakhs. Still they have not yet been constituted in some States.
3. 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 difficulty in identifying legitimate citizen representatives within the ward.
4. They have an ambiguous mandate. No clear activities have been devolved on them. This further limits citizen participation.
5. In many large cities, there are Ward Committees combining several wards leading to each ward sabha covering a large population exceeding 5 lakhs in some cases. This undermines the very intent behind creating the Ward Committees.

2. Recommendations

1. The three tiers of urban local body governance should be as follows:
 1. Municipal Council/Corporation (by whatever name it is called).
 2. Ward Committees.
 3. Area Committees or Sabhas.
2. Ward Sabhas should be constituted by the chairpersons of the Area Sabhas. There should be direct election of the Ward Councilor who would be the Chairperson of the Ward Committee who would represent the ward in the municipal body.
3. In smaller towns also, with populations of less than 3 lakhs, we should have the above structure of Area Sabhas and Ward Sabhas.
4. Ward Sabhas must be given legitimate functions in clear terms like street lighting, sanitation, water supply, drainage, road maintenance, maintenance of school

buildings, maintenance of local hospitals/dispensaries, local markets, parks, playgrounds.

5. It should have supervision over the employees involved in the functions entrusted to it. It should be able to determine the salaries of all such people on the basis of their performance.
6. It should have separate funds allocated to it. Its budget should be taken into account while formulating the overall municipal budget.
7. Meetings of Ward Sabhas must be regular.
8. Because non residential stakeholders like business are also interested in an area, they should be given some representation in the Ward Sabha preferably through their business associations.

Area Sabhas

1. An Area Sabha would preferably not cover more than, say, 2500 voters.
2. Role of the Area Sabhas: It should be the functional equivalent of the Gram Sabha in villages. It should not be merely a political space for opinion formation. It should be a formal space, and given explicitly defined functions like prioritising developmental activities and identifying beneficiaries under various schemes. It should have separate budget for the discharge of its functions and meet regularly.
3. Members of the Area Sabha: Each Area Sabha should elect 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 election of the Committee of Representatives should be held by the SEC.

Office of the Mayor

1. Mayor vs state government
 1. In most states, the Commissioner, appointed by the State Government, has all the executive powers. This leads to a dilution in the role of the elected Mayor and is violative of the spirit of self-governance and local empowerment.
2. Directly elected mayor
 1. One concern in such a case is that abuse of authority by the Mayor with a fixed tenure cannot be easily checked. However, in such a case, the council, public opinion and media will act as a check. An independent local body Ombudsman will always act as an effective check against abuse of authority at all levels.
 2. 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 problems. However a clean separation of powers will prevent such tensions. On the other hand, it may improve accountability as each acts as a check against the other, but cannot stop legitimate exercise of power.
 3. 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.
 4. Also, the direct popular mandate gives the Mayor the legitimacy to represent and speak for the whole city.
 5. 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.
6. Role of the Mayor

1. 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?
 - This is in keeping with 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, such separation of the functions of Chairperson and Mayor at the local level is unnecessary and cumbersome. In all rural local governments, the Chairperson is also the executive authority.
2. Who should be the Chief Executive - the elected Mayor or the appointed Commissioner?
 - Clearly the elected Mayor because basic democratic legitimacy demands that power is exercised by the elected executive.
3. In large cities, how should the Mayor's executive authority be exercised?
 - As cities grow larger, 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 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.

Other Issues with PRIs

Revision of 11th and 12th Schedules

1. Subjects like non-conventional energy, 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, libraries, cultural activities which figure in the 11th schedule but not in the 12th can surely be functions for municipalities too.
2. Maybe the two schedules need not be revised, but that the fact that they are not exhaustive and are only illustrative should be recognised.

Strengthening the Voice of Local Bodies

1. Apart from constituting Legislative Councils (where they do not exist), the existing Legislative Councils may be recast as a council for local governments.

Growth of parastatals

1. They are the development authorities, housing boards, slum development agencies and

water and sanitation boards. This has also led to a fragmented approach, with a large number of bodies working in isolation.

2. For example,
 1. The most important parastatal at the district level is the District Rural Development Authority (DRDA). The funds for most of the CSS are routed through it. There is no justification for having DRDA.
 2. A district also has a District Health Society (DHS) to look after the programmes of the NRHM. DHS has to be responsible to the PRIs. However, management of district hospitals and regulation of private nursing homes are some of the functions which need high level professional and technical competence. To that extent, the DHS will need functional autonomy.

