

# Policy Report

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*No. 10*

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## Crisis of Urban Governance in India

Bharti Mishra Nath



**THE HINDU CENTRE**

*for*

Politics and Public Policy

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# Crisis of Urban Governance in India

An empirical study of the need to review  
existing Constitutional framework

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## ABSTRACT

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India's urbanisation process has laid bare the crisis, or rather absence of urban governance. This report explains how India's urban local bodies, which are democratic institutions conceived to be closest to the citizens, have been rendered inefficient by the governments at the Centre and the States. The 74<sup>th</sup> Constitutional Amendment Act meant to devolve power to urban local bodies was merely a cosmetic exercise which did not bring about any changes in the way our municipalities were governed. States continue to have overriding powers and accountability structures in urban areas are weak. Devoid of power — legal, financial and administrative — urban local bodies merely remain a tool of party politics at the grass-root level.

In the light of rapid urbanisation, the report states that it is pertinent to go beyond the existing laws and enact mandatory provisions that would give real powers to urban local bodies, with the conviction of making the country a genuine democracy. At a practical level, the report suggests that the policy makers have to think of what is doable if revolutionary changes are not possible.

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In particular, I thank Ms. Vasundhara Sirnate for her academic inputs, Dr. V. S. Sambandan for his guidance, Mr. Saptarshi Bhattacharya and Ms. Mandira Moddie of *The Hindu Centre* for their help and support.

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## I. Introduction

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**T**here has been an unparalleled shift of human settlements to cities and towns in the developing world in recent years. India is among the countries to witness rapid urbanisation and there has been a massive growth of urban population in major cities like Delhi, Mumbai, Bengaluru, Chennai, and Pune, to name a few.

According to the provisional data released by the Census of India<sup>1</sup> for the first time since Independence, the absolute increase in population is more in urban areas than in rural areas. The growth rate of population for India in the last decade was 17.64 per cent. The growth rate of population in rural and urban areas was 12.18 per cent and 31.80 per cent respectively (Annexure 1). The level of urbanisation increased from 27.81 per cent in the 2001 Census to 31.16 per cent in 2011 Census (Annexure 2). The total urban population in the country as per Census 2011 is more than 377 million, constituting 31.16 per cent of the total population. There are

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1 Census of India, 2011. Ministry of Home Affairs, Government of India.

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7,935 towns in the country. The number of towns has increased by 2,774 since the last Census. (Annexure 3).

The country's metros are getting overcrowded. For instance, the total population of Delhi Urban Agglomeration/Metropolitan region is 16.3 million and that of Bengaluru Urban Agglomeration/Metropolitan region is currently estimated to be 10 million.<sup>2</sup>

The steep rise of urban population in the last two decades has led to unbalanced and unplanned growth of cities posing a threat to the urban environment. The proliferation of informal settlements with heavy human concentration and scant urban infrastructure has added to the dangers of disease and epidemics. Solid waste management is pitiable in many cities and sanitary dumping and recycling facilities have not made much headway. Be it Bengaluru, Delhi, Mumbai, Chennai or Pune, or second-tier cities such as Ludhiana, Mysore, Patna or Dehradun, they all face similar set of pressing problems — growth of urban population far outpaces the availability of necessary urban infrastructure and amenities that are usually provided by the civic authorities.

In 1981, the Bangalore City Corporation with an area of 151 square kilometres had a population of 24,76,355). With the creation of BBMP in 2007-08, an additional 32 lakh people were added in the BBMP jurisdiction. The population of

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<sup>2</sup> Ibid

Bengaluru as per 2011 census is 84,43,675, whereas the area under the BBMP has increased to 712.54 sq. km. (Annexure 4)

The city of Bengaluru grew from about 5.7 million people in 2001 to 8.7 million in 2011. Earlier, the official city area was 226 square kilometres under the erstwhile Bangalore Mahanagara Palike (BMP) which expanded to 716 square kilometres in 2007 with the creation of *Bruhat Bangalore Mahanagara Palike*. (Annexure 5)

The above figures show huge increase in population and size of Bengaluru. This has put enormous pressure on government to develop and provide important infrastructure like housing, roads, water, power etc. A study done by Dr TV Ramachandra and team from Centre of Ecological Studies, Indian Institute of Science, has revealed that the IT city witnessed 925 per cent increase in its built-up area. The Environmental Information System (ENVIS) Technical Report-93 of June 2015 prepared by Ramachandra and others, which was also quoted by the members of BBMP restructuring committee, besides quantifying the built-up area, has also revealed other startling details. The abnormal and unbridled increase in built-up area, while benefitting real estate tycoons, has resulted in the sharp decline of water bodies by 79 per cent and another 78 per cent reduction in the number of trees. These together have affected the climatic conditions of Bengaluru and availability of water.

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The groundwater table has receded by an additional 28 metres in just two decades from the earlier 300 metres.

In the case of Bengaluru, the BBMP's revenue hasn't grown in the last five years. In fact, the debt-ridden BBMP has had highly inflated budget which means that the expenditure of the city has been on rise but the revenue collection has fallen short. The BBMP's Budget 2015-16 estimates Rs. 6,730 Cr of outlay for Bengaluru. Actual Receipts have been consistently overestimated by over 100 per cent in each of the last 5 years. Total Receipts have declined consecutively for last 4 years; decline of 25 per cent since 2011-12 resulting in significantly poor outlays.

Consequently, in far-flung areas of Bengaluru, housing demand has not been met for the rapidly growing population. With the Bengaluru Development Authority (BDA) apparently not wielding its stick in supervising the haphazard growth, the private players have had a field day. Basic planning is not there. Comprehensive Development Plan (CDP) has gone for a toss. Sanitary issues haven't been taken care of. Unhealthy and unscientific disposal of garbage is directly linked to unplanned human concentration. Growth of slums with sub-human living conditions have all become characteristics of urban life.

This evident inability of the authorities at the helm responsible for providing these basic physical and institutional infrastructures to the ever-growing urban populace, has made

the task that much more daunting as the citizens' participation in urban governance has been extremely limited. In Bengaluru, resident welfare associations are still to evolve. There is no compulsory consultations between government and resident welfare associations. Low voter turnout during the BBMP elections is a case in the point.

The lack of public accountability due to citizens' non-participation in urban governance has also accentuated such problems as widespread corruption at all levels of governance, lack of transparency, and also a lack of expertise. Added to these is the limited availability of resources, including financial resource. More recently, there has also been a neglect of the issue of environmental sustainability. This crisis-like situation is made worse by the fact that there is no clear-cut constitutional mandate either for the Union government or for the state governments requiring them to put in place a sound and credible institutional framework with necessary devolution of political, administrative and financial power to popularly elected urban local bodies.

In the early 1990s, when the Indian government amended the Constitution to legislate local governance bodies, the emphasis remained on rural India. Urban governance occurred to the government as an afterthought and the 74th Constitutional Amendment Act (CAA) was appended with the Panchayati

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Raj Act in order to provide urban local bodies with constitutional legitimacy parallel to rural local bodies. The amendment proposed political decentralisation and the establishment of a local self-government at the city level with relative political and planning autonomy. However, the 74th Constitutional Amendment Act that provided a framework for third-tier, city-level governance has not resulted in autonomous governance structures. Even though local elections are held regularly and political representatives occupy urban local body posts, state governments continue to enjoy political and administrative control over urban governance structures. States are reluctant to devolve control of planning and development functions to urban local bodies. Cities generate major tax revenues; moreover, controlling cities means controlling urban infrastructure and, by implication, the entrepreneurial and business classes. What we see today is a ceremonial mayor in big cities without any effective power. The municipal commissioner, who is a nominee of the state government concerned, effectively calls the shots, at the behest of the state government.

Two decades after the 74th Constitutional Amendment, the challenges before the country are not so much about the level of implementation of the constitutional provisions on urban governance for desired results. They are beyond that and appear more fundamental. The humongous mess in our towns

and cities is largely due to systemic inability of the urban local bodies (ULBS) to perform their basic roles and duties.<sup>3</sup>

The broad question for this research work is: Why are ULBs weak in India?

This research work is based on the study of urban governance issues in metropolitan cities like Bengaluru and Chennai. It examines the important variables that impinge urban governance, drawing from present experiences of urban local bodies in these two cities.

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3. Jawaharlal Nehru National Urban Renewal Mission. n.d. [Implementation of the 74th Constitutional Amendment and Integration of City Planning and Delivery Functions](#). Accessed November 23, 2015.

## II. Context

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As a journalist, I have reported and written about civic issues at the micro level and urban governance at large in cities like Patna, Panaji and Bengaluru. The problems in all these cities, despite being in different geographic location, remained the same. Poor urban governance is the common thread of bane everywhere. The media on its part has been highlighting people's sufferings on account of poor quality of governance, yet nothing seems to move anywhere. The media focus on city/municipal governance is enormous and also strongly focused. On a daily basis, the media highlights various issues, be it corruption, abuse of power and position by those in authority; the lack of sensitivity towards imperatives of inclusive growth, rising crime graph, blatantly wrong priorities on issues of development etc. The factors behind poor governance are written about every day. But nothing has changed. I found government officials giving the same set of replies and in the same tenor across most cities in the country. A couple of cities may be better governed in a comparative sense, but, more or less, the towns and cities in India are in a shambles.

Merely wielding the blue pencil and writing about the day to day urban governance issues haven't made much of a difference to the cities I have lived and reported in. To seek some answers,

I decided to go across and delve deep to find out why the urban governance system is so dysfunctional.

India, being a predominantly rural society, never had thrust on urban local bodies during the British rule. After independence, the system of the yore continued and a defined urban system structure eluded Indian cities, except the big ones like Madras, Bombay and Calcutta, where ad hoc system of municipal governance continued from the British era. It was in the 1990s that some semblance of order was brought into municipal administration by way of the 74<sup>th</sup> Constitutional Amendment Act. However, it has failed to establish the third-tier of governance as was envisaged in the Act.

A few years ago, the Government of India launched a programme called the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) to address the problems. The programme had limited reach due to unchecked government intervention and also because it was confined to only cities with a population of one million or more. However, the problem is not really about the limited scope of this programme in select cities. Even in cities where the programme was implemented, it achieved limited success. JNNURM made the situation more complex instead of finding effective solution to the problems.

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The present study delves into the urban governance issues, since the challenges are pressing and daunting and require immediate attention.

Before the 74<sup>th</sup> Amendment, India had carried on the legacy of the British rulers as far as governing its towns and cities are concerned. Inherently, the administration of towns and cities was never the primary focus of the rulers, except at some instances during the course of history. There was no established system of urban management as compared to sound village administration, which was witnessed and recorded throughout the ancient, medieval and modern Indian history. Villages always remained the focus of rulers irrespective of them being natives or foreigners. This section will trace the emergence of urban or town administration in India.

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### III. Evolution of Local Self Government in India

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#### From Ancient to the Pre-British Period

Though India has primarily been a rural country, history shows that urban dwellings were very much there since the Indus Valley Civilisation. The astonishing uniformity in town planning during this period was the formative mould for many aspects of classical and modern Indian civilisation.<sup>4</sup>

During the Mauryan period, the structure of modern government consisted of a parallel machinery for the administration of rural and urban areas. In Kautilya's *Arthashastra*, written in around 300 B.C., the administration of towns is entrusted to state-appointed *Nagaraka* (city superintendent) who performed various civic functions. The accounts of Megasthenes narrate performance of various civic administrations and formation of local bodies like *Kudumbus* (wards). Efforts were made to associate popular representatives with local administration during the Gupta period in North Bengal and probably in Bihar. From inscriptions, one learns of

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4 Raymond & Bridget Allchin

the municipal board (*Adhistanadhikarana*) governed by four members.<sup>5</sup>

The earliest conflict between village and town is evident during the Gupta period when trade and towns played an important role in the distribution of the social surplus. Whatever may have been the role of religion, political power and other similar non-economic factors in the birth of towns, they could not have existed without the availability of social surplus. Similarly, whatever be its other functions, the towns never ceased to be a market. From where did the social surplus and commodities come to the market?<sup>6</sup> Did the town live on the taxes and tributes collected from the villages? Does the town-village tussle indicate a sort of class-conflict? Apart from the parasitical dependence of town on villages, there also is an indication of caste conflict and caste bias towards the villages. During the Buddhist period, urban settings gave rise to certain features of town life that did not find favour with the Brahminical outlook conditioned by a simple agricultural society (Sharma). People of higher classes (most probably Brahmin) were advised by *Apastamba* (The *Dharmasutra* of *Āpastamba* forms a part of the larger *Kalpasūtra* of *Āpastamba*. It contains thirty *praśnas*, which literally means 'questions' or books) not to eat food prepared in shops although some items

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5 The Gazetteer of India, History and Culture, Volume 2, pg 129

6 Material Culture and Social Formations in Ancient India, R S Sharma, Page 16

were made an exception. This shows some prejudice against the new shopping class and the mode of life in urban settlements in general.

For the Mughal period, there is hardly any description of administration of towns except that *sarkars* (provinces or *subahs* were divided into *sarkars*, which in turn were further divided into *parganas*) and *parganas* were administered by *faujdar*, *shiqqdar-i-sarkar*, *kotwal* and *amil*. *Pargana* was the lowest unit of administration. But the role of the village council (panchayat) was defined.

It performed every type of function from judiciary and the police to that of maintenance of local roads, irrigation, works, temples, mosques and educational institutions.<sup>7</sup>

### **The British Period**

Before the British Rule, India had a system of urban administration from time to time but these vanished altogether or lost much of their vitality with the strong centralising tendencies of the British rulers. Nevertheless, municipal governance, the way it is understood today, is an offshoot of the British rule. It was in the presidency town that local bodies first came into existence. The British decided to

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<sup>7</sup> The Gazetteer of India, Page 382

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establish a municipal corporation in Madras in 1687. The Corporation consisted of British and Indian members. The Charter Act of 1726 provided for Mayor's Court to supersede the Corporation. The powers of the Mayor's court were more judicial than administrative. Similar Mayor's Courts were set up in Bombay and Calcutta. The Charter Act of 1793 made municipal institutions statutory. In the presidency towns, the Governor-General was empowered to appoint Justices of Peace. The municipalities were given powers to levy taxes on houses and lands to meet the cost of police, scavenging and repair of roads. A house tax at the rate of five per cent of the rental value was imposed in the presidency towns. Between 1840 and 1853, the rate payers were given the right to elect members of Corporations, but the process was reversed in 1856 when all executive power in the Bombay town was concentrated in the hands of a nominated commissioner. A similar procedure was followed in Madras and Calcutta (Grover).

Outside the presidency towns, the beginning of the municipal institutions can be traced to the Bengal Act of 1842. The Act was of permissive nature—a municipal institution could be set up in a town only after two-thirds of the households have asked for it. A positive step was taken in 1850 when the Act was made applicable to the whole of India. Municipal institutions got a further boost with the publication of the Royal Army Sanitation Committee Report in 1868. The report drew

attention of the government towards the insanitary conditions in the town.

### **Financial decentralisation**

Mayo's resolution of 1870 on financial decentralisation was the first step towards local finance. The provincial governments were authorised to impose local taxes to balance their budget. But it was also during this time that the practice of annual grants from the Imperial government started to supplement the meagre resources of the provincial governments.

Ripon's Resolution of 1882 stands out as a landmark in the development of local self-government. It became the foundation of local self-government and earned the title of 'Father of Local Self-Government in India' for its founder (Sachdeva). In pursuance of this resolution, many Acts were passed between 1883 and 1885, which altered the constitution, powers and functions of municipal bodies in India.

The subject of local self-government was reviewed by the Royal Commission on Decentralisation in 1907 and important recommendations touched almost every sphere of local administration. It again pointed at the lack of financial

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resources as a hindrance in the effective functioning of local bodies.

The Decentralisation Commission's report was re-echoed in The Government of India Resolution of 1915. On August 20, 1917, it was announced that the future direction of constitutional advance towards grant of responsible government to the people of India would be made through local self-government. This announcement was reviewed through Government of India Resolution of 1918. It suggested that local bodies should be made as representative of the people as possible; their authority over the matters given to them must be real and not nominal. It also endorsed the recommendations of Decentralisation Commission, which had advised that municipal boards be given greater powers to vary the rate of taxation so that they would have free hand with regard to their budget.

After the Government of India Act, 1919 (Dyarchy), local self-government became a 'transferred' subject under popular ministerial control. Each province was allowed to develop local self-institutions according to needs and requirements. However, the Indian ministers could not do much in absence of funds, since finance was a 'reserved' subject under the charge of an executive councillor.

During 1923-24, eminent Congressmen captured a large number of municipalities and other local bodies. C R Das became the Mayor of Calcutta (with Subhash Chandra Bose as

his chief executive officer), Vithalbhai Patel the President of Bombay Corporation, Vallabhbhai Patel of Ahmedabad Municipality, Rajendra Prasad of Patna Municipality and Jawaharlal Nehru of Allahabad Municipality. The no-changers (Ansari, C Rajagopalachari, Iyenger, Rajendra Prasad, etc., who advocated concentration on Gandhian constructive work) actively joined in these ventures since they believed that local bodies could be used to promote the constructive programme. Despite their circumscribed powers, many of the municipalities and district boards, headed by a galaxy of leaders, set out to raise, however little, the quality of life of the people. They did excellent work in the fields of education, sanitation, health, anti-untouchability and khadi promotion, won the admiration of friends and foe, and quite often aroused popular enthusiasm (Bipan Chandra).

The Simon Commission in 1930 suggested the retrograde step of increasing the control of provincial governments over local bodies for 'greater efficiency'. But provincial autonomy was introduced by the Government of India Act, 1935, which gave impetus to the development of local institutions. New Acts were passed in every province giving more functions to local bodies. However, their financial resources and powers of taxation did not see much of a difference since Ripon days. In fact, local bodies were restricted from enhancing certain kinds of taxes contrary to the recommendations of the

Decentralisation Commission. Finally, the British left the country, leaving its municipal bodies in disarray.

### **Post-Independence**

Inaugurating the Conference of Provincial Local Self-Government Ministers in August 1948, Prime Minister Jawaharlal Nehru said: Local Self-Government is, and must be, the basis of any true system of democracy. We have got rather into the thinking of democracy at the top and not so much below. Democracy at the top will not be a success unless it is built on the foundation below.” (Grover)

The hopes Nehru raised about his ‘bottom-up approach’ to governance were lost during the framing of the Indian Constitution. Local self-government, especially urban local bodies, was never discussed in any length, except as a passing reference in the Constituent Assembly debates. Concerns raised by some of the members about the constitution of a free country not being based on local self-government were not taken seriously. “We see nothing of local self-government anywhere in this Constitution. This Constitution as a whole, instead of being evolved from our lives and reared from the bottom upwards, is being imported from outside and built from above downwards.” (Damodar Swarup Seth and Prof.

