

Urban Governance

Democratic Decentralization of Urban Governance



***In Selected Small and
Medium Towns of India***

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Democratic Decentralization of Urban Governance

A Study of Four States in India



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In the context of urban India, the 74th Constitutional Amendment Act (74th CAA) was a milestone as it gave Constitutional validity to Urban Local Bodies (ULBs), codified the procedure for their constitution and defined their structures, functions and resource generation capabilities. The Act aimed at greater clarity between states and urban local governments in terms of devolution of adequate powers, authorities and resources to enable the latter to function as vibrant institutions of local self-governance. The launching of Jawaharlal Nehru National Urban Renewal Mission (JNNURM) also reinforces the commitment towards devolution of responsibilities at the local level, since access to Mission funds is linked to compulsory fast-track urban reforms for greater autonomy among municipal governments, in accordance with the 74th CAA. Its aim is to encourage reforms and expedite planned development of identified cities with a focus on efficiency in urban infrastructure, service delivery, citizen participation, and accountability of ULBs towards citizens. None of this can be achieved without effective devolution of Funds, Functions and Functionaries.

The current scene in India's cities, however, shows that devolution has made little progress with multiplicity of issues plaguing decentralized urban governance. These include lack of clarity between state and local functional domains leading to overlapping of functions; encroachment of local functional domain by para-statal structures; limited fiscal domains and autonomy at local level due to state control over local revenue sources and rates; lack of technical capacity and orientation at the local level towards developmental works; ineffective devolution of welfare and planning functions; and last but not the least, weak role of municipal elected bodies in municipal management.

The current study was undertaken by PRIA in four states – Chhattisgarh, Himachal Pradesh, Haryana and Rajasthan to explore these issues in greater details. The state level studies were carried out by Dr. Aradhana Srivastava with the help of other PRIA colleagues. We must acknowledge the contributions of Dr. Khatibullah Sheikh, Dr. Alok Pandey, Mr. Manish Kumar, Mr. Krishan Tyagi and Mr. Kamleshwar Singh for helping in collection of data from the states and selected towns. In all these states PRIA also initiated studies to understand the status of municipal finance which was led by Ms. Sanjukta Roy. The financial data and their interpretation from the selected municipalities were also used in the study of devolution. Finally, Mr. Narender Kumar put together all the reports to give a final shape to the paper. We sincerely acknowledge their contribution in bringing out this publication. This publication would not be possible without the support from Anwar Khan, Mini Varghese, Vipin Kumar and Rambha Tripathy who contributed in the designing and typing.

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Dr. Kaustuv K Bandyopadhyay, Director, PRIA

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ABBREVIATIONS

ATR	Action Taken Report
CAA	Constitutional Amendment Act
CFC	Central Finance Commission
CSO	Civil Society Organization
DPC	District Planning Committee
DC	Deputy Commission/District Commissioner
EFC	Eleventh Finance Commission
ERs	Elected Representatives
HRTC	Himachal Pradesh Transport Corporation
HPSEB	Himachal Pradesh State Electricity Board
HIPA	Himachal Institute of Public Administration
HUDA	Haryana Urban Development Authority
HSIDC	Haryana State Industrial Development Corporation
IPHD	Irrigation and Public Health Department
JNNURM	Jawahar Lal Nehru Urban Renewal Mission
LSG	Local Self Governance
MPC	Metropolitan Planning Committee
MP	Member of Parliament
MLA	Member of Local Assembly
MC	Municipal Corporation
NGO	Non-Government Organization
NHAI	National Highway Authority, India
NIPFP	National Institute of Public Finance and Policy
OSR	own sources of revenues
PRIs	Panchayati Raj Institutions
PHED	Public Health and Engineering Department
PWD	Public Welfare Department
RUIDP	Rajasthan Urban Infrastructure Development Project
SFC	State Finance Commission
SFC	Second Finance Commission
SC	Schedule Caste
ST	Schedule Tribes
SUDA	State Urban Development Agency
SEC	State Election Commission
TCPO	Town & Country Planning Department
UIDSSMT	Urban Infrastructure & Development Scheme for Small & Medium Towns
UIT	Urban Improvement Trust
ULB	Urban Local Bodies
UAD	Urban Administration & Development Department
YAP	Yamuna Action Plan
ZP	Zilla Parishad

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EXECUTIVE SUMMARY

Local governments are the first and most direct interface between citizens and governance in a democracy and in this respect should be the most vibrant manifestations of local self-governance. This was the picture envisaged by the 74th Constitutional Amendment Act (CAA), and all subsequent measures towards its implementation. However, studies and practical experience present a dismal picture - in reality urban local governments are decadent structures, crippled by overriding state control, subsisting in an all-round culture of dependence.

The roots of local self-governance lie in decentralization by 'taking power to the people'. Effective democracy at the grassroots level can exist only when there is effective delegation of responsibilities to local governments, along with building up local capacities in order to help them discharge these responsibilities to the satisfaction and betterment of the citizens. Effective governance by ULBs, therefore, implies that cities have a well-defined functional domain, generate adequate resources to carry out their responsibilities, and impart a fair degree of transparency and accountability in performing their functions.

This process is simply not functional in Indian cities, more so in the small and medium towns. Instead what is visible is the all-round breakdown of municipal governance structures, poor access to basic services, poor financial management and increasing alienation of the citizen from the government.

In the recent past there has been a conscious effort to strengthen and revitalize local self governance in India through the 73rd and 74th Constitutional Amendments. The landmark legislations aimed at greater clarity between states and local governments in terms of devolution of adequate powers and resources to enable local bodies to function as vibrant institutions of local government. Over the years though, there is a growing realization of the persistent gap between the constitutionally mandated and de facto devolution entitled to ULBs, and this has prompted voices of concern.

The launching of JNNURM in December 2005 reinforces the requirement for effective devolution to local bodies and decentralized planning. The scheme pushes forward the urban reform agenda by linking urban investment to greater efficiency in service provision and greater stress on maintenance of infrastructure and assets. None of this can be achieved without effective devolution of the three 'F's – funds, functions and functionaries.

It is with this background that PRIA has initiated the study on the 'status of democratic decentralization' particularly in smaller and medium towns of the selected states. The study covered four states that include Chhattisgarh, Haryana, Himachal Pradesh and Rajasthan with its three-fold rationale stated below:

- a. It is necessary at this juncture to assess the progress made by states in devolution to ULBs as it is the constitutional mandate and the basic requirement for decentralized urban governance.
- b. There is a felt need by the Government, Civil Society and Citizens to identify and correct the constraints to effective decentralized local governance. The recent concern with 'activity-mapping' is a reflection of this need. Though the exercise has gained much ground in the field of Rural Governance, it remains only a sporadic mention in the Urban Governance realm.
- c. Such an exercise can set in place an evaluation mechanism on which the progress of states can be assessed with regard to effective devolution at the local level on a periodic basis.

The study intended to take stock of the extent of devolution of funds, functions and functionaries to ULBs as envisaged by the 74th CAA. The assessment of devolution was carried out on a broad set of parameters involving all aspects of devolution from the state to local level. Based on the comparative analysis of the status of decentralization and issue pertaining to its successful implementation, the concrete recommendations are also proposed as to how each state (selected for study) can achieve effective devolution at the ground level through appropriate policy directions and administrative measures.

Key findings, issues and outcome of the report provides state-wise comparative picture of devolution in four states. The study highlighted that, In Rajasthan, the status of ULBs appears comparatively better than other states in terms of functional devolution to ULBs. However, financially the ULBs are among the most dependent on state transfers. Developmental expenditure is also mostly financed through tied grants hence ULBs have little discretion on local developmental expenditure priorities. Be it poor performance of functions, poor generation of revenue, or inefficiency of staff – all lead to one answer – there is simply no political will. Small and medium towns form political backwaters, forgotten by those at the helm of affairs in the state.

Chhattisgarh offers a unique example of bureaucratic as well as political resistance to devolution. On surface devolution may appear real, but when explored in depth, many of the measures are not effective. In fact, they may mask the centralized system within. Corporations, for example, present a picture totally different from smaller towns in the state. This is because the state government's approach is that operationalization of devolution can be first worked out through Corporations. This is the reason why substantial effort on infrastructure as well as devolution and governance reforms is on Corporations while smaller ULBs are relatively sidelined.

In Haryana, the devolution can be characterized by the thread of all round political apathy which seems to connect all issues related to devolution. Be it poor performance of functions, poor generation of revenue, or inefficiency of staff – all lead to one answer – there is simply no political will. Municipalities are at the lowest rung of the political ladder – even lower than the parastatals and line departments. Stifled by all levels of higher administration, it is no surprise that ULBs find themselves helpless against the ills inflicting them. In muted words para-statals and line departments convey their unwillingness to be a part of municipal governments, or to even have to collaborate with them. Influential people use political clout freely to get around rules and regulations while municipalities watch helplessly.

Himachal Pradesh also reflects the clear gap between the devolution on paper and on ground. The functions to be performed by the ULBs have been laid down in the HP Municipal Corporation Act, 1994 and HP Municipal Act, 1994. However, in actual practice ULBs are performing only those functions which have been devolved to them. To illustrate, functions such as urban planning including town planning, planning for economic and social development, urban environment, safeguarding interests of weaker sections, urban poverty alleviation, provision of urban amenities have still not been transferred to ULBs in reality and managed by concerned para-statal agencies under the control of the state government.

There is overlapping of functions between ULBs and functional departments of state government. The first item under 12th Schedule is 'urban planning including town planning'. However, in Himachal Pradesh, these powers are vested with the Town and Country Planning Department. Similarly, for housing, a separate authority, the Housing Board exists. The sectoral programmes also create confusion at the local level, as responsibilities are not clearly defined. The administration of the programmes is also fragmented and overlapping.

To conclude with, the study provides the features of the decentralization in Indian states which can be underlined as a) Lack of clarity regarding local functional domain, b) Encroachment on local functional domain by para-statal structures, c) Limited fiscal domains and autonomy at local level d) Lack of orientation towards developmental works, e) Ineffective devolution of welfare and planning functions, e) weak role of municipal elected bodies and last but not the least the lack of people's participation in overall planning exercise.

Chapter 1

Democratic Decentralization and Urban Governance

1.1 Introduction

Over the last decade or so, there has been an increasing focus on governance issues, at global, national, regional and local levels. Governance is an efficient and effective public management process in discharging governing functions and can be seen as methods of distribution of power and management of public resources and problems. Governance is the joint responsibility of the state, market and citizens to mobilize and utilize public resources and promote public decision-making towards the advancement of common public good.

Governance can be defined as “the exercise of political, economic and administrative authority in the management of a country’s affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences”, then it is clear that at the heart of the concept of governance lie the notions of participation, engagement and inclusion. In the last few years, issues of national governance such as participatory and representative democracy, rule of law, judicial responsibility have received considerable attention. (*Shipra Narang, Urban Governance Section, UN-HABITAT*)

In a democracy local governments are the first and most direct interface between citizens and governance and in this respect should be the most vibrant manifestations of local self-governance. This was the picture envisaged by the 74th Constitutional Amendment Act (CAA), and all subsequent measures towards its implementation. However, studies and practical experiences present a dismal picture – in reality urban local governments are decadent structures, crippled by overriding state control, subsisting in an all-round culture of dependence.

1.2 Decentralization in Global Context

International experiences bear out the close link between decentralization and institutional reforms. Apart from the theoretical logic of a reduced role of government, creating opportunities both for private enterprise and for civil society action, in many countries actual reform programs have been built upon increasing institutional space for decentralization. Reform programs in developing countries/ transition economies as diverse in range as Poland, Chile, Argentina and South Africa and China, the autonomy to local units in decisions on incentives for investment and capital market access, has given a strong foundation to reforms. In the case of China, the Town and Village Enterprises (TVEs) were given a wide range of powers in matters relating to

resource mobilization, user fees, and recruitment of experts, apart from implementation responsibilities that they already had. Clearly, economic decentralization has been the key to success of reform programmes in such contexts¹.

The issue of sequencing and forms of decentralization, therefore, assumes much significance. In the above-mentioned countries, only South Africa has undertaken the most comprehensive devolution of powers to the third tier. In China, the reforms were not related to political freedom. Indeed, that is proving to be a hindrance as China integrates more into the global economy through institutions such as the World Trade Organization (WTO). Political decentralization provides a more durable 'rational-legal' framework that makes decentralization an integral part of the political and civic discourse. India is the world leader in creating space for political decentralization. Now the concomitant arenas of fiscal devolution and economic decentralization require greater attention by policy researchers and policy makers.

1.3 Decentralization in Indian Context

The review of present status of devolution in India reveals that the process of decentralization in India is often purposefully adopted as a result of various political, social and economic motivations. In contrast, the international literature on decentralization of functions often considers it to be a fall out of globalization and liberalization. This, however, might be an oversimplified view at times and needs to be applied cautiously for countries like India.

Much of the decentralization literature, normative as well as empirical, is based on experiences of developed countries and assumes existence of institutions that are usually much weaker in developing countries. In this regard, it is important to remember that decentralization is not an end in itself, but a means to better outcomes such as greater transparency and accountability, and improved service delivery. Having said this, decentralization in the Indian context cannot completely overlook the impact of globalization. With increasing openness, decentralization has become inevitable for making the local bodies more accountable to the stakeholders².