Capacity Building in Local Bodies

1. Capacity building doesn't mean only training. It also includes organizational development. It means development of supportive institutional and legal framework. It also includes designing appropriate structures, re-engineering internal processes, developing MIS, developing suitable incentive systems and adopting sound HR practices.
2. There is a strong case to indicate separate training funds in various schemes to be implemented by the PRIs.

Accountability and Transparency in PRIs

1. Audit is essential for accountability but it is not sufficient because of the large time lag between the decision making and its scrutiny by audit. Also a large number of audit observations remain unattended due to lack of proper monitoring and follow up.
2. PRIs should be accountable to the state legislature and a separate Committee on Local Bodies can be formed just like the PAC.
3. There should be a local body Ombudsman (independent etc.) functioning under the overall guidance and superintendence of the Lokayukta.
4. Other usual methods are citizen report cards, grievance redressal mechanism, social audits.

Space Technology in PRIs

1. Creating resource centres.
2. Tele-education.
3. Tele-medicine.
4. Single window delivery mechanism for a variety of space-enabled services and products, such as education, vocational training, skill development.
5. Weather and Climate.
6. Disaster management: During the period of natural disasters, it facilitates video- conferencing and real-time information exchange. Space technology is also utilised in flood mapping and damage assessment.
7. Natural resources management: The areas of importance are rural land management, rural infrastructure, conservation of water bodies, groundwater mapping and providing drinking water, wasteland mapping, watershed development.
8. Urban land use data: Remote sensing has provided an important source of data for urban land use mapping. ISRO's CARTOSAT-2 satellite has the capacity to provide

imagery with one metre spatial resolution.

9. National Urban Information System: The Ministry of Urban Development (MUD) has taken initiative to establish a 'National Urban Information System' (NUIS). The major objectives of NUIS are to: (a) develop attribute as well as spatial information database for urban planning; (b) develop standards; (c) develop urban indices to determine and monitor the health of the towns and cities.

Resource Centre at the Village Level

1. It will contain information about local resources and local traditional knowledge and will be ICT and Space technology based.
2. It 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, infrastructure. Then it could be suitably incorporated in the national plans.
3. They should also document local traditional knowledge, especially about medicine, natural resource management and agricultural practices; local arts and crafts; folk memories.

Issues With Local Body Elections

Delimitation of Constituencies

1. 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 be the same throughout the State".
2. 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.
3. But in many States, the powers of delimitation of local government constituencies have been retained by the Governments.
4. 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. He is helpless when the delimitation exercise is not completed in time and so the elections are delayed.

Rotation of Reserved Constituencies

1. Rotation Necessary

1. 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.

2. Rotation not Necessary

1. Frequent rotation denies to the elected representatives, an opportunity to gain experience and grow in stature.
2. This is particularly damaging for disadvantaged sections of voters. 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.

3. Balanced Approach

1. 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. However, with multiple reservations this may lead to large sections being denied the opportunity of reservation for a long time.
2. 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.

4. Delays in Reservation Exercise

1. Many States undertake the exercise of enumeration of OBCs in the eleventh hour, delaying reservation and therefore the conduct of elections. So the reservation of constituencies should also be entrusted to SECs.

Separate Electoral Rolls for PRI Elections

1. Preparation of separate electoral rolls for local governments is redundant and can only lead to confusion.
2. Electoral rolls prepared by the Election Commission of India should be adopted for elections to local governments also.

Bringing SECs under ECI

1. Yes - Bring It

1. Bringing SEC under the control of ECI will give it the required independence from state governments.
2. This would also ensure a commonality of approach in the electoral process.

2. No - Repeal Art 243K and Amend Art 324

1. However, one independent constitutional authority cannot function under another constitutional authority.
2. The only alternative would be to repeal Article 243K and amend Article 324 entrusting local elections to the Election Commission of India.
3. Article 324 provides for appointment of Regional Election Commissioners. A Regional Commissioner could then be appointed for each State under this provision and it could function as the SEC for local elections.