Shibban Lal Saksena, Constituent Assembly members representing United Provinces).<sup>8</sup>

The new Constitution didn't contain much about local bodies, except in the form of The Directive Principles of State Policy (Article 40) which enjoined on State Government the desirability of organising only village panchayats (and not urban local bodies) and endowing them with such powers and functions as may be necessary for them to function as a unit of local government. There was no mention of urban local bodies anywhere except for Entry 5 of List II of the 7<sup>th</sup> Schedule (The State List) and Entry 20 of List III (The Concurrent List).

In the absence of any clear-cut constitutional provision, urban local bodies remained completely ignored in the 50s, 60s and 70s. In 1975, the National Urbanisation Policy Resolution was framed by the Town and Country Planning Organisation of the Government of India. This was perhaps due to the increasing trend of rural migration to towns.

According to the 1951 Census, the urban population was 62.28 million. Three decades later in 1981, it was 160 million

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8. Parliament of India. n.d. [Constituent Assembly Debates - Volume VII](#). Accessed November 23, 2015.

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— two-and-a-half times more. According to the Census Report of 1971, urban India had 1,921 towns, which increased to 3,301 in 1989. In the decade 1971-1981, natural increase accounted for 41 per cent of total urban growth, immigration for over 40 per cent and reclassification of rural areas as urban for about 19 per cent. In 1985, the Ministry of Urban Development was set up for the first time and the ministry, in turn, set up a National Commission on Urbanisation to tackle the issues of growing urbanisation. The recommendations of this Commission were incorporated into the 65<sup>th</sup> Constitutional Amendment Bill or *Nagarpalika* (Municipality) Bill introduced in 1989, which was later enacted as the 74<sup>th</sup> Amendment Act in 1992. In 1989, it was defeated in Rajya Sabha by three votes. It was once again introduced in Parliament in 1991 as the 73<sup>rd</sup> Amendment but was rejected on the grounds that it was a trespass on the rights of the state governments. Finally, in 1992, the 74<sup>th</sup> CAA was enacted.

As a consequence, the States were forced to enact State Municipal Acts. It was perceived that the 74<sup>th</sup> CAA would take care of the existing shortcomings in the structure and organisation of municipal bodies and regenerate and fortify them to meet the challenges posed by urbanisation. It also envisaged for grassroots democratic polity by making municipal bodies instruments of local government and urban community development.

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## IV. Variables and Methodology

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The focus of the study is urban governance. What is taken for the purpose of this study as a given (established fact) is that there are weak ULBs in India, leading to a crisis of urban governance. The essence of this crisis is that the existing urban governance arrangement has failed to deal with the enormous challenges of creating/providing urban infrastructure/facilities for rapidly growing urban populations. This mismatch has led to rapid deterioration of urban living conditions, which has assumed crisis proportions.

What has caused this crisis? How can the crisis be addressed to find desired solutions?

These are fundamental questions that this study seeks to answer. In the research design adopted for this study, I have identified some key and broad independent variables underpinning urban governance. These are:

1. ULBs are weak because Union and state governments and leading political parties don't want them strong. They are reluctant to devolve powers — political, administrative and financial — to the ULBs.

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2. Severe financial constraints come in the way of effective functioning of the ULBs.
3. Absence of public pressure on ULBs to perform — Democratic participatory element (voting figures) shows that participation isn't impressive.

The three independent variables have a vital bearing on the key dependent variable of this study — the quality of urban governance. The existing crisis of urban governance will, therefore, be examined in the context of the three main independent variables.

It is a well-recognised fact that effective governance requires adequate functional autonomy. The functional autonomy, in turn, depends on the extent of political, administrative and financial decision-making powers granted constitutionally or by law. Corresponding to the functions, elaborate institutional structures are required to exercise decision-making powers. This structural-functional approach to this research design to analyse and understand the urban governance crisis is incomplete in the country's democratic governance framework without the third important independent variable of citizen's participation in governance.

It is important to first elaborate the existing constitutional/legal frameworks, institutional structures and the nature and level of citizens' participation to understand and identify the inadequacies of urban governance

arrangement. The study is essentially in the nature of a case study of the urban governance in the city of Bengaluru, one of the Metros in the country that has witnessed the fastest urbanisation over the last two decades. For the purpose of understanding Bengaluru's case better, some comparison will be made with arrangements in another Metro city in the region, Chennai.

Each of the three independent variables identified above will be examined in detail in the context of Bengaluru to unravel the inadequacies and to explain how they have impacted the state of governance and the making of the urban crisis.

This study then examines the changes desired in the three independent variables to improve the state of urban governance. Based on the above variables, some of the hypotheses that are derived are as follows:

1. If there were well-defined laws, the ULBs would have been stronger.
2. If state governments don't devolve financial powers, the ULBs will remain weak.
3. If there is no public accountability of a local body, there would be no public pressure.

The independent variables identified above will be analysed based on interviews with political leaders, bureaucrats,

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constitutional and urban affairs experts, who also have had considerable experience in urban governance in Bengaluru and Chennai. In the process, an attempt is also being made to identify shortcomings in the existing constitutional, legal and institutional arrangements, which, in turn, will suggest the kind of changes required for better and effective governance.

The study has then proceeded to answer some key questions about the possibilities for bringing up desired changes. These questions include an examination of whether the country's political leadership — at the Centre and in the states concerned — open to making changes in the exiting constitutional and legal framework by way of devolving political, administrative and financial powers to the urban local bodies to strengthen them and make them effective instruments of governance in our cities and towns.

Though our policy makers and practitioners spend a lot of time studying urban governance models in the developed world, they seem to have failed to absorb the good governance practices for implementation in India. The study has drawn attention to some of the other models from the world over, especially the London model of municipal administration, to show how one of the best cities in the world are governed effectively.

The final part summarises the conclusions arising from the study.

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## V. Literature Review

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For examining the literature on urban governance, one has to understand the concept of local self-government. “A government by local bodies, freely elected, while subject to the supremacy of the national government; is endowed in some respect, power, discretion and responsibility, which it can exercise without control over its decision by the higher authority. The extent of power, discretion and responsibility which the local bodies possess is a matter of degree, which varies considerably in the various countries.” (Harris, 1948). An analysis of this definition reveals that the 74<sup>th</sup> Constitutional Amendment Act enacted in 1992 was based exactly on it in terms of there being an urban local body — indirectly or directly elected depending on the will of the superior government i.e. the state government; has limited power to raise resources to serve the local community.

The scope of local government further widened to include terms like urbanisation. Urbanisation is defined as the process of movement of the populations towards urban areas — towns and cities (Sachdeva) — as has been witnessed in the last two Censuses in India and how the movement of people from rural to urban areas had led to rapid urbanisation.

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The notion of a state, which is so relevant for this project, as a 'coherent authority' is nowhere seen in day-to-day interactions of the people residing in small places. "What one confronts instead is much more discrete and fragmentary — land records officials, village development workers, the Electricity Board, headmen, the police, and the Block Development Office. Yet...it is precisely through the practices of such local institutions that a trans-local institution such as the state comes to be imagined." (Gupta 1995) State, as an entity, is represented by government officials, village heads, and councillors at the lowest level of administrative unit. Gupta argues that there is no reason to assume that there is, or should be, a unitary entity that stands apart from, and in opposition to, the state, one that is mutually exclusive and jointly exhaustive of the social space.

Post-74<sup>th</sup> CAA, decentralisation through devolution of power became the buzz word. However, it wasn't a real devolution as it didn't lead to transfer of responsibilities to local bodies that elected their own representatives, had their own funding resources and had independent mandate to make investment decisions (Rondinelli and Cheema, 2002).

There are hardly any consequential literature on functions and finances of urban local bodies. Only Bahl & Linn (1992) deals with the issue of transfer of funds from state to local levels in developing countries, which they call fiscal federalism.

In the Indian context, the issue of fiscal federalism and questions regarding faulty financial decentralisation has been raised to an extent (Rao and Chelliah, 1991).

Finally, how people's participation and reaction to any action of and by the State has been impacted by declining 'social capital' as people became more individuals and less of a group. (Putnam R, 2001).

Primary and secondary literatures like the State Municipal Acts, Constituent Assembly debates, Report of the Second Administrative Reforms Committee, Report of the National Commission to review the working of the Constitution, government documents and data has also been reviewed.

The term social capital was first used by author Lyda Hanifan in a book published in 1916 in the USA to see how neighbours could come together to manage a school. Political scientists thereafter consider social capital as must for the democracy as it creates bonds between people. Putnam argues that America may have prospered but its social capital had declined. This holds good in the Indian context as there is no coherence among people to bond together and put public pressure on government if it doesn't perform. Similarly, dwindling democratic participation in the form of low voter turnout is also a manifest of falling social capital in India. This has had an

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adverse impact on the accountability of elected representatives and government officials as has been discussed in this research paper.

The problem of apathetic political participation can be conceptualised as both a cause and an effect of many of the critiques of democratic politics (Irvin Lisa 2006). “Democratic practice is commonly understood as an adversarial process characterised by competition, conflict, and power struggles among elected representatives. The form of representative democracy is often connected to a notion of citizen political participation that primarily includes voting in elections.” Citizens don’t turn out to vote due to their disillusionment with the political class and conversely, political class remain immune to citizens’ problems as the latter don’t matter to them. Democratic participation empowers citizens and the civil society and leads to balance of power between the citizens and the government.

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## VI. Present Provisions Theory & Practice

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To answer the variables, it is imperative to look at the present constitutional arrangement and structural framework.

### **Present Constitutional Arrangement — the 74<sup>th</sup> Constitutional Amendment Act**

The enactment of the 74<sup>th</sup> CAA made it compulsory for the state governments to constitute municipalities. For the first time, ULBs were granted the position of the third-tier of governance. The Act accepted that in many States, local bodies had 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 unable to perform effectively as vibrant democratic units of self-government (Objects and reasons for 74<sup>th</sup> Constitution Amendment Act, 1992). Also known as the ‘Nagarpalika Act’ (for full text, see <http://indiacode.nic.in/coiweb/amend/amend74.htm>), the 74<sup>th</sup> CAA classified the ULBs into:

1. Nagar Panchayat — for transitional area (an area which is being transformed from rural to urban area),

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2. Municipal Council for a smaller urban area,
3. Municipal Corporation for a larger urban area.

With this amendment, Part IX A was added to the Constitution along with Schedule 12.

The new amendment set out clear guidelines for the following:

1. Composition of municipalities.
2. Composition and constitution of Ward Committees, District Planning Committees and Metropolitan Planning Committees.
3. Reservation of seats for SC/ST and Women.
4. Functions and taxation powers and arrangements for revenue sharing.
5. Ensuring regular conduct of elections and timely elections in the case of supersession.
6. Power and authority: devolution by the state legislature of powers and responsibilities upon the Municipal Corporation with respect to preparation of plans for economic development and social justice, and for the implementation of development schemes as may be required to enable them to function as institutions of self-government.

7. Elections of the Municipal Corporation, fixed tenure of five years for the municipality and re-election within six months of end of tenure. If a Municipality is dissolved before expiration of its duration, elections to be held within a period of six months of its dissolution.
8. Constitution of State Finance Commission once in every five years, to review the financial position of municipalities and to make recommendations on the measures needed to improve their financial position.

Besides, Schedule XII (Annexure 6) listed down 18 subjects on which ULBs can formulate their policies and execute it. The Schedule (Article 243W) enumerates the functional responsibilities that the municipalities were meant to shoulder (Bakshi).

It became constitutional obligation of the states to strengthen the ULBs by constituting the Municipalities (Article 243P to 243ZG). Before the 74<sup>th</sup> CAA, local government was a state subject and its administration was left in the hands of the state legislature. After the amendment, ULBs continued to be governed by the state legislatures but it was made mandatory for the state governments to revise their municipal laws in accordance with the Constitutional provisions.

### **Karnataka Municipal Corporations Act, 1976**

In order to bring a single enactment for governing all municipal corporations in the State, the Karnataka government passed the Karnataka Municipal Corporations Act in 1976 (KMCA, 1976).

The KMCA, 1976 was amended (Amendment Act 35 of 1994, The Karnataka Municipal Corporations Act, 1976) to bring it in conformity with the provisions of the Constitution (Seventy-fourth Amendment) Act, 1992.

The revised Act, among other things, provided for:

1. Specifying larger urban area with regard to the population of the area, revenue generated in such area, percentage of employment in non-agricultural activities and certain other factors;
2. Composition of the Corporation;
3. Reservation of seats and office of Chair persons in a Corporation in favour of Scheduled Castes and Scheduled Tribes, Backward Classes and Women;
4. Constitution of Standing Committees;
5. Constitution of Ward Committees in respect of a city where population is three lakhs or more;
6. Preparation of electoral roll by the State Election Commission and superintendence, direct and control by the State Election Commission in respect of conduct of election;

7. Constitution of Metropolitan Planning Committees in respect of the Bangalore Metropolitan area;
8. Finance Commission constituted under the Karnataka Panchayat Raj Act, 1993 to review the financial position of the Corporation and to make recommendation to the Governor; and
9. Repeal of the Bangalore Metropolitan Region Development Authority Act, 1985 and dissolution of the Bangalore Metropolitan Region Development Authority on the constitution of the Bangalore Metropolitan Planning Committee.

### **Discrepancy in legal provisions**

Post-74<sup>th</sup> CAA, different states were empowered to enact their own state municipal acts. The state governments enacted their respective municipal acts with their own content and format. The structure, functions and powers entrusted to the local governments through these acts are different. Municipal election provisions in different states are not uniform. There are striking variances in the provisions for devolution of powers, functions and funds to municipal corporations since this is determined by the financial condition of the State and the willingness of the concerned state government to empower ULBs. “There is not much difference after the 74<sup>th</sup> CAA.

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State governments have continued to have a hold over the BBMP. There is absolutely no autonomy.”<sup>9</sup>

“The spirit of the 74<sup>th</sup> CAA was not implemented. State governments don’t look at ULBs as government bodies. Municipal Corporation is subordinate to the state government; it is not considered as local self-government. Local bodies’ governance happens through the State.”<sup>10</sup>

In spite of the 74<sup>th</sup> CAA, local governments being listed in the state subject in the Schedule VII of the Constitution, any legislation reforming the structure of local government remained with the state government. The mandatory and discretionary provisions of the Amendment left enough options for the states to undermine and weaken the Act. The Amendment gave enough flexibility to the states to make their own local government laws keeping in mind the federal structure of the Constitution. But the States have taken advantage of this openness and done every possible thing to

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9 Interview by the author with the former BBMP commissioner Siddaiah, municipal commissioner from 1st July 2010 to 27th November, 2011; December 2012 to May 2013, when BJP was in power in Karnataka. The interview was conducted on September 5, 2014 in Bengaluru. Presently, he is part of three-member committee set up by the Karnataka government to trifurcate the BBMP

10. Interview by the author with former mayor of Bengaluru from 2003 to 2004, P R Ramesh

subvert the Amendment and its sanctity. What the states are supposed to compulsorily do is mandated in the word 'shall' in the Amendment, pointing to the actions that States have to enforce. On the contrary, there are too many enabling or discretionary provisions in the amendment in the form of word 'may', actions which have been left to the discretion or 'will' of the State governments. "Unfortunately, 74<sup>th</sup> CAA left it to each State to make its own law regarding municipalities. The 74<sup>th</sup> CAA became only an enabling provision with some basic guidelines but the operational details were left to be legislated on by the State with result that each State has passed its own law. There are visible differences in the matter of right and autonomy granted to local self-government institutions.... Also, the XII Schedule, which lists out items for local self-government in Constitution, is only illustrative. It is neither comprehensive nor binding."<sup>11</sup>

The 74<sup>th</sup> CAA provides for elections every five year and within six months of expiration of term or dissolution of the ULBs. Each State had to make appropriate provisions in the municipal laws to constitute a State Election Commission (SEC) and define its role and responsibilities as per Article 243-K of the Constitution. It is seen that municipal elections

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11 Interview by the author with Subhash C Kashyap, constitutional expert, in New Delhi

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have been held in most States, but their regularity continues to be a problem. State governments are known to postpone urban local body elections on the pretext of reservation, delimitation and non-preparedness of electoral rolls and State Election Commissions have remained silent. The term of the erstwhile BMP ended in 2006 but the State Government held the elections only in 2010 after a gap of four years, that too on the directives of the Karnataka High Court. The government's excuse for postponing the elections was that it was increasing the number of wards from 100 to 198 and introducing municipal reforms. In 2006, Congress member and former Mayor P R Ramesh filed a Public Interest Litigation (PIL) seeking directions to the State government to hold elections. Petitions were also filed challenging the ward reservations and delimitation of wards. However, when the elections were held in 2010, only the number of wards was increased; there was no word on reforms, like direct election of the mayor, which was mooted.

The Corporation of Chennai too has had its share of controversies where the political party in power has brought in legislations in the Local Bodies Act to dislodge the Mayor from the opposition party on one ground or the other. In 1996, the then DMK government brought legislations to conduct direct Mayoral election and it was followed in 2001 local polls as well. While the first directly elected Mayor of the Chennai city, M. K. Stalin, completed the full term during his first tenure (1996-2001), he was forced to resign in the second term after

the Madras High Court ruled that under the Madras City Municipal Corporation Act, he was not eligible to contest for a second consecutive term as Mayor.

Subsequently, in 2006 direct election of mayor was scrapped by the DMK government. The main reason cited for the amendment was that administrative difficulties arise when the elected Mayor or Municipal Chairman does not belong to the ruling majority. The government also amended rules to enable it to remove the Mayor or the Deputy Mayor by notification by the amendments' ordinance titled 'Tamil Nadu Municipal Laws (Amendment) Ordinance 2006'. However, again the AIADMK government brought in a new legislation in the Assembly to revert to the old system of direct election in 2011.

