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 in 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.
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. Interpersonal 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
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

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.

New Delhi  
October 22, 2007

(M. Veerappa Moily)  
Chairman
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 & Public Grievances

RESOLUTION
New Delhi, the 24th July, 2006


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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<td>Additional Central Assistance</td>
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<td>AUWSP</td>
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<td>AYUSH</td>
<td>Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy</td>
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<td>Block Education Officer</td>
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INTRODUCTION
Local Self Government - Evolution and Growth

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 empowerment 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 Kshudras where decisions were taken by “sabhas”. The Greek Ambassador, Megasthenes, who visited the court of Chandragupta Maurya in 305 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’ 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 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 suspension of Panchayat 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.

1.10. Beginning with Rajasthan and Andhra Pradesh in 1959, the Panchayati Raj system and resource dependent to be handled by local governments. The functions legitimately envisaged in the domain of PRIs, for example water supply, were weakened due to the creation of a large number of parastatals, which were assigned many without adequate functions and authority. The position of these institutions was further reduced to a trickle. The net result was that, by the 1970s, these bodies remained 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 in the area. 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.

1.11. 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. Karnata, Maharashtra, Andhra Pradesh, West Bengal and Gujrat 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 skeletal 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,
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 capacity. 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 been provided a certain amount of flexibility to the States in constituting Panchayats at the lower and middle levels, the issue of division of functions between such organisations and the local authorities comes in the way of greater decentralisation. 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.
On institutional issues, Prime Minister Dr. Manmohan Singh stated:

“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.”

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 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 immigration 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).

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.


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 Colloquia 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 Development, Government of India; Dr. P.K. Mohanty, Joint Secretary, Ministry of Housing and Urban Poverty Alleviation, 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.

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 stakeholders 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 alibi 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 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 fulfil 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 lose 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 subsidiarity. 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 pages 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:

- 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.

3.1.1.4 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”.

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 governments,
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

Common Issues

“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”.

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

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 subsidiarity.

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 husbandry 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’être 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
the Village Panchayat head was the ex-officio head of the Intermediate Panchayat (IP),

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 habitants 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 Legislature 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 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 a diverse and turbulent society. Therefore, the institution of District Collector must 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 Asoke 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”.

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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.
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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. 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

Table 3.1 Comparison of Powers of State Election Commissions

<table>
<thead>
<tr>
<th>Activity related to elections</th>
<th>Where the responsibility lies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reservation and Rotation of Reserved Constituencies</td>
<td>Madhya Pradesh Maharashtra Rajasthan Gujarat Andhra Pradesh Kerala Tamil Nadu West Bengal Punjab Karnataka (for DP &amp; IP) Karnataka (for GP)</td>
</tr>
<tr>
<td>Delimitation and Preparation of electoral rolls</td>
<td>Andhra Pradesh West Bengal Haryana Himachal Pradesh Karnataka Punjab Maharashtra Rajasthan Tamil Nadu Uttar Pradesh</td>
</tr>
</tbody>
</table>


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,
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.