Following the onset of economic reforms in the early 1990s, large Indian cities have turned into hubs of economic activities, as they are able to provide the basic minimum infrastructure requirements. As these cities increasingly attract more business and resources, the supporting infrastructure needs to enlarge in the form of transport, basic amenities and housing. As a consequence, there was a serious need to devolve powers and authorities to the lower tiers of the government – the municipal bodies that are largely responsible for providing and maintaining civic infrastructure facilities.

Interestingly however, decentralization has some other in-built implications as well. Studies documenting the decentralization experiences across the world have shown that devolving fiscal powers to lower tiers of government, arguably, aggravate regional disparities. Moreover, uncontrolled borrowing powers to local bodies might lead to increased debt burden on the national government. These are issues that need careful examination.

The Eleventh Finance Commission of India (EFC) took the first constructive steps in measuring decentralization in the Indian context. Decentralization, as envisioned in the 74th CAA was taken as an important criterion that commanded twenty percent

¹ 'Decentralisation in India, Challenges and Opportunities', Discussion Paper Series - 1, Human Development Resource Centre, United Nations Development Programme.

² Bagchi S., Decentralized Urban Governance in India, Implications for Financing of Urban Infrastructure, 2004, pp.1.

weight in estimating the amount of EFC grants to the states for the municipal bodies. The EFC measured decentralization on the basis of the following criteria:

- Enactment of state municipal legislations in conformity with the 74th CAA of 1992
- Intervention/restriction in the functioning of the municipalities
- *De-jure* assignment of functions to municipalities by way of rules, notifications and orders of state governments
- *De-jure* assignment of taxation powers to municipalities
- Exercise of taxation powers by municipalities
- Constitution of finance commissions by states and submission of action taken reports
- Action taken on the major recommendations of the finance commissions of states
- Election to the municipalities
- Constitution of the District Planning Committees

The above comprise a well-defined and clearly laid out set of criteria for estimating decentralization. However, measuring decentralization in line with the above concepts is not an easy task. It is made more difficult by the absence of designated agencies responsible for collecting and documenting data and information on the above criteria in an objective and orderly manner.

1.4 Framework of Decentralized Urban Governance in India

In the context of urban India, the 74th CAA was a milestone in the sense that it gave Constitutional validity to urban local bodies, codified the procedure for their constitution and defined their structure, functions and resource generation capabilities. The Act aimed at greater clarity between states and urban local governments in terms of devolution of adequate powers and resources to enable the latter to function as vibrant institutions of local self-governance.

Though decentralization exercises tend to address a number of overlapping objectives, some of which may even be potentially conflicting, the primary aim is that of taking power to the people, give them an efficient and responsive mechanism for provisions of local public goods and services.

In present context, the launching of Jawaharlal Nehru National Urban Renewal Mission (JNNURM) also reinforces the commitment towards devolution of responsibilities at the local level, since access to Mission funds is linked with compulsory fast-track urban reforms for greater autonomy among municipal governments, in accordance with the 74th CAA. Its aim is to encourage reforms and expedite planned development of identified cities with a focus on efficiency in urban infrastructure and service delivery mechanisms, citizen participation, and accountability of municipal governments towards citizens. None of this can be achieved without effective devolution of the three 'F's – Funds, Functions and Functionaries.

1.5 Features of 74th Constitutional Amendment Act

The 74th CAA brought about some fundamental changes in the system of municipal governance and its main features are as follows:

(a) Classification of ULBs

Three types of the ULBs have been classified under the provision of Article 243Q of the 74th CAA. These are Municipal Corporations, for larger urban areas, Municipal Councils for smaller urban areas, and the Nagar Panchayats for transitional areas. No quantitative dimension for area or population has been specified for their identification. The 74th CAA lists five criteria for constituting the ULBs, namely,

- (i) Population
- (ii) Density
- (iii) Revenue generated per annum
- (iv) Percentage of employment in non-agricultural activities, and
- (v) Economic importance of the local body

In addition, several states have specified their own criteria for the purpose, the state legislatures setting up the criteria while amending their Acts. For example, Karnataka has stated that all the Taluka Head Quarters are given the status of Nagar Panchayats irrespective of their population whereas, Uttar Pradesh and Orissa have specified that density, revenue and share of non-agriculture workforce can be notified, as the government may deem fit. The others have left the interpretation of the Rules to their respective governments. As a result, state specific differences emerge in the conformity legislation³.

(b) Mandated Periodic Elections

Under Articles 243K and 243ZA, the preparation of electoral rolls is the responsibility of the State Election Commissioner (SEC). Under the provision of the 74th CAA, it is mandatory for the states to hold elections every five years or before expiration of a period of 6 months from the date of its dissolution.

In the states of Andhra Pradesh, Haryana, Karnataka, Madhya Pradesh, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh, the task of delimitation of constituencies rests with the state government whereas in Gujarat, Kerala, Maharashtra and West Bengal, the State Election Commission is vested with the power. In the conformity legislation, the provision relating to ward committees varies widely among states. In Kerala, Ward Committees have been constituted and all people are chosen through direct elections. In the other study states, there is provision for ward committees but these have not been constituted as yet.

(c) Reservation of Seats

In order to provide for adequate representation of Scheduled Castes and Scheduled Tribes (SC and ST) and women in the municipalities, provision has been made for reservation of seats in Article 243T. Seats shall be reserved for SCs/STs in every municipality and the number of seats so reserved shall bear the same proportion to the total number of seats to be filled by the direct election in that municipality as the population of the SCs/STs in the municipal areas bears to the total population of that area. Not less than one-third of the total number of seats reserved shall be reserved for women belonging to SC or the ST as the case may be. Not less than one-third (including the seats reserved for women belonging to SC and ST) of the total number of seats to be filled by direct election in every municipality shall be reserved for women

³ Report and Database on Urban Governance in India Post 74th Constitutional Amendment Act Comparative Status in Select States, PRIA, 2005 pp 5, 6, 7.

and such seats may be allotted by rotation to different constituencies in a municipality. Most of the states have amended their laws to conform to this.

(d) Formation of District Planning Committees (DPC) and Metropolitan Planning Committees (MPC)

Among the efforts at decentralized planning in India, the 73rd and 74th CAAs were milestones since they provided the much needed Constitutional legitimacy to local governance institutions, defined their functional domains and provided for financial devolution to these institutions. The key features of the DPC are as follows:

- Article 243ZD of the 74th CAA mandated the establishment of DPC as the formal body for preparation of the District Development Plan by consolidating the plans prepared by the villages and towns in the district.
- The DPCs are envisaged to consolidate plans prepared by the Panchayats and the Municipalities of the district and to prepare a draft development plan for the district while MPCs are expected to perform a similar exercise for the metropolitan areas.
- The Legislature of a state may, by law, make provision with respect to
 - the composition of the District Planning Committees;
 - 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;
 - the functions relating to district planning which may be assigned to such Committees;
 - the manner in which the Chairpersons of such Committees shall be chosen.
- Every DPC shall, in preparing the draft development plan,
 - have regard to
 - 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;
 - the extent and type of available resources whether financial or otherwise;
 - consult such institutions and organizations as the Governor may, by order, specify.
- The Chairperson of every DPC shall forward the development plan, as recommended by such Committee, to the government of the state.

It is a matter of concern that even after the lapse of 15 years since the amendments were made, decentralized planning is yet to become effective in the country. While most states carried out amendments of their respective state acts in conformation of the 73rd and 74th CAA, the implementation of the provisions was not uniform in all cases. Setting up elected bodies in local self-governance institutions was carried out, and State Finance Commissions (SFCs) were also formed to provide for financial

devolution to these bodies. However, formation of DPCs was one of the neglected aspects⁴.

(e) Functional Responsibilities of the ULBs

Unlike the functional jurisdiction of the states, which follows a Constitutional delimitation, the functional domain of local bodies in India, including municipal governments, is derived from the responsibilities, which are delegated by the states to the municipalities, through Legislature. Article 243W of the Constitution read with the Twelfth Schedule provides the basis for the state Legislatures in India to assign the functions to the municipalities in the respective states. The provisions of the Article are not mandatory and the state Legislature decides as to which powers and authority it may devolve to the municipality. Table 1 illustrates the various functions listed in the Twelfth Schedule and the corresponding entries in List II (State List) and List III (Concurrent List) in the Seventh Schedule to the Constitution.

Table 1
Functional Responsibility of ULBs as Listed in the Twelfth Schedule

Sl. No.	Items in the Twelfth schedule	Entries in Lists II and III of the Seventh Schedule	
		List II	List III
1.	Urban planning including town planning	Entry 18	Entry 28
2.	Regulation of land use and construction of buildings	Entry 18	Entry 20
3.	Planning for economic and social development	-	Entry 20
4.	Roads and bridges	Entry 13	-
5.	Water supply for domestic, industrial and commercial purposes	Entry 17	-
6.	Public Health, sanitation, conservancy and solid waste management	Entry 6	-
7.	Fire services	Entry 6	-
8.	Urban forestry, protection of the environment and promotion of ecological aspects	-	Entry 17
9.	Safeguarding the interests of the weaker sections of the society, including the handicapped and the mentally retarded	Entry 9	Entry 16
10.	Slum improvement and upgradation	Entry 6	-
11.	Urban poverty alleviation	Entry 18	Entry 11
12.	Provision of urban amenities and facilities such as parks, gardens and playgrounds	Entries 12, 33	Entry 20
13.	Promotion of cultural, educational and aesthetic aspects	Entry 12,33	Entry 25
14.	Burials and burial grounds: cremations, cremation grounds and electric crematoriums	Entry 10	-
15.	Cattle pounds; prevention of cruelty to animals	Entry 15	Entry 17
16.	Vital statistics including registration of births and deaths	-	Entry 30
17.	Public amenities including street lighting, parking lots, bus stops and public conveniences	Entry 5	Entry 20
18.	Regulation of slaughter houses and tanneries	Entry 15	-

(Source: Report and Database on Urban Governance in India Post 74th Constitutional Amendment Act Comparative Status in Select States, PRIA, 2005, pp 17.)

⁴ Report of Expert Group on Grassroots Planning, PRIA 2007

(f) Setting up of State Finance Commissions (SFCs)

Article 243-I provides for setting up of a State Finance Commission once in five years, in each state. Article 243Y provides, inter-alia, that this Commission shall review the financial position both of the panchayats and the municipalities and make recommendations to the Governor regarding:

- The distribution of the net proceeds of taxes, duties, tolls and fees between the state and the municipalities leviable by the state may be divided between them and the allocation among municipalities at all the levels of their respective shares;
- The determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the municipalities;
- The decision regarding the grant in-aid and to the municipalities from the Consolidated Fund of the state.

Accordingly, almost all states have completed their second round of setting up their respective SFCs except the ones where the 74th CAA is not applicable. The states of Arunachal Pradesh and Jammu and Kashmir have not constituted the SFCs. Among the study states (Rajasthan, Haryana, Himachal Pradesh and Chhattisgarh), all four have constituted their third round of SFCs and Kerala has also submitted the report while for Uttar Pradesh, Rajasthan and Orissa, the report is still due. In spite of this being an imposition of the Constitution, there are still some states where even the second SFC has not been constituted as yet (Joshi, 2005). According to the report of the 12th Finance Commission:

Box 1
Functioning of SFCs: Emerging Issues

- Lack-lustre response and apathy from state governments
- Lack of statutory mechanisms for ensuring continuity
- Lack of reliable data base
- Non synchronization of SFCs with Central Finance Commission and Five Year Plans
- Nominal impact of SFC recommendations on finances of local bodies
- No noticeable shift in the tax jurisdiction of local bodies
- No clear allocation criteria for the sharing of revenues between different levels of government.

“We find that most states are yet to appreciate importance of this institution (SFC) in terms of its potential to carry the process of democratic decentralization further and evolve competencies at the cutting edge level by strengthening PRIs and the municipalities. The delays in the constitution of SFCs, their constitution in phases, frequent reconstitution, submission of reports and tabling of ATR in the legislature have in many cases defeated the very purpose of this institution⁵.”

⁵ Para 8.33 12th CFC

Chapter 2

Assessing the Impact of Democratic Decentralization

An important initiative of the Government of India to strengthen municipal governance is the enactment of the 74th Constitutional Amendment Act (CAA) in 1992. The Act brought with an aim of empowering ULBs in India as institutions of local self-governance. PRIA conducted detailed studies in four selected states viz. Chhattisgarh, Haryana, Himachal Pradesh and Rajasthan to understand and documents the ground realities with respect to devolution of functions, finances and functionaries. This chapter brings out the key findings of the studies.

2.1 Devolution of Functions

All the four states have their state specific municipal Acts in place brought in conformity of the 74th CAA in 1994 which describes the functions of the municipalities in line with the 12th Schedule.

All the four states, on an average have devolved sixteen functions to ULBs out of eighteen listed in the 12th Schedule, but some key functions like roads, regulation of slaughterhouses, water supply and sewerage and urban planning include town planning are yet to be devolved to ULBs and rest with para-statal bodies i.e. Public Health and Engineering Department (PHED)/ Irrigation and Public Health (IPH), Public Works Department (PWD) and Town Planning Departments. It is also worth noting that though the sixteen functions are devolved to ULBS but little of this is actually in the hands of municipalities, as the core decision making power rests with the state government or district administration.