3. No - Only Strengthen SEC

1. Against this it has also been argued that, as the number of local bodies is so large, the ECI would hardly have the time to attend to election related matters in respect of local governments.
2. Now that every State has constituted its SEC, repealing Article 243K and abolishing these offices would be impractical.
3. So the focus should be on strengthening the independence of the SEC.
 - SEC should be appointed by a collegium comprising the Chief Minister, the Chief Justice of the High Court and the Leader of Opposition.
 - Serving officers should not be appointed. Uniform criteria need to be evolved and institutionalised regarding the qualifications, tenure and age of retirement. Post retirement jobs should not be allowed.
 - SECs should be accorded the status of a Judge of a High Court in the same

manner as ECs in the Election Commission of India are accorded the status of Judge of the Supreme Court.

Devolution of Powers

Constitutional Scheme for Devolution

1. The Constitution provides for devolution for the twin purposes of:
 1. Making plans for economic development and social justice.
 2. Implementing programmes of economic development and social justice.

Current Issues in Devolution

1. Constitution and elections

1. Despite the mandatory constitutional injunctions, it took years, and in some cases a decade, to even constitute local governments and hold elections.
2. Even when local governments are constituted and elections are held, states often postponed or distorted the subsequent elections on some pretext or other. Recent West Bengal issue is there.

2. Devolution of functions

1. State governments 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 and the spirit is ignored.
2. 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.
3. Resources as well as staff also remain under the control of the State Government.
4. Even mandatory provisions like the constitution of DPCs and MPCs have been ignored in many States.
5. Progress in delineation of functions of the different tiers of local governments in a given subject matter has been very slow.
6. The exercise of activity mapping continues to be partial and delayed. State governments have generally not approved the activity mapping lists.
7. Even where activity mapping has been approved, parallel action to enable local governments to exercise the functions has not been taken.
8. The existing government departments and parastatals prevent the local governments from exercising the so called transferred functions.
9. All laws which are “inconsistent” with the provisions of PRIs have to be suitably amended to bring them in conformity with the PRI system or repealed or will expire after one year from the 73rd and 74th Amendments. Despite the passage of 15 years since then, most States have not even identified such laws.

3. Interference of state governments

1. State governments retain their right to supersede a PRI or to veto its resolutions.
2. 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.

3. Political interference in intervening in transfers, sanctioning of local bodies' contracts and tenders.

Recommendations for Devolution

1. While devolution must eventually comprise the entire range of subjects, States may plan their own devolution programme keeping in mind the ground realities.
2. Identification of activities via activity mapping is essential and each activity needs to be assigned at appropriate level in the PRI system.
3. Principle of subsidiarity should be strictly followed in the activity mapping process.
4. Devolution must be by legislative action and not statutory.

Devolving Regulatory Functions to the Panchayats

1. 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 regulations, issuing of voter identity cards would be better performed by local governments.
2. The Gram Panchayats can play an effective role in community policing. In most of the developed countries, policing is a municipal job and there is no reason why it should not be so in India.

PRIs and the State Government

1. In most states, the state governments retain significant control over PRIs. This includes:
 1. power to suspend a resolution.
 2. Power to inquire into the affairs of the Panchayat.
 3. Power to remove elected Panchayat representatives.
 4. Power to inspect and issue directives.
 5. Withdrawal of powers from the Panchayat.
 6. Approval of the budget of a Panchayat.
2. In some States the higher tier of Panchayat is given the authority to exercise control over the lower tier. This is inappropriate because all the tiers of Panchayats are institutions of self government and there cannot be any hierarchic relationship between them.
3. Maladministration, irregularities, abuse of power are some of the situations which may warrant action against the PRIs. The state government needs such powers in these cases to ensure PRI administration is carried out within the contours of the law. But it is also necessary to ensure that this 'responsibility' does not translate into micromanagement of PRIs.
4. So to prevent actions motivated by narrow political considerations, the State Government should place the case before the local bodies Ombudsman and take action based on his recommendations only. If it decides otherwise, all the reasons must be given in writing and made public.
5. 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.
6. Election related complaints should only be decided upon by the SEC.

Need for a Constitutional Directive for Effective Empowerment of PRIs

1. Needed

1. When it comes to actual devolution, most states have been reluctant. Given this backdrop a strong constitutional provision seems necessary.
2. The use of the phrase “shall by law vest” as against the existing “may by law endow” by a constitution amendment.
2. Not Needed
 1. The autonomy of states must be respected.
 2. The situation varies from state to state and the uniform approach [one size fits all] could be detrimental.
 3. The matters listed in the Eleventh and Twelfth Schedules could not be fully handled by the local governments and activity mapping is needed because there are several activities in these subjects which are more appropriately done at the state level than the local level. Such detailed prescription is not possible in the Constitution and the states must have the freedom in devolving specific functions to local governments.
3. Balanced Approach
 1. While the constitutional provisions need to be strengthened, it is desirable to lay down general principles of empowerment without unduly restricting the states’ freedom of action.
 2. These principles can be principle of subsidiarity and activity mapping.

