



India

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India's most ambitious experiment with decentralisation began in 1992 with the passage of path-breaking 73rd and 74th Constitutional Amendments. The twin Acts which institutionalised local self-government in India coincided with the opening of the economy, rapid migration, social mobility, increased urbanisation, among others. The historic Constitutional Amendments 73 and 74 of 1992 set out, for the first time, to provide local bodies within the country's federal system with certain mandatory structures and powers. A standout contribution of the twin Acts is the increased levels of participation from marginalised groups (including women and Scheduled Castes and Scheduled Tribes) and inclusion of millions of new voices in the decision-making processes of local governments. However, the historic move is not without its obstacles and challenges. The new experiment continues to face vociferous resistance by state-level elites as well as feudal and bureaucratic leadership, in addition to a range of structural challenges, which has significantly impeded the deepening of decentralisation and self-governance in the

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country. In short, despite many gains the transformative potentials of 73rd and 74th Amendments remain far from being realised.

I COUNTRY OVERVIEW

With a population of more than 1.37 billion, India is, after China, the second most populous country in the world.¹ With an area of 3,287,263 km², it has 28 states and eight union territories. Ethnically and linguistically, India is one of the most diverse countries in the world. Twenty-nine of its languages are spoken by more than one million people, while another 122 languages are spoken by groups of at least 10,000. India is the fifth-largest economy in the world by nominal gross domestic product (GDP) and the third largest in terms of purchasing power parity (PPP). According to projections by the International Monetary Fund (IMF), it is set to remain the fastest-growing large economy for many years to come.²

The Indian Constitution came into effect on 26 January 1950 and saw the adoption of a parliamentary form of government with a competitive multiparty system. The executive, legislative, and judicial branches of government draw their power and jurisdiction from the Constitution and are bound by it. The head of the executive is the President and the Council of the Parliament (consisting of two houses known as House of the People, or *Lok Sabha*, and the Council of States, or *Rajya Sabha*). The Prime Minister is the head of the Council of Ministers, which is there to aid and advise the President in the performance of day-to-day constitutional duties. Under the Constitution, India enjoys a fairly independent judiciary, and the executive is accountable to the legislature.

In the 76 years since independence, against all odds, India's democracy has survived many challenges and shown great resilience in carrying forward the idea and practice of constitutional governance. Except for the brief period in which democracy was suspended (1975–1977), India has regularly held free and fair elections. With its multiparty system of

¹ PTI, 'India May Overtake China as Most Populous Country Sooner Than UN Projections of 2027: Report' (12 May 2021) *The Economic Times*, <https://economictimes.indiatimes.com/news/india/india-may-overtake-china-as-most-populous-country-sooner-than-un-projections-of-2027-report/articleshow/82576669.cms> (accessed 24 January 2022).

² Ministry of Finance, Government of India, 'Summary of the Economic Survey 2021–2022' (2021), <https://pib.gov.in/PressReleasePage.aspx?PRID=1793826> (accessed 21 January 2023).

nine national parties and as many as 54 state-level or regional parties, India holds elections throughout the year. While the Bharatiya Janata Party-led coalition, the National Democratic Alliance (NDA), has enjoyed hegemony since 2014, many individual states are run by regional parties.³

The Constitution provides for a federal system, with a clear division of powers between its constituent units. Although the word ‘federation’ is nowhere mentioned in the Constitution, article 1 states that ‘India, that is Bharat, shall be a union of states’. Originally, the framers of the Constitution envisaged two levels of government (central and state level), with no consideration of third-tier government. Despite this, local government systems were in operation prior to their constitutional recognition in 1992. The Seventh Schedule of the Constitution gave a detailed description of the powers of the centre and states under the Union List, State List, and Concurrent List.⁴ In the original constitutional scheme, there was an inherent bias towards the Union government (with some analysts consequently referring to the Constitution as quasi-federal in form).⁵ This bias was due to concerns for national unity as well as administrative coherence. Central government enjoys superior authority to that of the states, and this is manifested in various ways, such as the power to create state boundaries, control over financial resources, greater legislative powers, and the power to impose emergency rules on the states.⁶ However, despite this constitutional bias towards the centre, the states have adequate autonomy in significant policy areas (such as health), and here they enjoy considerable autonomy. Some of the key features of the

³ KC Suri, ‘Emergence of BJP’s Dominance and its Durability’ (6 March 2021) 56(10) *Economic and Political Weekly*, <https://www.epw.in/engage/article/emergence-bjps-dominance-and-its-durability> (accessed 24 January 2023).

⁴ Niranjan Sahoo, ‘Centre-State Relations in India: Time for a New Framework’, *ORF Occasional Paper #62* (9 April 2015), <https://www.orfonline.org/research/centre-state-relations-in-india-time-for-a-new-framework/> (accessed 22 January 2023).

⁵ KC Wheare, *Federal Government* (Oxford: Oxford University Press, 1949). See an excellent interpretation of Wheare’s formulation by Ashwini K. Ray, ‘Reflections on Quasi-federal Democracy’ (16 June 2021) *The Hindu*, <https://www.thehindu.com/opinion/lead/reflections-on-the-quasi-federal-democracy/article36905863.ece> (accessed 22 January 2023).

⁶ Ambar Kumar Ghosh, ‘The Paradox of “Centralised Federalism”: An Analysis of the Challenges to India’s Federal Design’, *ORF Occasional Paper* (September 2020), <https://www.orfonline.org/research/the-paradox-of-centralised-federalism/> (accessed 22 January 2023).

Indian democratic system are the clear division of powers between the centre and the states; the independent judiciary; the bicameral legislature; and adherence to the principle of constitutional supremacy.

Accountability in governance is enforced in various ways, with the holding of periodic elections as a critical instrument for enforcing accountability by the citizens. In addition, the executive—that is, governments at both federal and state levels—is held to account through the proceedings of the parliament or assembly. Here the government is called to account for its actions via debates on bills or issues placed on the floor of Parliament, via questions the opposition is allowed to pose to ministers during question hour or in committee proceedings, and via the possibility of posing ‘no confidence’ motions. Finally, the government or executive branch can be held accountable by the judiciary, largely through the judicial review of executive and legislative actions.