(i) Extent of Devolution of Function vis-à-vis State Municipal Acts

A. Himachal Pradesh

Both the HP Municipal Act, 1994 and HP Municipal Corporation Act, 1994, list all the 18 functions as that of ULBs with the provision that notifications regarding the devolution of powers be issued by the concerned departments. However, out of 18 functions mentioned in the 12th Schedule, only half of the functions (9 in number) are performed by the ULBs as seen in the following pages. In order to perform the remaining functions, the ULBs are dependent on other departments.

Thus, devolution has not taken place in ULBs in Himachal Pradesh to the extent envisaged. The functions being performed in ULBs today continue to be those devolved in 1968 and 1979 and no significant devolution has taken place, subsequently. Overlapping of functions between various departments is a reality. Devolution of

requisite funds to allow the ULBs to perform whatever functions have been devolved to them has also not taken place.

Unless functions are devolved, the financial powers cannot be contemplated. However, at the same time, if the finances are not made available, the functions cannot be carried out. It is imperative for a decentralized system that works, that some functions and sources of income enjoyed by the state government must be transferred to ULBs. Halfhearted transfers cannot achieve the purpose for which the 74th CAA was made in India.

The line departments are actively involved in implementing the key functions which are devolved to ULBs as per HP Municipality Act 1994. Besides the Directorate of Urban Development, the following agencies are engaged in implementation of following functions:

- (i) Town and Country Planning Department is currently implementing three functions namely urban planning including town planning, planning for social and economic development and construction of buildings which are to be devolved to ULBs according to the 12th Schedule of the Constitution.
- (ii) HP State Electricity Board is responsible for the provision of street lights in various ULBs for public and private use.
- (iii) Irrigation and Public Health Department is responsible for the provision of water supply for domestic, industrial and commercial purposes in all areas under the jurisdiction of ULBs.
- (iv) HP Public Works Department is responsible for the construction of roads and bridges in all ULBs.
- (v) HP Forest Department is responsible for urban forestry, protection of environment and promotion of ecological aspects.
- (vi) Social and Women Welfare Department is responsible for safeguarding the interests of weaker sections of society and implementing all welfare schemes in ULBs.

Other stakeholders in the government are HP State Pollution Control Board, State Council for Science, Technology and Environment and the Department of Industries.

The District Administration also plays a crucial role in maintaining and monitoring of various development projects within the jurisdiction of ULBs. This set up seems to indicate that some level of overlapping of functions and in one sense, this has also led to an erosion of the autonomy of the ULBs.

Besides these government departments, various NGOs/CBO help ULBs to perform their task effectively and efficiently.

Delegated functions of municipalities are laid down under Section 48 of HP Municipal Act, 1994. Although the state government through notification issued in August 1994 requisite notified delegated functions in respect of the ULBs, yet an overwhelming

majority of these ULBs are not performing these functions. Most of the delegated functions are in the nature of developmental functions.

B. Haryana

The Haryana Municipal (amendment) Act, 1994 is applicable to all municipalities other than Corporations in the state. The Act classifies municipal bodies in three tiers – Corporations with population exceeding 500,000, Councils for population ranging from 50,000 to 500,000 and Committees for population below 50,000. Haryana has a total of 1 Municipal Corporation, 21 Municipal Councils and 46 Municipal Committees.

As per Section 66A of the Act, the following functions are devolved to urban local bodies:

- a) Preparation of plans for economic development and social justice
- b) The performance of functions and implementation of schemes in respect of the following matters, namely:
 - (i) urban planning including town planning;
 - (ii) regulation of land use and construction of buildings;
 - (iii) planning for economic and social development;
 - (iv) water supply for domestic, industrial and commercial purpose;
 - (v) public health, sanitation, conservancy and solid waste management;
 - (vi) fire services;
 - (vii) urban forestry, protection of the environment and promotion of ecological aspects
 - (viii) safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded;
 - (ix) slum improvement and upgradation;
 - (x) urban poverty alleviation;
 - (xi) provision of urban amenities and facilities such as parks, gardens and playgrounds;
 - (xii) promotion of cultural, education and aesthetic aspects;
 - (xiii) burial grounds, cremations, cremation grounds and electric crematoriums;
 - (xiv) cattle pounds, prevention of cruelty to animals;
 - (xv) vital statistics including registration of births and deaths, and
 - (xvi) public amenities including street lighting, parking lots, bus stops and public conveniences.

While water supply, sanitation, sewerage and solid waste management may be regarded as core municipal functions, little of this is actually in the hands of municipalities in the state. The state government has taken over water supply and sewerage under section 67 of the Act, which gives the state government the power to take over any function relating to maintenance or construction of waterworks, sewerage works or roads for a period not exceeding 10 years. The function is now being managed by the State Public Health Department (PHD). Besides this, primary education and health services are also with the state government.

With regard to roads and streets, there is a division of responsibilities between ULBs and the State Public Works Department (PWD). PWD is responsible for construction of the roads, while municipalities are responsible for their maintenance. Thus several functions, including core functions are actually vested with the state government.

Chhattisgarh

The Madhya Pradesh/Chhattisgarh Municipalities Act of 1961 provides the municipalities a wide-ranging functional domain, which includes all core functions of ULBs. Section 123 of the Act lists out 22 obligatory functions of municipalities, which broadly include:

- (i) Construction, regulation and maintenance of public streets
- (ii) Lighting
- (iii) Building regulation and control of encroachments
- (iv) Municipal water supply
- (v) Maintenance of public health and removal of nuisances
- (vi) Sewerage, sanitation and conservancy
- (vii) Construction, maintenance and regulation of markets
- (viii) Prevention of food adulteration
- (ix) Registration of births and deaths
- (x) Construction and maintenance of parks and gardens
- (xi) Fire protection services
- (xii) Control of offensive and dangerous trade
- (xiii) Disposal of dead bodies and animals

The list of discretionary functions is even longer with 41 functions, including 6 functions inserted in 1994 to include the 12th Schedule functions in the Act. As per the state government, 16 of the 18 12th Schedule functions have been devolved to ULBs – all except town planning and slaughterhouses. The State Directorate of Town and Country Planning (TCP) looks after town planning. Its responsibility is to prepare regional development plans and master plans, while zonal planning has been devolved to the ULBs.

The State Public Health Engineering Department (PHED) is entirely responsible for the planning and construction of municipal water and sewerage works, after which the network is transferred to ULBs for operation and maintenance. The State Public Works Department (PWD) similarly looks after construction and maintenance of roads.

D. Rajasthan

The Rajasthan Municipal Act 1959 provides for a long list of 22 obligatory and 25 discretionary functions for the municipality. The following is a summary of the core functions devolved to ULBs:

Obligatory functions (22)

- (i) Health and hygiene – this includes cleaning of streets, sewers, removing filth and rubbish and public vaccination
- (ii) Regulatory functions – regulating offensive trades, removing dangerous buildings, obstructions and projections on streets, regulating burial grounds, disposal of dead animals, stray animals, cattle etc.
- (iii) Public safety and security – fire protection, street lights, voluntary protection force
- (iv) Development functions – these include developing public streets, public conveniences, markets, drains, sewers, tanks, wells etc.
- (v) Miscellaneous functions – birth and death registration, promotion of family welfare etc.

Discretionary functions (25)

- (i) Development and maintenance of parks and gardens, libraries, museums, asylums, halls and other public places
- (ii) Social welfare measures like housing for the poor, promotion of public health and infant welfare, contributing to public welfare funds, establishing labour welfare centers and other measures for its employees
- (iii) Taking a census and encouraging vital statistics coverage
- (iv) Maintenance of sewage on private premises, setups for sewage disposal
- (v) Entertainment and recreation like providing music to people
- (vi) Organization of public functions, setting up shops and stalls, holding fairs and exhibitions, supply of milk
- (vii) Establishing and maintaining hospitals and dispensaries, maternity centers and child clinics, maintenance of ambulance service, establishing primary schools and orphanages etc.
- (viii) Functions added to incorporate 74th CAA provisions – these include planning for economic and social development; performance of functions as entrusted by state government including matters relating to 12th Schedule of Constitution of India; and any other matter not specified in the Act but likely to promote education, public health, safety, convenience or economic condition of the masses.

Besides the municipal government, several other agencies are carrying out essentially local functions i.e. the water supply is managed by the State Public Health Engineering Department (PHED), the urban planning include town planning by the Town Planning Department and the State Public Works Department looks after the construction of buildings and road infrastructure at the local level.

Table 2 below provides comparative picture of devolution of functions in Chhattisgarh, Haryana, Himachal Pradesh and Rajasthan as compared to functions prescribed in the 12th Schedule.

(ii) Service Delivery by Para-statal and Engagement of ULBs

The para-statal agencies is often criticized and questioned in the decentralized governance framework as the are merely accountable to ULBs, but the fact remains that these agencies plays vital role in planning, implementation and management of important function like urban planning including town planning, provision of water supply and construction and maintenance of roads. One of the main justifications of having these functions with the para-statal agencies is of having dedicated human resources along with technical competencies along which the ULBs lacks at present. These functions are local in nature but still the state governments retain these functions with respective line departments and to keep away from the domain of ULBs. The studies conducted across four states (i.e. Chhattisgarh, Haryana, Himachal Pradesh and Rajasthan) by PRIA have thrown light on relevant governance issues and functioning between the para-statal agencies and ULBs for provision of urban services to the citizens.

A. Public Health and Engineering Department (PHED/PHD)

The PHED/PHD or IPH (Irrigation and Public Health) Departments have been traditionally vested with the planning, implementation and management of water in

urban as well as rural areas. They continue to perform these functions even after enactments of the 74th CAA and conformity legislations in different states. The engagement of ULBs in provision of water supply is meager and limited to information sharing only. The state governments have retained the function of water supply in their domain though as per the constitution it should be devolved to the urban local body.

In Chattisgarh, the role of PHED to a large extent has been limited to that of a purely technical agency. The department is responsible for provision of water supply (planning and construction) and sewerage only upon receiving such request by the concerned ULB. The ULBs can even opt for other agencies to carry out the work. However, by default all ULBs request PHED to carry out water supply and sewerage works. Financing is also done by the ULBs themselves, whether through own funds, or from grants and loans. ULBs state their specific requirements while commissioning works and the PHED also seeks the opinion of ULBs while making plans for the networks. In this sense the process is sufficiently collaborative.

The ULBs have been given some power to sanction water supply and sewerage related engineering works. This is also, however restricted by setting certain limits to the municipality's discretion. The Nagar Panchayats can sanction schemes up to Rs. 45 lakhs, while Municipal Councils can sanction schemes up to Rs. 90 lakh. This puts a limit on their discretionary power to sanction water supply or sewerage works. For larger schemes, the sanctioning authority is the State Directorate for Urban Administration and Development (UAD).

Maps of the water supply and sewerage network should be available with the ULBs also, along with the PHED, but actually they are never there with ULBs. Maps are prepared but never used hence are lost count of.

In Haryana, Public Health Department (PHD) is completely responsible for water supply and sewerage services in towns and villages. Planning for the infrastructure is carried out at the state level. The department has drawn out a plan with a 30 year design period till the year 2033.

It would be worth mentioning that, Haryana witnesses the classic problem of para-statal being non-accountable at the local level and hence not responsive to their felt needs. The plan is based on the financial requirements of towns and on the recommendations by various expert committees on the subject, such as the Zakaria Committee and CPHEEO norms.

Expansion of infrastructure is influenced by central and state-level development schemes such as Mewat Development Scheme which provides additional funds for the districts in the Mewat region, the Yamuna Action Plan (YAP - affecting five districts along the Yamuna River) and the NCR plan (affecting districts falling within the National Capital Region). With all these larger dynamics influencing the planning and operations in PHD, local areas are increasingly alienated from the process.

In Himachal Pradesh, the Irrigation and Public Health Department (IPHD) has the overall responsibility of provision of water supply for domestic, industrial and commercial purposes in all areas under the jurisdiction of ULBs and ULB has no engagement in execution of this functions except petite maintenance works of pipes at household level.

Table 2
Comparative Picture of Devolution of Functions in Chhattisgarh, Haryana, Himachal Pradesh and Rajasthan

S. No.	Functions prescribed in the 12 th Schedule for ULBs	Status of functions and concerned departments who execute the functions			
		Haryana	Himachal Pradesh	Rajasthan	Chhattisgarh
1.	Urban planning including town planning (marginally devolved)	TCPD	TCPD	TCPD	TCPD
2.	Regulation of land-use and construction of buildings	PWD	TCPD	ULB	PWD
3.	Planning for economic and social development	ULB	TCPD.	ULB	ULB
4.	Roads and bridges	ULB & PWD	PWD	ULB	PWD
5.	Water supply for domestic, industrial and commercial purposes	PHD	IPHD	PHED	PHED
6.	Public health, sanitation conservancy and solid waste management	ULB	ULBs	ULB & Health Dept	PHED & Malaria Dept.
7.	Fire services	ULB	Fire Dept.	ULB	ULB
8.	Urban forestry, protection of the environment and promotion of ecological aspects	ULB	Forest Dept.	ULB	ULB
9.	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded	ULB & State Welfare Dept.	Public Welfare Dept.	ULB & Social Welfare Dept. Mahila Bal Vikas Dept.	ULB & State Welfare Dept.
10.	Slum improvement and up-gradation	ULB & / SUDA / DUDA	ULB	ULB & Tourist Dept.	ULB
11.	Urban poverty alleviation	ULB	ULB	ULB	ULB
12.	Provision of urban amenities and facilities such as parks, gardens, playgrounds	ULB	ULBs	ULB Planning, ownership const.& maint.	ULB Planning, ownership, const.& maint.
13.	Promotion of cultural, educational and aesthetic aspects	ULB & Edu. Dept. (for school edu.)	Public Relations Dept.	ULB	ULB
14.	Burials and burial grounds, cremations, cremation grounds and electric crematoriums	ULB	ULB	ULB	ULB
15.	Cattle pounds, preventions of cruelty to animals	ULB Planning, ownership, const. & maint.	ULB	ULB Planning, ownership, const. & maint.	ULB Planning, ownership, const. & maint.
16.	Vital statistics including registration of births and deaths	ULB	ULB	ULB	ULB
17.	Public amenities including street lighting, parking lots, bus stops and public conveniences	ULB	ULB, HPSEB & HRTC	ULB	ULB
18.	Regulation of slaughterhouses and tanneries	ULB	ULB	ULB	Not devolved

Like other states, PHED is a major para-statal body in Rajasthan and is completely responsible for providing water supply services to the towns and villages. Local authorities generally do not play any significant role in planning and operations in PHED. People directly contact the PHED for getting water connections. In keeping with the need for greater transparency and accountability of public agencies, the PHED has come out with a citizen's charter posted on its website, which explains the procedure for getting new connections, installing meters, faulty meters, supply problems or billing problems and the key officials responsible for these. Thus the citizen's interface with the para-statal is direct.