#### Table 3.2: Composition of State Election Commissions

<table>
<thead>
<tr>
<th>State</th>
<th>Tenure</th>
<th>Age limit</th>
<th>Qualifications</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>4 years</td>
<td>62 years</td>
<td>A minimum 25 years of service in administrative, judicial or legal service of State or Union Government.</td>
<td>Status: Equal to that of the Chairman, Public Service Commission. Pay Scale: Last pay drawn in the government minus pension</td>
</tr>
<tr>
<td>Bihar</td>
<td>3 years</td>
<td>62 years</td>
<td>Not below the rank of GOI Additional Secretary or equivalent post</td>
<td>Salary: Same as in the government service minus pension</td>
</tr>
<tr>
<td>Haryana</td>
<td>5 years</td>
<td>Between 55 &amp; 65 years</td>
<td>A Judge of High Court or a person who has served government in the rank of a Commissioner for 5 years.</td>
<td>Salary: Same as in the government service minus pension</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>5 years</td>
<td>65 years</td>
<td>Not below the rank of Additional Chief Secretary or equivalent position.</td>
<td>Salary: Equal to that of a Judge of a High Court minus pension.</td>
</tr>
<tr>
<td>Karnataka</td>
<td>5 years</td>
<td>62 years</td>
<td>No qualifications prescribed.</td>
<td>Status: Equal to that of the State Chief Secretary. Salary: Rs. 8000/- per month (old scale) minus pension.</td>
</tr>
<tr>
<td>Kerala</td>
<td>4 years</td>
<td>62 years</td>
<td>No qualifications prescribed.</td>
<td>Status: Equal to that of the State Chief Secretary. Salary: Rs. 8000/- per month (old scale) minus pension.</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>6 years</td>
<td>62 years</td>
<td>Not below the rank of GOI Additional Secretary or equivalent post in the State Government.</td>
<td>Salary: Rs. 8000/- per month (old scale) minus pension.</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>5 years</td>
<td>62 years</td>
<td>Not below rank of Principal Secretary to the State Government.</td>
<td>Salary: Rs. 7600/- per month (old scale) (also a provision of pay protection)</td>
</tr>
<tr>
<td>Orissa</td>
<td>5 years</td>
<td>62 years</td>
<td>Retired High Court Judge, or retired District Judge or a serving civil servant.</td>
<td>Salary: Rs. 20,450/- per month minus pension or last salary drawn, which ever is higher. Facilities as available to Chairman, State PSC.</td>
</tr>
<tr>
<td>Punjab</td>
<td>5 years</td>
<td>64 years</td>
<td>Serving or a retired High Court judge, or service of at least 2 years as Financial Commissioner or Principal Secretary to State Government.</td>
<td>Salary: equal to that of a High Court Judge.</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>2 years</td>
<td>62 years</td>
<td>Not below the rank of Secretary to Government.</td>
<td>Salary: As admissible to Serving Judge of a High Court.</td>
</tr>
</tbody>
</table>
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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.
3.2.3.1 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:

“Provisions 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 provisions 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.

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 1993, 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 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.”
3.3.1.3 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.
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“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 provisions of Part IX. They further find that although the 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 through the devolution of functionaries and funds for all the 29 subjects enlisted in the Eleventh Schedule.”

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.

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.

Local Governance

**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.
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.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health center 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.

**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. Storm 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. Burial and burial grounds, cremations, cremation grounds and electric crematoriums.
15. Cattle ponds; protection 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.

*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 highlighted 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”:

1) The Constitution (Article 243G) provides for “devolution”, that is, the empowerment of Panchayati Raj Institutions (PRLs) 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 looking over 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. 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 underpins 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 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—
Common Issues

(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) develop common approaches for local government as a distinct sphere of
government;

(c) enhance co-operation, mutual assistance and sharing of resources among
municipalities;

(d) find solutions for problems relating to local government generally; and

(e) 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;
(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 percentage 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)

<table>
<thead>
<tr>
<th>Year</th>
<th>1998-99</th>
<th>1999-00</th>
<th>2000-01</th>
<th>2001-02</th>
<th>2002-03</th>
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<td>Revenue</td>
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<tr>
<td>Own Tax</td>
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<td>Own Non-Tax</td>
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<td>Assignment + Devolution</td>
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<td>9155.13</td>
<td>9513.01</td>
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<td>Others</td>
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<td>2968.2</td>
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<td>20775.93</td>
<td>26722.72</td>
<td>28146.64</td>
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<table>
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<tr>
<th>Year</th>
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<th>1999-00</th>
<th>2000-01</th>
<th>2001-02</th>
<th>2002-03</th>
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<tr>
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<td>30341.84</td>
<td>36144.79</td>
<td>39803.19</td>
<td>39803.19</td>
<td>38283.31</td>
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</table>

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 State9;
(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 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 Panchayats. 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 SFC 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

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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.”
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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 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 PRLs. 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...
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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 Panchayats: 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: (1) 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: (1) 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 Committee;
(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 Sabbas.
(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 counsellors 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:

Table 3.4: Composition of DPCs – Variations Across some States

<table>
<thead>
<tr>
<th>State</th>
<th>Elected Members</th>
<th>Nominated Members</th>
<th>Chairperson</th>
<th>Secretary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam (Assam Panchayat Act, 1994)</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>President of the Zila Parishad</td>
<td>CEO of Zila Parishad</td>
</tr>
<tr>
<td>Karnataka (Section 301 of Karnataka Panchayat Raj Act)</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>President of the Zila Parishad</td>
<td>CEO of Zila Parishad</td>
</tr>
<tr>
<td>Kerala</td>
<td>12</td>
<td>3</td>
<td>President of District Panchayat</td>
<td>District Collector</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>Minister nominated by State Government</td>
<td>District Collector</td>
</tr>
<tr>
<td>Maharashtra [Maharashtra District Planning Committee (Constitution and Functions Act)]</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>Minister nominated by State Government</td>
<td>District Collector</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>20</td>
<td>5</td>
<td>President of the Zila Parishad</td>
<td>Chief Planning Officer, Zila Parishad</td>
</tr>
<tr>
<td>Tamil Nadu (Tamil Nadu Panchayat Act)</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>President of District Panchayat</td>
<td>CEO of District Panchayat</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>Minister nominated by State Government</td>
<td>Chief Development Officer</td>
</tr>
<tr>
<td>West Bengal</td>
<td>Four-fifth</td>
<td>One-fifth</td>
<td>President of the Zila Parishad</td>
<td>District Collector</td>
</tr>
</tbody>
</table>

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;"

3.7.4 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 from the Gram Sabha level. The Gram Panchayat will finalize its plan based on the priorities emerging from the Gram Sabha and give suggestions on project/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.
- The 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 gram State plan outlay.
- The DPC will consolidate the plans of the rural and urban local government 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 State’s Eleventh Five-Year Plan (2007-2012) and the annual plans. It is necessary to institutionalise this process of planning from below.

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 Grassroot Level:

- CSS guidelines that ensure the task of district level planning and implementation to parallel bodies, such as DDKs 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 lead 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 DPCs 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 engaged 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 States 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 delegation in each State.
- Though ideally they see 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, allows part-time political and able to impart different points of view.
- With growing urbanisation of small and intermediate sized towns, there is need to especially draw in experts on municipal matters and the urban rural interface to ensure the DPC planning for local resource sharing, area planning, salt & narcotic and energy 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 planning and the consultation processes.
- It is strongly recommended that each Intermediate Panchayat be provided a planning and data cell, which could also be integrated into the larger concept of having a Resource Centre at each Intermediate Panchayat level, to provide a basket of trained personnel, 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 recent impediment to proper planning is the lack of potential providing planning support and availability of good and comparable information at the Intermediate and Gram Panchayat levels.
- The DPCs should be remunerated 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.

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.
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)**

<table>
<thead>
<tr>
<th>S. No.</th>
<th>State/UTs</th>
<th>State of Constitution of DPCs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Andhra Pradesh</td>
<td>Not yet Constituted. However, an ordinance has been issued by the Govt. of AP in December, 2003 for constitution of DPCs.</td>
</tr>
<tr>
<td>2</td>
<td>Arunachal Pradesh</td>
<td>Not Constituted</td>
</tr>
<tr>
<td>3</td>
<td>Assam</td>
<td>Not Constituted</td>
</tr>
<tr>
<td>4</td>
<td>Bihar</td>
<td>37 districts out of 38 Districts constituted on adhoc basis. Chairman ZP in the Chairperson of DPCs.</td>
</tr>
<tr>
<td>5</td>
<td>Chhattisgarh</td>
<td>Constituted. Minister is the Chairperson of DPC.</td>
</tr>
<tr>
<td>6</td>
<td>Goa</td>
<td>Constituted. President of ZP Chairperson of DPC.</td>
</tr>
<tr>
<td>7</td>
<td>Gujarat</td>
<td>Constituted</td>
</tr>
<tr>
<td>8</td>
<td>Haryana</td>
<td>Only in 16 Districts out of 19 Districts.</td>
</tr>
<tr>
<td>9</td>
<td>Himachal Pradesh</td>
<td>Constituted only in 6 Districts out of 12 Districts. Minister is the Chairperson of DPC.</td>
</tr>
<tr>
<td>10</td>
<td>Karnataka</td>
<td>Constituted. President of ZP Chairperson of DPC.</td>
</tr>
<tr>
<td>11</td>
<td>Jharkhand</td>
<td>Panchayat Elections yet to be held.</td>
</tr>
<tr>
<td>12</td>
<td>Kerala</td>
<td>Yes, Chairman of District Panchayat(DP) is Chairman of DPC.</td>
</tr>
<tr>
<td>13</td>
<td>Madhya Pradesh</td>
<td>Yes, District incharge Ministers are Chairperson.</td>
</tr>
<tr>
<td>14</td>
<td>Maharashtra</td>
<td>Not Constituted</td>
</tr>
<tr>
<td>15</td>
<td>Manipur</td>
<td>Yes, in 2 Districts out of 4 Districts. Adhyaksha, DP is the Chairperson.</td>
</tr>
<tr>
<td>16</td>
<td>Orissa</td>
<td>Only in 26 Districts. Minister is the Chairperson of DPC.</td>
</tr>
</tbody>
</table>
Table 3.5 Contd.