2 HISTORY, STRUCTURES, AND INSTITUTIONS OF LOCAL GOVERNMENT

The concept of local government in India has a long history. The British government (under Lord Ripon in 1882) recognised the existence of the long-standing form of *Sabhas* (associations) and *panchayats* (meetings of village elders).⁷ After independence, Part IV of the new Constitution asserted (under its directive principles of state policy) that ‘[t]he state shall take steps to organise village *panchayats* and endow them with such power and authority as may be necessary to enable them to function as units of self-government’. However, this injunction was honoured more in the breach than the observance and was largely made to symbolically honour Mahatma Gandhi’s vision of *Gram Swaraj* or village republic.⁸

While the *panchayats* did not find special favour with the constitution-makers, many Indian states introduced them, though in various guises.⁹ After several poverty-alleviation programmes and community-development initiatives of the Union government failed to meet the

⁷ Ramya Parthasarathy and Vijayendra Rao, ‘Deliberative Democracy in India’, *World Bank Group Policy Research Working Paper 7995* (March 2017), <https://documents1.worldbank.org/curated/en/428681488809552560/pdf/WPS7995.pdf> (accessed 12 May 2022).

⁸ Kuldeep Mathur, *Panchayati Raj* (Oxford University Press, 2013).

⁹ *Ibid.*

desired objectives, the states demanded the establishment of some kind of intermediary institutions to handle and improve service delivery. The Union government set up the Balwant Rai Mehta Committee in 1956 to study the situation and to recommend steps for the establishment of a third-tier government in rural areas. In 1957, the Committee recommended a three-tier *Panchayati Raj* system which would consist of *Zilla Parishads*, *Panchayati Samitis*, and *Gram Panchayats*.

Following the recommendations of the Balwant Rai Mehta Committee, several states established local governments. By 1959, more than 200,000 village *panchayats* had been set up across India. However, they were largely ineffective and exclusionary, owing to their lack of financial and functional autonomy, together with the domination of *Gram Panchayats* by economic and social elites. In addition, regular elections to *panchayat* posts were not held, mitigating their democratic spirit and the avowed aim of promoting political participation. These problems led to the setting up of another committee by the newly elected Janata Party government in 1977. The Ashok Mehta Committee (1978) made several important recommendations urging the revival of decentralisation and *Panchayati Raj*.¹⁰ However, only three states took these recommendations forward; Karnataka, Andhra Pradesh, and West Bengal took the necessary steps for the establishment of the *panchayats*.

Rajiv Gandhi's premiership (1984–1989) saw a surge of interest in local government. The increasing realisation that a top-down approach resulted in the failure of many development schemes, coupled with the increasing emphasis globally on decentralisation, led to renewed debate on the revival of third-tier government. The first major attempts at this—though unsuccessful—came through with the proposed Constitutional Amendments 64 and 65 in 1989.¹¹ Decentralisation came to the fore in the early 1990s when definitive constitutional recognition of *panchayats* and urban local bodies arose from amendment bills introduced by the Congress-led government under the leadership of PV Narasimha Rao.

¹⁰ Ibid., 29–30.

¹¹ The twin bills, introduced as part of Rajiv Gandhi's promise to ensure maximum democracy and devolution, failed to pass as they fell short by five votes in the *Rajya Sabha*. The Upper House opposed them on the ground that they sought to strengthen centralisation in the federal system.

The controversial provisions of the 64th and 65th Amendment Bills were successfully addressed and, in their place, Constitution Amendment Acts 73 and 74 were passed in 1992. Constitution Amendment Act (CAA) 73 created a three-tier structure of self-governance for all rural areas, with the exception of the tribal zones in the Fifth Scheduled Areas (which were already governed through their tribal *panchayats*, or traditional justice system, or *nyay panchayats*). For these to be included in the new *panchayat* system, the 73rd CAA expected Parliament to create legislation for the protection of their cultural and linguistic identities.

2.1 *Urban Local Bodies*

Although they date back to ancient times, the contemporary form of municipal institutions or urban local bodies (ULBs) was developed by the British colonial administration. The first municipal corporation was set up in Madras in 1688 and similar corporations were established in Bombay and Calcutta in 1762. Lord Ripon, known as the father of municipal self-governance in India, moved a resolution for the establishment of a network of local self-government institutions, the institution of financial devolution, and the introduction of elections as the basis for the Constitution of local bodies.¹² His resolution led to the passage of the Bombay City Municipal Corporation Act (1888) and the establishment of Bombay City Council. This had both elected and nominated members.

Following independence in 1947, municipal institutions received little or no focused attention from the framers of the Constitution. ULBs only found a passing mention in two entries: Entry 5 of list 11 of the Seventh Schedule (state list), which states that ‘[l]ocal government, that is say, the constitution and powers of Municipal Corporations, improvement trusts, District Boards, mining settlement authorities ... for the purpose of local self-government or village administration’; and Entry 20 of the concurrent list, which states: ‘Economic and Social Planning, Urban Planning would fall within the ambit of both entry 5 of the state list and entry 20 of the concurrent list’.¹³

¹² Rumi Aijaz, ‘Challenges for Urban Local Governments in India’, *Asia Research Centre Working Paper 19* (2007) 10–11, <http://eprints.lse.ac.uk/25190/> (accessed 15 January 2023).

¹³ See Annapurna Nanda, ‘Urban Local Government in India: Challenges and Prospects’ (2015) *Anudhyan: An International Journal of Social Sciences (AIJSS)*

However, ULBs did receive attention from the state governments. For instance, the Uttar Pradesh government in 1953 established municipal corporations in five cities, leading to the eventual passage of the Uttar Pradesh Municipal Corporation Act, 1959.¹⁴ The Maharashtra Regional Town and Country Planning Act proved to be one of the most comprehensive pieces of urban legislation that sought to integrate regional and city planning efforts.¹⁵ Following this, the planned city of Navi Mumbai started taking shape as an alternative node in Bombay. At the federal level, the Union government created a statutory authority called the Improvement Trust to plan for Indian cities, and in 1957 established the Delhi Development Authority (DDA) to manage urban expansion in the national capital region.