Besides PHED, water supply infrastructure is also being enhanced by the Rajasthan Urban Infrastructure Development Project (RUIDP), which is an Asian Development Bank assisted project having an initial total project outlay of US\$ 362 million. The towns covered under the project are Ajmer, Bikaner, Jaipur, Jodhpur, Kota and Udaipur. The objective of the project is to optimize social and economic development benefits in urban Rajasthan through policy reforms to strengthen urban management and support for priority investments in urban infrastructure and basic services. Water supply is among the services funded by the project, besides streets, bridges and flyovers, drainage and solid waste management, medical services and fire services.

B. Public Works Department (PWD)

The major functions of the PWD are constructions and management of roads inside and outside the municipal limits. In many states, the ULBs are engaged in maintenance of roads inside the municipal limits.

In Chhattisgarh, the road maintenance is the area of conflicting jurisdiction for ULBs. The ULB is not responsible for PWD roads, State Highways and National Highways. However, it is always answerable to the residents in case of lack of maintenance. In such cases the ULB has to take a NOC from the concerned agency (PWD or NHAI) and use its own funds for urgent repairs.

In Haryana, the responsibilities of construction and maintenance of roads and streets have divided between ULBs and the state Public Works Department (PWD). PWD is responsible for construction of the roads, while municipalities are responsible for their maintenance. Thus several functions, including core functions are actually vested with the state government. In order to perform other functions vested with the municipalities, they have been given some power to sanction engineering works. This is also, however restricted through setting certain limits to the municipality's discretion. The municipalities have the discretion to sanction schemes up to Rs.3 lakhs. For schemes ranging from Rs.3 lakhs to Rs.15 lakhs, the Deputy Commissioner (DC) is the sanctioning authority. Schemes above Rs.15 lakhs are referred further to the PWD state head office for sanction.

In Himachal Pradesh, the PWD department has been given the overall responsibility of construction and management of roads. The ULB is provided with the role of maintenance of municipal roads. The ULBs are engaged in at the time of budget preparation for municipal roads under the chairmanship of District Collector.

In Rajasthan, the responsibility of planning, construction and management of municipal roads lies with the ULB.

Box 2
Case Study of Janjgir

A case study of Janjgir municipality in Chhattisgarh presents an interesting insight into this problem. Janjgir is intersected by major roads connecting industrial and mining areas and hence bearing extensive load of heavy vehicles. As a result the roads frequently break up and develop potholes, which can also be too deep and hence dangerous to vehicles plying on the roads. The pathetic state of the roads was evident during the field visit for this study as well. People approach the MC with their complaints, who in turn contacts the PWD. However, when the PWD does not respond in time, the MC is forced to undertake emergency repairs at its own cost to make the road pliable again at the earliest. Such jobs are generally temporary, involving dumping of construction waste. However, they are constant pain for the MC and a load on its already meager finances. The PWD works on its own planning – its maintenance work is not necessarily guided by public requirement. Lack of local accountability of parastatals is at the root of these problems with the PHED and PWD.

C. Town and Country Planning Department

In Chhattisgarh, the function of spatial planning is with TCP Department. The ULBs carry out the functions of provision of building permission on a regular basis. The building regulations are also governed by state rules (*Bhumi Vikas Nigam Rules of 1984*) – the ULBs do not have their own building bye-laws. The building rules are applicable only in notified areas for which layout plans have been prepared by TCP. For areas which have not yet been notified, the ULB cannot issue building permits and the building plans are sent to TCP for approval.

Technically the participation of municipalities in the planning process is ensured through membership of the committee on Master Plan which gives suggestions on the plan and looks into the objections and suggestions to the prepared plans.

One of the constraining factors in this arrangement is that municipality is one of the many members which include senior politicians and bureaucrats as well. Often as a result the ULBs find themselves being sidelined in the committee deliberations. The ULBs can, however, carry out zonal planning, which entails detailed planning of zones within the Master Plan. Unfortunately ULBs find themselves helpless due to lack of technical expertise and are therefore unable to make these zonal plans. The only recourse is to hire technical consultants, but most ULBs do not have the financial capability to do so. Janjgir is the only town in fact that has been able to take up zonal planning with the help of PRIA.

Over the past few years there has been much talk of devolving the planning function to ULBs effectively, including merger of TCP with the municipal administration department. Once such an attempt was made and the TCP was clubbed with ULBs under the same Directorate. However, the progress was not satisfactory in terms of plan preparation. Eventually the two were separated again. TCP is reluctant to be a part of municipal administration and is resentful of any such move, and want to remain a separate entity, even as a purely technical agency. Also, they want to avoid facing interference from elected representatives who often allegedly try to use their influence for their vested interests in declaring certain areas for residential or commercial land use. The only way out at present is for the TCP to provide technical guidance to ULBs as a nodal agency while the decision making can rest solely with them. In the long run the MCs will have to develop technical capacity in-house to be able to perform the planning function effectively.

Box 3**Chhattisgarh State Urban Development Agency (SUDA)**

The SUDA is a society registered under the Firms and Societies Act, and is the State Level Nodal Agency for the implementation of Centrally Sponsored and State Sponsored Schemes and programmes of Urban Development and Poverty Alleviation. The Minister of Urban Administration and Development (UAD) is the ex-officio Chairman of SUDA and the Secretary, UAD is the ex-officio Vice Chairman of SUDA. The Director UAD is the CEO of SUDA. The DUDAs are the District Level Nodal Agencies to implement the schemes and programmes entrusted to them by the SUDA, in the districts through the ULBs. The District Collector is the ex-officio Chairman of the DUDA of the District. A full time/part time Project Officer is posted in DUDA. The SUDA does not receive any grant directly from the state budget. It however, receives grants and loans under Centrally Sponsored Schemes and grants from Town Development Fund managed by the Director UAD under the Nagar Vikas Nidhi Rule, 2003. It also raises loans as and when required, from the state government under the Specific Purpose Grant Rule and from financial institutions, on behalf of the ULBs. The grants and loans are disbursed to the ULBs as per the policies and guidelines. The SUDA is responsible for repayment of loan installments, which may be repaid directly by the ULB concerned or by way of deductions made from the funds, which are devolved to the ULB.

In Haryana, the Department of Town and Country Planning, Haryana is the nodal department to enable regulated urban development in the state of Haryana. The department also renders advisory services to various Departments / Corporations / Boards such as HUDA, Housing Board, HSIIDC and Marketing Board. The few major functions of the department are given as under:

- a) Prevention of unauthorized and haphazard construction and regulation of planned urban development under the provision of Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 by declaring controlled areas around towns and public institutions preparation of their development plans and sectoral plans for planned urban development.
- b) To regulate the development of colonies in order to prevent ill-planned and haphazard urbanization in or around the towns.
- c) Prevention of unauthorized constructions and regulation of planned urban development.
- d) To cater to needs of society, Haryana Urban Development Authority; a statutory body is executing the urban development projects in various towns. However in order to meet the requirement of different uses, the department is also granting licenses to the private colonizers to develop residential and commercial colonies in urban areas under the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975.

Like other states, the role of ULBs in plan preparation is minimal though the ULBs are involved in building permissions jointly with the District Town Planning Office.

In Himachal Pradesh, Town and Country Planning Department execute three key functions devolved to ULBs as per 12th Schedule of the Constitution and HP Municipal Act 1994 and HP Municipal Corporation Act. These functions include (a) urban planning including town planning, (b) planning for social development and, (c) economic development and construction of buildings. The rationale behind retaining these functions

with the TCP Department is that ULB in HP are of very small size and lack adequate human resources and technical competencies to handle the task of urban planning.

The Government of Himachal Pradesh has made a formal arrangement of enabling the participation of ULB in providing building permissions in line with the Building Bye-laws issued by the state government separately for all the ULB through a “Single Window System”. As per this arrangement the Planning Officer of District TCP office will sit in ULBs to provide them technical support in sanctioning of building plans. This arrangement also aims to address the shortage of adequate functionaries to the ULBs. In lieu of taking the services of the TCP officers, the ULB have to pay the fees in the treasury of the state government fund.

In Rajasthan, like other states, the function of town planning is the second 12th Schedule function not devolved to ULBs at present. It is being carried out by the Town Planning Department. The main functions include preparation, revision and review of Master Plans, regularization of land use changes, preparation of zonal plans, implementation of UIDSSMT scheme, preparing planning norms and standards, conservation of heritage buildings, preparation of regional plans and coordination of development works.

Smaller municipalities find themselves insufficient in dealing with the planning function, even if devolved to them. The only planning related function they perform is sanctioning of building plans. However, building regulations are rarely adhered to and there is widespread flouting of building norms. Often map clearance is not sought from the Municipal Board before construction. The Municipal Boards also find themselves helpless against the unregulated constructions. The tedious process of litigation is a discouraging factor for the Municipal Boards to take action against encroachers and defaulters. It’s a drain on the Municipal Boards’s time and resources.

2.2 Devolution of Finances

The medium and small ULBs in India, which constitute a large number, are characterized by huge dependence on grants from state and central governments, poor resource base, inefficient and ineffective local governance system, lack of periodic revisions of municipal tax rates/user charges, outdated accounting and financial reporting system and poor data management and information system.

Municipalities on their own are not able to raise sufficient resources to be able to cover their costs, and are therefore increasingly dependent on state transfers for financial sustenance.

Octroi or in lieu /octroi compensation is the major untied grant which all municipalities get from the state government. However, it is also not completely untied. A portion of the grant is tied – to be used by ULBs only for meeting establishment / administration expenditure, while the remaining amount can be used for other purposes.

The Property Tax or house tax contribute to highest share from own sources to ULBs but that smaller municipalities lack sufficient staff and resources to be able to recover taxes effectively. The state government also feels the low level of skill development of officials in smaller ULBs is a major cause for low revenue collection in smaller towns. The poor financial situation in turn affects adversely the expenditure priorities of the municipality. Besides the most basic services like solid waste management and streetlights, municipalities have little money to spend on other functions.

The Twelfth Finance Commission report has summed up the financial problems ailing ULBs various states in the following points:

- Poor own revenue realization by municipalities – negligible tax and non-tax revenue
- Excess dependence on state transfers, even for day to day expenses
- Excess expenditure on establishment
- Irregular disbursement of octroi compensation grant which also adversely affects the day-to-day functioning of municipalities
- Poor accounting practices leading to lack of clarity on financial situation and mounting arrears of payments like pension and provident funds.

The study aims to understand the extent of financial devolution to the ULBs in selected states along with the issues related to greater fiscal devolution.

(a) Per Capita Own Revenue

A study conducted by Prof. O.P. Mathur on India's Municipal Sector for the Twelfth Finance Commission (henceforth the TFC study) (Mathur & Thakur, 2005) provide relevant facts about the severity of fiscal health of the ULBs in Haryana, HP, Rajasthan and Chhattisgarh. The Study was conducted by NIPFP, New Delhi in 2005 covering 28 states for the Twelfth Finance Commission, India.

The study on Haryana found that per capita own revenue of municipalities in the state was Rs.207.8, which was more than 50 percent lower than the average for 23 states covered in the study (Rs.482.10). Per capita own revenue receipts have shown an increase of only 3.5 percent from 1997-98 to 2001-02 which is among the lowest in the country. It is a dissatisfactory trend as it indicates stagnation in the generation of own revenues. Own source revenue (OSR) formed only 60.5 percent of total revenue receipts of municipalities. Tax receipts formed 37.4 percent of own revenue receipts, the per capita figure being only Rs.76.7.

The findings from Chhattisgarh reveal that per capita own revenue of municipalities was Rs.321.60, which was much lower than the average for 23 states covered in the study (Rs.482.10). Own source revenue (OSR) formed only 39.37 percent of total revenue receipts of municipalities. Tax receipts formed 37.4 percent of own revenue receipts, the per capita figure being only Rs.76.7. This is also extremely low. Interestingly, municipal own revenue constituted 10.9 percent of the state's internally generated resources, which is quite high as compared to other states. The average for 23 states as per the study was 8 percent. This reflects on the overall poor revenue generation situation at the state-level, rather than indicating better revenue generation in ULBs.