Devolution or Delegation?

1. Delegation is the transfer of power for specifically defined functions, without ceding the authority and responsibility in respect of that function. There is discretion on the part of the transferor government in deciding whether or not to delegate power, which powers to delegate, to curtail or withdraw it later. Devolution is the full and permanent transfer of power.
2. If Art 243G and 243W are read to mean delegation, there would be no difference between the pre-amendment and post-amendment position. Such an interpretation defeats the whole purpose of the constitutional amendments.
3. PRIs are defined as 'institutions of self-government', and their constitution is made mandatory. A self government must derive powers from its own authority and the principle of subsidiarity.
4. 'Self Government' and Art 243G and 243W
 1. The term 'self-government' is not defined or explained in the Constitution. States have exploited this constitutional silence, and the use of the word 'may' in Articles 243G and 243W to grant themselves discretion.
 2. These articles are made "subject to the provisions of the Constitution", which could be read to imply that
 1. It cannot be used to curtail the authority of the State to legislate on matters within its competence. But it also means states cannot use their power to erode the purpose of Article 243G/ 243W, namely devolution.
 3. One possible way could be to use the expression "as may be necessary to enable them [Panchayats/Municipalities] to function as institutions of self-government".

Union Oversight Over PRIs

1. Increase Union Oversight
 1. Many activities of a large municipal body today impact the nation as a whole and may even have international ramifications, such as with international airports.
 2. Funding for district development comes largely from the Centre due to states’ lack of resources. CSS have made PRIs even more dependent upon center.

3. One approach could be that the subject of local governments or certain functions which are directly relevant to all three tiers of government be placed in the Concurrent List.
4. Indian Constitution vs SAF Constitution on Local Bodies in Concurrent List:
 1. In South Africa, functions listed for concurrent legislation include a vast part of municipal governance matters whereas in the Indian Constitution, this is specifically a State "subject".
 2. The South African Parliament can pass a framework law in any matter to provide for structures and institutions of local government system.
2. Don't Place Local Bodies Under Concurrent List
 1. Constitution places all activities related to PRIs within states' domain. The governance of local bodies cannot be controlled by the Union.
 2. 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*).
 3. The remaining States may then be persuaded to adopt this law.
 4. 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:
 1. Principle of Subsidiarity.
 2. Democratic Decentralisation.
 3. Delineation of Functions.
 4. Devolution in Real Terms.
 5. Convergence.
 6. Citizen Centricity.

Issues With Local Body Finances

FC 13 on Local Bodies

1. As the Constitutional provisions do not permit sharing of the divisible pool with the local bodies, FC-XIII recommended grants equivalent to a percentage share of the divisible pool (under Art 275). It has supported local bodies through a predictable and buoyant source of revenue by giving them a share in the divisible pool. The Commission has recommended grants equivalent to 2.28% of the divisible pool or Rs. 87, 500 crore. For the first time, FC-XIII has linked grants to local bodies to the divisible pool of Central taxes.
2. The grant recommended by FC-XIII has two components - a basic component and a performance based component.
 1. The basic grant which is equivalent to 1.50% of the pool is available to all the States put together without any conditions.
 2. The performance grant effective from 2011-12 will be 0.50% of the divisible pool for the year 2011-12 and 1% thereafter. The main stipulations are, putting in place a supplement to budget documents listing out the budget allocations separately for local bodies, audit system for local bodies, appointment of an independent ombudsman for local bodies, prescribing through an Act qualification of persons eligible for appointment to SFCs and enabling all local bodies to levy property tax.

Table : Weights Allotted to Criteria to Local Bodies

Criterion	Weights Allotted (%)	
	Panchayati Raj Institutions	Urban Local Bodies
Population	50	50
Area	10	10
Distance from highest per capita sectoral income	10	20
Index of devolution	15	15
SC/ST proportion in the 2001 population	10	—
FC-XII local body grants utilization	5	5
Total	100	100

Tax Base

1. Issues

1. PRIs lack elastic revenue sources and their taxation bases are meager.
2. So they 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.
3. In view of their own tight fiscal position, State Governments are not keen to devolve funds to Panchayats.