Beyond these scattered initiatives, there was no pan-Indian response for the governing of urban areas. The year 1985 was a landmark for ULBs, as the federal government established the Ministry of Urban Development (MoUD). In 1986, the MoUD's first step in trying to understand 'the urban' and to plan a pan-Indian vision of urban governance came with the establishment of the National Commission on Urbanisation. This was chaired by the well-known architect and urban planner, Charles Correa.¹⁶ Though promising, the initiative did not translate into anything meaningful for local urban bodies at the national level.

In 1989, Rajiv Gandhi's government put forward CAA 65. This sought to provide a firm legal basis for the ULBs, but was rejected by the majority. Only in 1992 did the ULBs receive proper legal recognition

131–144, <https://www.rnlkwc.ac.in/pdf/anudhyan/volume1/Urban-Local-Government-in-India-Challenges-and-Prospects-Dr-Annapurna-Nanda.pdf> (accessed 25 January 2023).

¹⁴ Ramesh H Makwana, 'The Role and Crisis of Women Leader at the Village Panchayat: Concerns of Gujarat Women' (Jan–Mar 2009) 70(1) *The Indian Journal of Political Science* 91–105, <http://www.jstor.org/stable/41856498> (accessed 25 January 2023).

¹⁵ KC Sivaramkrishnan, 'Urban Development and Metro Governance' (30 July 2011) *Economic and Political Weekly*, <https://www.epw.in/journal/2011/31/review-urban-affairs-review-issues-specials/urban-development-and-metro-governance> (accessed 26 January 2023).

¹⁶ Tiekender Singh Panwar, 'Democratise and Empower City Governments' (20 January 2022) *The Hindu*, <https://www.thehindu.com/opinion/op-ed/democratise-and-empower-city-governments/article38293949.ece> (accessed 22 January 2023).

with the passage of 74th CAA.¹⁷ This added Part IXA to the Constitution, which laid out the structure, composition, and powers of municipal institutions. It brought to an end the multiple structures which had been created by various states in ad hoc fashion¹⁸ and provided for a three-tier structure made up of *Nagar Panchayat* or town councils in transitional areas (rural in character but likely to develop urban characteristics over time); municipal councils for smaller urban areas; and municipal corporations for larger urban areas (see below for a detailed discussion of them).

2.2 Governance of Metropolitan Areas

The relatively low levels of urbanisation at the time meant that the question of municipal organisation attracted little attention from either the drafters of the Constitution or the country's political leadership. In 1950, the urban population stood at about 11 per cent, with significant growth taking off after the 1980s.¹⁹ The 2011 Census estimated the urban population at 377 million, with the percentage rising from 27.7 per cent in 2001 to 31.1 per cent in 2011.²⁰ According to the 2020 Census Population projection (2020), India's urban population is likely to reach 590 million by 2035, second only to that of China.²¹ While the 2011 Census counted 7953 towns or cities in the country, the real growth of the urban population in the past decades has been concentrated in metropolitan cities.²²

¹⁷ Nanda (n 13).

¹⁸ Aijaz (n 12).

¹⁹ Jonathan Colmer, 'Urbanisation, Growth and Development: Evidence from India', *London School of Economics Working Paper* (2018), <https://www.shram.org/uploadFiles/20180110111049.pdf> (accessed 22 January 2023).

²⁰ RB Bhagat, 'Emerging Pattern of Urbanisation in India' (20 August 2011) 46(34) *Economic and Political Weekly*, <https://subscription.epw.in/journal/2011/34/commentary/emerging-pattern-urbanisation-india.html> (accessed 25 January 2023).

²¹ Madhur Sharma and Anwesa Malik, 'Urbanisation in India: What Is Municipal Financing?' (23 January 2023), <https://accountabilityindia.in/blog/urbanisation-in-india-urban-local-bodies/> (accessed 25 January 2023).

²² Class I cities or towns, which have at least 1,00,000 persons, increased from 24 in 1901 to 468 in 2011. The current census counted 264.9 million people, constituting 70 per cent of the total urban population, living in Class I UAs/Towns. It should be noted that 53 metro cities (population above one million) account for nearly 45 per

According to the 2011 Census, there are 52 metropolises or metropolitan cities (defined by having over one million inhabitants) in 16 states and one union territory (National Capital Territory, Delhi). The greater concentration of metropolises is found in Uttar Pradesh and Kerala (seven each); Maharashtra (six); and Gujarat, Tamil Nadu, and Madhya Pradesh, each with four.²³ Some of the largest metropolitan cities (with populations over 4 million) are Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Bengaluru, Ahmedabad, Pune, and Surat. With their populations standing at more than 10 million, Delhi, Kolkata, Mumbai, and Chennai were categorised as megacities in the 2011 Census. However, more recent assessments would now count Hyderabad, Bengaluru, and Ahmedabad as megacities.

Since India has not established standard criteria for defining or categorising metropolises or metropolitan areas, it mainly uses population size as the basic criterion for classification. Thus, under article 243P(C) of the Constitution, a metropolitan area is defined as one with a population of one million or more, distributed across one or more districts and consisting of two or more municipalities or *panchayats* or other contiguous areas. While the Census of India also uses the same population criterion, it does not explicitly use the term ‘metropolitan area’; instead, it provides for what it calls ‘million-plus’ urban agglomerations or cities.²⁴ Several rounds of the National Sample Survey (NSS) adopted a similar approach by grouping together cities with populations of more than one million into a separate stratum. While 74th CAA offers a definition of ‘metropolitan areas’, ‘metropolitan regions’ are not defined, and state governments define and classify them as they like. Thus, a

cent of the increase in India’s urban population recorded in the most recent census, whereas other cities and towns constitute 55 per cent of the total addition in the urban population. Jitendra Kumar, ‘Metropolises in Indian Urban System: 1901–2011’ (2015) 6(3) *European Journal of Geography* 41–51, <https://eurogeojournal.eu/articles/EJG040603KUMAR.pdf> (accessed 25 January 2023).

²³ Kumar (n 22) 43.