The per capita state transfer for Chhattisgarh in 2001-02 was Rs.323.30. The figure is close to that of per capita internal revenue generation by municipalities, and therefore corroborates the roughly equal share of own revenues and transfers in municipal income in Chhattisgarh.

The same study brought out the fiscal health of ULBs in Rajasthan where the per capita own revenue of municipalities was noted as Rs.80.7, which was significantly lower than the average for 23 states covered in the study (Rs.482.10). Per capita own revenue receipts have actually declined by 27.8 percent from 1997-98 to 2001-02 –

this decline can however be attributed largely to the abolition of Octroi in the state (which was abolished in 1998). Own source revenue (OSR) formed only 17.7 percent of total revenue receipts of municipalities (in 2001-02). This is extremely low.

In Himachal Pradesh, the Per Capita total revenue in case of Municipal Corporation ranged from Rs.107 in the year 1993-94 to Rs.1546 in the year 1998-99 whereas in case of Municipal Councils and Nagar Panchayats it was Rs.325 and Rs.260 respectively in the year 1993-94 and increased to Rs.854 and Rs.834 in the year 1998-99 respectively.

The wide gap between the Municipal Corporation, Municipal Councils and Nagar Panchayats in per capita revenue is attributed to the intensity of municipal functions required to be carried out in the municipal areas due to its vast area, population, influx of tourists etc.

There is no uniformity in the nature of taxes and rate of taxes in different Municipal Councils. Some Municipal Councils collect property tax and conservancy tax, others impose house tax or chullah tax. Water tax, show tax, cattle tax, pound tax, profession tax, cattle sale tax, servant tax, sanitation tax and animation tax are also reported by some of the municipalities. However, it has been observed by the 2nd SFC that many local bodies have not levied some basic taxes like sanitation tax/ safai tax.

Average total receipts from taxes in respect of all the Municipal Councils is Rs.112.28 lakhs per annum. Average per capita tax collected is Rs.42. This comprises 28.17 percent of the income from own sources.

(b) Dependence on Transfers

In Chhattisgarh, the problem with grants is that most of them are scheme based and hence tied grants. Grants form a significant proportion of the income of smaller municipalities, since their own revenue generation is not satisfactory. Very few grants are in the nature of untied grants, hence municipalities are bound to spend them for the specific purpose for which they have been given, regardless of what their genuine expenditure needs may be. It is for this reason that grant dependence seriously curtails the autonomy of a ULB to act according to local priorities and needs.

The Twelfth Finance Commission reports that transfers constitute 50 percent of municipal revenues in Chhattisgarh, which is moderate as compared to states like Rajasthan, where transfers are more than 80 percent of municipal revenues. Even so, it is much higher than the average figure for 23 states, which is 31.7 percent.

The taxes imposed by ULBs in Haryana are more or less uniform while the non-tax sources show more variation across ULBs. The poor financial situation in turn affects adversely the expenditure priorities of the municipality. Besides the most basic services like solid waste management and streetlights, municipalities have little money to spend on other functions. Thus on the whole the entire town suffers.

Table 3
Provisions Made in State Acts for ULBs to Levy Taxes

Chhattisgarh	Rajasthan	Haryana	Himachal Pradesh
<p>1. Obligatory Taxes</p> <p>(i) Property tax (ii) Water tax (iii) Sanitary cess (iv) Lighting tax (v) Fire tax (vi) Local body tax on the entry of such goods as may be declared by the state government by notification (entry tax)</p>	<p>1. Obligatory Taxes</p> <p>(i) A tax on the annual letting value of buildings or lands, or both, situated within the municipalities; (house tax - abolished in 2007) (ii) A tax on professions and vocations;</p>	<p>1. Obligatory Taxes</p> <p>(i) Tax by the owner of buildings and lands which shall not be less than 2.5 percent and not more than 15 percent as the state government may, by notification, direct, of the annual value of such buildings and lands; (ii) Stamp duty on transfer of immovable properties situated within the limits of the municipality, in addition to the duty imposed under the Indian Stamp Act, 1899, as in force for the time being in the State of Haryana. (iii) Such other tax, at such rates as the state government may, by notification, in each case, direct;</p>	<p>1. Taxes Revenue</p> <p>(i) Taxes on buildings and lands; (ii) Taxes on professions, trades, calling and employment. (iii) Tax on vehicles other than motor vehicles and animals. (iv) Tax on the increase in urban land values caused by the execution of development or improvement work; (v) Show tax (vi) Tax on consumption of energy at a rate of not exceeding .02 paise for every unit of electricity consumed by any person within municipal areas; (vii) Sewerage tax on commercial buildings (viii) A duty on the transfer of immovable properties situated within the limits of municipal areas in addition to the duty imposed under the Indian Stamp Act, 1899. (The amount of the duty so collected shall be paid to the urban local bodies) (ix) House tax; (x) Sanitation tax (xi) Water tax (xii) Ground tax; and; (xiii) General tax {levied on a graduated scale} (if the government so determines).</p>

2. Discretionary Sources of Revenue	2. Discretionary Sources of Revenue	2. Discretionary Sources of Revenue	2. Non-Tax Revenue
<p>(i) Latrine or conservancy tax</p> <p>(ii) Drainage tax</p> <p>(iii) Profession or trade tax</p> <p>(iv) Tax on vehicles or animals used for riding, driving or burden or on dogs</p> <p>(v) Toll on vehicles and animals entering the city but not liable to taxation under clause (d)</p> <p>(vi) Fees on the registration of cattle sold within the city</p> <p>(vii) Market dues on persons exposing goods for sale in municipal area</p> <p>(viii) Betterment tax on properties whose values may have improved as a result of town planning scheme undertaken by Council</p> <p>(ix) Tax on pilgrims</p> <p>(x) Tax on persons occupying houses, buildings or lands within municipal limits</p> <p>(xi) Toll on new bridge constructed by the Council</p> <p>(xii) Tax on advertisements</p> <p>(xiii) Tax on theaters and other shows for public amusement</p> <p>(xiv) Terminal tax on goods or animals exported from the municipality</p> <p>(xv) Any other tax which state government can impose.</p>	<p>(i) A tax on vehicles and other conveyances plying for hire</p> <p>(ii) A tax on dogs</p> <p>(iii) A tax on animals used for riding, draught or burden when kept within the municipality</p> <p>(iv) Toll on vehicles and other conveyances and on animals entering the municipality</p> <p>(v) Tax on boats moored within the municipality</p> <p>(vi) A scavenging tax</p> <p>(vii) Tax for the cleansing of private latrines or privies</p> <p>(viii) A general sanitary tax for construction or maintenance of both public latrines and for the removal and disposal of refuse</p> <p>(ix) Lighting tax</p> <p>(x) Water tax for water supplied by the board, which may be imposed in the form of a rate assessed on the annual letting value of buildings or lands or both or in any other form</p> <p>(xi) Tax on trades and callings carried on within the municipality and deriving special advantages from, or imposing a special burden on, municipal services</p> <p>(xii) Tax on artisans (other than profession tax), and</p> <p>(xiii) Any other tax which the state legislature has powers to impose under the Constitution</p>	<p>(i) Tax on professions, trades and callings</p> <p>(ii) Tax on vehicles, other than motor vehicles, plying for hire or kept within the municipality</p> <p>(iii) Tax on animals used for riding, draught or burden, kept for use within the municipality</p> <p>(iv) Tax on dogs</p> <p>(v) Show tax</p> <p>(vi) Toll on vehicles, other than motor vehicles, or any other conveyances entering the municipality</p> <p>(vii) Tax on boats</p> <p>(viii) Tax on consumption of electricity at the rate of not more than five paise for every unit of electricity</p> <p>(ix) Fee with regard to pilgrimages, drainage, lighting, scavenging, cleansing of latrines, providing internal services</p> <p>(x) With the previous sanction of the state government, any other tax, toll or fee which the Legislature has power to impose in the state under the Constitution of India</p>	<p>Subject to prior approval of the state government, ULBs, in the manner prescribed, may levy a fee with regard to the followings.</p> <p>(i) Fee on the advertisement other than advertisement in newspapers;</p> <p>(ii) Fee on building applications;</p> <p>(iii) Development fee for providing and maintaining civic amenities in certain areas.</p> <p>(iv) Fee with regard to lighting;</p> <p>(v) Fee with regard to scavenging</p> <p>(vi) Fee in nature of costs for providing internal services in a building scheme or town-planning scheme.</p> <p>(vii) Tehebazari fee, and</p> <p>(viii) Rent from municipal assets.</p>

This is not to say that grants are totally undesirable in themselves. In fact, the ULBs are entitled to a legitimate share of state revenue since a large part of it is generated locally. Municipalities also need to be compensated for the loss of income from Octroi, which was abolished in the state in 1999.

The TFC study reports that transfers of own revenue to ULBs constitute barely 1.3-1.7 percent of the state's total own revenue in the case of Haryana, which is very low compared to the average of 3.3-3.9 percent for all sample states included in the study. The load on state finances of transfers to ULBs is thus comparatively low and therefore it is feasible for the state to increase the devolution of funds to ULBs to help them perform their functions to a fuller extent. What is important is that a significant share of these grants be untied to enable municipalities to use the funds as per local priorities and needs.

Like other states, the municipalities in Rajasthan are heavily dependent on state transfers or grants. The dependence on grants also shows an increase over the years in both the case study towns from 2001-02 to 2004-05. The share of grants in total municipal revenue has increased from 77 percent to 89 percent in Jhunjhunu, while in Karauli it has increased from 80 percent to 94 percent. The state average of 83.3 percent (as per the TFC study) is also among the highest in India.

Grants form a significant proportion of the income of smaller municipalities, since their own revenue generation is not satisfactory. The problem with grants is that most of them are scheme based and hence tied grants. Very few grants are in the nature of untied grants, hence municipalities are bound to spend them for the specific purpose for which they have been given, regardless of what their genuine expenditure needs may be. It is for this reason that grant dependence seriously curtails the autonomy of a ULB to act according to local priorities and needs.

This is not to say that grants are totally undesirable in themselves. In fact, the ULBs are entitled to a legitimate share of state revenue since a large part of it is generated locally. Municipalities also need to be compensated for the loss of income from Octroi, which was abolished in the state in 1998.

The TFC study reports of Rajasthan states that in 2001-02 transfers of own revenue to ULBs constituted 6.53 percent of the state's total own revenue in the case of Rajasthan, which is quite high compared to the average of 3.3-3.9 percent for all sample states included in the study. The load on state finances of transfers to ULBs is thus comparatively high and may not be sustainable for a low income state such as Rajasthan. The only option for the state is to encourage ULBs to generate own revenue to a fuller extent.

(c) Low Rates of Levies

In Chhattisgarh, the rates at which various taxes and non-tax levies are to be levied are fixed both at the state and local levels. The state government has fixed the rate of composite tax, which is a composite of streetlights, drainage, roads and fire services. The other rates are fixed locally to a large extent. With respect to property tax, the District Collector decides the values of different properties and circulates among all municipalities in the district.

Rates are based on the zonal system with different rates for different wards and properties. Tehbazari, market fees and road cutting charges are other major levies also fixed locally. While rates fixed at the state-level may not reflect local reality, the locally fixed levies are also often not too realistic since they are influenced by political appeasement of the electorate at the local level. Thus they may not capture the true revenue potential of the town.

A similar problem is faced in Janjgir where the locally fixed rates have been kept very low. Yet there is so much evasion of taxes, fees, charges and other payments – little surprise then that the ULB is so excessively dependent on grants. The state government can grant legislative approval to enhanced tax rates provided the ULBs build a consensus to table such a proposal. However, even at the local level, there is reluctance on this account owing to political pressure.

In Haryana, the various taxes and non-tax levies to be collected are by and large fixed by the state government and only minor levies are left to local discretion. In fact in the towns covered in the study, only tehbazari and fire charges were locally determined – all other levies had been fixed by the state government. Result of this, the smaller ULBs in the state i.e. Narnaul MC, faces the very same problem and therefore wants greater discretion to fix rates of various levies, which it feels would be then more reflective of reality at the local level.

(d) Municipal Revenue Expenditure Priorities

As per the TFC study, Chhattisgarh shows a low revenue-expenditure gap in municipalities with own revenue receipts covering 85.5 percent of the revenue expenditure in 2001-02. In per capita terms the gap between income and expenditure shows a surplus of Rs.268.79. However, when own revenue is considered, the surplus is reduced to a per capita own revenue deficit of Rs. 54.52. This again indicates a dependence on grants to fulfill municipal expenditure needs. This is reflected in the municipal budget data of the two case studies as well. The share of grants in total revenue receipts for Janjgir and Kharsia in 2004-05 was 55 and 60 percent respectively.

Chhattisgarh has a very heavy load of expenditure on establishment and salaries with 70 percent of its revenue expenditure going into payment of salaries. Consequently expenditure on operation and maintenance of services is 30 percent of municipal expenditure – this is lower than the average for 23 states, which is 39.93 percent. In per capita terms the figure was Rs.112.82 per capita as compared to the national average of Rs.230.31 in 2001-02.

Thus, while the expenditure profile of municipalities in Chhattisgarh is certainly more diverse as compared to some other states, the expenditure is highly grant-financed and own revenue accounts for little more than essential establishment expenditures. This shows that ULBs are unable to spend on functions like social development, planning and welfare out of their own funds. Lack of sufficient funds is the main reason why ULBs are not able to spend much beyond their essential responsibilities.