Even after the 74<sup>th</sup> CAA, the Mayor is merely a ceremonial head as he lacks executive authority. The present system of indirect election of the Mayor combined with his/her short one-year tenure makes the post nothing more than a figurehead. While the term of Mayor in Bengaluru is one year, it is five years in Chennai. Since one year is too short a term for Mayor of the BBMP to perform, it is the municipal commissioner who holds all the power. "I have worked with three Mayors. They don't speak at all. Mayors only spoke when

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the matter was pertaining to their party or personal interest. The Mayors only adjourned the council.”<sup>12</sup>

The concept of the administrator, the representative of the government introduced during the British period, very much exists. The administrator or the municipal commissioner is accountable to the state government and not to the elected representatives or the council. “The municipal commissioner is chosen by the State government. There are wheels within wheels. There is pressure and counter-pressure on him. But bureaucrats are equally to be blamed. The post of Bengaluru municipal commissioner is considered to be a plum post. Bureaucrats vie with each other to become the BBMP municipal commissioner. The ideal officer to become the BBMP commissioner is one who is efficient, competent and committed. However, none of these traits are taken into consideration in the appointment of the BBMP commissioner. It is the proximity of the officer to the chief minister which matters in posting. The municipal commissioner is controlled by the government. He is changed as and when required. He is taken out if he is not acting in accordance with the government’s wishes. The 74th CAA didn’t make any changes in the role of the municipal commissioner; it remains the same

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12 Interview by the author with Siddaiah, former BBMP municipal commissioner

as it was in the British era. Bureaucrats vie with each other to become the BBMP municipal commissioner.”<sup>13</sup>

The ULBs have the power to make their own byelaws for betterment of urban administration after the 74<sup>th</sup> CAA but it has not made them any more independent. They continue to be controlled by the State governments. They have no autonomy whatsoever. The state governments and members of the party in power dictate the enactment of the byelaws to suit their motive and that of their party. “Mayor continues to be the nominee of the party in power. Mayor is dictated by his political party bosses. The party decides who should become the Mayor, deputy mayor, and other members of the council. The members of the standing committee are also chosen by the party leaders. So political is the council that the standing committee chairperson looks up to city-in-charge minister for direction and order to carry out his duties. He or she can’t go against the party bosses.”<sup>14</sup>

The inclusion of MPs, MLAs and MLCs as ex-officio members of the municipalities by this amendment further left scope for

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13 Interview by the author with Siddaiah, former BBMP municipal commissioner

14 Interview by the author with Siddaiah, former BBMP municipal commissioner

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political parties to control the ULBs instead of allowing them to come up on their own. In the case of the 74<sup>th</sup> CAA, the concerned Joint Parliamentary Committee added a provision to article 243 R for representation of MPs, MLAs and MLCs. However, unlike the Panchayat Bill, the JPC did not stipulate any restriction on the voting powers relating to the election of the chairperson or any other matter. This patent anomaly has led to some controversies and court cases as well.<sup>15</sup>

So it has been up to the State legislatures to decide whether they want to give voting rights to MPs and MLAs. MLAs can vote in municipal councils of Karnataka. In the case of Tamil Nadu, the Municipalities Act amended in 1994 provided for membership of the MPs and MLAs with voting powers. Subsequently, in 1996, the power to vote was taken away by another amendment. The conformity laws thus indicate the continued ambivalence and confusion in the thinking of different States.

The ULBs have also been undermined by the funds for Local Area Development Scheme for MPs and MLAs in which the member gets money for the development of his constituency. Most of the development areas come under the municipal corporation, which are not consulted. This gives an inferior status to the corporation councillor compared with an MP or

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15 National Commission to Review the Working of the Constitution, A Consultation Paper on Decentralisation and Municipalities.

an MLA. “Factors like MPLAD and MLALAD schemes militate against the concept of separation of powers and principles of three-tier federalism. Sometimes, the MPs and the MLAs have more funds available to them under these schemes than local institutions. These funds have to be used on items that are listed largely in the XII Schedule. The MPs and MLAs use these funds on works that are ideally to be done by ULBs. Obviously, these funds negate the vesting of powers in local self-government institutions.”<sup>16</sup>

The Metropolitan Area Committee was stipulated in 74<sup>th</sup> CAA for consistent and integrated planning for urban areas and to give new dimensions for the roles of citizens and their elected representatives in preparation of regional plans for infrastructure development. But it hasn't been constituted in many cities, including Bengaluru, which is a violation of the Amendment.

The elected councillors evince the least interest in municipal policy issues. Instead, they are involved in non-deliberative issues of local administrative matters like transfer of officials and the award of contracts. What is seen is that the councillors have been involved in influencing the executive decisions of the Standing Committee to serve their own interest. Therefore,

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16 Interview by the author with Subhash C Kashyap, constitutional expert

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‘there is usually a large gap between policy and what eventually emerges at the administrative level, for the councillor to content himself with policy matters and to leave administration to others would be the height of folly’. (R. Church).

Ward committees, which were supposed to be the interactive arm of the municipalities with the people of the local area, are redundant as it is filled with nominated members who have no interest in serving people other than themselves. Since most of these nominations are done on political and party considerations and not for representational reason because of which they are not basically representing people but their own interest. It is definitely not an ideal situation.

### **6.1 Institutional structures for governance**

The 74th CAA did not provide for any detailed organisational structure for municipal administration in India. This issue was left for state legislation and that’s how the structure differs from state to state. In 2003, the Model Municipal Law was drafted by the Ministry of Urban Development, which was circulated to state governments. A centrally-administered municipal model was not mooted as it would not have given flexibility to ULBs to respond to local requirements.

There are two broad models on which the ULBs in India are based:

### ***The Commissioner System***

The Mayor in the Municipal Corporation is chosen through indirect elections by the councillors from among themselves for a term of one year, which is renewable. The Mayor does not have executive authority. Councillors and Committee Councillors act as a committee. The most powerful committee is the Standing Committee, which functions as the steering board exercising executive, supervisory, financial and personnel powers.

The Municipal Commissioner acts as the Chief Executive Officer and head of the executive arm of the Municipal Corporation. All executive powers are vested in the Municipal Commissioner. The powers of the Commissioner are provided by the statute and delegated by the Standing Committee. This system with some minor changes exists in most cities like Bengaluru, Chennai, Delhi and Hyderabad. (**Annexure 7**)

### ***The Mayor-in-council Model***

This form of city governance is similar to a cabinet government and follows the framework of state and national governments. This model consists of a Mayor and a cabinet, with individual portfolios, chosen from among the elected councillors. The Municipal Commissioner acts as the Principal under the supervision of the Mayor, who is the Chief Executive Officer.

This system is followed in Kolkata, where the Municipality is entrusted to three authorities: the Corporation, the Mayor-in-Council and the Mayor. The Kolkata Corporation consists of 141 ward councillors while the Mayor-in-Council consists of the Mayor, the Deputy Mayor and 10 other elected members of the corporation, of which each member is allotted a portfolio. Executive power is exercised by the Mayor-in-Council. This system is a deviation from other states and has fared well largely due to the same party rule in the Corporation and the State (barring 2000-2005 when the Trinamool Congress was in the Corporation and the Left was in power in the State). In India, the Commissioner Model is followed in most States. However, in this system, the mode of election of the Mayor — direct or indirect election — majorly decides the way the corporation functions.

### **Case study of Bruhat Bengaluru Mahanagara Palike and Corporation of Chennai**

Both these corporations fall under the model of Commissioner System. However, one major difference between both is in the mode of election of the Mayor and his tenure. In Bengaluru (governed under the Karnataka Municipal Corporations Act, 1976), the Mayor is elected indirectly from among the councillors and the tenure is one year. Whereas, in Chennai (governed under The Chennai City Municipal Corporation Act, Tamil Nadu Act IV of 1919), the Mayor is directly elected by the people for a term of five years.

Bengaluru, the capital of Karnataka, is the third largest metropolitan city in the country in terms of population. The city is nearly 500 years old and has grown from a small settlement when Kempe Gowda, the architect of Bengaluru, built a mud fort in 1537 and his son marked the city boundaries by erecting four watch towers. Today, Bengaluru has grown well beyond those four towers into a sprawling metropolis of more than 10 million people (Annexure 8) and is referred to as the Silicon Valley of India — accounting for more than 35 per cent of India's software exports.

Bengaluru Municipal Corporation was established under the City of Bangalore Municipal Corporation Act, 1949. The name of the council was changed first to Bangalore City Corporation (BCC) and then to Bengaluru Mahanagara Palike (BMP). The BBMP was formed in 2007 by amalgamating the erstwhile Bengaluru Mahanagara Palike (BMP) and the surrounding eight smaller urban local bodies and 110 villages. From the governance point of view, BBMP represents the third level of government (after the central and state governments, respectively). The BBMP is provided to be run by a set of elected officials collectively comprising the city council. Each of the elected members is designated as a 'councillor'; a councillor represents one ward of the city. Elections are held every five years and the member is elected by a popular vote. A Mayor and a Deputy Mayor of the council

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are also elected for a period of one year, though not by popular vote. The post of the Mayor and the Deputy Mayor are filled through a quota system to a Scheduled Castes and Tribes candidate or to an Other Backward Class female candidate from among the elected councillors. However, in reality, the BBMP is run by an Administrator and a Commissioner, who are appointed by the State Government. The Bruhat Bengaluru Mahanagara Palike is responsible for civic and infrastructural requirements of the city.

Smaller and compact wards with an average population of 30,000 were formed in the Bruhat Bengaluru Mahanagara Palike area to have smooth administration.<sup>17</sup>

### **Changes after the creation of BBMP**

1. The enhancement of maximum number of wards for Corporation to 200;
2. Nomination of members equal to ten per cent of the total number of members in the council, instead of ten members, from among the residents of the city to the Bruhat Bengaluru Mahanagara Palike;
3. Substitution of expression 'Bangalore City Corporation' or 'Corporation of City of Bangalore' by 'Bruhat Bengaluru Mahanagara Palike'; and

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17 Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977 by the Amending Act 22 of 2009

4. The number of standing committees of the BBMP increased to 12.<sup>18</sup>

### **Corporation of Chennai**

The oldest municipal town in India is Chennai (Substituted for the word “Madras” by Tamil Nadu Act 28 of 1996.). It was given a Mayor and a Corporation in 1688. Almost within four decades of the founding of Fort St. George in 1639, the small fishing village had grown into a populous town. The native merchants settled around the northern side of the Fort called the Black Town (later named George Town) in contradistinction to the Fort which was called the White Town where the English Merchants resided. It was the mastermind of Sir Josiah Child, the Chairman of the Board of Directors of the East India Company in England, that bestowed upon Madras a Mayor and a Corporation. On September 29, 1688, the Corporation was inaugurated and the first Mayor, Nathaniel Higginson, took oath. In 1792, an Act did away the office of Mayor and Aldermen when the Municipality of Madras was created. In 1933, the office of the Mayor was re-introduced under the City Municipal Act passed that year.

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18 Amending Act 36 of 2010, Section 11 of the Karnataka Municipal Corporation Act, 1976

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The Council of 200 councillors is headed by the Mayor and the Council meets ordinarily once in a month. The executive wing is headed by the Commissioner. There are Deputy Commissioners and various heads of departments and 15 zonal officers at present. The estimated present population of Chennai is 6.5 million.

### **Controversial post**

There were 43 Mayors before the Council was superseded in 1973. It functioned under a Special Officer till 1996, when M.K. Stalin from the DMK party was elected as Mayor. Since 1996, Chennai has alternated between the directly and indirectly elected mayors with change in the State governments. In 2001, though Stalin was the winner with a slender margin, DMK could not secure a majority to lead the council and there was chaos. Stalin had to resign during his second term because of the Madras High Court ruling that barred him from seeking re-election. After that, Deputy Mayor held charge of the post of Mayor till the elections in 2006. In 2006, the DMK regime scrapped the direct elections in order to facilitate the party with majority councillors in the corporations and municipalities to choose their candidate as the Mayor or the Chairman. In 2006, M. Subramanian of DMK was indirectly elected to the post of the Mayor by the councillors for five years.

The AIADMK government again reverted to the old system of direct elections for the posts of Mayor and Municipal

Chairman. This was done after the State Election Commission submitted a report to reform urban and rural local bodies. In October 2011, Saidai S Duraisamy became the first AIADMK Mayor of the city to be elected directly by the people.

### **Existing structural set up**

Article 243W of the Constitution requires State laws to endow the Municipalities “with such powers and authority as may be necessary to enable them to function as Institutions of self-government”. The XII Schedule to the Constitution provides recommended list of local functions which states may by law endow to urban local bodies. But this has only given rise to a confusing mix of multiple agencies.

There is a plethora of legislations and a number of institutions that operate in the Bengaluru Metropolitan area that impact the process of urban management. Since the jurisdictions, legislative frameworks, and functional areas of the institutions overlap in many cases, there are issues of discord and lack of clarity.

Some of the glaring examples of functional overlap can be seen in the following cases:

- Street Lighting – In respect of street lighting, while the BBMP carries out the obligatory functions to meet the related expenditure, the functioning of lights and supply of

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power is with the BESCOM (Bengaluru Electricity Supply Company Limited), leading to divided responsibility.

- Traffic Management – The area of traffic management, which is a problem in the city, is with the Traffic Police department. However, the funds for installation of traffic signals, lane marking, etc. are provided by the BBMP.
- Road Maintenance – Maintenance of roads is the responsibility of BBMP, BDA, or PWD (Public Works Department under the state government), depending on the location/ jurisdiction.

To complicate things further, the Government of India extended a 'helping hand' to the urban local bodies through Jawaharlal Nehru National Urban Renewal Mission (JNNURM). The mission has finally come to an end in March 2014. One of the mandatory reforms under JNNURM was the implementation of the 74<sup>th</sup> Amendment in its letter and spirit. Recognising the critical importance of rapid urban development and growing contribution of the urban sector to the Country's GDP, the Government through the Ministry of Urban Development (MoUD) launched the JNNURM in December 2005. Its aim was to encourage cities to initiate steps to bring about improvements in the existing service levels in a financially sustainable manner.

Along with the statutory authorities, a number of regulatory and development departments, including the Police Department, Public Works Department, Health Department,

Education Department, Revenue Department, Town Planning Department, Horticulture Department, Motor Vehicles Department, et-al also have an interplay in the metropolitan area. The multiplicity of organisations, operative laws, and overlapping jurisdictions has created conflicts in their functions and difficulties in governance. “In Bengaluru, while vehicular population is controlled by the police department, infrastructure needed for better policing like zebra crossing is done by the BBMP. There is a huge problem of coordination everywhere.”<sup>19</sup>

Chennai has had a chequered local government history in the recent past. The direct elections stipulated in the 1996 Local Bodies Act, its suspension, the resurrection of the ancient 1919 Madras Corporation Act providing for a one-year indirectly elected Mayor and the most recent reintroduction of the directly elected mayor in Chennai — all point to confusion galore in the minds of the parties in control of the State. The party in power in the State of Tamil Nadu has been controlling the Mayor’s post and the Corporation of Chennai. Continued subversion and changes in Local Bodies Act has made the Mayor a puppet in the hands of the State government. Though there are provisions for the direct election of the Mayor, it has

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19 Interview by the author with P R Ramesh, ex-mayor of Bangalore

been conveniently scrapped and reverted on the whims of the party in power. The extent of executive power available to the Mayor appears unclear. “For one year in 2001, Stalin was the elected Mayor from DMK while the majority of the councillors were from the AIADMK, the rival party. And the chief minister too was from the rival AIADMK. This was a strange situation as the Mayor was hounded constantly by the state machinery and was not allowed to function freely. Once Stalin was dismissed, Jayalalithaa, the chief minister, reduced the financial powers of the Mayor and gave more teeth to the municipal commissioner, a bureaucrat, enhancing his sanctioning powers to Rs 5 crore. Bureaucracy ran the show for four years.”<sup>20</sup>

### **6.2 Financial handicaps for the ULBs**

The XII Schedule of the 74<sup>th</sup> CAA has the list of responsibilities that the ULBs have to discharge; the amendment didn't have a similar list for demarcating finances for the ULBs. The ULBs were left at the mercy of the state governments for revenue sources, provision of inter-governmental transfers and allocation for borrowing with or without State guarantees.

The ULBs haven't been able to perform as they don't have the funds to discharge their duty. There is gross mismatch between

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20 Interview by the author with M Subramanian, ex-Mayor of Chennai

responsibilities given to the ULBs and funds made available to them.

The provisions in the 74<sup>th</sup> CAA relating to finances are:

**243X.** Power to impose taxes by, and Funds of, the Municipalities – The Legislature of a State may, by law:

- a. Authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- b. Assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State government for such purposes and subject to such conditions and limits;
- c. Provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- d. Provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom, as may be specified in the law.

**243Y.** Finance Commission:

1. The Finance Commission constituted under Article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to –
  - a. The principles which should govern –
    - i. The distribution between the State and the Municipalities of the net proceeds of the taxes,

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- duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at 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 Municipalities;
  - iii. The grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- b. The measures needed to improve the financial position of the Municipalities;
  - c. Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.
2. The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.<sup>21</sup>

There was nothing new in Article 243X of the amendment. It merely reiterated what was already there in the Constitution. However, Article 280 (3) (c) of the constitution tries to rationalise fiscal devolution system between the states and municipalities. As per the new fiscal devolution system, state governments had to constitute a Finance Commission once in five years and assign it with the duty of reviewing the financial position of local governments and make recommendations

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21 The Constitution of India, P M Bakshi

about (a) the distribution between the state and the local governments of the net proceeds of the taxes, duties, tolls and fees leviable by the state; (b) the determination of the taxes, duties, tolls and fees that may be assigned to or appropriated by the local governments; and (c) the grants-in-aid to local governments from the consolidated fund of the state.<sup>22</sup>

Other than recommending the principles that should govern state local fiscal relations, State Finance Commissions were also expected to: (i) undertake a review of the finances of municipalities; (ii) estimate the future financial requirements of municipalities; and (iii) suggest measures for strengthening the finances of municipalities.<sup>23</sup>

The establishment of State Finance Commissions (SFCs) to review the financial position of the Municipalities and make recommendations regarding distribution between the States and the Municipalities was a new salient feature of the amendment. It was set on the lines of Central Finance Commission (CFC) and expected to divide and distribute revenue sources between the states and the municipalities. But unlike the CFC, SFCs don't have any defined source of tax resources to deal with. The amendment left it to SFCs to think

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22 Ibid

23 Ibid

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of revenue sources on the terms of reference set by the state governments.

In the absence of any independent revenue source, municipalities generate their funds first from taxes and secondly from grants and loans from central government, state government, financial institutions and capital markets.

Most municipalities in India are unable to generate adequate funds from their own sources. So, they majorly depend on grants and loans from the central and state governments.