²⁴ Kaye Lushington and Amlanjyoti Goswami, ‘Metropolitan Governance in India: Legal-Institutional Challenges and Prospects’ (2015) *Indian Institute for Human Settlements*, https://ihs.co.in/knowledge-gateway/wp-content/uploads/2017/10/MetroGovPaper_final-20.10.2015_Reduced-Size.pdf (accessed 25 January 2023).

metropolitan area can form a part of a metropolitan region, and the two often overlap.²⁵

These persistent definitional ambiguities present something of a practical challenge. There are problems for metropolitan areas in arranging or aligning boundaries when varied institutional arrangements present conflicting jurisdictional claims. A combination of census-based area categorisations—such as census towns, integrated townships, cantonment boards, and urban outgrowths that exist within or around the boundaries of metropolitan areas—creates numerous complexities and governance challenges.²⁶ Thus a census town could also include *panchayats* as well as the statutory urban authorities proper to a metropolitan area, as can be seen in the fact that the Electronics City Industries Association in Bengaluru provides a wide variety of municipal services within its locality.

In addition to questions of classification and the overlapping of boundaries or institutional jurisdictions, the urban governance system (particularly in metropolitan areas) suffers from a range of other institutional and governance complexities. New institutional forms like Industrial Townships and Special Economic Zones (SEZs) have added further layers of governance to metropolitan cities. According to article 243Q, industrial townships fall outside municipal governance and the jurisdiction of ULBs.²⁷ State governors have been given the power to declare an industrial township, one which will then offer its own municipal services. These areas do not need to create municipal structures for administration and service delivery. Similarly, SEZs are excluded from municipal jurisdiction. As per the SEZ Policy,²⁸ these entities are placed outside municipal limits and state governments can establish their internal governance structures.

²⁵ In recent times, the MoUD's Urban and Regional Development Plans, Formulation and Implementation Guidelines, 2014, have adopted another set of criteria for classification and redefined areas, ones based on the Census 2011 Master Plan formulation in numbers and emerging agglomerations. Accordingly, 'Metropolitan City I' is an area which has a population ranging from one million to five million; 'Metropolitan City II' has a population of five million to 10 million; and a megalopolis has a population greater than 10 million. *Ibid.*, 23.

²⁶ Lushington and Goswami (n 24).

²⁷ *Ibid.*

²⁸ Department of Commerce, SEZ Division, 'Guidelines for Development of SEZs' (2009), <http://sezindia.nic.in/upload/uploadfiles/files/4state%20policy%20of%20sez%2020091.pdf> (accessed 26 January 2023).

It is worth noting that these exclusions, at least by implication, undermine the spirit of representative democracy and betray the principles of local self-governance. In addition, entities such as Metropolitan Planning Committees (MPCs) will have no role in the planning and development of entire metropolitan areas.

As far as governance arrangements are concerned, a metropolitan region or area is made up of at least one municipal corporation, several municipalities, and (in many cases) city *panchayats*, all of which fall under its jurisdiction. A metropolitan area may also consist simply of numerous local rural bodies (*panchayats*). In terms of territorial jurisdictions, save for the National Capital Region (NCR), Delhi, all the metropolitan cities' jurisdictions are confined to one state. In terms of their basic composition and governance forms (see below for details), the municipal corporations and municipalities are made up of municipal wards. Wards are represented by ward councillors, who are chosen in regular elections. Any political party or coalition of parties that wins the majority of wards is eligible to choose the mayor or municipal chairperson from the elected ward councillors. In addition, CAA 74 establishes two new institutions for ULBs (and particularly for those in metropolitan areas): the Ward Committee and the Metropolitan Planning Committee (see below for further discussion).

India has adopted a mayoral system for metropolitan areas. In terms of its powers, tenure, and methods of election, the mayoral system varies from one state to the other (hardly surprising when the state government holds the power in the states). In most states, mayors are elected by ward councillors, but in a handful of states (such as Uttarakhand, Madhya Pradesh, Chhattisgarh, Uttar Pradesh, and Tamil Nadu), mayors are chosen by direct election.²⁹

With regard to their power and status, there are two contrasting models for the position of mayor. The dominant model is that provided by the commissioner system or 'Bombay System'. This has its origins in the Bombay Municipal Corporation Act of 1888. The commissioner system distributes powers and responsibilities between the executive (the municipal commissioner, who is drawn from the elite Indian Administrative Services) and deliberative bodies (the corporation and the standing

²⁹ Moushumi Das Gupta, 'Indian Cities could get London-style Directly Elected Mayors' (18 July 2016) *Hindustan Times*, <https://www.hindustantimes.com/india-news/modi-pushes-for-directly-elected-mayors-stronger-city-administrations/story-2vogUn9qH0dEexh28ZlXN.html> (accessed 26 January 2023).

committee). This model provides the municipal commissioner, rather than the elected mayor, with wide-ranging powers.³⁰

In contrast, the Kolkata system consists of the mayor working in a council system. The 1980 Calcutta Municipal Corporation Act was the first legislation in India to introduce a cabinet-style of political executive to the municipal corporation. The executive council is responsible to the electorate under the mayor-in-council model. The municipal authority is divided between three entities: the corporation, the mayor-in-council, and the mayor. The corporation is the highest body, consisting of elected councillors representing each of the 141 wards. The mayor-in-council consists of the mayor, the deputy mayor, and selected members of the corporation. Here executive power is exercised by the mayor-in-council and not the commissioner (as in the Bombay system). However, most states have adopted the Bombay system, which gives primacy to the non-elected commissioner.³¹

2.3 *Parastatal Authorities*

Various development authorities within the metropolitan area are generally responsible for planning and for specific development functions. Nearly all the states have created their planning and development authorities around specific services such as water, sewerage, land, waste management, and road and city infrastructure. So, for instance, Odisha established the Odisha Water Supply and Sewerage Board to address urban water supply and sanitation, while Karnataka created as many as three dozen urban development authorities and 52 town planning authorities to optimise planned development in its major urban areas. While these development agencies do perform critical functions, it should be

³⁰ Although all budget decisions have to be approved by the standing committee, the commissioner takes most of the initiatives related to policy-making and the awarding of contracts. See Joel Ruet and Stephanie Tawa Lama-Rewal, *Governing India's Metropolises* (Routledge, 2009) 35–36.