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

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 held11".

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.

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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.

3.7.5.5 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

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

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 under 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.”

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

*Planning for urban infrastructure-Olivier Touraine and S Gopiprasad in India Infrastructure 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
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 incentivize 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."

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.

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 work i.e., 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 official 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 Randali Welfare Association of that ward. In case of individuals, the complainant should be supported by at least 5 citizens and their telephone no. should be submitted. If any false complaint is found then further complaint from the said NGO or citizen is not entertained.

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

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 Panchayats, such as the Intermediate Panchayats, 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.
Local Governance

(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 their 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. The financial indicators for debt 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.

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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’.

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. The Commission feels that such methods of a participatory nature which are now recognised around the world over as a means of improving governance, service delivery and empowerment should be increasingly adopted as accountability tools.

3.8.5.6 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 established.

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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.

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http://www.sasanet.org/documents/LearningNote/Chattisgarh.pdf

http://panchayat.gov.in/awards_for_best_panchayats.htm

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

14http://panchayat.gov.in/awards_for_best_panchayats.htm
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. The details of allocation of funds for these schemes are given in Table 3.7:

Table 3.7: Allocation of Funds to Flagship Schemes

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

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. 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...
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 tier/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 drawings and remittances into the treasury has not been carried out. Reconciliation of cash books with bank pass books was overhauled in thirteen Zilla Parishads and Rs.17.42 crore drawn from treasury remained unrecorded. (Paragraph 2.3)

2. In all the seven Zilla Parishad recipients of grants of Rs.223.96 crore were not credited to Government account as of months between June 2004 and December 2004. (Paragraph 2.4)

3. In ten Zilla Parishad late 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.6.85 crore was irregularly retained under deposit. (Paragraph 2.9)

5. In three Zilla Parishad receipts of Rs.1.64 crore were not credited to Government account between 2000-01 and 2003-04. (Paragraph 2.10)

6. In seven Zilla Parishad Rs.1.85 crore earned as interest were not credited to DRDA. (Paragraph 2.11)


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”. 22

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 Zilla 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
Local Governance

Some important guidelines are as follows:

Governments regarding audit of PRIs:

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 Legislatures:

- The Public Accounts Committee specifically designated Committee of the Legislature which should function on the lines of the Public Accounts Committee. 23
- The CAG 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
- 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 Legislatures:

- 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.

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 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 account, 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...
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 formulating 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)). 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 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:

- 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. 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. 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
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.

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
Common Issues

- 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.

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-
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 (AUD); 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 (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 indices 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 satellite 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.

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

<table>
<thead>
<tr>
<th>S.No.</th>
<th>State</th>
<th>Rural Population (2001- Census)</th>
<th>No. of Panchayats</th>
<th>Average population per Panchayat</th>
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<td></td>
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<td>Intermediate</td>
<td>Village</td>
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*Details for Manipur are unavailable

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 would 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 assessment so made, the existing staff should be distributed among the positions thus identified at these levels. Vacancies in some of the positions e.g. for primary school teachers, may be larger than the number of employees available on the rolls currently. There will be need for making fresh recruitment for such positions. On the other hand, outsourcing of services may make some posts redundant. Government employees working in these posts will have to be sent back to their parent organizations. The Commission is of the view that in all the States a detailed review of the staffing pattern on a zero based approach should be undertaken within the next one year. The Zila Parishads, 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.

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/legal transfer of Panchayat property, abuse/disuse 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 Gram 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 habituation 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 coincide totally with

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 Panchayats 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 parastatsals 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. Parastatsals 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.
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.