2. Recommendations

1. In recent years, PPP infrastructure projects have gone up significantly. PRIs should be given a share out of the collections from such projects.
2. They should also get a share in the minerals royalty. Because in both the cases, local communities are the ones who contribute the most.
3. CFC and SFC grants should be based on their own revenue generation efforts so that PRIs are incentivised to generate their own revenue.

State's Control over PRI Funding

1. Issues

1. States retain discretionary control over PRI budgets and often ignore SFC recommendations.
2. Transfer of funds to PRIs is made under a number of budget heads, often in packets of small allotments. Such a complicated procedure for allocation leads to delays and makes the accounting confusing. This should be simplified.
3. 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. As a result, often the funds remain undrawn which leads to smaller allocations in subsequent years.

2. Recommendations

1. 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 plan accordingly. States should follow SFC recommendations. Funding should be made as rule based as possible.
2. PRIs should also be allowed to borrow funds.

The State Finance Commission (SFC)

1. Issues

1. Lack of clarity on SFC's part in respect of role of the local bodies.
2. Absence of uniform standards and format in various SFC reports.
3. Absence of a time frame within which the state governments are required to take action on the recommendations of the SFCs.
4. State governments cherry pick from the SFC's recommendations and don't accept the inconvenient ones.
5. While estimating the resource gap, SFCs normally just make forecasts based on the historical trends.
6. Serious issues with SFC composition.

2. Recommendations

1. SFCs should be constituted at least 2 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 6 months time for tabling the ATR. SFC reports should be readily available to the CFC when the latter is constituted so that an assessment of the State's need could be made.
2. The healthy precedent established by the Union Government in generally accepting the devolution proposals made by the CFC should also be followed by the State Government.
3. The SFCs follow the procedures and guidelines adopted by the CFC.
4. SFCs should follow a normative approach in estimating resource gaps. They should link the devolution of funds to the level/quality of civic amenities that the citizens could expect consistent with some uniform standards of service delivery.
5. SFCs should have people of eminence and competence. They should follow the requirements as for the CFC. Serving bureaucrats should not be appointed.
6. There should be a permanent SFC cell in the finance department.

Backward Regions Grant Fund

1. It covers 250 backward districts. 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.
2. The Panchayats have flexibility in selection of programmes, identification of beneficiaries and monitoring. In all these activities, the Gram Sabha has to be fully involved.

Urban Finances

Property Tax Reforms

1. Issues in Coverage: Only a fraction of the properties in urban areas are assessed for this tax.
 1. The main reason is that the boundaries of municipal bodies are not expanded to keep pace with the urban sprawl.
 2. State laws often provide for exemption to a number of categories of buildings.
 3. Unauthorised settlements are not normally taxed by the municipal authorities for fear that levy of property tax would strengthen the demand for regularisation.
 4. A large number of properties belonging to the Union and State Governments are not taxed. Local Governments provide services to the occupants of such properties and there are costs. Therefore, they should be empowered to collect 'service charges' from such properties.
 5. Similarly, properties belonging to the municipal government which have been given on lease are not taxed.
 6. Records of title of property lead to poor tax collection.
2. Issues in Assessment
 1. Collusion between the assessing authorities and property owners.
 2. Annual Rental Value (ARV) method was used for this tax. It had many drawbacks – the manner of assessment was opaque and gave a lot of discretion to assessing officials.
 3. Another major drawback of 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. Such revisions did not take place for decades.
 4. Now the municipal bodies are switching over from the traditional ARV based assessment to the 'Unit area' or the 'Capital value' methods. The Unit Area Method overcomes buoyancy problem to some extent as the various parameters for assessment can be changed periodically.
 5. Property tax based on 'capital value' are supposed to overcome 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 is a fraud in India for obvious reasons.

User Charges

1. Issues
 1. There has been a tendency to charge for various services at rates that are much lower than the actual cost. This is because of the reluctance to charge fair rates for fear of becoming unpopular.
 2. Lack of availability of required expertise at the local level prevents them from arriving at correct rates for the utilities.
 3. The power to impose fines is not given to the municipal authorities and proceedings in the court have to be instituted. Thus even for imposition of a small

fine, prosecution has to be launched in a criminal court.

4. Another reason for poor compliance of civic laws is the relatively non-deterrent nature of penalties prescribed.

2. Recommendations

1. State Finance Commissions should link the grants to the user charges efforts of the municipal bodies. They can also lay down guidelines to arrive at the optimum tariff rates.
2. Technology must be used to avoid theft and pilferage. Bill payments must be enabled online.