³¹ However, even though the commissioner, known as Chief Executive Officer in the MIC model, is theoretically subservient to the MIC, in practice he or she wields enough power and authority to guide the city's administration and political leadership. Ruet and Lama-Rewal (n 30) 36.

noted that they significantly undermine the functional autonomy of ULBs and particularly that of metropolitan governments.³²

2.4 *National Capital Territory of Delhi (NCTD)*

Of all the large metropolitan cities, only Delhi is governed by central laws. As it is the seat of the federal government, at least three overlapping levels of government look after Delhi's governance: the central government; the government of the NCTD,³³ which is itself a half-state with its own assembly, chief minister and council of ministers; and the Municipal Corporation of Delhi (MCD).³⁴ In addition, more than a hundred parastatal agencies (falling directly under the control of different central ministries or state departments) handle specialised services such as land, water, sanitation, and urban planning.³⁵

The fact of this multiplication of responsible bodies leads to many institutional anomalies. For instance, the Delhi municipality has one of the smallest portfolios: its electricity is managed by the Delhi Vidyut Board; its water, by the Delhi Jal Board; and mass transportation, by the Delhi Transport Corporation. Meanwhile, unlike other states, the NCTD has no control over land. This is managed by the Delhi Development Authority, a parastatal set up in 1957 to formulate a master plan for the city and placed under the authority of the Central Ministry of Urban Development. In addition, the NCTD government has no control of the police and the maintenance of law and order. With its multiplicity of agencies and the frequent overlap of jurisdictions, the national government often

³² Chetan Vaidya, 'Urban Issues, Reform and the Way Forward in India', *Department of Economic Affairs, Government of India Working Paper No.4* (July 2009), https://dea.gov.in/sites/default/files/Urbanissues_reforms.pdf (accessed 27 January 2023).

³³ A quasi-state was created by the National Capital Territory of Delhi (NCTD) Act of 1991.

³⁴ In addition to the MCD, the city has two other urban local bodies, the New Delhi Municipal Council and the Delhi Cantonment Board, each with small territories and specific constituencies (the central government and the diplomatic missions in the former case, the armed forces in the latter case).

³⁵ Niranjan Sahoo and Rupak Chattopadhyay, 'Proposing a New Governance Structure for Delhi' (31 March 2021) *Hindustan Times*, https://www.hindustantimes.com/cities/delhi-news/proposing-a-new-governance-structure-for-delhi-101617193012640.html?utm_source=twitter (accessed 26 June 2023).

experiences governance deadlock, especially so when different parties are in power at the centre and the NCTD levels.

3 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Constitution Amendment Acts 73 and 74 made provisions for rural and urban areas, respectively. They were passed only after a prolonged period of political bargaining and a series of trade-offs designed to appeal to state-level leaders vociferously opposed to devolution.³⁶ The Acts formally heralded the constitutional beginnings and institutionalisation of local self-governance in India.

3.1 *Constitution Amendment Act 73, 1992*

The 73rd CAA was passed in 1992 and finally came into force in April 1993 after an entirely new section (Part IX) was written into the Constitution. The Act mandated a three-tier *panchayat* system, echoing the recommendations of the Balwant Rai Mehta Committee, with the *Gram Panchayat* at the village level, *Panchayat Samiti* at the block or intermediate level, and *Zilla Parishad* at the district level (see Fig. 1). In addition, it mandated direct and regular elections to *Panchayati Raj* Institutions (PRIs) every five years and the reservation of seats as well as the position of chairperson for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their population in constituencies.³⁷ Significantly, the Act also provided for the reservation of one-third of the seats for women. For the first time, PRIs were made eligible to receive grants-in-aid from state consolidated funds, and the Act mandated the

³⁶ Rajiv Gandhi's successor, PV Narasimha Rao, had to use persuasion and hard bargaining (including the creation of the MPLAD fund to placate Members of Parliament) so as to pass the 73rd and 74th CAAs in 1992. Although these twin Acts were passed, they were considerably diluted from the original bills.

³⁷ A noteworthy aspect of 73rd CAA is that it mandates direct and regular elections to *panchayats* every five years by the state election commissions. To keep the civic electoral process outside states' influence and ensure fairness, the 73rd CAA divests the supervision, direction, and control of all *panchayat* elections to the state election commission. This has ensured elections at regular intervals, unlike in the past decades when elections were mired in partisanship controversies. Any delay in elections now attracts wider attention, including judicial intervention given its constitutional sanctity under the 73rd CAA.

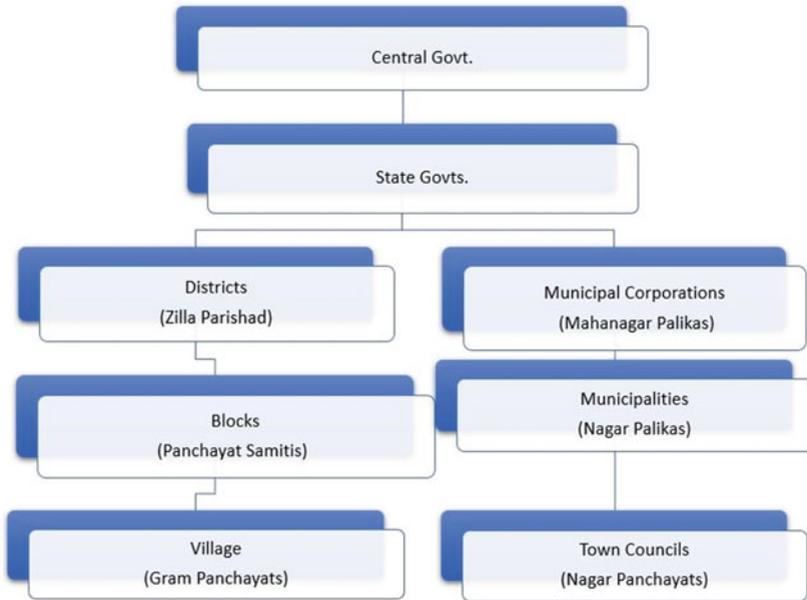


Fig. 1 Structure of local governance

establishment of state finance commissions (a body that recommends the allocation of finances—taxes, duties, levies, and grants-in-aid—between local bodies and the state government).³⁸

3.2 *Constitution Amendment Act 74, 1992*

The 74th CAA, which came into force in 1993, provides for the constitutional recognition of urban local bodies. The Act envisages three-tier municipalities, with *Nagar Panchayats* in peri-urban areas, municipal councils in ‘smaller urban areas’, and municipal corporations in ‘larger urban areas’. It also provides for direct elections every five years to municipalities; reservation of seats for SCs and STs in proportion to their population; and reservation of one-third of seats for women. Furthermore, the Act mandates the creation of a Finance Commission at the state

³⁸ Mathur (n 8) 41–42.

level to determine the sharing of taxes, duties, and funds from the State Consolidated Fund. Significantly, the 74th Amendment divested ‘devolution by the State Legislature of powers and responsibilities upon the Municipalities’ from the XII Schedule, listing 18 subjects such as urban poverty alleviation, public health and sanitation, and social development programmes.