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 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 syllabi, 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

<table>
<thead>
<tr>
<th>State</th>
<th>Transfer of Subjects Covered under Legislation</th>
<th>Subjects Covered under Activity Mapping</th>
<th>Latest Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Pradesh</td>
<td>17 subjects</td>
<td>9 subjects</td>
<td>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</td>
</tr>
<tr>
<td>Arunachal Pradesh</td>
<td>3 subjects</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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...
of Rural Development, Agriculture and Horticulture programmes has been devolved to the Panchayats.

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, 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 functions have been devolved to village Panchayats and to 6 ZPs. Goa needs to follow up with fiscal devolution.
<table>
<thead>
<tr>
<th>State</th>
<th>Transfer of Subjects through Legislation</th>
<th>Subjects Covered under Activity Mapping</th>
<th>Latest Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Madhya Pradesh</td>
<td>23 subjects</td>
<td>23 subjects</td>
<td>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.</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>18 subjects</td>
<td></td>
<td>There has not been much progress on activity mapping in the State. The State has recently decided to review the progress in this regard.</td>
</tr>
<tr>
<td>Manipur</td>
<td>22 functions</td>
<td>22 subjects</td>
<td>Earlier, Activity mapping of 22 subjects was 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.</td>
</tr>
<tr>
<td>Orissa</td>
<td>25 subjects</td>
<td>7 subjects</td>
<td>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.</td>
</tr>
<tr>
<td>Punjab</td>
<td>7 subjects</td>
<td></td>
<td>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</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>29 subjects</td>
<td>12 subjects</td>
<td>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.</td>
</tr>
<tr>
<td>Sikkim</td>
<td>28 functions</td>
<td></td>
<td>Activity mapping has started and is expected to be announced in October 2006.</td>
</tr>
</tbody>
</table>
| 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
Rural Governance

Table 4.4 Contd.

<table>
<thead>
<tr>
<th>State</th>
<th>Transfer of Subjects through Legislation</th>
<th>Subjects Covered under Activity Mapping</th>
<th>Latest Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tripura</td>
<td>29 subjects</td>
<td>21 subjects</td>
<td>Housing schemes are now being taken up for discussion in respect of activity mapping.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>12 subjects</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>Uttarakhand</td>
<td>14 subjects</td>
<td>9 subjects</td>
<td>Activity mapping in respect of 9 departments has been completed and is under consideration of the Government.</td>
</tr>
<tr>
<td>West Bengal</td>
<td>29 subjects</td>
<td>15 subjects</td>
<td>Activity mapping has been completed and orders issued in respect of 15 subjects on 7.11.2005.</td>
</tr>
<tr>
<td>Union Territories:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dadra and Nagar Haveli</td>
<td>29 subjects</td>
<td>29 subjects</td>
<td>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</td>
</tr>
</tbody>
</table>

Local Governance

Table 4.4 Contd.

<table>
<thead>
<tr>
<th>State</th>
<th>Transfer of Subjects through Legislation</th>
<th>Subjects Covered under Activity Mapping</th>
<th>Latest Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daman and Diu</td>
<td>18 subjects</td>
<td>18 subjects</td>
<td>(Amendment) Regulation, 1994, notified in 2002.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>Andaman and Nicobar Islands</td>
<td>8 subjects</td>
<td>8 subjects</td>
<td>Activity mapping has been completed for 8 subjects. Included in these are marine fisheries, poverty alleviation programmes, disaster management and rural electrification.</td>
</tr>
<tr>
<td>Lakshadweep Islands</td>
<td>25 subjects</td>
<td>25 subjects</td>
<td>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.</td>
</tr>
<tr>
<td>Chandigarh</td>
<td></td>
<td></td>
<td>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.</td>
</tr>
</tbody>
</table>

Source: Based on Mid-term Appraisal - State of the Panchayats 2006-07 (Vol.I) (http://Panchayat.gov.in/mopr%2Dmapublication2007%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.

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 vary 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 Panchayats 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.
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.

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

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 faasli.”