Elected representatives are given a grant called the '*Parshad Nidhi*' which they use for developmental works i.e. construction of water supply pipelines and CC roads etc in their respective wards. Party politics does have a negative effect on functioning of the Council, and ward level considerations are given more importance than what is good for the city as a whole.

As per the TFC study, Haryana shows a low revenue-expenditure gap in municipalities with revenue receipts covering 81.42 percent of revenue expenditure. In per capita terms the gap between income and expenditure shows a surplus of Rs.88.04. However, when own revenue is considered, the surplus is reduced to a per capita own revenue deficit of Rs.47.42. This again indicates a dependence on grants to fulfill municipal expenditure needs.

Haryana has a very heavy load of expenditure on establishment and salaries – the second highest in India - with 69.7 percent of its revenue expenditure going into payment of salaries. Consequently expenditure on operation and maintenance of services is extremely low at Rs.77.31 per capita – about 30 percent of municipal expenditure. This is lower than the average for 23 states, which is 39.93 percent.

As per the TFC study, Rajasthan shows a high revenue-expenditure gap in municipalities with revenue receipts covering only 20.67 percent of revenue expenditure. In per capita terms the gap between income and expenditure shows a surplus of Rs.93.77. However, when own revenue is considered, the surplus is reduced to a per capita own revenue deficit of Rs. 309.68. This again indicates the excessive dependence on grants to fulfill municipal expenditure needs.

Rajasthan has a very heavy load of expenditure on establishment and salaries with 63.25 percent of its revenue expenditure going into payment of salaries. Consequently expenditure on operation and maintenance of services is quite low at Rs.135.28 per capita – about 35 percent of municipal expenditure. This is lower than the average for 23 states, which is 39.93 percent.

Lack of sufficient funds coupled with existing state departments on such functions furthermore provides credible reason for ULBs to spend little beyond their essential responsibilities. The second SFC did not consider functions like health and education while assessing the financial requirement of ULBs since they are already being looked after by state departments. The SFC also did not cover development expenditure while making its assessment because it is again covered largely through central government and other agencies like the World Bank. SFC recommendations on financial devolution to ULBs were based only on their maintenance requirements.

(e) Municipal Own Revenue Realization

Municipalities on their own are not able to raise sufficient resources to be able to cover their costs. The main reason for this is poor realization of revenue by municipalities. There is a large gap between the total demand and recovery of various levies i.e. in Narnaul, the collection from house tax was only Rs.30 lakhs in 2006-07 against the demand of Rs.72 lakhs. This shows the poor recovery of taxes. Property tax, in spite of the being the most important tax levy, suffers maximum evasion. For the last financial year the government also launched a scheme in which interest on late payment of tax was relaxed and the taxpayer got an additional ten percent rebate on the actual tax amount. Yet there was no significant gain in terms of tax recovery. Besides the fact that there is large-scale tax evasion, smaller municipalities also lack in terms of sufficient staff and resources to be able to recover taxes effectively.

Recent financial data relating to ULBs is available from the state Statistical Abstract. Summary of the total income of ULBs in the state shows that revenue from own sources comprised only 53.5 percent of total income of municipalities in 2001-02,

which increased to 66.8 percent in 2003-04. However, the picture for small and medium towns may be even worse.

The ULBs of Himachal Pradesh with few exceptions have rural characteristics in terms of the development of civic infrastructure as compared to villages in plains. Many have population sizes smaller than villages, even the municipalities differ in area, population, civic infrastructure, resource endowment, assets and administrative infrastructure. Under these circumstances it is very difficult and impractical for the government to evolve uniform approaches in dealing with the financial management of these ULBs. In fact most of the ULBs are dependent on state government for meeting staff salaries and provision of civic amenities.

The ULB in Himachal Pradesh get their power of taxation from the HP Municipal Act, 1994 and HP Municipal Corporation Act 1994. These Acts confer the powers to levy taxes to perform their functions in order to achieve the organizational goals and to raise the efficiency of ULBs. The state government also provides grants in aids to them on regular intervals. The source of income of ULBs is of two types:

- i. Tax Revenue
- ii. Non-Tax Revenue.

After the implementation of the 1st State Finance Commission recommendations, the government of Himachal Pradesh has decentralized fiscal power and given more autonomy to ULBs in respect of collection and levy of taxes.

The second SFC had recommended that for harmonizing the present tax system, facilitating better redistribution and lower costing of tax collection, the state government needed to exercise control over the tax structure. The Commission categorized state taxes into three groups:

- Group 1** Consisted of taxes to be collected by the state only and devolved to the third level of governance either through a scheme of tax sharing or lump sum grants i.e. taxes and tolls on vehicles, royalties on forest produce.
- Group 2** Comprised taxes that ULBs can collect with limited financial autonomy by prescribing maxima and minima i.e. registration fees for land and properties, excise on liquor and local tax on consumption of electricity.

As far as taxes identified in Group 2 are concerned, the Finance Commission agreed with the present arrangements by the state government vide which share of respective ULB automatically stands transferred on some fixed percent/rate basis and recommended that this arrangement be continued. However, periodic restructuring and reassessment was a must after every two years.

- Group 3** This group consists of taxes such as house tax, tehbazari tax, dog tax, servant tax, show tax, registration on birth and death certificates. The ULBs have full financial autonomy both in terms of information and collection of these taxes. As per the recommendations of State Finance Commission these taxes should be collected directly by the ULB who maybe given full fiscal autonomy regarding their structure and imposition.

Box 4 **Incentive Funds**

In order to reward ULBs which pay for services on regular basis, the 2nd State Finance Commission of Himachal Pradesh recommended that in the event of any hike in the rates of local tax on consumption of electricity or water rates, for every additional rupee raised the local bodies shall be entitled to an incentive grant of Rs.2. This level will apply only to those ULBs, which have no arrears. For this purpose, the commission recommended an “Incentive Fund” amounting to Rs.1.50 Crores per annum from the year 2003-04.

2.3 Devolution of Functionaries

Availability of capable functionaries is a pre-requisite to achieve workable decentralized governance as the functionaries are the hands of ULBs. Commensurate with the funds, municipalities should also have sufficient staff strength and competency to be able to perform the functions assigned to them. In present set of decentralization model in India, the challenge is three folds:

- Lack of sufficient staff in the municipalities (particularly in smaller ULBs) to executed the delegated functions,
- Insufficient level of competency of local staff for satisfactory performance of tasks, and
- Lack of local accountability of staff appointed at the state level.

The study conducted on Status of Devolution by PRIA in four states also attempted to review the present status of functionaries and related issues in detail.

In Himachal Pradesh, the reports of the First and Second Finance Commissions of Himachal Pradesh provide sufficient data to support that the most of the ULBs are under-equipped to perform functions which have been delegated. To illustrate this point, the total sanctioned strength of staff for Municipal Corporation is 1166 while the MC Shimla has the staff strength of 1119. The situation is even worst in the Municipal Council and Nagar Panchayats.

Himachal Pradesh has total 20 Municipal Councils for which the staff of 1434 person is sanctioned but at present about 1052 employees are working in the Municipal Councils. Similarly, total staff sanctioned for 28 Nagar Panchayats is 646 and at present total 218 employees are working in these Nagar Panchayats⁶. This means on an average the Nagar Panchayats have 8 to 9 employees executing the routines functions of ULBs. The Municipal Councils stands better with respect to the staff strength. The MC on an average has 50 employees.

The Second Finance Commission made the recommendation that smaller ULBs should not have any permanent staff except Secretary as they do not have full time work and their resource capacity is severely limited. System of engaging staff on part time or contractual basis would lead to reduction in expenditure.

Like other states, Rajasthan also suffers with the issue of control over municipal staff appointments by the state government. This control is exercised through the Directorate of Local Bodies, which is the nodal agency responsible for coordination and

⁶ Reports of the First and Second State Finance Commissions, Himachal Pradesh

management of municipal administration at the state level. The Directorate has several sections to perform and coordinate the various urban activities. These include Project, Engineering, Accounts, Establishment, Statistical Cell, Vigilance and Legal Cell.

The Second SFC of Rajasthan notes that the staffing pattern and policy in ULBs has remained stagnant over the years in spite of the first SFC making recommendations for a concrete staff policy for ULBs. The Second SFC has also brought to light some interesting facts on the basis of its field observations:

- Posts such as doctors, nurses and other health staff were created where there was no need of these posts – often such staff are found idle due to lack of work;
- Posts of sweepers and other sanitation staff, always on high demand, are often lying vacant, mainly because of the ban on recruitment imposed by the Directorate;
- Each time a municipality has to hire persons temporarily for sweeping/ sanitation jobs, it has to seek permission from the Local Body Department in Jaipur. This is a lengthy process and leads to unnecessary complication and delays.

In this scenario the state government seriously needs to revisit the staff policy for ULBs to make it conform to the spirit of devolution, otherwise functional and financial devolution will also not be effective.

All the technical posts in the ULBs are designated posts with state as appointing authority. For all lower level staff appointments, the ULB can do the selection but needs the sanction of Directorate of Local Bodies before appointment. Even if nominal, this sanction leads to unnecessary delays in staff appointments. This has an overall negative effect on the efficiency of municipal functioning.

The staffing occupancy in municipalities is top-heavy in the sense that all posts appointed through the state government are generally occupied. However, the lower level posts, where selection is at the municipal level but sanction has to come from the state, suffer from greater number of vacancies. This is specially so in the case of sweepers. They are simply not enough and therefore many municipalities have gone for outsourcing the conservancy work to private contractors.

Staff which has not been recruited locally also does not feel accountable to the local area. This has a negative influence on the efficiency of the staff. Some common complaints with regard to municipal staff are negligence in performance of duty, absenteeism from work, corruption, and lack of regard for citizens and elected representatives. Local level recruitment ensures the accountability of staff to the ULB and can also check corruption among them.

The new Rajasthan Municipalities Bill of 2006 has addressed some of the issues relating to devolution of functionaries. A Municipal cadre is proposed to be set up for recruitment at the state level of top administrative officials in ULBs. Technical officers will also be recruited at the state level. However, municipalities have the right to determine the number of staff they require to carry out their functions. Some posts such as a sanitary inspector, other inspector, subordinate servant, accountant or a member of the ministerial establishment can also be appointed by the municipality

subject to restrictions as imposed by the state government. The Chief Municipal Officer has been empowered to make appointments to all other posts, permanent as well as temporary.

(a) State Control over Municipal Functionaries

In Haryana, the state level Department for Urban Development looks after the affairs of ULBs in the state. It was earlier known as the Directorate of Local Bodies, which was established in 1982, and was the nodal agency responsible for management of municipal administration at the state level. The Directorate has several wings to manage the various urban functions, such as Engineering, Fire, Town Planning, Accounts and Establishment. A representative from the Elections Department is also posted in the Directorate to look after Municipal Elections.

The municipal services are of three levels:

- (i) The state level services
- (ii) The district level services under the control of the District Collectors, and
- (iii) The services under the control of the municipalities

While the state level employees are transferable across the state, the district level employees are transferable within the district.

With the exception of sanitary workers, all other municipal staff are appointed by non-local authorities. Municipalities, therefore, have little control over their own staff. There are multiple authorities responsible for appointing staff for ULB, which ULB find difficult to exercise control over them and it's a concern with regard to devolution of functionaries.

The Haryana Municipal Act, 1973, was promulgated at a time when the Directorate of Local Bodies did not exist; hence the District Collector played the key supervisory role over ULBs. Powers of the District Collector over Committees remain substantial; hence the overall appointing authority for ULB level posts is with the District Collector. As is evident, staff shortage in municipalities can be curbed to a large extent with local recruitment. So many posts are lying vacant simply because municipalities don't have the authority to fill them and externally appointed staff is always vying for better locations and positions.

Staff which has not been recruited locally also does not feel accountable to the local area. This has a negative influence on the efficiency of the staff. Some common complaints with regard to municipal staff are negligence in performance of duty, absenteeism from work, corruption, and lack of regard for citizens and elected representatives. Local level recruitment ensures the accountability of staff to the ULB and can also check corruption among them. The Second SFC has also noted with concern the growing incidence of malpractices among municipal officials. The Commission is of the view that several inspector level posts may be streamlined and a number of district level posts may be brought under the Directorate's purview.

The Government of Chhattisgarh has a significant role to play in the recruitment as well as transfer / supervision of key municipal functionaries. The Directorate of UAD is the administrative department overseeing the SUDA, DUDAs and the ULBs of the state. The Directorate receives and operates the budget grants of UAD from the consolidated funds of the state. The Director is the administrative head of department

of the Municipal Councils and Nagar Panchayats. There are five sections in UAD which deal with the entire gamut of concerns relating to ULBs from municipal elections to taxation, training, store purchases, establishment, budget and accounts, grant disbursement, complaints regarding developmental works and urban re-generation schemes.

Senior staff in municipalities is recruited by the state or district administration, while the junior posts are under municipal jurisdiction. However, the number of staff an ULB can employ is fixed by the state government. While the state level employees are transferable across the state, the district level employees are transferable within the district.