### **Bankrupt BBMP**

In Bengaluru, as per Section 103 of the Karnataka Municipal Corporation Act, 1976, the BBMP has been vested with the powers to levy certain taxes and fees. The main sources of its revenues are:

1. Tax Revenue (tax on buildings and land, advertisement tax, service tax from optic fibre cable operators, entertainment tax)
2. Non-Tax Revenue (Licence fee for regulating building construction, trade licence fee, lease, rentals and other fees)
3. State Government grants under the SFC devolution
4. Loans from Central and State Governments and Financial Institutions to meet expenditure under capital heads of accounts

However, the revenue from taxes has been negligible for the BBMP as it loses hundreds of crores of rupees in property tax

revenue. So, the civic body has resorted to borrowing and has not been able to emerge from the huge financial crisis. “There is enough revenue but it has to be mobilised. The main source of revenue is Property Tax. Every owner has to declare honestly every three years about whether the house is self-occupied, on rent, for commercial purpose or residential. There is 30 per cent to 100 per cent suppression in declarations. Physical inspection of the buildings needs to be carried out. Act 108 of the BBMP has the provision for the same. The commissioner has the power to allow inspection. In fact, there was a Memorandum of Understanding (MoU) signed between Visvesvaraya Technological University (VTU) and BBMP that the students of VTU will perform this job for the BBMP. But it is in cold storage today. None of the councillors, MLAs or the Mayors are interested in raising the Property Tax, which has not been revised for many years, as they feel it will affect their vote bank. In the year 2014, the annual Property Tax collection was Rs 795 crore. It can go up to Rs 4,000 to 5,000 crore. From advertisements and hoardings, the BBMP can make additional Rs 500 crore. From companies laying OFC (optic fibre connection), there is potential income of Rs 1,000 crore.”<sup>24</sup>

In 2013-14, BBMP’s Mayor’s grant has come down from Rs. 150 crore to Rs. 50 crore, while the Deputy Mayor’s grant has been

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24 Interview with Siddaiah, ex-municipal commissioner, BBMP

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reduced to Rs. 10 crore from Rs. 25 crore. However, there has been an increase in the funds allocated to the city in-charge minister. From Rs 135 crore, it has been increased to Rs 300 crore.

The BBMP's doesn't have financial autonomy. As per KMC Rules, BBMP cannot go beyond a budget expenditure of Rs 5 crore. Any proposal above Rs 5 crore has to be referred to the State Government for clearance. This is not in the case of parastatal agencies, Bengaluru Water Supply and Sewerage Board (BWSSB) or Bengaluru Development Authority (BDA). They don't have to go to state government for passing any monetary proposal. This again undermines the stature of BBMP in relation to the parastatal agencies.

### **Financial crisis in Corporation of Chennai**

The major source of income for the Corporation of Chennai is from the Property Tax as well. The revenue out of Property Tax is increasing every year with the simultaneous increase in the number of properties. The Corporation is also trying to improve its tax collection within its ambit of existing powers for implementing the various welfare measures in the city of Chennai and providing basic amenities to make it a green city. The other sources of revenue are Profession Tax, Timber Tax, Company Tax, Advertisement Tax, and Trade Licence Fee.

The Corporation is incurring losses as the income from Property Tax has been very low. The civic body, which calculates Property Tax based on the annual rental value of a property, revised it last in 1998. In the past 15 years, despite land and rental values spiralling, it has not revisited them. The

Chennai City Municipal Corporation Act says that the gap between revisions must be five years.

The ULBs have to depend on state governments to get approval to increase tax rates and user charges beyond the limits mentioned in municipal laws. Moreover, they cannot institute new taxes on their own. This undermines the financial independence of ULBs.

It is the state governments that select and specify taxes from the State List in the VII Schedule on which the municipalities can levy and collect taxes. This varies from state to state.

The state governments expect the ULBs to raise their own income from local taxation to meet their statutory responsibility and not depend on the government for funds; it unilaterally takes decisions to enforce restrictions, concessions or waiver of the sources available to the local bodies. If at all the state government takes a populist decision which would impact the revenue of the local body then there should be a simultaneous compensation for loss of revenue to local bodies. The State Finance Commission in Tamil Nadu had suggested that there should be a statutory backing also to avoid any arbitrary decisions.

### 6.3 Democratic Participation

People desire responsive and accountable government across the different layers of our democracy. In order for democracy to succeed, people not only need to vote but also be active and informed about their rights, act collectively and make their voices heard where it matters and hold government officials and elected representatives accountable. The biggest game-changer in the democracy is the votes that make or break a political party and decide the shape of the country and the States.

Voting figures show that participation in the elections to the urban local bodies isn't impressive. In Bengaluru, for instance, in 2010 BBMP elections, only 45 per cent of voters cast their votes. During the previous election in 2001 to the 100 wards of the BMP, the voter turnout was 44.4 per cent. In the 2013 Assembly elections, 52.8 per cent voter turnout was recorded while in 2008, the figure was 47.3 per cent.

In the 2014 Lok Sabha elections, the voter turnout in Bengaluru was 58 per cent while in 2009, it was only 46 per cent.

**Chart 1:** Comparative chart of voter turnout in Bengaluru

| Election   | Year | Voter Turnout % | Year | Voter Turnout % |
|------------|------|-----------------|------|-----------------|
| Lok Sabha  | 2009 | 46              | 2014 | 58              |
| Assembly   | 2008 | 47.3            | 2013 | 52.8            |
| BBMP (BMP) | 2001 | 44.4            | 2010 | 45              |

Source: Data compiled on basis of newspaper reports

In the 2014 Lok Sabha elections, voter turnout in Chennai (combined) was 62 per cent. In the 2011 Assembly elections, Chennai had a voting percentage of 66.<sup>25</sup>

In the municipal election held in 2011 in Chennai, the winning candidate for the post of Mayor romped home with a margin of 5.20 lakh votes, while a total of 23.15 lakh voters exercised their franchise to elect the Mayor and the 200 councillors.<sup>26</sup>

In Chennai Municipal Corporation elections in 2011, the voter turnout was 45 per cent while in 2006 it was 55 per cent. In the 2001 local body elections, the turnout was a mere 36 per cent.<sup>27</sup>

An analysis of the voter turnout shows that urban voters in Bengaluru and Chennai haven't been inclined towards

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25 <http://www.thehindu.com/news/national/tamil-nadu/7580-record-polling-in-tamil-nadu-assembly-election/article1693830.ece>

26 <http://www.thehindu.com/news/national/tamil-nadu/saidai-duraisamy-is-chennai-mayor/article2560128.ece>

27 <http://www.transparentchennai.com/wp-content/uploads/downloads/2013/07/Report%20on%20councillors%20performance%202007-2011.pdf>

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participating in the electoral process and they pay little importance to the elections to the municipal corporation, the low voter turnout being a clear indication for the same. The urban areas have educated and affluent voters who are discerning in their views and opinions as can be witnessed by civil society movements in these two cities but when it comes to voting, their apathy is quite apparent.

Unless democratic participation increases, public interface will remain a missing element in the absence of institutional mechanisms. Presently, there is ad-hocism and the government officials and elected representatives are insensitive to public opinion. A mix of professionalism, in the form participation of experts and the public would make the administrative system responsive. Public pressure will force the government to carry out reforms in urban local bodies. Simple things like 'Suggestion Box' and periodic consultations with citizens' groups would go a long way. Heads of the organisations concerned could ensure rigorous follow up action on the suggestions received so that these exercises could become meaningful. A system of incentives and rewards should be introduced so that suggestions that lead to significant improvement or savings can be acknowledged. <sup>28</sup>  
(Annexure 9)

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28 Recommendations of Second Administrative Reforms Committee

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## VII. Assessment of Findings

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*If the 74<sup>th</sup> CAA had defined legal and structural provisions, the ULBs would have been stronger.*

It has been more than two decades since the 74<sup>th</sup> CAA was enacted but its essence has still not been implemented. The legal reforms mandated by the amendment in the form of devolution of powers and functions to ULBs, conduct of regular elections, financial autonomy, constitution of various types of committees, independent role of the mayor etc. have not been realised.

In a speech to mark the 20<sup>th</sup> anniversary of the 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution — notified on 24 April 1993 — former Prime Minister Manmohan Singh acknowledged that India's attempts to devolve power to local self-government units have not been successful and urged for effective decentralisation of administrative powers to ensure inclusive growth.<sup>29</sup>

Though 73<sup>rd</sup> and 74<sup>th</sup> Amendments were passed together, ULBs have fared worse than Panchayati Raj institutions. It has been even more of a failure than the implementation of the

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<sup>29</sup> Live Mint, April 24, 2013

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73rd Amendment. “In the case of the 73<sup>rd</sup> Amendment, there have been efforts, even though sporadic, towards its implementation. In more than one state (for example, Kerala in 1996-99, Karnataka in 2000-2004, Madhya Pradesh in 1999-2001), there have been high profile, concerted reforms led at the highest political levels aimed at devolving more powers and responsibilities to the Panchayats. But there have been no such efforts in any State with respect to urban decentralisation. The design of the 74<sup>th</sup> Amendment is particularly weak when it comes to the establishment of mechanisms for citizens’ participation. There is no constitutionally defined equivalent of the Gram Sabha in urban areas. The Ward Committees, mandated in the Constitution, have a weak design and do not mandate a space for direct democratic participation of voters. While State Panchayati Raj legislations underwent a rejig following the 73<sup>rd</sup> Amendment to conform to the constitutionally mandated pattern, in the case of Municipalities, the opportunity to create a new governance framework complying with the spirit of the 74<sup>th</sup> Amendment was lost.”<sup>30</sup>

“The government gave more importance to panchayats. It was the tussle between Gandhian (rural) philosophy and Nehruvian (urban) philosophy. Politicians gave importance to

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30 Interview by the author with T R Raghunandan, former bureaucrat, consultant in anti-corruption, decentralised public governance and heritage restoration

Gandhi and his idea of Panchayati Raj. Nehru's urbanised idea took a backseat."<sup>31</sup>

Since ancient times, attention has been paid to village panchayats while towns and cities have been ignored and this is reflected in the preference and implementation of the 73<sup>rd</sup> CAA over the 74<sup>th</sup> CAA. "As far as village panchayats are concerned, it is one of the holy subjects of Indian politics. We had a great deal of romancing with village panchayats. Somehow in the Constitutional Amendment, the Panchayati Raj Bill was the first one and there was some thought given to it. In this country, whether it is Tamil Nadu or Karnataka, Maharashtra or Rajasthan, several initiatives were taken towards panchayats — on how it should be organised. There was some thinking on it."<sup>32</sup>

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31 Interview by the author with Dr S Subrahmanya, former municipal commissioner, BBMP

32 Interview by the author with K. C. Sivaramkrishnan former bureaucrat, who as a secretary, Ministry of Urban Development in 1988, was personally involved in the legislation to amend the Constitution to provide a framework for decentralisation and empowerment of rural and urban local bodies. Eventually, the 73<sup>rd</sup> and the 74<sup>th</sup> Amendments became part of the Constitution. Since 1996, he has been associated with the Centre for Policy Research and the Institute of Social Sciences. He is also the author of 'Court, Panchayats and Nagarpalikas'; (2010) 'Judicial Setback for

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Some also say that the Amendment is fine but it hasn't been implemented in true spirit, which also means that there are enough loopholes in it for manipulation and non-implementation. So, the amendment has not served the purpose for which it was made. "The provisions brought in to the Constitution by the 74<sup>th</sup> CAA were adequate. It has all the requirements for urban governance. The lapse lies in not implementing these provisions sincerely and seriously."<sup>33</sup>

"Neither at the national level nor at the regional level, has any political party, including the Indian National Congress, shown any zeal in implementing the 74<sup>th</sup> CAA. What we had recommended to the expert committee on Panchayati Raj of India is very much applicable to ULBs. There is not enough advocacies for the 74<sup>th</sup> CAA. There is much more for the 73<sup>rd</sup> CAA."<sup>34</sup>

The 74<sup>th</sup> CAA, although, envisages devolution of power and it has left it to the state governments to enact laws for the same.

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Panchayats and Local Bodies', Economic and Political Weekly, XLV (32), which have been referred to in this paper

33 Interview by the author with senior advocate of Supreme Court, P P Rao, expert in constitutional matters

34 Interview by the author with Former union minister, Mani Shankar Aiyar, a close aide of former Prime Minister late Rajiv Gandhi and a minister in the UPA government, where until 2009 he was the head of the Panchayati Raj, the ministry overseeing India's system of panchayats (self-governing village councils)

Under Article 243W, the States have the discretion to determine the range of devolved powers to municipalities. However, that alone cannot be an alibi for the lack of devolution. On the rural side, Article 243G says exactly the same thing and yet the states have indeed devolved ample powers to the Panchayats. In practice, the state governments haven't made much effort to devolve powers upon ULBs because it is felt that they lack capacity. "There is a lack of appreciation of the fact, often demonstrated, that devolution of powers along with the fixation of accountability on local governments is the best incentive for seeking out the capacity by municipalities to perform their newly acquired responsibilities effectively. The second reason is a *mala fide* one. Urban areas are the biggest generators of corruption and municipal administration provides ample scope for syndicated corruption. In such circumstances, corrupt politicians and bureaucrats prefer to keep powers centralised, so that they can engage in corruption without having to share the loot. This also happens because generally speaking, accountability structures in urban areas are weak."<sup>35</sup>

Since the amendment does not have any word on the Mayor, it is the state governments that decides the mode of election of the Mayor and his term. Had the Mayor been a constitutional

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35 Interview by the author with T R Raghunandan

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position, his powers would have been defined and not left at the mercy of the state governments. The Karnataka Municipal Corporation Act, 1976 provides that the Mayor be elected for one year by the councillors from among themselves. Under the Act, the mayor has neither been given municipal nor executive authority. Therefore, he or she has no say in municipal governance. Moreover, a one-year term for the Mayor makes it an 'ornamental post' devoid of any political or statutory legitimacy. In absence of any powers, the BBMP doesn't interfere in the administrative functions of the municipal corporation.

Though the Chennai Mayor's term is fixed for five years, the mode of election is always tampered by the political party in power. The government of the day has been seen to be changing the Local Bodies Act to suit its political purpose. The mayor is always on tenterhooks as one wrong step in the eyes of the state government would lead to his or her upstaging. So, instead of looking after the city and its affairs, the Mayors are known to please their political masters. "The Mayor is a statutory [position]. At local level, he can be made accountable. The Mayor should be directly elected by the people and his tenure should be co-terminus with those of the council."<sup>36</sup>

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36 Interview by the author with former Chief Justice of the Supreme Court of India, V N Khare

The Municipal Commissioner calls the shots in the Municipal Corporation on behest of the state government. The Municipal Corporation is a legislative body that is supposed to govern the city but it is the Municipal Commissioner who executes the policy. As per the KMC Act 1976, the Municipal Commissioner is appointed for a term of three years and he should be appointed in consultation with the Mayor. However, in reality, the state government keeps on reshuffling the Municipal Commissioner if he fails to do its bidding. Secondly, the Mayor is not consulted in appointment of the Municipal Commissioner.

“Chief officers and Municipal Commissioners appointed by the states do not feel that they are accountable to the Mayor or the Municipal Council. Most voters also have a hazy idea of the institutional separation of powers between the municipality and the state. They have, therefore, tended to unquestioningly accept the *de facto* position where the Municipal Commissioner is seen as the actual power centre (often responding to the wishes and directions of the district minister or the MLAs rather than the Mayor). The ethos of the state government’s practice of appointing commissioners, often without any consent of the municipality, is that they are to function as enlightened outsiders to keep a watchful eye on the

body. That is hardly conducive to the building of a relationship of trust between the Commissioner and the Mayor.”<sup>37</sup>

### **7.1 Structural drawbacks**

The States have created and engaged many agencies or parastatal bodies to discharge many of the functions related to municipalities. This arrangement is acceptable as long as they are accountable to ULBs. But the experience is that parastatal bodies have undermined the role of the municipalities. Participation of diverse stakeholders like the citizens, government (for example, Bengaluru Development Authority, Bengaluru Water Supply and Sewerage Board, Bengaluru Metropolitan Transport Corporation, Karnataka Slum Clearance Board, Karnataka Housing Board, Karnataka State Road Transport Corporation, etc.), elected representatives (councillors, MLAs and MPs), NGOs and industrial stakeholders may sound good and democratic but it also acts as a stumbling block in taking fast decisions as the impact of such growth on each stakeholder varies. Each stakeholder group has its own priorities and requirements, which varies with those of the other groups. In order to arrive at a preponderance of opinion among all the stakeholders, valuable time — maybe years — is lost in discussions to meet each group’s needs, expectations, and priorities to chart out the development plan. In Bengaluru, parastatal agencies such as the BESCO, BDA

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37 Interview by the author with T R Raghunandan

and BWSSB play a greater role than that of BBMP. They have more power and bigger budget than the BBMP. Ideally, they should have been answerable to the BBMP, which is not the case. They are controlled by the State Government and these departments have greater administrative and financial autonomy than the BBMP. In Chennai, too many parastatal agencies have reduced the power of the Corporation.

### **Lack of coordination between these parastatal agencies**

“The Corporation of Chennai (CoC) had the Metro Water under it. But in 1972-73, on the insistence of the World Bank, it was given to a different agency to get funds from the World Bank...The CoC looks after the maintenance work of roads, street lights, library, slum clearance and fire services. But there is a coordination committee to be in touch with other parastatal agencies. But definitely coordination is a problem.”<sup>38</sup>

Instead of being people’s representative and sorting out their problems, the councillors are only worried about recovering the money they spent in the election. Councillors work in tandem with officers to subvert municipal governance and indulge in corruption. Over the years, the members nominated to the Ward Committees are workers of the political party in

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38 Interview by the author with M Subramanian, ex-mayor of Chennai

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power with little or no experience in urban affairs. The secondary literature reviewing the functioning of Ward Committees in Bengaluru concludes that this institution ‘did not succeed in becoming a formal institutionalised mechanism for people’s participation in planning, implementing and monitoring works. (K.Chamaraj 2006)

“Nothing moves in the BBMP without the permission of city-in-charge/district-in-charge minister. Political affiliation may vary, but there is a commonality of interests among the councillors. The councillors raise a hue and cry and argue on party lines only for public show.

It is all bogus tamasha. In reality, there is a perfect understanding between the ruling party and the opposition in Council on every issue. How the discussion would take place in Council is worked out in advance. The councillors interact well in advance — every input is shared among the ruling and the opposition party. BBMP is organised loot. Bureaucrats have been a shameless party to it.”<sup>39</sup>

In the absence of defined legal and structural provisions in the 74<sup>th</sup> CAA, the state governments haven’t taken the amendment seriously. The third-tier of democracy — the urban local bodies — is merely there on the paper.

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39 Interview by the author with Siddaiah, ex-municipal commissioner, BBMP

## **7.2 If State governments don't devolve financial powers, ULBs will remain weak**

The municipal administration in the country has been jeopardised by huge financial constraints of the municipal bodies. While the Constitution gave responsibilities to the ULBs in the XII Schedule, it did not provide for corresponding financial resources to carry out those responsibilities, creating a vertical imbalance. So, under fiscal federalism post-74<sup>th</sup> CAA, funds are devolved by the central government to the state governments. Then the state governments, on the basis of recommendation of the State Finance Commissions, also keeping in mind the funds given by the Central Finance Commission, devolve funds to the urban local bodies. On top of that, the ULBs have not been able to source their own revenue through taxes, rents and asset management, which had led to a huge fiscal gap between the responsibilities of the ULBs and their financial ability to discharge those functions. This has led to poor infrastructural growth of the cities and service delivery in the cities leading to frustration among citizens. The ULBs are so poor that they are unable to meet the requirements of the present population. Slum development and urban poverty alleviation are part of the functions of the ULBs, but they have been unable to do anything in these areas as they don't have funds to carry on their basic work. In absence of effort, urban poverty in the form of slums has become a part of the skyline in cities.