Box: 4.2: Royalty Accruals on Minerals in States with Significant Mining Activities

(Rs. in Crores)

<table>
<thead>
<tr>
<th>State</th>
<th>Total Royalty Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2002-03</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>552.36</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>797.65</td>
</tr>
<tr>
<td>Karnataka</td>
<td>83.89</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>590.69</td>
</tr>
<tr>
<td>Orissa</td>
<td>440.57</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>399.68</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>400.69</td>
</tr>
<tr>
<td>Gujarat</td>
<td>172.63</td>
</tr>
<tr>
<td>Kerala</td>
<td>1.63</td>
</tr>
<tr>
<td>Goa</td>
<td>14.81</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>297.34</td>
</tr>
</tbody>
</table>

Box: 4.2 Contd.

<table>
<thead>
<tr>
<th>Total Royalty Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
</tr>
<tr>
<td>Uttarakhand</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
</tr>
<tr>
<td>Haryana</td>
</tr>
<tr>
<td>Assam</td>
</tr>
</tbody>
</table>


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 shown 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 sanitation 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.

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.

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, yahta 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 0.50%.
(c) Cess on water charges which was subsequently abまった.
(d) Forest revenue at the rate of 7% of the total collection of their jurisdiction and water charges.

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, cybercafes 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.
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:

- 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.
### 4.3.7.3 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 Gramin 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 unified 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 Panchayats 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. 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.

### 4.3.7.5 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 unetherical 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
Rural Governance

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>
<thead>
<tr>
<th>S.No.</th>
<th>Head of Development</th>
<th>Centre</th>
<th>IEBR</th>
<th>Outlay</th>
<th>States &amp; UTs Outlay</th>
<th>Total</th>
</tr>
</thead>
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<tr>
<td>1</td>
<td>Agriculture and Allied Activities</td>
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<td>112.38</td>
<td>7385.57</td>
<td>8777.21</td>
<td>16162.78</td>
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<tr>
<td>2</td>
<td>Rural Development</td>
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<td>0</td>
<td>15643.95</td>
<td>15066.74</td>
<td>30710.69</td>
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<tr>
<td>3</td>
<td>Irrigation and Flood Control</td>
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<td>0</td>
<td>586.55</td>
<td>32602.80</td>
<td>33189.35</td>
</tr>
<tr>
<td>4</td>
<td>Energy</td>
<td>8011.96</td>
<td>61581.55</td>
<td>69593.51</td>
<td>20905.35</td>
<td>90498.86</td>
</tr>
<tr>
<td>5</td>
<td>Industry and Minerals</td>
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<td>9357.93</td>
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<td>3679.62</td>
<td>18212.96</td>
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<tr>
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<td>Transport</td>
<td>23756.57</td>
<td>24857.23</td>
<td>48613.80</td>
<td>23440.86</td>
<td>72054.66</td>
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<td>7</td>
<td>Communications</td>
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<td>19290.70</td>
<td>19883.75</td>
<td>481.96</td>
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<td>8</td>
<td>Science, Technology and Environment</td>
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<td>8061.34</td>
<td>335.39</td>
<td>8394.73</td>
</tr>
</tbody>
</table>

Table 4.5 : Budget Estimates of Annual Plan 2006-07 for Centre, States & UTs

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 to 2009. 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 lakhs 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 grassroots 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.

2. 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\(^3\); 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.

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\(^3\)A Mid-Term Review and Appraisal of the State of the Panchayats, Vol.I, Ministry of Panchayati Raj
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- 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 Shiksha 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 Gramin Vidyyutikaran 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)
The National Rural Health Mission (NRHM) 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 2-3% of GDP.

The NRHM envisages the following roles for PRIs:

- States to indicate in their MoUs the commitment for devolution of funds, functions 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 Activists (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 Ragi Kalyan Samitis for good hospital management.
- Provision of training to members of PRIs.

The NRHM 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 revive local health traditions and mainstream AYUSH into the public health system.

It seeks to ensure access to medicines. Initially it seeks to focus on 18 States, which have weak public health indicators and/or weak infrastructure.

It seeks to focus on 18 States, which have weak public health indicators and/or weak infrastructure. It aims to raise public spending on health from 0.9% of GDP to 2-3% of GDP during this period. The principle goals concern reduction in Infant Mortality Rate (IMR) and 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 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 to address the inter-State and inter-district disparities, especially among the 18 high focus States, including unmet needs for public health infrastructure.

It seeks to improve access of rural people, especially poor women and children, to equitable, affordable, accountable and effective primary healthcare.