Leveraging Land as a Resource

1. Sale of public urban land is dominated by development authorities. Proceeds from the sale of such land must be given to the municipal bodies as done in Rajasthan where 15% share is given to the municipal bodies.
2. But proceeds from land sales must not be used 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.
3. Most municipal bodies have a large number of properties given on rents or lease. However, the earnings out of these properties are quite low due to obvious reasons.

Issues in Decentralised Planning

1. Issues

1. Decentralised planning has not been institutionalized yet.
 1. A big reason is that many state acts do not contain provisions for preparing development plans at the panchayat level.
2. Even in States which have such provision, the task is not taken seriously because of the following reasons:
 1. Real devolution of functions has not taken place. In the absence of meaningful devolution, the local bodies cannot be expected to be motivated to take up planning seriously for they would not have control over the implementation.
 2. Lack of untied funds means panchayats have very little money left for their own activities which they may want to include in the plan.
 3. Even the PC had not taken much interest in PRI level planning. The State Planning Boards also failed to encourage it.
3. Currently, separate 'district plans' are required to be prepared for each of the major CSS.

2. Recommendations

1. Effective devolution.
2. Increasing untied funds and reducing tied funds in CSS.
3. Some CSS are sector specific, such as health or education. It should be made mandatory to include sectoral plans into overall development planning at the local level.

Role of the District Planning Committee

1. Issues

1. One type of confusion relates to its nature: is it a collection of the Panchayat and Municipal plans? Or a macro-view for realizing synergies is needed? What are the activities which require a macro perspective?
2. 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? How should planning be made for the CSS encroaching upon their domain?
3. Planning is an essential function of government. Creating a separate authority with no governmental authority has no logic.
4. DPC has up to one-fifth of the total members can be nominated. A nominated member can also be the Chairperson of the DPC. Nomination could be used as a convenient tool available to the ruling party for 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. This renders DPC weak.

2. Recommendations

1. Currently, separate 'district plans' are required to be prepared for each of the major CSS. CSS guidelines that entrust the task of district level of planning to parastatals need to be modified to include DPC.
2. The PC should inform the states that the DPC will be the sole body to plan at the district level. A time frame must be specified for this transition.
3. Professional support from parastatals, line departments, expert support from outside should be provided to the DPC.
4. System of nomination in DPCs should be done away with.

MPC vs DPC

1. Metro areas are under MPCs but also include many areas under DPCs. The peri-urban areas under the DPCs are all likely to be urbanised in few years and become closely integrated with the metro area.
2. There are also issues of externalities. Some of the urban facilities have a larger clientele outside its area or a source which is outside its jurisdiction. For example, transportation, source of water supply, areas of landfills.
3. One solution could be that all urban / peri-urban regions falling within metro area would come under one MPC and no DPC for such districts/portions of districts would be constituted. It may also be necessary to have Chairpersons of Panchayats and of the local bodies in the MPCs.

Urban Planning

Specific Issues in Urban Planning

1. Outdated laws: Laws should not be static and must be updated keeping in mind the current realities. So the restrictive laws need to be done away with so that new lands can come on the market at rates commensurate with demand. Currently, outdated and complex laws restrict rather than encourage new land to come under development. This leads to proliferation of unauthorized colonies and illegal construction.
2. Issue of parastatals: Parastatals should be merged into local governments eliminating

the present conflict between them and local bodies.

3. Lack of plan enforcement: Town Planning is a holistic concept. But in most cities town planning ends with preparation of zoning regulations. The enforcement of these regulations is ignored completely.
4. Corruption: Changes to and waivers from the city development plan are rampant due to corruption. Once the plan is finalised, no authority should have any discretion to grant any exemption or waiver. It should have a thirty-year perspective to be revised after every ten years through a participative and transparent process.

Peri-urban Areas

1. They are 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.
2. 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.
3. Their issues are:
 1. Land use change, from agricultural to residential or industrial.
 2. Changes in the use of natural resources such as water and forestry.
 3. New forms of pollution and waste management.
 4. Creation of infrastructure.
 5. Managing a new cultural ethos.
4. Further, to be able to control untidy sprawls, it is necessary to 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.

Regional Planning Focussing on Corridors and not Cities

1. Corridor based development should be followed to improve access to arterial transport systems, and promote balanced urbanisation and development. DMIC is an example.