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The Dr Kasturirangan Committee Report (Report of the Expert Committee on Governance in The Bengaluru Metropolitan Region and Bruhat Bengaluru Mahanagara Palike, March 2008) on governance in the BBMP mentions, “While the area of metropolitan Bengaluru is less than 0.5 per cent of the area of the State, it contributes 75 per cent of the Corporate Tax collection, 80 per cent of Sales Tax collection, and 90 per cent of Luxury Tax collection in the State.” (Annexure 10). This reflects that cities are the generators of resources for the states. The financial growth of the cities is dependent on good civic infrastructure and service delivery and in absence of one, economics of the city will suffer.

The JNNURM recognised the urban policy and finance challenges in the country. One of the mandatory reforms under the JNNURM was the implementation of the 74th CAA in its letter and spirit. However, the JNNURM further complicated things and became one more agency in addition to the plethora of the existing ones. The partnership between the central, state and ULBs envisaged under the JNNURM was impractical. It involved coordination of agencies at the macro and micro levels which was unworkable and is reflected in the poor implementation of projects under the scheme. “JNNURM was bureaucratically implemented and its fate has been the same as other similar schemes.”<sup>40</sup> Now that the JNNURM’s term has come to an end, there is a big question

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40 Interview by the author with Mani Shankar Aiyar

mark on how the projects initiated under it and financed by it would be completed.

Among direct sources of revenue, Property Tax remains the major source of revenue for the ULBs.

Property Tax is the main source of revenue for the municipal corporation. However, the corporations are unable to garner that source of income to its complete potential due to tax default and under-declaration of property leading to revenue leakage. This leads to losses worth hundreds of crores of rupees every year. Municipalities have not succeeded in realising the potential of the Property Tax, though property values are on the rise. A major problem with the Property Tax system in India lies in the process of tax computation. The linking of the property tax — based on annual rental value (ARV) — with the rent control law has hindered the growth of collection.<sup>41</sup>

Cross checking of what is the actual property against the tax declared by the property owners is yet to be taken up by the municipalities as the councillors don't want to aggravate their voters. BBMP's collection of property tax against budget has been consistently lower by 30-40 % in the last five years.<sup>42</sup>

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41 Municipal Finance in India: An Assessment, commissioned by Reserve Bank of India

42 The Times of India, May 15, 2012

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CRISIL (advisor appointed by Government of Karnataka to assess the investment outlays), in its report submitted to the government, recommended certain fiscal measures to enhance the financial resources of the BBMP. However, the recommendations are lying in cold storage.

The SFCs have not been able to analyse the revenue generation capacity of the ULBs, their expenditure and the resource gap. SFCs have also failed to keep tab of the grants and funds transferred by the states. There isn't enough database and research report available for the CFC and the SFCs to evaluate and make recommendation for an accurate calculation and allocation of funds to the ULBs. Further, the states have failed to constitute SFCs that have prominent people in it.

**Chart 2:** Revenue & Expenditure chart

| Source             | Revenue<br>(in per cent) | Expenditure<br>(in per cent) |
|--------------------|--------------------------|------------------------------|
| Central Government | 66.19                    | 47.70                        |
| State Governments  | 31.31                    | 45.19                        |
| Local Governments  | 2.5                      | 7.11                         |
| TOTAL R & E        | 100                      | 100                          |

Source: Compiled from Ministry of Finance Statistics and data collected by 13th Central Finance Commission

An analysis of revenue and expenditure shows that two-thirds of the ULBs' funds come from the Central and the state governments.

“The Centre gives ample share of revenue to the States and it is the latter that are reluctant to devolve more funds to the local level. The grants from the Centre have been increasing with every CFC award, so there is no cause to complain, though one could say that urban areas do deserve a larger share of central revenues.”<sup>43</sup>

The list of functions that the ULBs have to perform under the XII Schedule of the 74<sup>th</sup> CAA have not been taken into account by the SFCs. They are unable to spell out the correct financial requirements of the ULBs *vis a vis* their responsibilities. “The purpose of having ULBs was to look after the welfare of the local people — mainly the civic responsibilities like roads, garbage, water, power and healthcare. But they don’t have funds to carry out these responsibilities. They depend on the charity of the State”<sup>44</sup>

Since the abolition of the Octroi has been a major revenue loss for the ULBs, there has been no compensatory financial funding by the states. SFCs haven’t come out with any new structure of tax devolutions like transfer of entry tax to the

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43 Interview by the author with T R Raghunandan, former Joint Secretary Government of India, Ministry of Panchayati Raj (Rural local governments),(2004-2009)

44 Interview by the author with former Chief Justice of India, V N Khare

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municipalities in lieu of the Octroi. Similarly, Entertainment Tax and Profession Tax are still not the exclusive revenue domain of the ULBs. “Earlier, Octroi and toll tax were collected by the ULBs but now all these taxes have been abolished which is a major loss to ULBs. The State governments had promised to compensate by increasing the share in the sales tax but it has not happened.”<sup>45</sup>

Other than improvement of tax administration and asset management, ULBs have also been unable to control their expenditure and get their account audited. “There were so many bogus works happening in the BBMP on which nobody keeps a check. There are many unwanted people and extravagant expenditures of the BBMP, which can be done away with. The Corporation doesn’t have the money but the officials and elected representatives don’t want a cut in their unnecessary extravagance like the number of cars, mobile phones, mineral water etc. Professionalism is a major victim. Ninety per cent of the people working in BBMP are not professionals. All kinds of ‘background entry’ in recruitment happen as a result of which there are substandard consultants, contractors and workers. There is a nexus between the consultants and engineer, officers and councillors. For

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45 Interview by the author with former chief justice of India, V N Khare

payment of bills, the councillors come on behalf of contractors to ask for clearance of bill.”<sup>46</sup>

“Finances meant for ULBs don’t reach them. It is said (I am not sure because I can’t verify) from State level, if Rs 100 grant has to reach ULBs, they release only Rs 80. In between, from the release of money to delivery point there are so many intermediaries that only 50 per cent of the funds reach the ULBs. Whatever fund is sent is not applied for the purpose it is sent. Therefore, no development takes place....There is no accountability. Review or audit of accounts isn’t done. Budget is not accounted for. There is connivance between the officers. There is no one to check governance.”<sup>47</sup>

In the absence of a clear-cut financial devolution in the 74<sup>th</sup> CAA, ULBs have been unable to raise revenue sources on their own. The civic bodies don’t have sufficient tax and non-tax resources, irregular and inadequate grants from the Centre and the state, and their own inefficiency in tax administration and user charges collection. These have made them dependent on state governments to carry on their duties. As a consequence,

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46 Interview by the author with Siddaiah, former municipal commissioner of BBMP

47 Interview by the author with former chief justice of India, V N Khare

ULBs have become irrelevant. The pathetic situation of our cities and towns is a living nightmare for all citizens who live in them.

### **7.3 If there is no public accountability of local bodies, there would be no public pressure.**

For the urban citizens, ward councillors were supposed to be the closest constitutionally mandated arm of local government. More so in a city like Bengaluru, where the mayor is indirectly elected for one year, people don't have the chance to show their like or dislike for the local body representative like the Mayor. In Chennai, the position and power of the directly elected Mayor is also not clear though he is elected for a term of five years. In this environment of uncertainty, the citizens suffer as their local concerns aren't addressed. "The Mayor's position has been undermined in practice. This has been exacerbated further in several States where the Mayor is appointed only for a year. That is hardly a design that encourages and facilitates good political leadership to emerge in the urban scenario."<sup>48</sup>

Only if the work of the councillor or Mayor is seriously measured by the public will they be accountable to them. However, there is no quantitative or qualitative way of measuring and appraising the performance of the elected representatives in ULBs due to which the people have been taken for ride. One of positives of a directly elected Mayor is

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48 Interview by the author with T R Raghunandan

that in case of poor performance, he can be shown the door in the next election. A directly elected Mayor will be accountable to people compared to a ceremonial Mayor for a term of one year.

Since local bodies haven't truly become the third tier of democracy in true sense, the political parties haven't paid attention to the quality of people who stand for the municipality elections. By this, it is not meant that political party candidates for Parliament and Assembly elections are any better. Elected councillors and Mayors, both directly and indirectly elected, lack personality and are not city-focused. For them, being a Mayor or a councillor is only a leading step towards something higher in political echelons.

The National Advisory Council established by the UPA I government in March 2005<sup>49</sup> made a recommendation that local governments must provide all services and functions required by citizens at the grassroots level, and only those that cannot be provided locally must be handed up to higher levels of government. The bottom-up approach would put the onus on local bodies and make them answerable to people.

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49 NAC discussion paper on Empowerment of Local Govts, Stakeholders and Citizens 4th March 2005

## CRISIS OF URBAN GOVERNANCE IN INDIA

The Second Administrative Reforms Commission, too, suggested measures to make all levels of government 'proactive, responsive, accountable, sustainable and efficiently administered'. But its recommendations are gathering dust. The Municipal Commissioner or the administrator, and other officials under him, who form the executive arm of the urban local bodies being government officials, aren't accountable for their actions as they are safeguarded by their official rule book. Superficial disciplinary procedures in forms of transfers make the government officials in ULBs apathetic and unaccountable to people. "Most state municipal acts provide for the Commissioner to act as a watchdog, and screen resolutions of the body before they are implemented. In many states, the District Collector, or the Director of Municipal Administration has the power to overrule resolutions of the municipality. This hierarchical relationship between the states and the municipalities results in very little autonomy and accountability for the municipalities in practice."<sup>50</sup>

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50 Interview by the author with T R Raghunandan

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## VIII. The Way Ahead

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The 74<sup>th</sup> CAA (also the 73<sup>rd</sup> CAA), as we come to know subsequently, is not an exercise in decentralisation or devolution of power as scholars across the world consider. It is not. The former Prime Minister late Rajiv Gandhi (the process for the Amendment Act was started by the then Prime Minister Rajiv Gandhi in 1989) really wanted the funnel of political representation widened. He felt that the grand total of the Members of Parliament and the grand total of all the state assembly members were not more than six thousand and this was not adequate representation of a country of India's size. He wanted to widen the funnel of participation by a very large number. He said that by introducing adult franchise and by having X number of members at gram panchayats, we will have a huge number. As a result of all that, you have three million elected representatives. That was a political decision. Rajiv Gandhi felt that this six thousand people (MPs and MLAs) will interact with three million (GPs) and they will have to find the way for sharing the political turf. It was not easy but Rajiv Gandhi thought that the numbers would do something to the chemistry of politics and it would work...So, people discussing this as a notion of decentralisation or devolution, in my

opinion, is not relevant,” said K C Sivaramakrishnan while bursting the myth that these two Amendments were enacted with the aim of decentralisation and devolution of powers to the ULBs.

“We thought we will use words which will persuade the state governments to share their functional and financial domain with local bodies. The lawyers said that there is Keshavananda Bharti case<sup>51</sup> defining the basic features of the Constitution and you can’t puncture the VII Schedule. In the end, we had a series of exhortations and preaching. The XII Schedule, with all due respect, is my work. I wrote the XII Schedule. We picked up just a few items. What was the constitutional sanctity? The state legislature may endorse the panchayats and ULBs. At that time, we felt that the power of our words would be such that the states would be persuaded. By and large, state government understood how far they wanted to share power and domain. They carefully selected what they wanted. Though I was drafting the Panchayati Raj Bill, I was also drawn into the whole process (ULBs) reluctantly. My personal feeling was that we have not done our homework carefully.”<sup>52</sup>

The point is if they were not meant to decentralise power, then how can the 74<sup>th</sup> CAA be analysed and its drawbacks be

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51 Keshavananda Bharti Case; AIR 1973 SC 1461

52 Interview by the author with K C Sivaramakrishnan, former civil servant

enumerated, or its lack of implementation be questioned for the failure of urban local bodies in India. The objective of the 74<sup>th</sup> CAA was something else — increasing mass base of electoral politics — and to think that it was a constitutional provision to strengthen local bodies, both rural and urban, is flawed. Then any question of it being an Act in itself for municipal governance is a false premise. The 74<sup>th</sup> CAA was drafted with a different objective than what we have been thinking till now. The 74<sup>th</sup> CAA at best provides for enactment like the State Municipal Acts by the different State legislatures.

In fact, there has been no constitutional or legal provision exclusively till now for urban governance in India. “It’s an interesting experiment (though it was not considered an experiment) based on very good intentions. The big fat book needs a rigorous look. The political situation has changed over the years. The Indian Mayor is a pathetic joker. Bengaluru Mayor has a one-year term. There was an interesting legal tussle between Jayalalithaa and Stalin. What happened when Stalin was a directly elected Mayor and how she cut him down to size? What is interesting is when Stalin came back and became minister for local self-government; he also didn’t consider it necessary to strengthen the post of Mayor. Between

## CRISIS OF URBAN GOVERNANCE IN INDIA

Jayalithaa and Stalin, there is very little difference as far as local self-government is concerned.”<sup>53</sup>

However, the question is will the major political parties in the country — national and regional — open up to undertaking a review of the existing constitutional/legal arrangement on urban governance with a view, if need be, to carry out necessary changes?

“For any new law or constitutional amendment, all stake holders will have a say in the matter. There has to be an agreement for any new law or amendment. The point is who will bring about the changes. Those with vested interests will be happy with the status quo as they wield power because of the present system. They are the beneficiaries of this illegitimate system, so they will never agree to give up unless they are forced by public opinion or changed circumstances. The whole constitutional scheme will need to be reinvented on the basis of bottom-up approach. Merely saying it in the Preamble isn’t enough. It requires wholesale relook. Merely amending one law isn’t much. I feel we have amended the Constitution so many times, may be 120 times. If something

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53 Interview by the author with K C Sivaramakrishnan, former bureaucrat

has to be revisited in the context of changed circumstances, we should be prepared to do so.”<sup>54</sup>

Any meaningful review would involve a relook at financial devolution of powers, which, in essence, impinges on the present constitutional arrangement regarding Centre-state relations. The Centre needs to devolve more financial powers to the states as a necessary requirement for granting more financial powers to ULBs. But will the state governments be open to the idea of participating in any deliberation on giving up their authority?

“There should be clear devolution of power to the ULBs with matching financial resources to its disposal to enable them to realise the objective of the amendment. There is a case for reviewing the existing financial powers with regard to the fact that states have financial power which is relatively poorer than the Central government which has residuary power of taxation as per Article 248. Service tax is an example of that. Otherwise, actual devolution depends on the state legislature concerned. If the body doesn’t want to share its power with respect to subjects mentioned in the Constitution, what can be done?

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54 Interview by the author with Subhash C Kashyap, constitutional expert

## CRISIS OF URBAN GOVERNANCE IN INDIA

The Constitution didn't expect the legislature to undermine laws made for the devolution of power to municipalities."<sup>55</sup>

“Unless the Centre has clear and committed concept of devolution, it is too much to expect the States to come up the way the Centre wants and doesn't give the direction. Yet, it has become the favourite excuse of the Centre, particularly the berated (now extinct) Planning Commission to put all responsibility of Panchayati Raj and ULBs on the State, saying that the constitution has put it on State's List. Social planning is in the Concurrent List and, in any case, implementation of constitutional provision is mandatory and is part and parcel of the Centre's responsibility. Both the Centre and States are to be faulted, but the Centre much more so.”<sup>56</sup>

“What in principle appears to be more important is to grant more powers to local self-government institutions to raise their own resources and have full autonomy with regard to using these resources as also the grants from the State or the Union. Right now many of the state schemes or central-sponsored schemes are administered by the bureaucrats over whom the

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55 Interview by the author with P P Rao, senior advocate of the Supreme Court

56 Interview by the author with Mani Shankar Aiyar, former union minister

local self-government institutions created by the 74th CAA have no control.”<sup>57</sup>

There should be a provision for a pool of taxes that can be a source of income for the Union, the states and the Municipalities. It should also specify the categories of taxes and who should be collecting and appropriating the same and how it would be divided among the Union, the states and the municipalities.

The National Commission to Review the Working of the Constitution, while dealing with financial domain, recommended that the Eleventh and 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.

“The Finance Commission distributes resources between the Union and the states. There must be a similar mechanism for

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57 Interview by the author with Subhash C Kashyap, constitutional expert

## CRISIS OF URBAN GOVERNANCE IN INDIA

distribution of financial powers between the Union, the states and the urban local bodies.”<sup>58</sup>

Also, the financial powers of the ULBs should also be reviewed comprehensively to provide maximum autonomy. Most of the corporations and municipalities have a certain threshold of incurring expenditure after which it is referred to the respective state governments for clearance. There has to be a legislation that gives adequate financial autonomy in commensuration with the size and stature of the ULBs.

It is said in our national political discourse that the Union government of the day discriminates against a state controlled by a rival political party. By the same logic, the relationship between the State and the urban local bodies would also be strained when the party in-charge of the urban local body is not the ruling party in the State or vice versa.

“I don’t think that if a particular party is [heading] the ULB and some other party is running the State, there is hesitation to release funds because no political party across the spectrum — be it in opposition or government — has any commitment to implement the 74<sup>th</sup> CAA as conceived in the Constitution. I

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58 Interview by the author with former chief justice of India, M N Venkatachaliah. He was the chairman of Constitutional Review Committee formed by Vajpayee government to review the functioning of the constitution after 50 years of Indian Constitution.

know there is a complaint made that the Union government of the day discriminates against states ruled by the opposition party but that is only marginally true. We want to run the federal system and I don't think any Central Government would deliberately discriminate against states or local bodies ruled by rival political parties.”<sup>59</sup>

A similar view was expressed by the former Municipal Commissioner: “In Bengaluru, the trend is whichever party enjoys the majority in the Municipal Council is not in power in the State Assembly. But during the three years of BJP rule (from 27 March 2010 to 2013), the same party (BJP) had majority in the Municipal Council as well. But the same set of problems were there.”<sup>60</sup>

Devolution also becomes weaker due to hierarchical structures and lack of democracy in most Indian mainstream. “Nagar Palikas and municipal bodies are close to the seat of power. ULBs being right there in the urban centres where other political veterans (MLAs and MPs) are also centred become a source for tussle of power. There are fights between the MLAs

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59 Interview by the author with former Union Minister Mani Shankar Aiyar

60 Interview by the author with Sidaiah

and councillors, in which the MLAs have trumped up; they have asserted their power.”<sup>61</sup>

There are other factors like MPLAD and MLALAD schemes which militate against the concept of separation of powers and principles of three-tier federalism. “The MPs and MLAs have more funds available to them under these schemes than local institutions and these funds have to be used on items that are largely in the 11th and 12th Schedule i.e. they are outside the Union List or State List. With MPs and MLAs having the power and the fund to spend on such heads obviously negate the vesting of powers to the Panchayati Raj System and local self-government institutions. The MPLAD scheme should be abolished. MPs deal with national matters, local-level matters should be dealt by local leaders.”<sup>62</sup> Similarly, the MPs and MLAs should not be allowed to participate and vote in the Corporation (like in Karnataka). This right to vote violates the requirements of Article 243W of the Constitution, which says that a municipality should be ‘an institution of self-government’.