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- PRI involvement in Ragi Kalyan Samitis for good hospital management.
- Provision of training to members of PRIs.
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.

4.4.4.2.5 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 XIIth 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 Shiksha 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 the 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.

4.4.4.4.4 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.
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 habitation 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.

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.

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 areas35. 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

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Local Governance

(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 (94.5%), Jharkhand (90%), Assam (85.5%), 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)

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

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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 ‘Chalta Ho Gajan Mein’ (‘let’s go to the village), initiated by the NGO ‘Alternative for India Development’ and aired by All India Radio, Dalandongri, 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 Palamau and Guthia, to voice community concerns over issues of local governance and social issues. Nearly 32,000 local artists have given performance in the radio programme. The programme has been catering to more than 7 million population in these districts in Jharkhand, namely Palamau, Guthia, Lathgarh and also districts in its neighbouring States of UP, Bihar and Chhattisgarh.


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\(^{39}\)Census of India defines literacy to mean ‘ability to read and write in any language’, source: http://www.censusindia.net/cen2001/facts/country.htm


\(^{41}\)In the 1991 census, 2.31 crore had returned Bhojpuri as their mother tongue, 1.55 crore as Rajasthani, 1.05 crore as Chhattisgarhi and Magahi, 77.66 lakhs as Marathi and 46.73 lakhs as Marwadi (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 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.

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.

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 figure42. 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

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42Source: Annual Report 2006-07, Ministry of Rural Development
Table 4.6: Progress Against Key Input Targets of SSA

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Items</th>
<th>Cumulative Targets including 2006-07</th>
<th>Achievements (up to 31.3.2007)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Construction of School Buildings</td>
<td>183461</td>
<td>157516 (85.85%)</td>
</tr>
<tr>
<td>2.</td>
<td>Construction of Additional Classrooms</td>
<td>692678</td>
<td>650442 (93.90%)</td>
</tr>
<tr>
<td>3.</td>
<td>Drinking Water Facilities</td>
<td>170267</td>
<td>158361 (93.01%)</td>
</tr>
<tr>
<td>4.</td>
<td>Construction of Toilets</td>
<td>235041</td>
<td>203577 (86.61%)</td>
</tr>
<tr>
<td>5.</td>
<td>Supply of Free Textbooks</td>
<td>6.69 crores</td>
<td>6.40 Crore (96%)</td>
</tr>
<tr>
<td>6.</td>
<td>Teacher Appointment</td>
<td>10.12 lakhs</td>
<td>7.95 lakh (78%)</td>
</tr>
<tr>
<td>7.</td>
<td>Teacher Training (20 days)</td>
<td>3405615</td>
<td>2952395 (87%)</td>
</tr>
<tr>
<td>8.</td>
<td>Enrolment in EGS/AIE Centres</td>
<td>12689299 children</td>
<td>69 lakhs</td>
</tr>
<tr>
<td>9.</td>
<td>Opening of New Schools</td>
<td>240072</td>
<td>193220 (80%)</td>
</tr>
</tbody>
</table>

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 feedback 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 lore 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) 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 (RIFD).\(^{44}\)

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.

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 harmonised 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
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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.

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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.
5.1 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.

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*, have now overtaken India with the percentage of urban

### Table: 5.1 Distribution of the Total, Urban and Rural Populations of the World by Development Group: 1950-2030

<table>
<thead>
<tr>
<th>Development group</th>
<th>1950</th>
<th>1975</th>
<th>2000</th>
<th>2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>32.3</td>
<td>25.7</td>
<td>19.7</td>
<td>15.3</td>
</tr>
<tr>
<td>More developed regions</td>
<td>58.2</td>
<td>46.4</td>
<td>30.9</td>
<td>20.5</td>
</tr>
<tr>
<td>Less developed regions</td>
<td>41.8</td>
<td>53.6</td>
<td>69.1</td>
<td>79.5</td>
</tr>
<tr>
<td>Urban population</td>
<td>58.2</td>
<td>46.4</td>
<td>30.9</td>
<td>20.5</td>
</tr>
<tr>
<td>More developed regions</td>
<td>21.6</td>
<td>13.5</td>
<td>9.7</td>
<td>7.1</td>
</tr>
<tr>
<td>Less developed regions</td>
<td>78.4</td>
<td>86.5</td>
<td>90.3</td>
<td>92.9</td>
</tr>
<tr>
<td>Rural population</td>
<td>41.8</td>
<td>53.6</td>
<td>69.1</td>
<td>79.5</td>
</tr>
</tbody>
</table>