3.3 *Panchayats: Extension to Scheduled Areas Act, 1996*

The *Panchayats (Extension to Scheduled Areas) Act (PESA)*, passed in 1996, further developed the recommendation of 73rd CAA, which sought the extension of local self-governance to Scheduled and Tribal Areas. This legislation emerged from the recommendations of the Bhuria Committee of 1995, which was constituted following a recognition of the need to empower the country’s tribal areas with self-governance institutions other than their own traditional systems of justice and governance.³⁹

Following the Committee’s report, PESA was introduced and expanded the Ninth Schedule of the Constitution, allowing for the formation of *Gram Sabhas* in Fifth Scheduled Areas, as well as programmes for ‘social and economic development’ and poverty alleviation. Notably, the Act reserves 50 per cent of seats for STs, while the office of chairperson may be occupied only by a candidate belonging to the ST community. PESA covers as many as 10 Indian states that have enacted the confirming legislation.⁴⁰

3.4 *Devolution of Powers*

The most important aspect of the 73rd CAA is that, for the first time, it identifies 29 functions for *panchayats* (under the Eleventh Schedule of the Constitution). Article 243G of the Constitution empowers the state

³⁹ Prior to the introduction of PESA, tribal advisory councils existed, with substantive powers vested in governors and the Union government with regard to financial and administrative matters, as emphasised in the Fifth Schedule of the Constitution pertaining to Scheduled Areas. However, for various reasons these powers or institutions did not help the cause of tribal populations.

⁴⁰ These states are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and Telangana.

legislature to pass laws to facilitate the devolution of power and responsibilities (functions, funds, and functionaries, popularly termed the 3Fs)⁴¹ to *panchayats* at appropriate levels. Among the major functions to be devolved are those regarding provisions in rural areas for needs such as primary and secondary education; health; sanitation; drinking water; and economic development. Article 243G also specifically mandates the devolution of administrative and fiscal powers to *panchayats* so that they are able to plan and implement development activities at the local level.⁴²

In the case of ULBs, the 74th CAA (XIIth Schedule) identifies 18 functions for the states to transfer to their respective urban bodies. These include poverty alleviation; regulation of land use; slum development; public health; education; sanitation; and social development programmes. The devolution of the 3Fs to ULBs (in comparison to that achieved by the *panchayats*) has been patchy, as most state governments have shown considerable reluctance so far to transferring core functions to municipal institutions.⁴³

4 GOVERNANCE ROLE OF LOCAL GOVERNMENT

The twin amendments recognised *panchayats* and municipals as ‘unit of self-government’, thereby significantly expanding the governance roles of these vital but long-neglected institutions.⁴⁴

4.1 Governance Role of Rural Local Bodies or Panchayats

The 73rd CAA put in place mandatory three-tier structures for rural areas, together with a supporting system intended to enable these structures in the performance of the functions devolved to them by states. PRIs are responsible for the preparation of development plans and programmes

⁴¹ Accountability Initiative: Centre for Policy Research, ‘Administrative Decentralisation in India—The 3Fs’ (2010) 1(2) *Panchayat Briefs* 2–3, <https://accountabilityindia.in/sites/default/files/policy-brief/panchayatbrief2.pdf> (accessed 11 May 2022).

⁴² Ibid.

⁴³ EP Nivedita and Srikabth Viswanatha, ‘Lesson from the Pandemic: Empowering Local Bodies Is a Priority to Improve Public Health’ (12 July 2021) *The Print*, <https://theprint.in/opinion/lesson-from-the-pandemic-empowering-local-bodies-is-a-priority-to-improve-public-health/694275/> (accessed 26 January 2023).

⁴⁴ Mathur (n 8) 40–41.

for their areas; the auditing of *panchayat* accounts; and the selection of the beneficiaries of the various welfare programmes within their jurisdictions. Their core administrative functions include the maintenance of village records and the construction, maintenance, and repair of village roads, canals, wells, and so on. Additionally, PRIs are expected to assist and promote village- or rural-based industries; public health; sanitation; education; and the welfare of women and children. Importantly, under article 243H, *panchayats* are authorised to levy, collect, and appropriate taxes, duties, tolls, fees, and the like so as to become self-sustaining institutions.

Panchayats are also tasked with quasi-judicial functions. These include the resolution of petty civil and criminal disputes (such as minor thefts and financial disputes) either by separate *adalat* or *nyaya panchayats* (village courts).⁴⁵ On the whole, *panchayats* are expected to act as self-governing institutions that promote participation by the people and work to secure the development of their jurisdictions.

To accomplish these roles and functions, 73rd CAA has created a three-tier institutional structure, with *Gram Panchayat* at village level, *Panchayat Samiti* at block level, and *Zilla Parishad* at district level. These have to function in tandem with both the respective state government and central-level institutions.

Gram Sabha, the legislative body of *Gram Panchayat*, is the vital unit of the PRIs. It has been designed to act as the main forum where villagers can debate their problems face-to-face with elected representatives and send their demands to the *Gram Panchayat* (executive body) for follow-up action. The decisions taken by the *Gram Sabha* cannot be overridden by any other body.⁴⁶ In short, *Gram Sabha* is envisaged as a village parliament.

The executive body *Gram Panchayat* (GP) is made up of 10 to 15 members who are directly elected by the *Gram Sabhas*. It forms the base of the *panchayat* pyramid. Each GP consists of several village wards; in

⁴⁵ India Development Review, 'IDR Explains: Local Government in India' (28 January 2020), <https://idronline.org/idr-explains-local-government-in-india/> (accessed 26 January 2023).