There has to be a comprehensive approach. Between a Mayor and electoral functioning, what role should be there for the

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61 Interview by the author with Jairam Ramesh, former Union Minister

62 Interview by the author with Subhash C Kashyap, constitutional expert

Mayor — CEO or CM? If there is more power and funds attached to the urban local bodies, the same political leaders who till now think it's demeaning for them to be associated with ULBs will be attracted to them. "Hierarchy spoils — where there are more spoils to enjoy — more powerful would go there."<sup>63</sup>

As we try to seek a solution for the effectiveness of the urban local body, we also need to look at whether the mode of election of the Mayor, when he is directly elected, as in cities like Chennai and Shimla, has a bearing on the relatively successful running of the ULBs vis-a-vis the ULBs in which the Mayors are indirectly elected with shorter tenure, as in Bengaluru. A majority of the interviewees said that the Mayor should be directly elected and his tenure should be co-terminus with the council.

"The best is to directly elect the Mayor. He gets respect from the people. The Mayor should be for five years. It takes five months for a new person to settle down and understand the departments, role and functioning. A directly elected Mayor

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63 Interview by the author with Subhash C Kashyap, constitutional expert

## CRISIS OF URBAN GOVERNANCE IN INDIA

gets the largest number of votes, more than any elected MP or MLA. That makes him powerful as the mandate is huge.”<sup>64</sup>

“The Mayor should be recalled by the general public in case he fails to deliver. A petition signed by one-third of the public can lead to “Recall of mayor”.”<sup>65</sup>

The dissenting voices feel that the mayors should be indirectly elected as a directly elected president of the local body isn't dependent on members. A directly elected head becomes dictatorial which is against the democratic system. There may be examples of efficiency but that is at the cost of institutionalising efficiency. “A directly elected Mayor has also not been able to make much of a difference under the present constitutional arrangements. In fact, we have raised the people's hopes, but we have no power to deliver.”<sup>66</sup>

There may be various reasons for the failure of directly elected mayors in India to perform. Institutional design failures like inadequate political and executive power are reasons for the mayors to not keep their promises with the electorate.

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64 Interview by the author with M Subramanian, ex-mayor of Chennai

65 Former Chief Justice of India, V N Khare

66 Deputy Mayor of Shimla Tikender Singh Panwar, at the Urban Age Conference in New Delhi; Nov 2014

Conversely, the position of a powerful city mayor is politically unsettling for the State government.

“Constitutional functions of the Mayor needn’t be defined in the Constitution. It’s a statutory office. The State legislatures should do it.”<sup>67</sup>

Some of the other measures were suggested for the improvement of the BBMP. “There are 198 corporators in the BBMP and even they can’t decide the expenditure of Rs 5 crore and above. There has to be some system wherein the Council gets the power to decide and vote on its own expenditure. In the BBMP limits, the BBMP should be supreme vis-a-vis any parastatal agency. The Council should have the power to pass expenditure of up to Rs 25 crore. The MLAs should not be the members of the Council. Ombudsman mechanism should be in place to keep check on the work of the Council. The ward committees must be empowered to formulate plans for their wards. The committee along with an engineer must say these are the roads to be repaired, parks to be upgraded and potholes to be filled.

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<sup>67</sup> Interview by the author with P P Rao, senior advocate, Supreme Court of India

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Only then there will be objectivity. The vigilance commissioner of the BBMP should keep an eye on bogus works. Resource mobilisation needs to be enhanced.”<sup>68</sup>

Some of the other measures like wide and deep network of e-governance models, interactive forums and websites, online payments of taxes, online registration, e-tenders etc. would go a long way in streamlining the functioning of ULBs, develop an efficient delivery system and curb corruption.

There are plans for trifurcation of the Municipal Corporation of Bengaluru which would be completed before the next election of the Corporation, due in 2015. The policy makers argue that trifurcation would help in better management of the City. “Bengaluru would be split in three Corporations: central business district (Kempagowda Bengaluru, north (Yelahanka Bengaluru) and south (Begur Bengaluru). All these three corporations would come under the Bengaluru Metropolitan Region, which is in the process of formation. There is also a proposal for directly elected mayors.”<sup>69</sup>

But would splitting of municipal bodies into smaller bodies in large cities be a probable solution to the current urban

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68 Interviews by the author with former municipal commissioners of BBMP, Siddaiah and Dr S Subrahmanya

69 P R Ramesh, former mayor, also part of the government committee to trifurcate Bengaluru

governance problem as it has been done in Delhi or being envisaged for some time in Bengaluru?

“Decentralisation should also involve decentralisation of units of governance. The Delhi idea of breaking municipal zones into four is the one I would commend. I would call it decentralisation of power. If you look at Bengaluru, it was a small city, it had one corporation. Now it has grown into a megapolis, it still has one corporation. Why not have several corporations of the size of original Bengaluru?”<sup>70</sup>

But not everyone feels so. Speaking at the Urban Age conference held in New Delhi on Nov 14, 2014, BJP MP Meenakshi Lekhi, from New Delhi (Meenakshi Lekhi is also the presiding officer of New Delhi Municipal Council) said, “Delhi has three mayors. Trifurcation was done with a political motive. Each municipal council is not in a position to govern itself money wise. Eastern Delhi remains the poorest. In the joint system, money would be collected and disbursed jointly. But not anymore.” Applying the same reasoning to Bengaluru’s trifurcation, north Bengaluru would be poorer than the CBD and south Bengaluru as it doesn’t have that many commercialised regions. This will impact its tax collection.

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70 Interview by the author with Mani Shankar Aiyar

## CRISIS OF URBAN GOVERNANCE IN INDIA

Splitting the municipal corporation also leads to it losing its status and the benefits attached to it. “Chennai City has 200 wards, which is not huge. Splitting it into smaller bodies would make it lose the tag of the mega city, which gives it so many advantages. Standards of facilities would reduce and so will the delivery of basic amenities.”<sup>71</sup>

Whether splitting of ULBs would actually lead to better governance or would merely create more political structures within the municipalities is best summed up by Akhil Gupta’s (Blurred Boundaries) concept of trans-locality of state institutions where he says, “there is no position strictly outside or inside the state because what is being contested is the terrain of the ideological field. Any struggle against currently hegemonic configurations of power and domination involves a cultural struggle, what Gramsci has called the “war of position”. What is at stake is nothing less than a transformation in the manner in which the state comes to be constructed.”

In big cities like Bengaluru and Chennai, MPs’ and MLAs’ constituency occupy the same area as that of the wards in the municipal corporations. In other words, the wards of the municipal corporations are superimposed by the Assembly and Lok Sabha constituencies. Therefore, smaller urban local bodies in cities can be carved out along the lines of existing

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71 M Subramaniam, former Mayor of Chennai

assembly constituencies for orderly restructuring of urban local bodies.

“Whether assembly constituencies and administrative unit can be different or same, calls for in-depth studies from various angles. There may certainly be a case to work out units which are the same for electoral and administrative purposes.”<sup>72</sup>

Carving along the lines of assembly segments would be a very effective way of running urban local government because the degree of responsiveness is closely allied to the degree of responsibility to the representative. To the extent to which the representatives are required to be responsible, responsiveness will increase. Smaller the electorate to which the representative is responsible, the stronger is the likelihood of the relationship between the representative and the unit that he or she represents.<sup>73</sup>

Another outcome that till now has been unexplored in respect of the 74th CAA and the failure of the state governments to carry out its implementation is that the Governor has the power to dismiss state government for not implementing a constitutional provision. Political parties, both ruling and

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72 Interview by the author with Subhash Kashyap

73 Interview by the author with Mani Shankar Aiyar

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opposition in the state, are quick to criticise the Governors for being partisan. But nobody has raised an issue or attracted the Governors' attention towards promulgating Article 356 as non-implementation of a constitutional provision amounts to constitutional breakdown in the state.

“It is a constitutional failure that the states have not implemented the 74th CAA in true sense. It attracts Article 356 and the Governors can recommend President's rule in such cases.”<sup>74</sup> “The Constitution permits the Governor advising the State governments for implementation of constitutional schemes and provisions. But what kind of governors are appointed? Justice Sarkaria report had suggested that no politicians should be appointed as governors. But political parties have the practice of putting their henchman as their governors. The present government is no exception.”<sup>75</sup>

“The Governors do have special powers with respect to legislation and other matters in the State Assembly. Under Article 175 of the Constitution, Governors can influence legislations. Otherwise, generally, the Governors are supposed to act on the advice of the Council of Ministers. If the Governor exercises overriding powers of the kind, the question

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74 Former chief justice of Supreme Court V N Khare

75 P P Rao, senior advocate of Supreme Court

could be legitimately asked if the Governor is the representative of the people or the Council of Ministers.”<sup>76</sup>

### **8.1 The London Model**

In Bengaluru, there have been reports<sup>77</sup> about following the London model of municipal administration. The system in London runs good because the Mayor has a lot of power. During my visit to London to study urban governance, I found that the same can be replicated to an extent in cities like Bengaluru only after changes are made in the State Municipal Act to make it on par with the laws that administer London. There can't be a copycat of the London model as each city is different and the requirements are different.

The term London now refers to a much larger conurbation roughly corresponding to the London region, which is also known as the Greater London administrative area, of 32 boroughs (including the City of Westminster), in addition to the City of London. (Annexure 11.) There, representatives are elected directly by the local communities which they serve. The local authority for the City, the City of London Corporation, is unique in the United Kingdom and has some unusual

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76 Subhash C Kashyap, constitutional expert

77 Singapore passé, London calling, Bengaluru Mirror, May 13, 2014

responsibilities for a local authority in Britain, such as being the police authority for the City. It also has responsibilities and ownerships beyond the City's boundaries. The Corporation is headed by the Lord Mayor of the City of London, an office separate from (and much older than) the Mayor of London.

City governance under the Mayor of London is strong within the Greater London Authority (Annexure 12). Unlike other countries, there is no state or regional level of governance in the UK. The Mayor has the largest electorate in the UK and one of the largest in Europe with 5.8 million voters entitled to take part in elections every four years.<sup>78</sup> The 25 directly elected members of the London Assembly have the responsibility of scrutinising the Mayor's office. Twenty eight of the 33 boroughs are indirectly elected through the borough councils, with four borough-level mayors directly elected.

The powers vested in the leadership of the Mayor of London are broad which help in better management of London. The Mayor has considerable financial power. The Localism Act passed the responsibility for housing, economic development and the Olympic legacy to London, in addition to transport, planning and the police already controlled by the Mayor. A £3-billion funding deal accompanied these new powers up to 2014-15. As a consequence,

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78 Governing Urban Futures, LSE Cities

A directly elected Mayor makes things easier for the City. “Mayor in London is directly elected. There is an assembly which is elected to scrutinise the Mayor's activities. Mayor has strategic control over transport, police, fire brigade and investment, whereas the service delivery or daily running, which doesn't require strategy, happens at the large bureaucracy level. For instance, the Transport for London, where Mayor is only steering, he is not involved in nitty-gritty. Boroughs are separate democratic institutions. The Mayor has enough time to deal with big strategy. The Mayor does not macro manage. Party politics is a reality but it is more about the individual who occupies the post. Mayors in India are more of representational figure or ceremonial. Not a single big policy decision can be taken by the Mayors in India. I have met the Mayor of Mumbai. Local trains running in Mumbai are not under him. It is in the control of the Central Government. There is not a single big policy decision that the Mayor of Mumbai or Bengaluru can take.”<sup>79</sup>

“The Mayor of London has been able to extract 23 million pounds worth of assistance from the Central government. We now have a \$30-million public rail system called Crossrail to be

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<sup>79</sup> Interview with Phillip Rode, LSE Cities, November 14, 2014 in New Delhi

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opened in 2018. It would never have happened if there wasn't a Mayor lobbying for it."<sup>80</sup>

The Mayor of London makes foreign visits on a trade mission to promote London and forge greater economic links with the world's economies. He can promise investors with delivery as he directly controls London's economy, including financial services, infrastructure, transport, higher education, sport, tourism, digital/hi tech and creative industries. Same can't be said about mayors in India. As per the Chennai City Municipal Corporation Act 1919 (inserted by the Tamil Nadu Act 31 of 2002), the Chennai Mayor has to take permission of the state government before taking any foreign visits. In the words of Phillip Rode, "India will have to evolve its own home-grown system of urban governance. Blindly following the London model wouldn't solve problems as the two cities are different and their problems are different. Superimposing one structure on the other will not help. Urban governance has to be grown organically."<sup>81</sup>

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80 Ricky Burdett, Director, LSE at the urban age conference in New Delhi

81 Interview by the author with Phillip Rode, LSE Cities, November 14, 2014 in New Delhi

## IX. Summary

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The findings of this study show that the present model of urban governance – the top-down approach - is the hangover of colonial model, which is actually an antithesis of democracy where all sovereign power is supposed to belong to people at the grassroots. Although urban areas existed since the ancient time, but its governance hasn't been a priority of the governments at any point of time. And the same continued after independence.

A look at the present constitutional provisions, which is in Part 9A of the Constitution inserted after the enactment of 74<sup>th</sup> CAA, reveals that legislative or judicial powers have neither expressly nor implicitly been devolved to the urban local bodies. It is the Parliament and the State legislatures with whom the legislative powers vest under Part 12 read with 7<sup>th</sup> Schedule of the Constitution. A careful perusal of the different provisions of Part 9A shows that except for constitution of Municipalities and reservations and elections, every other aspect appear to be neither imperative nor mandatory, and are only enabling provisions. The present laws are at best guidelines to be followed by state legislatures in case of the latter framing laws relating to urban local bodies. States have also not created structures for urban citizens to participate in

## CRISIS OF URBAN GOVERNANCE IN INDIA

urban governance. States have not devolved all subject matters listed in the 12th Schedule and urban governance has been dominated by the presence of powerful State established parastatals, such as development authorities, Water Supply Boards and Planning Authorities, which have continued unchallenged even though democratically elected urban local governments have been constituted under the 74<sup>th</sup> amendment. The ULBs in no way form the third-tier of the federal structure under the present constitutional provisions.

There are several weaknesses in the fiscal framework of urban decentralisation, which contributes to the poor implementation of the 74<sup>th</sup> CAA. Financially-dependent ULBs are only possible in metropolitan cities otherwise in other urban centres, ULBs have to be dependent on the state for the funds. What we need is financially strong local bodies but is it possible for them to generate their own revenue on sufficiently large scale? That's a question which can be answered only if there are separate revenue resources for the ULBs. States also needs resources. Keeping in mind the fiscal federalism, a judicious balance between the needs of the Centre, state and the ULBs is the need of the hour. But that requires clear-cut laws which demarcate structural and financial powers of the Centre, states and ULBs.

A directly elected mayor is definitely desirable but that is not blanket cure to all the ills that affect ULBs. A powerful mayor

at the municipal level with a term of five years in the collegiate system of functioning is also an option.

It is observed that the MPs and MLAs are strongest enemies of ULBs. New emerging leadership (mayor and ward councillors) has faced strong resistance from the established lobby of MPs and MLAs. Therefore, it is suggested that MPs and MLAs should be kept out of municipal domain.

In Europe, maximum powers belong to leaders at subsidiary level, only if the local municipality is unable to do a work; it is referred to the higher level. The problem in India is that each level of government is anxious to perform the responsibilities of the level just below it, thereby leaving its own responsibilities inadequately addressed.

To bring about the changes in the way our cities are governed require political will and management. But how does one convince people who are in position to change law? Prepare a case which will make political parties see that if they don't bring changes, there may be a backlash and political parties may suffer. Public pressure has to be strong to bring about a change. The evidence is in the form of more RTI applications, agitations around the issue of water, sanitation and SWM, increasing media coverage of ULB's not functioning etc.

## CRISIS OF URBAN GOVERNANCE IN INDIA

However, public pressure tends to dissipate with time and there is status quo.

Splitting large municipalities into smaller bodies can be one of the models to approach the problems of mega cities but whether that will result in better and more accountable governance is not guaranteed.

In a growing economy like India, urbanisation is taking place at a much faster speed compared to any other place in the world. If we don't manage the cities efficiently, Indian cities would be at best called slum cities.