*Source: UN World Urbanisation Prospects: The 2005 Revision
*http://www.censusindia.net/ndbi/sci_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)

<table>
<thead>
<tr>
<th>Census Year</th>
<th>Number of UAs/Towns</th>
<th>Total Population</th>
<th>Urban Population</th>
<th>Urban Population as % of Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901</td>
<td>1,830</td>
<td>238,396,327</td>
<td>25,851,873</td>
<td>10.8</td>
</tr>
<tr>
<td>1911</td>
<td>1,815</td>
<td>252,093,390</td>
<td>25,941,633</td>
<td>10.3</td>
</tr>
<tr>
<td>1921</td>
<td>1,944</td>
<td>251,321,213</td>
<td>28,086,167</td>
<td>11.2</td>
</tr>
<tr>
<td>1931</td>
<td>2,066</td>
<td>278,977,238</td>
<td>33,455,989</td>
<td>12.0</td>
</tr>
<tr>
<td>1941</td>
<td>2,253</td>
<td>318,660,580</td>
<td>44,153,297</td>
<td>13.9</td>
</tr>
<tr>
<td>1951</td>
<td>2,822</td>
<td>361,088,090</td>
<td>62,443,934</td>
<td>17.3</td>
</tr>
<tr>
<td>1961</td>
<td>2,534</td>
<td>439,234,771</td>
<td>78,936,603</td>
<td>18.0</td>
</tr>
<tr>
<td>1971</td>
<td>2,567</td>
<td>548,159,652</td>
<td>109,113,977</td>
<td>19.9</td>
</tr>
<tr>
<td>1981</td>
<td>3,347</td>
<td>683,329,097</td>
<td>159,462,547</td>
<td>23.3</td>
</tr>
<tr>
<td>1991</td>
<td>3,769</td>
<td>846,387,888</td>
<td>217,551,812</td>
<td>25.7</td>
</tr>
<tr>
<td>2001</td>
<td>4,378</td>
<td>1,028,610,328</td>
<td>286,119,689</td>
<td>27.8</td>
</tr>
</tbody>
</table>

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).

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. 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 the world. According to United Nations Department of Economic and Social Affairs, New York, in 2005, 3.5 million people lived in each of these cities. Other large Indian cities include Mumbai with 13.7 million, Kolkata with 11.9 million, Delhi with 10.1 million and Chennai with 8.9 million residents.

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 1960 and 1978, and city life was the privilege of a minority. Subsequent economic policies, however, favoured outward migration to rapidly growing urban centers in special economic zones. Eventually, migration restrictions were lifted and official bias against cities declined as they became the engine of China’s rapid economic growth. China is now a major world manufacturing center, and almost all of its factories are located in or near cities. The country has more than 600 cities, according to government data.

Box 5.2 : The Largest Metropolises

<table>
<thead>
<tr>
<th>Rank</th>
<th>Name</th>
<th>Population in 2005 (millions) (Projections)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Tokyo, Japan</td>
<td>35.327</td>
</tr>
<tr>
<td>2.</td>
<td>Mexico City, Mexico</td>
<td>19.013</td>
</tr>
<tr>
<td>4.</td>
<td>Mumbai, India</td>
<td>18.336</td>
</tr>
<tr>
<td>5.</td>
<td>Sao Paulo, Brazil</td>
<td>18.333</td>
</tr>
<tr>
<td>6.</td>
<td>Delhi, India</td>
<td>15.334</td>
</tr>
<tr>
<td>7.</td>
<td>Calcutta, India</td>
<td>14.299</td>
</tr>
<tr>
<td>8.</td>
<td>Buenos Aires, Argentina</td>
<td>13.349</td>
</tr>
<tr>
<td>9.</td>
<td>Jakarta, Indonesia</td>
<td>13.194</td>
</tr>
<tr>
<td>10.</td>
<td>Shanghai, China</td>
<td>12.665</td>
</tr>
</tbody>
</table>