⁴⁶ In reality, *Gram Sabha* decisions, including key resolutions, are bypassed or annulled by block- and district-level officials with increasing regularity. See Nihar Gokhale, 'This Is How States Illegally Rejected Forest-Dwellers' Land Claims' (2019) *The Wire*, <https://the.wire.in/rights/this-is-how-states-illegally-rejected-forest-dwellers-land-claims> (accessed 27 January 2023).

turn, each ward has an elected member known as a *Panch*. The *Sarpanch*, the head of the *Gram Panchayat*, is elected by the *Gram Sabha*. In other words, each *Gram Panchayat* is made up of the *Sarpanch* and the *Panch*. The *Gram Panchayat* is accountable to the *Gram Sabha*. The *Gram Panchayat*'s major roles include developmental and social issues; the construction and maintenance of schools; the maintenance of village roads and drainage systems; and the levying and collection of local taxes. Importantly, the selection of the beneficiaries of different central and state schemes comes under the purview of the *Gram Panchayat*.

As a link institution between GP and *Zilla Parishad*, the *Panchayat Samiti* (PS) plays a crucial role in facilitating any issues or demands raised at GP level. A PS comprises all *sarpanches* and *Upa sarpanches* (nominee or vice *sarpanch*) of the block; Members of Parliament (MP) within the jurisdiction; members of the state legislative assembly (MLAs); and members of legislative council (MLC). In addition, there are associate members such as representatives from cooperative societies, and members from the *Zilla Parishad*. *Samiti* is headed by a chairperson. The *Gram Panchayat* members nominate their *Sarpanch* and *Upa Sarpanch* from among their ranks, and these participate in the selection of the chairperson and vice-chairperson. The executive officer (EO) is a block level official who acts as the head of the administration of the PS.⁴⁷

Zilla Parishad (ZP) or *District Panchayat* occupies the apex of the *panchayat* pyramid. It supervises the operations of all the *Panchayat Samitis* and *Gram Panchayats* within its jurisdiction and facilitates the distribution of funding across all *Gram Panchayats*. Importantly, ZP is in charge of developing district-level development plans. Similar to *Gram Panchayat*, *District Panchayat* is an elected body made up by the chairpersons of *Panchayat Samitis* and the MPs and MLAs of the district. ZP is assisted by a chief executive officer who is appointed by the state government to carry out the administration of the ZP along with a chief accounting officer and chief planning officer. The *Zilla Parishad* chairperson is the political head of the district *panchayat*.

In these ways, and through its creation of a uniform institutional framework, the passage of 73rd CAA injected a fresh dose of energy into the formerly moribund and neglected local bodies at work in the rural areas. In addition to the constitutional recognition this represented, 73rd

⁴⁷ Participatory Research in Asia (PRIA), 'What Is a Panchayat' (2019), https://www.pria.org/panchayathub/panchayat_text_view.php (accessed 27 January 2023).

CAA also sought to put in place certain levels of power and functionality. In practice though, many areas of the constitutional vision of the 73rd CAA remain unrealised.

A major setback to decentralised governance stems from very limited devolution by the respective states to *panchayats*. While a few states like Kerala have devolved all 29 functions, others such as Punjab, Jharkhand, and Goa have not done so. The lack of definitive provisions for decentralisation has meant a continued lack of administrative and functional devolution. Several state governments are yet to grant appropriate powers and authority to these grassroots institutions. However, the problem is not merely about how many functions have been devolved. Even where functions have been devolved to *panchayats*, this has often been achieved only on paper. In addition, there has been continued resistance from political and bureaucratic elites at state level who see these institutions as a threat to their power and dominance. Several states continue to create parallel bodies that usurp the functions assigned to *panchayats*.⁴⁸ The governance role of *panchayats* has been further eroded by a host of other issues, including lack of capacity, widespread corruption, and pressures from the feudal or caste leaders.

4.2 *Governance Role of Urban Local Bodies*

The 74th CAA not only assured the ULBs a right of existence, it also extended their traditional role (of merely delivering civic amenities) to that of taking part in the preparation of plans for local development and development projects and programmes.⁴⁹ The 74th CAA empowered the states to devolve 18 functions (as listed in the XIIth Schedule) to the ULBs. These functions include poverty alleviation; regulation of land use; slum development; public health, education, and sanitation; and running social development programmes. The State Municipal Acts list a range of functions (both obligatory and optional) for the municipal

⁴⁸ For example, despite the passage of the 73rd CAA, state governments have created rural development agencies to provide specific services in direct competition with PRIs. See Lalita Chandrasekhar, *Undermining Local Democracy* (Routledge, 2014).

⁴⁹ Ramanath Jha, 'The Unfinished Business of Decentralised Urban Governance in India', *ORF Issue Brief No. 340* (February 2020) 11, https://www.orfonline.org/wp-content/uploads/2020/02/ORF_Issue_Brief_340_Decentralised_Governance.pdf (accessed 22 October 2022).

bodies. However, given that the devolution of functions has been left at the discretion of the states, there is significant variation in the transfer of these functions. While states like Kerala have devolved most functions to the municipalities, others (such as Goa) have done little. Under state acts, the municipal functions fall into six categories: (i) public health and sanitation; (ii) public works; (iii) medical relief; (iv) education; (v) development; and (vi) administration.⁵⁰ While these are compulsory, the ULBs also have numerous optional or discretionary functions (such as the construction and maintenance of rescue homes, orphanages, and housing for the poor), and these are carried out subject to the availability of resources.

To perform the above-mentioned governance functions, the 74th CAA has mandated states to create three-tier municipal bodies. These are made up of the town council or *Nagar Panchayat* for transitional areas; municipal councils for smaller urban areas; and municipal corporations for bigger urban areas (see Fig. 1). The ULBs at their respective levels are expected to perform both deliberative and executive functions. The ULBs, be they corporations, councils or municipal boards, or councils comprising elected representatives, constitute the deliberative part. They act like a mini-parliament in terms of debate and discussion on municipal governance and performance; pass the budget of the urban local body; and adopt policies regarding, inter alia, taxation, resources, and the pricing of services. The deliberative body is usually headed by a mayor (in the case of large cities or metropolitan areas) or a chairperson (in the case of municipal councils), and monitors the activities of municipal administration so as to hold the executive accountable. Meanwhile, the executive part of municipal administration is handled by the municipal officials assigned by the state government. For instance, in the municipal corporations, the municipal commissioner (usually drawn from the ranks of the elite Indian Administrative Service, or IAS) acts as the executive head, and all other departmental officers (such as health officers and engineers) operate under his or her supervision and control. A similar format is followed in the ULB hierarchy. The following are some of the key institutions in ULBs that are tasked with major governance functions.