## X. Annexure

### Annexure 1

#### Population Totals

#### Rural-Urban Distribution

#### FIGURES AT A GLANCE

#### INDIA

|                        |  | 2001    | 2011    | Increase |  |  |  |
|------------------------|--|---------|---------|----------|--|--|--|
| No. of States/UTs      |  | 35      | 35      | -        |  |  |  |
| No. of Districts       |  | 593     | 640     | 47       |  |  |  |
| No. of Sub-Districts   |  | 5,463   | 5,924   | 461      |  |  |  |
| No. of Towns           |  | 5,161   | 7,935   | 2774     |  |  |  |
| No. of Statutory Towns |  | 3,799   | 4,041   | 242      |  |  |  |
| No. of Census Towns    |  | 1,362   | 3,894   | 2532     |  |  |  |
| No. of Villages        |  | 638,588 | 640,867 | 2279     |  |  |  |

|                                           |          | Total         | Rural       | Urban       |            |       |       |
|-------------------------------------------|----------|---------------|-------------|-------------|------------|-------|-------|
| POPULATION                                | Persons  | 1,210,193,422 | 833,087,662 | 377,105,760 |            |       |       |
|                                           | Males    | 623,724,248   | 427,917,052 | 195,807,196 |            |       |       |
|                                           | Females  | 586,469,174   | 405,170,610 | 181,298,564 |            |       |       |
| DECADAL<br>POPULATION GROWTH<br>2001-2011 | Absolute |               |             |             | Percentage |       |       |
|                                           |          | Total         | Rural       | Urban       | Total      | Rural | Urban |
|                                           | Persons  | 181,455,986   | 90,469,915  | 90,986,071  | 17.64      | 12.18 | 31.80 |
|                                           | Males    | 91,501,158    | 46,248,060  | 45,253,098  | 17.19      | 12.12 | 30.06 |
|                                           | Females  | 89,954,828    | 44,221,855  | 45,732,973  | 18.12      | 12.25 | 33.73 |

Source : Census of India 2011

## Annexure 2

### Data Highlights – Census 2011

Population (in Crore)

|       | 2001  | 2011  | Difference |
|-------|-------|-------|------------|
| India | 102.9 | 121.0 | 18.1       |
| Rural | 74.3  | 83.3  | 9.0        |
| Urban | 28.6  | 37.7  | 9.1        |

- For the first time since Independence, the absolute increase in population is more in urban areas than in rural areas
- Rural – Urban distribution: 68.84% & 31.16%
- Level of urbanization increased from 27.81% in 2001 Census to 31.16% in 2011 Census
- The proportion of rural population declined from 72.19% to 68.84%

Source : Census of India 2011

## Annexure 3

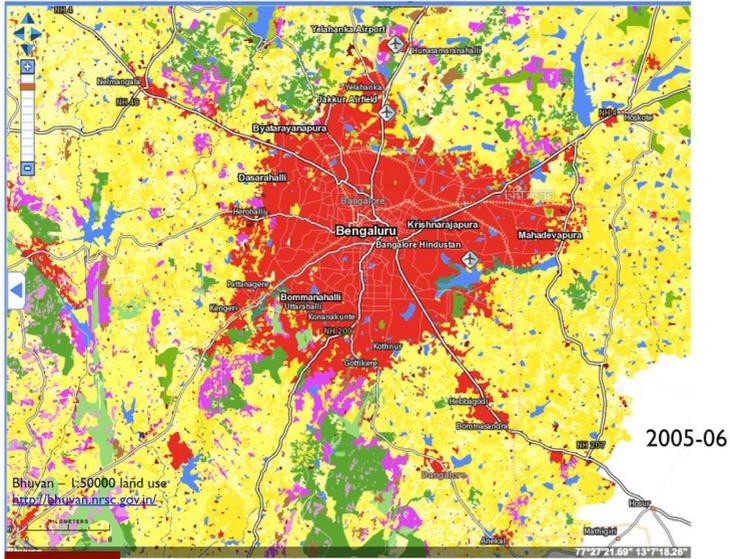
### Number of Urban Units – India

|                    |       |                 |  |
|--------------------|-------|-----------------|--|
| • Towns:           |       |                 |  |
| • Census 2001      | 5,161 |                 |  |
| • Census 2011      | 7,935 | Increase: 2,774 |  |
| • Statutory Towns: |       |                 |  |
| • Census 2001      | 3,799 |                 |  |
| • Census 2011      | 4,041 | Increase: 242   |  |
| • Census Towns:    |       |                 |  |
| • Census 2001      | 1,362 |                 |  |
| • Census 2011      | 3,894 | Increase: 2,532 |  |

Source : Census of India 2011

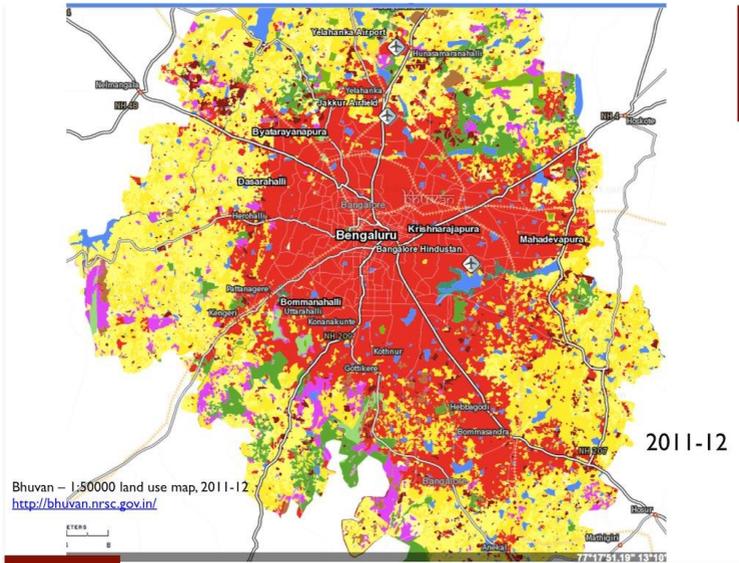
## Annexure 4

### Bengaluru City urban landscape 2005-06



## Annexure 5

### Bengaluru City urban landscape 2011-12



## **Annexure 6**

### **THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1992**

Statement of Objects and Reasons appended to the Constitution (Seventy-third Amendment) Bill, 1991 which was enacted as the Constitution (Seventy-fourth Amendment) Act, 1992

#### **STATEMENT OF OBJECTS AND REASONS**

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.

1. Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly for:
  - i. Putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to:
    - a. The functions and taxation powers; and
    - b. Arrangements for revenue sharing;
  - ii. Ensuring regular conduct of elections;

- iii. Ensuring timely elections in the case of supersession; and
  - iv. Providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women.
2. Accordingly, it is proposed to add a new part relating to the Urban Local Bodies in the Constitution to provide for-
- a. Constitution of three types of Municipalities:
    - i. Nagar Panchayats for areas in transition from a rural area to urban area;
    - ii. Municipal Councils for smaller urban areas;
    - iii. Municipal Corporations for larger urban areas.

The broad criteria for specifying the said areas is being provided in the proposed article 243-0;

1. Composition of Municipalities, which will be decided by the Legislature of a State, having the following features:
  - i. Persons to be chosen by direct election;
  - ii. Representation of Chairpersons of Committees, if any, at ward or other levels in the Municipalities;
  - iii. Representation of persons having special knowledge or experience of Municipal Administration in Municipalities (without voting rights);

## CRISIS OF URBAN GOVERNANCE IN INDIA

2. Election of Chairpersons of a Municipality in the manner specified in the State law;
3. Constitution of Committees at ward level or other level or levels within the territorial area of a Municipality as may be provided in the State law;
4. Reservation of seats in every Municipality-
  - i. For Scheduled Castes and Scheduled Tribes in proportion to their population of which not less than one-third shall be for women;
  - ii. For women which shall not less than one-third of the total number of seats;
  - iii. In favour of backward class of citizens if so provided by the Legislature of the State;
  - iv. For Scheduled Castes, Scheduled Tribes and women in the office of Chairpersons as may be specified in the State law;
5. Fixed tenure of 5 years for the Municipality and re-election within six months of end of tenure. If a Municipality is dissolved before expiration of its duration, elections to be held within a period of six months of its dissolution;
6. Devolution by the State Legislature of powers and responsibilities upon the Municipalities with respect to preparation of plans for economic development and social justice, and for the implementation of development schemes as may be required to enable them to function as institutions of self-government;
7. Levy of taxes and duties by Municipalities, assigning of such taxes and duties to Municipalities by State Governments and for making grants-in-aid by the

State to the Municipalities as may be provided in the State law;

- i. A Finance Commission to review the finances of the Municipalities and to recommend principles for:
  1. Determining the taxes which may be assigned to the Municipalities;
  2. Sharing of taxes between the State and Municipalities;
  3. Grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- j. Audit of accounts of the Municipal Corporations by the Comptroller and Auditor-General of India and laying of reports before the Legislature of the State and the Municipal Corporation concerned;
- k. Making of law by a State Legislature with respect to elections to the Municipalities to be conducted under the superintendence, direction and control of the chief electoral officer of the State;
- l. Application of the provisions of the Bill to any Union territory or part thereof with such modifications as may be specified by the President;
- m. Exempting Scheduled areas referred to in clause (1) and tribal areas referred to in clause (2) of article 244, from the application of the provisions of the

## CRISIS OF URBAN GOVERNANCE IN INDIA

- Bill. Extension of provisions of the Bill to such areas may be done by Parliament by law;
- n. Disqualifications for membership of a Municipality;
- o. Bar of jurisdiction of Courts in matters relating to elections to the Municipalities.

3. The Bill seeks to achieve the aforesaid objectives

NEW DELHI;

SHEILA KAUL.

The 11th September, 1991.

### **THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1992**

ACT, 1992

[20th April, 1993.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:-

1. Short title and commencement.-
  1. This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992.
  2. It shall come into force on such date\_681 as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part IXA.-After Part IX of the Constitution, the following Part shall be inserted, namely:-

PART IXA  
THE MUNICIPALITIES

243P. Definitions.- In this part, unless the context otherwise requires,-

- a. "Committee" means a Committee constituted under article 243S;
- b. "district" means a district in a State;
- c. "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;
- d. "Municipal area" means the territorial area of a Municipality as is notified by the Governor;
- e. "Municipality" means an institution of self-government constituted under article 243Q;
- f. "Panchayat" means a Panchayat constituted under article 243B;

## CRISIS OF URBAN GOVERNANCE IN INDIA

- g. "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

### 243Q. Constitution of Municipalities.-

1. There shall be constituted in every State,-
  - a. Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
  - b. A Municipal Council for a smaller urban area; and
  - c. A Municipal Corporation for a larger urban area,in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

2. In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243R. Composition of Municipalities.-

1. Save as provided in clause(2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.
2. The Legislature of a State may, by law, provide-
  1. For the representation in a Municipality of
    - a. Persons having special knowledge or experience in Municipal administration;
    - b. The members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;
    - c. The members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;
    - d. The Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

2. The manner of election of the Chairperson of a Municipality.

## CRISIS OF URBAN GOVERNANCE IN INDIA

243S. Constitution and composition of Wards Committees, etc.-

1. There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.
2. The Legislature of a State may, by Law, make provision with respect to:
  - a. The composition and the territorial area of a Wards Committee;
  - b. The manner in which the seats in a Wards Committee shall be filled.
3. A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.
4. Where a Wards Committee consists of-
  - a. One ward, the member representing that ward in the Municipality;
  - or
  - b. two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.
5. Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. Reservation of Seats.-

1. Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
4. The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
5. The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the

## CRISIS OF URBAN GOVERNANCE IN INDIA

reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

### 243U. Duration of Municipalities, etc.-

1. Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

2. No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

3. An election to constitute a Municipality shall be completed,-

- a. before the expiry of its duration specified in clause (1);
- b. before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any

- election under this clause for constituting the Municipality for such period.
4. A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

243V. Disqualifications for membership.

1. A person shall be disqualified for being chosen as, and for being, a member of a Municipality-
  - a. if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

- b. if he is so disqualified by or under any law made by the Legislature of the State.
2. If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority

## CRISIS OF URBAN GOVERNANCE IN INDIA

and in such manner as the Legislature of a State may, by law, provide.

243W. 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.

243X. Power to impose taxes by, and Funds of, the Municipalities.-The Legislature of a State may, by law,-

- a. Authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- b. Assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purpose and subject to such conditions and limits;
- c. Provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- d. Provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom. as may be specified in the law.

243Y. Finance Commission.-

1. The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to-
  - a. The principles which should govern-
    - i. The distribution between the State and the Municipalities 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

## CRISIS OF URBAN GOVERNANCE IN INDIA

- the allocation between the Municipalities at 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 Municipalities;
  - iii. The grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- b. The measures needed to improve the financial position of the Municipalities;
  - c. Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.
- 2 The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243Z. Audit of accounts of Municipalities.-The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

243ZA. Elections to the Municipalities.-

- 1 The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.
- 2 Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with

respect to all matters relating to, or in connection with, elections to the Municipalities.

243ZB. Application to Union territories.-The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243ZC. Part not to apply to certain areas.-

1. Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.
2. Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

## CRISIS OF URBAN GOVERNANCE IN INDIA

3. Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

### 243ZD. 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 shall 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.

243ZE. 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 provisions with respect to:

## CRISIS OF URBAN GOVERNANCE IN INDIA

- 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 representation in such Committees of the Government of India and the Government of 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 coordination for the Metropolitan area which may be assigned to such Committees;
  - e. The manner in which the Chairpersons of such Committees shall be chosen.
3. Every Metropolitan Planning Committee shall, in preparing the draft development plan:
    - a. Have regard to
      - i. The plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
      - ii. Matters of common interest between the Municipalities and the Panchayats, including co-

- ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
- iii. The overall objectives and priorities set by the Government of India and the Government of the State;
  - iv. The extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
- b. Consult such institutions and organisations as the Governor may, by order, specify.
4. The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Continuance of existing laws and Municipalities.- Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of THE CONSTITUTION (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until

## CRISIS OF URBAN GOVERNANCE IN INDIA

the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Bar to interference by courts in electoral matters. Notwithstanding anything in this Constitution,-

- a. The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;
- b. No election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.'.
3. Amendment of article 280.- In clause (3) of article 280 of the Constitution, sub-clause (c) shall be relettered as sub-clause (d) and before sub-clause (d) as so relettered, the following sub-clause shall be inserted, namely:-
5. 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;".

- 4 Addition of Twelfth Schedule.-After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:-

**"TWELFTH SCHEDULE**

**(Article 243W)**

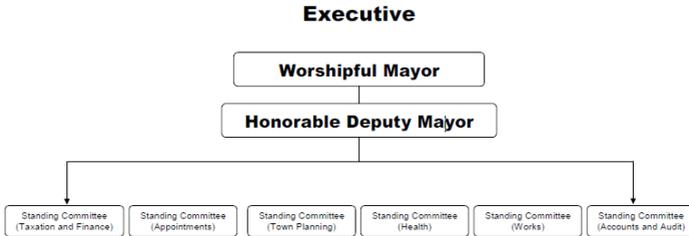
1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.

## CRISIS OF URBAN GOVERNANCE IN INDIA

15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries."

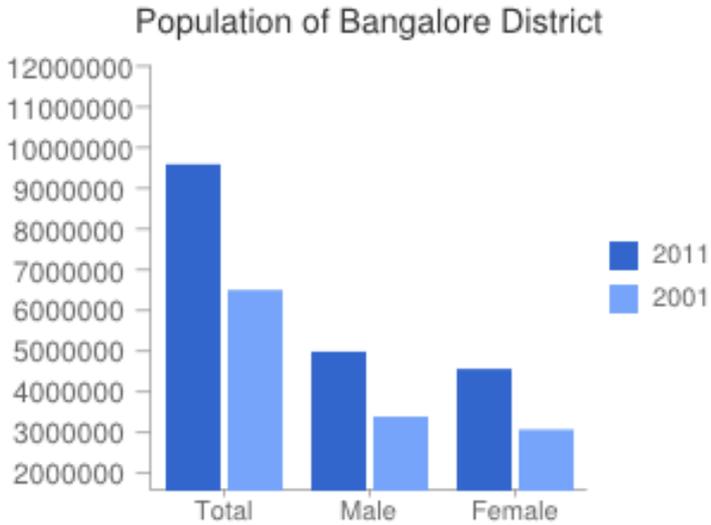
# Annexure 7

## Chennai Municipal Corporation



Source : Chennai Corporation

## Annexure 8



Source : Census of India 2011

## Annexure 9

### Second Administrative Reforms Commission

#### Urban Governance Issues

#### **1. Overall Urban Governance Framework**

##### 1.1. Institutional Framework

1.1.1. The 74<sup>th</sup> Constitutional Amendment requires that 18 functions be transferred to urban local bodies, as per Schedule XII. Yet, it can be seen that many functions are still held by state governments, para-statal bodies, etc. What are your thoughts on the extent of full decentralisation of functions? What challenges are facing state governments from implementing the 74<sup>th</sup> CAA? How can these be overcome?

The 73<sup>rd</sup> CAA envisages the transfer of 29 functions to Panchayati Raj Institutions (PRIs). These include functions that have not been mentioned in Schedule XII for ULBs. Some states have transferred additional functions to ULBs (e.g. education in maharashtra). Do you feel that the list of functions in Sch XII should be expanded, so that ULBs get more functions? What are the challenges in enabling this transfer, so that all functions, funds and functionaries are transferred?

## CRISIS OF URBAN GOVERNANCE IN INDIA

Given the enormous number of special purpose vehicles and para-statal institutions that have been created, what institutional arrangement would you suggest as a credible and practical intermediary process for the migration of all functions to be transferred to local governments? What specific steps can be taken by state governments to enable this transition?

Beyond the functions listed in Sch XII, there are other areas of public administration that still fall outside the ambit of ULBs. Examples of this includes traffic police, enforcement of municipal codes, restricted judicial functions etc. In your opinion, what are some of these challenges facing municipalities? What arrangements do you suggest should be created to address these issues? How can these be established by state governments in a manner that recognises the existing institutional structures?

### 1.2. Decentralised planning

1.2.1. The 74<sup>th</sup> CAA envisages the creation of regional planning platforms like the District Planning Committee (DPC) and Metropolitan Planning Committee (MPC), which can integrate both rural and urban local government plans in their jurisdictions. These regional structures were meant to bridge the inter-jurisdictional issues that arise between different local governments, and between urban and rural. Yet, very few have been set up, and

fewer still are operating in the intended manner. What are the challenges facing state governments in implementing DPCs and MPCs as intended in the 74<sup>th</sup> CAA? How can these challenges be overcome?

(Note: There are additional issues related to DPC/MPC and decentralised planning, which are raised in the appropriate sections below)

## **2. Specific Sub-themes in Urban Governance**

### **2.1. Municipal Finances**

#### **2.1.1. Own source finances**

2.1.1.1. what are your opinions about how well municipalities are maximising their own sources of funding

2.1.1.2. Should municipalities have additional own sources of funds as fiscal handles

2.1.1.3. Should municipalities have a share in some of the central/state taxes

#### **2.1.2. Transfers**

2.1.2.1. Please provide your comments on the functioning of State Finance Commission.

2.1.2.2. Are there any best practices in the functioning of SFCs that can be replicated

2.1.2.3. Should SFC recommendation periods be mandatorily made to dovetail with that of the Central Finance Commission

## CRISIS OF URBAN GOVERNANCE IN INDIA

2.1.2.4. What should be the transfer formulae – vertical and horizontal – between the states and local governments, and horizontally, between rural and urban local governments?

### 2.1.3. Grants

2.1.3.1. What are your thoughts on the reliance of municipalities on grant funding for their activities?

2.1.3.2. Are there specific areas that you feel grant funding is acceptable, and areas where it is not?

2.1.3.3. Should grant funding be available to municipalities for capital expenditures? If so, under what circumstances?

2.1.3.4. Should grant funding be available to municipalities for revenue expenditure? If so, under what circumstances?

2.1.3.5. What should be the state/central obligations for grant support to municipalities

### 2.1.4. Accessing capital markets

2.1.4.1. Do you feel that it is appropriate for municipalities to access the debt/capital markets for funding for their capital projects

2.1.4.2. Should there be any conditions/ constraints that are placed on municipalities in their access to debt markets

2.1.4.3. What are your thoughts on credit rating of municipalities. If you feel that this is necessary, how would you propose that this be done

2.1.5. Overall

2.1.5.1. What should be a healthy mix of financial sources for municipalities, between own sources, transfers and grants, and debt?

2.1.5.2. How can municipalities be made to mandatorily spend a sufficient amount of their annual budgets resources on pro-poor programmes?