Municipalities have control over most of the middle and lower level municipal staff. However, senior staff positions are recruited at state level and are prone to transfers and postings, which erode considerably local accountability and efficiency of work. The major problem with regard to staff in smaller ULBs is the perpetual staff shortage in small and medium towns, especially in relatively less developed townships and Nagar Panchayats. This was a common complaint in both Janjgir and Kharsia, where staff especially to work at the field level, such as sanitary workers or revenue recovery personnel were not sufficient.

This affected both the quality of service provision and the level of revenue realization in the ULB. In the absence of regular staff, duties of essential vacant positions were being carried out by other staff. For example, in Janjgir some persons appointed as sanitary workers were actually performing the duties of drivers and firemen. In Kharsia 31 out of the 70 sanctioned posts were lying vacant. The ULBs also complained of the shortage of engineers. The number of engineers is not enough for the efficient functioning of municipal works. In fact one concerned person remarked that the system was running on the shoulders of 'plumbers' rather than engineers.

Local level recruitment ensures the accountability of staff to the ULB and can also check corruption among them. There was a strong opinion in both the towns that municipal staff should be recruited locally, since such persons are more dedicated and locally accountable as well.

(b) Municipal Staff Competencies – Comparative Analysis of All the States

Another key issue is that of staff competency. Keeping in mind the expanded functional domain of ULBs after the enactment of the 74th CAA, there is a strong need to build the capacity of municipal staff so that they are able to perform functions like urban development and planning more effectively.

Chhattisgarh being a newly carved state, there was an immediate shortage of functionaries at the middle and high level in the state cadre. These have been filled by promoting staff from various often unrelated departments. For example, officials of the Indian Forest Service occupy the key positions in the Secretariat for Urban Development. Similarly Forest Department officials are being posted as Executive Officers of Municipal Councils and Nagar Panchayats through the state cadre of services. There is need for not only orienting these officials towards the basics of urban administration, but also ensuring their ability to positively contribute to their development. A state level institute should be developed for providing regular training and orientation to officers of urban departments and ULBs, as well as elected councillors. Some significant areas for training include the various Acts and legislation

with regard to urban affairs, the nuances of planning for urban development, project formulation, monitoring and evaluation, technical works like operation and maintenance of water supply and sewerage systems and also human resource development issues like leadership qualities and team spirit.

Rajasthan has made positive effort in towards this through organizing trainings of municipal staff and ERs. The Rajasthan Institute of Local Self Governance (RILSG) is the nodal institute for the same. Civil Society Organizations (CSOs) are also often involved in facilitating the trainings through assistance in planning, designing and execution. Recently training in HRD was imparted to the councilors with the help of CSOs in a three-day training programme. Trainings generally focus on all eighteen urban functions and related issues of urban development.

In Haryana also there is felt need for improving capacity of staff at all levels including the Directorate's own staff at state level. Among various measures for staff development, the State Finance Commission has suggested a continuous process of foundation courses as well as refresher and reorientation courses, seminars, workshops and exposure visits. State level institutes like Haryana Institute of Public Administration (HIPA) in Gurgaon can play a pivotal role and hence need to be strengthened accordingly. The SFC has highlighted areas like understanding of various Acts and legislation with regard to urban affairs, project formulation, monitoring and evaluation etc where capacity building is desirable.

(c) Elected Representatives and Urban Governance

Elected representatives have a crucial role to play in ensuring effective and vibrant local governance in the true sense but the reality is often not as envisioned. Elected representatives are often passive observers of municipal administration. They lack any teeth to enforce any development in their constituency or to influence decision making at the municipal level. In fact, the former Chairperson of Chhattisgarh SFC states that there is greater devolution to rural local bodies as compared to towns simply because the Zilla Parishad/Panchayat functionaries are more vocal about their demand for devolution. Training needs of elected representatives have also have emerged as a key issue, particularly the need to orient them in their roles and functions. Due to this attitude of the elected representatives, the executive wing of the ULB and para-statal agencies feels hesitant in engaging them (ERs) in any decision making process.

The women elected representatives are specially disadvantaged. Most of them are not able to actively participate in local governance because of the restriction imposed on them by their male relatives. Their male relatives are often the de facto elected representatives, with them being confined to home. Those who do venture to perform their roles are often ignorant about it. Training needs of elected representatives have also been stated as a key issue by the Second SFC, particularly the need to orient women elected representatives in their roles and functions.

It is also observed in the case study sites that there is great desire among the municipal councilors specially women and new comers to learn the roles and responsibilities of municipalities. The elected representatives also look forward for training programme from district administration or state government so that their leadership quality can be enhanced in order to perform their duties in better way and coordinate effectively with

municipal officials. It was also noticed that majority of the elected representatives interacted seemed unaware of about the overall municipal finance and information on development schemes.

Political interference is also the major area of concern to improve the functioning as it affects the functioning of ULBs. The administrators and staff of the ULBs have to accommodate political demands raised by the local councilors.

2.4 Other Enabling Institutions

(a) State Finance Commission

The 74th CAA provided for the constitution of the State Finance Commission in order to make recommendations regarding the share of state revenue and grants-in-aid to be given to local bodies, and the manner in which it is to be divided between Panchayati Raj Institutions (PRIs) and ULBs.

The SFCs have been constituted in the states of Chhattisgarh, Himachal Pradesh, Haryana and Rajasthan. Chhattisgarh, being a newly constituted state, set up its first independent SFC in 2003. The SFC was chaired by a political appointee. The Secretary was an economist with a teaching background. These were the only members of the SFC.

Haryana, Himachal Pradesh and Rajasthan have constituted their third Finance Commissions.

The SFC in Haryana is chaired by a retired senior bureaucrat and its members consist of political appointees. Therefore, its composition is hardly appropriate and indicates the attitude of the state government towards the institution. Another problem is the delay in submission of reports, often done to prolong the life of the SFC, which leads to gap between the last SFC's recommendation and those of the next one. During this time, the existing formula for sharing of revenues is in force. It further indicates the lack of seriousness and sincerity attached to the cause for which the SFC has been formed.

Rajasthan was one of the first states to set up the State Finance Commission and known for timely submission of reports. The First State Finance Commission (FSFC) of Rajasthan was set up on 23 April 1994, which submitted its report in 1995. As per the information available, the state government has implemented a majority of the recommendations made by the First SFC. The Second SFC was set up on May 7, 1999 and submitted its report in August 2001, effective for the period 2000 - 2005. The Third SFC has been set up in 2005 – Rajasthan being one of the first states to do so. The SFC is chaired by a former Minister of Finance and its members consist of generally experienced individuals related to this field. There has been a delay in the submission of its report.

Himachal Pradesh has constituted its third SFC to workout the recommendations for improving the financial health and better financial management in local bodies. The Government of Himachal Pradesh has decentralized fiscal power and given more autonomy to ULBs in respect of collection and levy of taxes based on the recommendations of the First and Second State Finance Commissions.

(b) State Election Commission

The State Election Commissions (SECs) have been constituted in Chhattisgarh, Himachal Pradesh, Haryana and Rajasthan. Except, Chhattisgarh, three rounds of local elections have been successfully executed by the Elections Commissions in Haryana, HP and Rajasthan.

In Chhattisgarh, the SEC has successfully conducted local elections in the state in 2004. The elections were largely peaceful and saw few incidents of violence. The Commission has also prepared a model code of conduct for municipal elections, along with procedure for disclosure of electoral expenses and for filling annual property returns by the contestants.

In Rajasthan, the SEC has successfully conducted third round local elections in the state in 2005 in which approximately 60 percent voter turnout was observed, which is moderately high. The electoral roll used in local body elections is separate from the one used in Assembly or Parliamentary elections.

In Haryana, the SEC has successfully conducted third round of polls for rural and urban local bodies in 2005. The elections were largely peaceful and saw an 80 percent voter turnout, which is indeed appreciable.

(c) District Planning Committee

Article 243ZD(i) of the 74th CAA provides for constitution of District Planning Committees (DPCs) to consolidate the plans prepared by the municipalities and panchayats in the districts and to prepare a draft development plan for the district as a whole. In conformity to 74th CAA, the states of Chhattisgarh, Haryana, HP and Rajasthan have made the provisions of DPC in their respective State Municipal Acts.

With this provision integrated regional planning has been recognized by the Constitution where investment, its spatial impact and development are to be considered and realized. The constitution of DPC as per the 74th CAA has a bearing on the Regional and Town planning Act and other Acts in which planning, land use related provisions have been made. The DPC as envisaged in the 74th CAA is a prominent statutory committee and will be largely responsible for coordination of development activities in the area; the existing development authorities in DPC area may provide necessary technical input and thus contribute to the effective functioning of the DPC.

Article 243ZD(2)(a) provides mandate of composition of membership of DPC is suggested as under:

- 20-25 members to be elected from amongst the elected members of panchayat and municipalities in the district in proportion to the ratio of rural urban population in the district.
- Chairpersons to be elected amongst the members.
- Certain members to be nominated by the state government having special knowledge, expertise in the fields of Finances, Spatial Planning, Economic Planning, Health, Engineering, Environment and Public Administration

The functions of DPC as provided in the 74th CAA include aggregation of fiscal and investment plan for Annual/Five Year Planning, Article 243-2D(3a) elaborates the scope of DPC to include spatial planning, sharing of water and other physical and natural resources, integrated development of infrastructure and environment conservation. Sub-Para (ii) of the article provides for discharging of these functions as per the extent and types of available resources.

In Haryana, the DPC is unfortunately not yet functional though it has been constituted in the districts. As per the state government, DPC elections have been held and DPC constitution is in the final stages. It awaits one more notification in this respect by the Urban Development Department before it can be formally set up.

Himachal Pradesh Government has made the provision of constitution of DPC under Section 185 of Himachal Pradesh Panchayati Raj Act, 1994 to prepare consolidated plans based on the development plans prepared and submitted to it by the municipalities in the District, under sub-section (i) and prepare a draft development plan for the district as whole.

Under Section 421(i) of Himachal Pradesh Municipal Corporation Act, 1994, the Corporation shall prepare every year a development plan for its areas and submit to the District Planning Committee. No specific provisions are made regarding plan preparation by medium and smaller ULBs and its integration with the DPC.

The Directorate of Urban Development also has not issued specific guidelines or regulations to initiate ward level or ULB level micro planning taking into consideration local needs and aspirations for preparation of annual plans. Planning in urban areas is an issue that has not been addressed.

The persons to represent the municipalities in the District Planning Committee, under Clause (d) of Sub-section (2) of Section 185 of the Panchayati Raj Act, 1994, shall be chosen by the elected members of the municipalities in the District in the prescribed manner from amongst themselves.

The composition of District Planning Committees in HP is as follow:

- Members of the house of people who represent the whole or part of the district
- The Chairman of the Zilla Parishad.
- Mayor or the President of the municipality having jurisdiction over the headquarters of the district
- the persons not less than four fifth of the total numbers of the committee as may be specified by the government elected by the, in the prescribed manner from amongst the elected members of the Zilla Parishad and municipalities in the district in proportion to the ratio between the population of the rural areas and the urban areas in the district.

DPC in Himachal Pradesh today is a weak link in the planning process in the state due to: (a) lack of an organic linkage between Panchayat, Panchayat Samiti, Zilla Panchayats and ULBs regarding plan preparation and implementation, (b) paucity of

funds, and foremost the lack of strong political and administrative will to make them work.

The situation in Rajasthan with regard to DPC is much better than other states where DPCs have not even been constituted. The DPCs have been constituted in Rajasthan and have commenced functioning.

In Chhattisgarh, the DPC is unfortunately not yet functional though it has been constituted in all the districts. The state government, in contravention of its own rules, constituted DPCs in 2005 in all districts by nominating all members instead of holding elections. The DPC is Chaired by state ministers, which is another major problem. This ensures that the DPC works only as an arm of the state government with no capacity for independent functioning. Members in such committees are liable to be dominated by the minister. No decision can be taken in such a committee which is against the policy of the state government. In fact in Chhattisgarh, the DPC is emerging as a non-participatory arm of the state administration, which is quite contrary to the role envisaged for the local body by the Constitution.

Chapter 3

Key Findings and Recommendations

3.1 Key Findings

In Rajasthan, the status of ULBs appears comparatively better than other states in terms of functional devolution to ULBs. However, financially the ULBs are among the most dependent on state transfers. Instead of fostering the enhancement of own revenue generation, the state government has actually cut down sources of own revenue (such as house tax) for political considerations. Poor availability of funds severely hampers the performance of local functions. With a heavy load of establishment expenditure, municipalities are able to spend little on the other heads of expenditure. Developmental expenditure is also mostly financed through tied grants hence ULBs have little discretion on local developmental expenditure priorities. Be it poor performance of functions, poor generation of revenue, or inefficiency of staff – all lead to one answer – there is simply no political will. Small and medium towns form political backwaters, forgotten by those at the helm of affairs in the state.

Therefore, it hardly matters as to what is going wrong with them. Municipalities are at the lowest rung of the political ladder – even lower than the parastatals and line departments. Stifled by all levels of higher administration, it is no surprise that ULBs find themselves helpless against the ills inflicting them. Elected representatives have little de facto power to be able to effectively influence decision making at the local level beyond the municipal administration. Often they are more engaged with politically motivated issues rather than ensuring effective local governance. At all levels there have to be a political climate for devolution and a willingness to transfer local responsibilities to local governments. Only then will local governments truly reflect the spirit of the Constitutional provisions which have empowered them.