2.1.6. Municipal financial management

2.1.6.1. What are the challenges facing municipalities in implementing double-entry accounting? How can these be overcome?

2.1.6.2. Should audits for municipalities be done by State Government body, the CAG, or an independent audit firm? What are the relative merits and de-merits of each option?

2.1.6.3. Municipalities are now required to provide quarterly financial statements and annual audited statements, under the JNNURM Disclosure Law. What support do municipalities require to implement this law?

2.1.6.4. Municipalities are also required to publish their service levels for various municipal services, and how they are providing value-for-money for each of these services, under the Disclosure Law. What should these service benchmarks be, for various services? How should these standards be set for all municipalities to follow? Who should set these standards?

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- 2.1.6.5. There are many challenges in reconciling budgets and accounting activities. Can you mention some of these challenges, and the solutions that could be adopted for these problems?
- 2.1.6.6. How should technology be used to help in managing municipal accounts and finances? How can this be integrated into a holistic municipal e-governance programme, without being a standalone initiative.
- 2.1.6.7. What role do you feel citizens, NGOs and external stakeholders can play in decentralised planning, prioritising and budgeting of municipal programmes? What are the similarities and differences between urban and rural areas on this front?

### 2.1.7. Municipal Finance and Regional Planning

- 2.1.7.1. How can decentralised planning processes that are envisaged in District Planning Committees (DPCs) and Metropolitan Planning Committees (MPCs) can be integrated into the budgeting and financial processes of the municipality?
- 2.1.7.2. Given that there are clear guidelines for rural decentralised planning and budgeting, can these be suitably modified and applied for urban planning and budgeting? what changes would be required? How can urban and rural plans be integrated at the District/ Metropolitan level?

## 2.2. Urban Planning

### 2.2.1. Land Records Management

- 2.2.1.1. What is the impact of unreliable land records on urban growth and planning?
- 2.2.1.2. What is the current state of land records management in urban areas? What challenges have emerged since the transfer of land records functions from the revenue department of the state government to municipalities, as in many cases?
- 2.2.1.3. What are the different implications between leasehold and freehold arrangements, as being practised in different states in the country?
- 2.2.1.4. What is the significance of, and what are the tangible benefits of computerised land record projects that have been under way in various states, especially as they relate to urban land issues?
- 2.2.1.5. Many policy institutions in the country have advocated the need for a guaranteed system of land title. What are the pros and cons of guaranteed land title with respect to India?
- 2.2.1.6. What is the appropriateness and effectiveness of new instruments like Transfer of Development Rights (TDRs)? Many cities have already attempted to use TDRs, what is the learning from these cities? How can TDRs become effective tools in a larger planning process?

## CRISIS OF URBAN GOVERNANCE IN INDIA

### 2.2.2. Land Use and Zoning

- 2.2.2.1. Most planning in urban areas is related to zoning and land use policies, and giving directions for urban growth. Is this a sufficient role for planning?
- 2.2.2.2. There are two streams of thought about planning: the first is that at the level of the region, i.e. the structure plan, it should be well-defined, and at the level of the local planning area, it should be loosely defined. the second is that it should be well-defined at both levels of the region and the local planning area. What is the preferred approach?
- 2.2.2.3. How should changes in land use be regulated and managed, once the planning process is completed? should land use change even be encouraged?
- 2.2.2.4. How should the existing rampant violations in land use and zoning be addressed, in a credible, practical and equitable manner?
- 2.2.2.5. How can enforcement of land use and zoning provisions be ensured? What institutional and statutory changes are required to enable this?
- 2.2.2.6. Given the continuing urbanisation, and growth of our existing urban centres, what are the arguments for outward growth into brownfields and greenfields, as versus densification and vertical growth? What are implications of either choice on various related issues like public transport options, infrastructure etc?

2.2.2.7. Current urban growth in our cities tends to take place along major road corridors like national and state highways. Is this desirable or undesirable? Even if it is undesirable, is there any way to credibly prevent or manage this outcome?

### 2.2.3. Integrated Transport

2.2.3.1. Given the pace of urban growth, mass transit options are becoming a necessity. However, there are vast variations in the choices, from metrorail, to monorail to bus rapid transit (BRT) systems, each of which has its own implications for the city – financial, economic, ridership, environmental etc? How should cities make these choices for mass rapid transit systems?

2.2.3.2. How do these MRT systems integrate into existing transport modes: bus, road, pedestrian, cyclists, rail etc. in a manner that specifically details issues like operations, functionality, administration, public-private partnerships, fare systems etc.

2.2.3.3. What should be the institutional arrangement for planning, implementing and managing such a complex multi-modal transport environment? How will this institutional mechanism be politically accountable, and at which levels? How should this integrate into other coordination and planning platforms like

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the DPC/MPC etc.

### 2.2.4. Metropolitan issues: planning processes and governance

2.2.4.1. Platforms like the DPC and MPC were meant to integrate planning for their regions by producing structural plans. However, the track record on DPCs and MPCs leaves a lot to be desired. What are the issues plaguing state governments in enabling these regional planning platforms? How can these be credibly addressed?

2.2.4.2. What kinds of data sources are required for effective planning that can also be credibly enforced? Where do these data currently reside? How much of this data is current? How much of this data is being integrated into the planning process?

2.2.4.3. How much of the above data can be stored and managed in a spatial form? What role does technology like GIS and Spatial Data Systems play in this management? What specific successes can be pointed to in India in such exercises? What is the track record of these examples in sustained successful management?

2.2.4.4. The National Urban Information Systems (NUIS) has laid out spatial data standards. How many state governments and cities are adopting these standards in managing their spatial data? What are the constraints and challenges

2.3. Urban Poverty

- 2.3.1. What should be the way of beneficiary identification among the urban poor? The traditional form of BPL identification has been replaced in states like Kerala by a Poverty Index, which tracks more easily identifiable vulnerabilities.
- 2.3.2. What are the challenges in locating the urban poor, given that not all slum dwellers are poor, and not all the poor live in slums?
- 2.3.3. What are the services that the urban poor require? What are the challenges in delivering these?
- 2.3.4. How should public services be priced when they are delivered to the urban poor? What kind of monitoring mechanisms could be created so that the funds are used for the right purposes, and deliver the desired outcomes?
- 2.3.5. How should slum clusters be managed by municipalities, especially in cases where there are examples of encroachment on private or public property? what credible, implementable long-term solutions should municipalities and state governments have to ensure that adequate low-income housing is made available for the poor, and what should be the mechanisms of delivering these? what should be the role of the community, the government and the market in developing these solutions?
- 2.3.6. How can the poor participate in decision-making about various issues that affect their quality of life? How can this be integrated into the decision-making

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of the municipality itself?

2.3.7. How should the poor and the non-poor stakeholders in a city engage with each other, if at all? How can the traditional adversarial positions between these groups be reduced, in specific, implementable ways?

### 2.4. Environmental Issues and Management

2.4.1. How do we balance the increasing land demands of urbanisation with the protection of environmentally sensitive areas such as valleys, tanks, lakes, forests etc.?

2.4.2. How can planning and policy decisions to protect environmental assets (e.g. greenbelts in Master Plans) be safeguarded from becoming empty and prescriptive guidelines that are violated with impunity?

2.4.3. Water is a precious common resource often in short supply. Indiscriminate digging of borewells and wells has resulted in the depletion of groundwater resources and blocking and damaging of aquifers. Are measures like rainwater harvesting by-laws, banning of borewells sufficient to address the issue of recharging aquifers? What specific additional measures can be taken to prevent such damage, and replenish the groundwater tables?

2.4.4. High levels of nitrates due to sewage contamination are affecting the quality of ground water in our cities. How can these be addressed? How are these related to larger institutional processes of water supply, sanitation, solid waste management, public health etc?

2.4.5. How significant is the damage to the urban eco-system that is currently occurring – plant/animal/bird

life? What specific, credible measures can be taken to address this?

- 2.4.6. Sixty percent of air pollution in urban areas arises out of vehicular emissions. What can be done about this?
- 2.4.7. How can urban planning and enforcement address the issues of noise and visual pollution?
- 2.4.8. What role can citizens and communities play in addressing environmental issues in their cities? how can this role be integrated into the larger decision-making processes of their municipalities?
- 2.4.9. If integrated solutions are required to address environmental issues, how can these be imbedded into larger institutional mechanisms that are currently available, like the DPC/MPC?

## 2.5. Capacity Building and Training

- 2.5.1. How should the term “capacity building and training” be defined in the urban governance context?
- 2.5.2. who are the stakeholders for whom such capacity building and training is required? what are the areas where these interventions are required?
- 2.5.3. How should such capacity building and training processes be imparted? What should the role of government be in this? Who could be other stakeholders in this process? what should be the arrangements between government and these stakeholders?
- 2.5.4. How will we know if capacity building and training processes are effective? How can these processes be

## CRISIS OF URBAN GOVERNANCE IN INDIA

measured?

### 2.6. Economic Growth in Urban Areas

- 2.6.1. Given that cities are engines of economic growth, what measures can be taken to ensure that this growth is equitable, and allows opportunities for all sections of society? What specific, implementable solutions can be created in terms of access to employment, markets, credit, infrastructure to make such outcomes a reality?
- 2.6.2. Statistics clearly demonstrate the contribution of urban areas to overall economic growth of the region and state. How can this be sustained, so that the city's inherent strengths and competitive advantage are maintained?
- 2.6.3. Urban local governments in India play no role in their city's economic well-being. Is this an acceptable situation? if not, how should this change? what does this mean in the relationship between local and state governments?
- 2.6.4. What data are we currently generating on economic activities in urban areas, across a variety of segments – organised and unorganised, primary, secondary and tertiary? Where do these data sources reside, how current are they, and how available are they to the decision-makers in government? How are these data being integrated into planning processes – for example provision of appropriate infrastructure? What institutional arrangements need to be in place for this to become more effective?
- 2.6.5. Can economic outcomes be designed within municipal jurisdictions, or do they spill over into the

larger region? For example, arguments about whether a city should continue growing, or whether this should be distributed across a cluster of urban centres. Which of these are more appropriate, and under what circumstances? Can these outcomes actually be planned? If so, what institutional mechanisms need to be in place to address these larger regional challenges?

2.6.6. How should any institutional solutions or structures being suggested here be integrated into politically legitimate institutional mechanisms that are currently available and that need to be strengthened, like the DPC/MPC?

## 2.7. User charges and Public-Private-Partnerships

2.7.1. What items of public services can be classified as “local public good”?

2.7.2. What are the challenges facing municipal governments in delivering these local public goods?

2.7.3. What are the pros and cons in having private provision of these local public goods? How do these challenges differ across services?

2.7.4. Should the concept of private provision of services be tried in India? If so, in what services, and under what specific structural conditions? How can these arrangements ensure that there will be equitable delivery of services to the poor? How will these arrangements ensure that there will be no monopolistic or oligopolistic pricing in services?

2.7.5. Should there be a regime of “user charges” for public

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- services? What should be the economic considerations in considering user charges? How should these be structured, and for which services?
- 2.7.6. What are the examples of public-private-partnership in public services that are relevant to India – either from within India or outside? What lessons can be learnt from these?
- 2.7.7. What role can communities and localised user groups play in being part of such new arrangements? How can these be integrated into the municipality's larger decision-making processes?

### 2.8. Utilities

#### 2.8.1. Water Supply and Sanitation

- 2.8.1.1. How can urban water sourcing challenges be addressed in India, in a manner that is equitable to rural and urban areas?
- 2.8.1.2. What should be the institutional mechanisms for the sourcing and transportation of water supply taking the complex public good nature of water into account? what role should be played by the various tiers of the federal government structure in this arrangement?
- 2.8.1.3. What are the challenges being faced by municipalities in distribution of water supply in their areas? What are the credible solutions to these challenges?
- 2.8.1.4. Do Indian cities and Indian residents need 24X7 water supply? What are the pros and cons of this form of water supply arrangement? If this is indeed the way ahead, what is the migration path from the current system?

2.8.1.5. What are the economics of water supply and sanitation, both capital and revenue expenditures? How should this be financed? What portion of this should be claimed from users as charges? How can the poor be assured of access to water supply in these arrangements? What credible examples are there of such arrangements that can be adopted in India?

## 2.8.2. Solid Waste Management

2.8.2.1. What are the challenges facing SWM in Indian municipalities?

2.8.2.2. What are the inter-jurisdictional issues in SWM, specifically between rural and urban areas? How can these be addressed?

2.8.2.3. How credible are community-based solutions in SWM? How can these be integrated into the larger municipal SWM processes, in a manner that is scalable and replicable?

## 2.8.3. Public Health

2.8.3.1. What are the challenges in public health in our cities? What role is currently being played by municipalities in public health management? How does this vary across the country?

2.8.3.2. Can municipalities solve the public health challenges by themselves? What institutional arrangements need to be established, both within government and with private providers?

## CRISIS OF URBAN GOVERNANCE IN INDIA

- 2.8.3.3. What role can health insurance play in public health management? What solutions in health insurance can be taken up by municipalities? How can these be managed in a credible manner, given the complexities of insurance administration?
- 2.8.3.4. How is public health management related to other public service delivery issues? How can these be managed in an integrated manner, given the capacity constraints that municipalities face?
- 2.8.3.5. What role do communities play in public health management? How can we provide an integrated platform for community engagement on various public issues facing our municipalities, in a manner that is linked into the municipality's overall political structure, rather than treat communities differently for each service?

### 2.9. Urban Democracy

- 2.9.1. What are the capacity issues being faced by elected representatives at the municipal level? How can these be addressed?
- 2.9.2. What are the challenges related to urban electoral rolls? Given the increasing urbanisation in the country, how can these electoral rolls be maintained with minimal errors? What specific role can voters themselves play in maintaining the integrity of the electoral rolls
- 2.9.3. What data is available on urban voter turnout in municipal elections? what inferences and lessons can

be drawn from these data?

- 2.9.4. In light of the detailed processes being established in rural decentralisation, with a substantial role for participation and accountability being given to Grama Sabhas, what should be the space for participation for urban voters? How can this role be integrated into the municipal structures that have been required under the 74<sup>th</sup> CAA of the Wards Committee and the Municipal Council?
- 2.9.5. How can urban democracy issues be seen in the larger question of local democracy, with such divergent practices between rural and urban democratic structures? What changes can be brought to these structures, especially in light of the need to establish common regional platforms like the District Planning Committee and Metropolitan Planning Committee?

## **Annexure 10**



**REPORT OF THE EXPERT COMMITTEE**

**GOVERNANCE IN THE BANGALORE METROPOLITAN REGION**

**AND**

**BRUHAT BANGALORE MAHANAGARA PALIKE**

BANGALORE  
March 2008

# Annexure 11

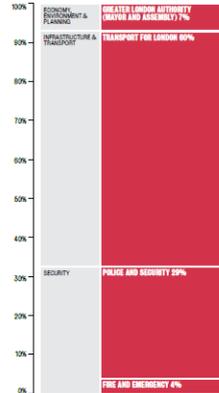
## LONDON

### GOVERNANCE STRUCTURE

| ECONOMY                                                               | ENVIRONMENT & PLANNING                                       | INFRASTRUCTURE & TRANSPORT | EDUCATION & CULTURE | HEALTH, SOCIAL SERVICES                   | SECURITY                                                                                                                      | OTHER                                                                                           |
|-----------------------------------------------------------------------|--------------------------------------------------------------|----------------------------|---------------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <b>UK CENTRAL GOVERNMENT</b><br><small>80 of 24 Departments</small>   |                                                              |                            |                     |                                           |                                                                                                                               |                                                                                                 |
| BUSINESS, INNOVATION & SKILLS<br>WORK & PENSIONS<br>UK EXPORT FINANCE | ENVIRONMENT, FOOD & RURAL AFFAIRS<br>ENERGY & CLIMATE CHANGE | TRANSPORT<br>EDUCATION     | HEALTH              | DEFENCE                                   | HOME OFFICE<br>JUSTICE                                                                                                        | HM TREASURY<br>CABINET OFFICE<br>COMMITTEES & LOCAL INVESTMENT<br>FOREIGN & COMMONWEALTH OFFICE |
| <b>GREATER LONDON AUTHORITY</b>                                       |                                                              |                            |                     |                                           |                                                                                                                               |                                                                                                 |
| BUSINESS & ECONOMIC DEVELOPMENT                                       | ENVIRONMENT & PLANNING                                       | TRANSPORT FOR LONDON       | CULTURE             | HEALTH & SPORT<br>REGENERATION<br>HOUSING | MAYOR'S OFFICE FOR POLICING & CRIME / METROPOLITAN POLICE<br>LONDON FIRE & EMERGENCY PLANNING AUTHORITY / LONDON FIRE BRIGADE |                                                                                                 |
| <b>33 LONDON BOROUGHES</b>                                            |                                                              |                            |                     |                                           |                                                                                                                               |                                                                                                 |
| BUSINESS & ECONOMIC DEVELOPMENT                                       | ENVIRONMENT & PLANNING                                       | LOCAL TRANSPORT            | EDUCATION           | HOUSING<br>SOCIAL SERVICES                |                                                                                                                               | LOCAL SERVICES                                                                                  |

**MULTI-LEVEL GOVERNANCE**  
■ National level ■ City level ■ Sub-city level

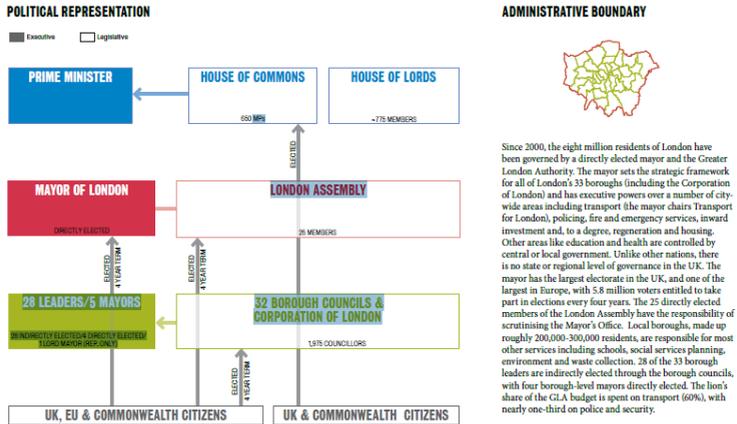
### GREATER LONDON EXPENDITURE



Source : URBAN AGE, GOVERNING URBAN FUTURES CONFERENCE DELHI, 14 – 15 NOVEMBER 2014

# CRISIS OF URBAN GOVERNANCE IN INDIA

## Annexure 12



Source: URBAN AGE, GOVERNING URBAN FUTURES CONFERENCE  
DELHI, 14 – 15 NOVEMBER 2014

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