Chhattisgarh offers a unique example of bureaucratic as well as political resistance to devolution. On surface devolution may appear real, but when explored in depth, many of the measures are not effective. In fact, they may mask the centralized system within. Corporations, for example, present a picture totally different from smaller towns in the state. This is because the state government's approach is that operationalisation of devolution can be first worked out through Corporations. This is the reason why substantial effort on infrastructure as well as devolution and governance reforms is on Corporations while smaller ULBs are relatively sidelined.

The government believes that Corporations can be developed as models on the basis of which the smaller ULBs can be moulded in terms of devolution. However, it is not necessary that the model created successfully in Corporations would be successful in small and medium towns as well. A model suitable to strengthen local governance

and development in smaller towns through adequate devolution needs to be simultaneously established.

The ULBs should also be proactive participants in the process and not passive recipients of devolution. However, the government should also keep in mind that devolution is primarily a first step to the participation process. Unless legally empowered with devolved functions, financially enabled and adequately staffed, ULBs will not be able to play their role as effective partners in development. Since the system in place is a traditionally centralized one, the first step is essentially top-down, and only then the platform of participation can be created.

In Haryana, the devolution can be characterized by the thread of all round political apathy which seems to connect all issues related to devolution. Be it poor performance of functions, poor generation of revenue, or inefficiency of staff – all lead to one answer – there is simply no political will. Towns like Narnaul are political backwaters, forgotten by those at the helm of affairs in the state. Therefore it hardly matters as to what is going wrong with them.

Municipalities are at the lowest rung of the political ladder – even lower than the parastatals and line departments. Stifled by all levels of higher administration, it is no surprise that ULBs find themselves helpless against the ills inflicting them. In muted words para-statals and line departments convey their unwillingness to be a part of municipal governments, or to even have to collaborate with them. Influential people use political clout freely to get around rules and regulations while municipalities watch helplessly.

Himachal Pradesh also reflects the clear gap between the devolution on paper and on ground. The functions to be performed by the ULBs have been laid down in the HP Municipal Corporation Act, 1994 and HP Municipal Act, 1994. However, in actual practice ULBs are performing only those functions which have been devolved to them. To illustrate, functions such as urban planning including town planning, planning for economic and social development, urban environment, safeguarding interests of weaker sections, urban poverty alleviation, provision of urban amenities have still not been transferred to ULBs in reality and managed by concerned para-statal agencies under the control of the state government.

Delegated functions of municipalities are laid down under Section 48 of HP Municipal Act, 1994. Although the requisite delegated functions in respect of the ULBs were notified by the state government through notification issued in August 1994, yet an overwhelming majority of these ULBs are not performing these functions. Most of the delegated functions are in the nature of developmental functions. Most of the ULBs are under-equipped to perform functions, which have been delegated.

There is overlapping of functions between ULBs and functional departments of state government. The first item under 12th Schedule is ‘urban planning including town planning’. However, in Himachal Pradesh, these powers are vested with the Town and Country Planning Department. Similarly, for housing, a separate authority, the Housing Board exists. Though these functions are mentioned in 12th Schedule of the Constitution and have been incorporated in the HP Municipal Corporation Act, 1994, they have not been entrusted to the Corporation, Councils and Nagar Panchayats. Some development programmes are out of the pale of these bodies for example, augmentation of water supply. The sectoral programmes also create confusion at the local level, as

responsibilities are not clearly defined. The administration of the programmes is also fragmented and overlapping.

The current legislation in Himachal Pradesh does not have any provision for Ward Committees. In many states (e.g. Madhya Pradesh and Kerala), these committees have served as useful tools to mobilize the community and increase their participation and undertake planning at the ward level. It would be worthwhile to debate whether these committees can be constituted in Himachal Pradesh too, in Shimla Municipal Corporation and a few other Municipal Councils for starters.

Yet another area that requires action is that of activating the DPC, which is currently dormant. The DPC has tremendous scope for looking at problems in an integrated manner, as the prime objective of the DPC is to facilitate joint planning in an area by both rural and urban local bodies. This has especial implications in the state's Nagar Panchayats, which are in a transitional phase and manifest the problems of both rural and urban areas. Additionally from the urban development perspective, there has not been any initiative from the Directorate to initiate ward level or ULB level micro planning taking into consideration local needs and aspirations.

The ULBs in Himachal Pradesh are under severe fiscal stress due to increasing expenditure responsibilities and lack of commensurate revenue. They are dependent upon grants from the government even for their day-to-day functioning.

On the expenditure front we get an idea of the yawning gaps in service delivery from the fact that the per capita annual expenditure in ULB is Rs.29, which is highly inadequate and highlights the fact that these bodies are not effectively performing the functions, which they should statutorily perform. Revenue constraints are an important reason for such a low level of expenditure. Yet another reason for the mismatch between the devolved functions to ULBs and their non-performance is the inadequate staff in position.

There is also an urgent need to look at the expenditure patterns of ULBs in the state. In the year 1997-98, wages and salaries alone made up 47% of revenue expenditure of ULBs in Himachal Pradesh. The system of centralized cadre of employees for ULBs needs to be reviewed. The 2nd Finance Commission strongly mentioned that it may be worthwhile to explore the options of hiring staff on a contractual/ part-time basis instead in order to improve the quality of the service delivery particularly in case of smaller and medium level ULBs.

Some institutional changes are also necessary to tone up municipal administration and introduce transparency. One basic constraint in the prevalent system is that ULBs do not have a uniform system for maintaining the object-wise expenditure.

3.2 Recommendations

The effective devolution cannot be achieved by merely making provisions on paper but its impact must be visible on the ground and should benefit the institutions and citizens as well. Perhaps amendments of the existing Acts and other rules and regulations with regard to the issues therein are necessary as starter. However, enactment of new Acts in the line of Model Municipal Act should be taken immediately. The required measures are primarily of the policy making level, required to be addressed by the state governments. Following are some recommendations based on the ground realities observed during this study on devolution.

A Functional Devolution

- The roles of ULBs and para-statal, such as PHD/IPH/PHED, Development Authorities, Public Works Department and their relationships need to be defined unambiguously. This can be done gradually by transfer the function to ULBs as it needs huge re-engineering in terms of improving the ULBs' technical capabilities. However, there is immediate need to established means to ensure local level accountability and coordination between the para-statal bodies and ULBs in planning and execution of works.
- The functions like public health and sanitation, water supply, urban amenities such as parks, gardens and playgrounds, street lighting, local roads, etc. can be grouped as essential municipal functions. Subjects like primary health care, primary education, transport infrastructure and fire-services, could be categorized as assigned municipal functions. Items like urban poverty alleviation and protection of urban environment may be included under agency functions. A system of rewarding the ULBs which commit part of their 'own' funds for the agency functions could be explored. The model list may be supplied to the state government and State Finance Commissions.
- Provisions are needed in Municipal Acts for alternative institutional mechanisms for production and delivery of public goods and services, such as privatization and public private partnership.
- Small and medium ULBs suffer political and administrative neglect from the state government, which has eroded municipal governments of any clout whatsoever. This has to be reversed. 'Urban' should not be synonymous with large cities only.
- The need to establish mechanisms of greater participation of ULBs in the local functions discharged by the para-statals and state level agencies on behalf of ULBs due technical incompetence i.e. water is a scarce resource in arid Rajasthan. In fact, the situation is no less than a crisis. The 2001 Census estimates deficient water supply in 37 percent of the households in the state. The state is heavily dependent on ground water as there are few surface water sources. Ground water is also depleting at a much faster rate than the rate at which it can be replenished. Much focus is on extending water supply to all households along with judicious use and conservation measures like rainwater harvesting. Therefore, in this scenario of scarcity, the planning, supply and distribution of water is carried out in a centralized manner while the engagement of local body can play a vital role engaging people in the whole process of water resource management.
- The elected representative should be given some powers over para-statals and state agencies working within the local area as well. They should have legitimate right to question the acts of these agencies and to press for better service provision.
- The state government must ensure additional capacity building for performance of planning function by smaller ULBs and for clarity regarding the roles and responsibilities of the ULB therein.
- The process of litigation which the ULBs have to proceed with against violation of building laws and other offences needs to be simplified, less costly and time consuming in order to be made more effective.

- At present, due to various constraints, many states have not formed the ward committees. However, the 74th CAA provides that the state governments direct the ULBs and made necessary provisions to constitute these committees for enabling people's participation at the ward level.
- There is a need to define a clear role for the citizen groups in the monitoring of municipal affairs in addition to participation through elected representatives in these local bodies.

Channels of public participation include public hearings, debates, audits, pressure groups and media activities and through implementation of some programmes by CSOs/NGOs, Community Based Organizations (CBOs) and community groups. Community groups through neighbourhood societies, thrift and credit associations and community development societies aided by CSOs/NGOs or CBOs are well suited to implement programmes for poverty alleviation and protection of the urban environment.

- The state government must ensure additional capacity building for performance of planning function by smaller ULBs and for clarity regarding the roles and responsibilities of the ULB therein.
- Elected representatives are often ignorant about their legitimate rights – there is a need for capacity building of elected representatives on devolution of functions as per the 74th CAA in order to make them aware and to generate demand from below.
- Local capacity building through appropriate recruitment policies, training and skill up gradation programmes along with an incentive-penalty structure to drive the municipal staff towards better efficiency. The areas that require attention includes:
 - simplification of municipal budgeting and performance appraisal procedures
 - computerization of municipal accounts including tax collection,
 - simplification of tax rules
 - improvement of financial management
 - rationalization of staffing structure
- The District Planning Committee is one body that can actually revitalize the planning process at the local level and needs to be made functional at the earliest. The DPC can provide a platform for collaborative planning at the district level by local bodies as well as line departments and state agencies. It has been observed that in the states, where it is functional, the synergy on developmental planning between rural and urban priorities is increasing as for example in Rajasthan.
- The example of zonal planning in Chhattisgarh (as promoted by PRIA) can be used as a capacity building model for all ULBs who can then take up spatial planning gradually. The ULBs are already carrying out infrastructure planning at some level, based on the land use marked in the Master Plan; hence this shouldn't be a very difficult exercise for them. ULBs can in fact officially take up ownership of the Master Plan and act as the detailing agencies.

B. Financial Restructuring

- ULBs really need to enhance their own revenue generation. Better own revenue realization can be encouraged by measures such as providing matching incentive grants. This will also help balance the excessive dependence on grants by poorer ULBs. With sufficient funds at the ULB's disposal, it will be able to spend on other functions as well, besides the essential basic services.
- The state government can prescribe a maxima and minima so that rates can be rationally determined within the given range by ULBs (since politically motivated elected representatives often tend to press for lower tax rates). The state should also ensure that the rates are revised periodically in accordance with the legal provision.
- Development of alternatives model regarding the mix of: (i) local taxes, (ii) assigned (state) taxes along with well defined and precise formulae for revenue sharing, and (iii) inter-governmental transfers.

The transfers may include categories, such as block or general purpose grants for functions like education and health, corrective grants for removing the fiscal and other disparities, matching grants for infrastructure development, poverty alleviation and environmental protection, incentive grants to promote efficiency in internal resources mobilization and innovations in service delivery etc. on pre-determined consideration or formulae.

- ULBs should be able to decide rates of local levies on their own. The state can at the most provide a range of maxima and minima between which the ULBs should be free to fix the rates as per their discretion. The state should also ensure that the rates are revised periodically in accordance with the legal provision.
- Developing a model format for the collection of data by the State Finance Commission.
- The Second Finance Commission of Himachal Pradesh has observed that many ULBs in the state are still not imposing many of the taxes that fall within their purview. The similar situation persists in smaller ULBs of other states. Revenue generation efforts by ULBs also need to be undertaken. The assigned taxes may be shared between the state and ULBs on the basis of pre-determined formulae.
- Municipal audit and accounts system needs to be revamped on a priority basis. The present half hearted measures reflect a lack of political will in this sphere. However, the state government must realize the benefits of a streamlined accounting system and an effective audit. It will help substantially reduce financial irregularities, generate accountability and transparency, and also enable more effective planning for services with the given funds.
- The state government must increase the amount of untied grants to ULBs of newly created states i.e. Chhattisgarh, Jharkhand and Uttaranchal so that they can spend the money as per local needs and priorities.
- The state should ensure that the rates of local levies are realistically fixed and revised periodically in accordance with the legal provision.

- Piggy-backing, i.e. permitting a surcharge on some major central and state taxes for allocation to municipalities maybe for specific purposes, such as urban poverty alleviation or development of infrastructure could be an efficient and cost effective way of raising resources for certain functions.
- Improving the access of the municipalities to market resources of funding for development of infrastructure through national and state level credit institutions and tax exempt municipal bonds is another option.

C. Municipal Functionaries

- The state government must ensure that key posts in smaller ULBs are never vacant since they affect the performance of the ULB's functions. The absence of key staff in smaller less developed municipalities is a grave issue and needs to be taken up in earnest.
- The ULBs must be given the discretion of appointing their own staff. There is simply no justification in keeping almost all posts in the hands of the state and district administration. In fact the latter should not have any role to play in municipal affairs.
- Training and orientation of functionaries must be systematized. The state level training institutions can be made the nodal agency in this regard, as suggested by the State Finance Commissions.
- The civil society can also be involved in this effectively. Training needs to be compulsory for all staff in ULBs.
- Elected representatives also need to be sensitized on their role and functions on a compulsory basis. Already efforts are being made by the civil society but these piecemeal efforts can be regularized by the state through appropriate legislative measures.

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