Each municipality or corporation is divided into wards. In small and medium municipalities, the average population per ward varies from 1500 to 6000, while in larger cities or metropolises, the ward size is fairly large,

⁵⁰ Aijaz (n 12).

ranging from 30,000 to 200,000 inhabitants. The 74th CAA provides for the creation of ward committees in all municipalities with a population of 300,000 or more, and two or more wards can be combined to constitute the basis for a ward committee.

The 74th CAA also empowers states to constitute district planning committees (DPCs) at the district level so as to consolidate the plans made by the *panchayats* and the municipalities. To ensure the democratic character of the DPC, the Act also stipulates that no less than four-fifths of committee members should be elected from the members of the *panchayats* at the district level (*Zilla Parishad*) and from the municipalities in the district. Nonetheless, the success of the DPC in fulfilling its mandate is patchy, as many states are reluctant to create the forum, let alone empower it once in existence.⁵¹

The 74th CAA provides for a metropolitan planning committee (MPC) to be formed by the state governments. Its purpose is to develop large municipal areas surrounding the main city corporation, with these encompassing a number of local bodies. It further mandates that MPCs be formed in every metropolitan area with a population of one million or more. The chief purpose of the MPC is to prepare draft development plans. The CAA stipulates that no less than two-thirds of the members of the committee should be elected by elected members from the municipalities and by the chairpersons of the *panchayats* in the metropolitan area according to population size. The remaining third of the committee members are to be independent technical experts and technical assistants.⁵² The organisational structure of metropolitan planning committees also involves MPs and members of the legislative assembly.

While 74th CAA has brought visible transformation in the status and functioning of urban bodies, these still have a long way to go before becoming genuinely self-governing institutions. The major stumbling block is the incomplete devolution of powers from the states. According

⁵¹ 'Decentralisation Has Fallen Off the Agenda' (16 January 2016) *The Businessline*, <https://www.thehindubusinessline.com/opinion/decentralisation-has-fallen-off-the-agenda/article9272167.ece> (accessed 26 January 2023).

⁵² Arindam Biswas, 'Establishing Metropolitan Governance and Local Governance Simultaneously: Lesson from India's 74th Constitutional Amendment Act' (September 2020) 9(3) *Journal of Urban Management* 316–330, <https://www.sciencedirect.com/science/article/pii/S2226585618301365#:~:text=The%2074th%20CAA%20envisages%20a,n,indirect%20participation%20in%20metropolitan%20development> (accessed 26 January 2023).

to a recent study, ‘no state has devolved all [18 of] the municipal functions, [making] the municipal bodies ... dependent on the state for funds and decision-making’.⁵³ Furthermore, even when functions are delegated to urban bodies, they are decentralised only in name, with formal decentralisation often not translated into decentralisation in practice. An exemplary instance is that of Karnataka, where urban local bodies control only three of the 18 subjects listed in the XIIth Schedule.⁵⁴ The problem stems from the fact that ‘the [74th] Amendment Act failed to spell out a well-defined functional domain for ULBs’.⁵⁵

The mushrooming of parallel development authorities by the states and the federal government has further undermined or stunted the governance role of ULBs. In fact, on average, every state has about two dozen development and planning bodies which provide specific urban services, with these having little or no links with ULBs and their democratic accountability mechanisms.⁵⁶ Finally, and as discussed in the previous section, the weak mayoral system (and especially the commissioner system) allows state officials to call the shots on urban matters.

5 FINANCING LOCAL GOVERNMENT

The most critical element in making local governments self-reliant is financing: the ability of local governments to impose taxes and raise local resources. This factor received very little attention in the early years of decentralisation. To enable *panchayats* and municipalities to become self-governing, the 73rd and 74th CAA made a genuine attempt to provide these institutions with some independent financial basis, and all Indian states have accorded at least minimal taxation powers to *Gram Panchayats*. While far from lucrative, these new sources of revenue are symbolically important for institutions which previously had little or no power to levy taxes.

⁵³ Praja Foundation, *Urban Governance Index 2020* (8 December 2020), https://www.praja.org/praja_docs/praja_downloads/Highlights%20of%20UGI%202020.pdf (accessed 12 May 2022).

⁵⁴ Nivedita and Viswanath (n 43).

⁵⁵ Jha (n 49).

⁵⁶ Vaidya (n 32) 13–14.

With regard to PRIs, article 243H empowers state legislatures to provide them with the authority to levy, collect, and appropriate taxes, duties, tolls, and fees subject to certain conditions and limits.⁵⁷ In this regard, the Union Ministry of *Panchayat Raj* (MoPR) has listed 24 taxes and duties that the *Gram Panchayats* can levy. The most important of these are the property or building tax; the vacant land (other than agriculture land) tax; duties or taxes on village produce sold in the village; tax on advertisements and hoardings; professional and entertainment tax; and factory tax.

In addition to the grant of taxation powers, a range of statutory and discretionary transfers and borrowings also exist to fund the workings of the PRIs. Every five years sees the establishment of a finance commission by the respective states to enable the statutory transfer of funds from states to *panchayats*, while in addition (also at five-year intervals) a national finance commission is constituted to provide a range of supplementary grants for the local bodies. Moreover, *panchayats* can benefit from numerous centrally funded schemes, as the local bodies often supervise and implement a range of mega-programmes.⁵⁸ The reality is that the *panchayats* do not generate enough revenue from internal sources to fulfil their constitutional mandate. They obtain as much as 80 per cent to 95 per cent of their revenue from external sources, and mainly as loans and grants-in-aid from states and the central government.⁵⁹ Among the key factors that contribute to low internal revenues for PRIs are a lack in capacity to properly impose taxes, due to ambiguous taxation norms; a lack of reliable records; and inadequate financial devolution by states on matters of taxations and levies.⁶⁰

With regard to municipalities, the 74th CAA made significant improvements to past arrangements by providing a number of revenue-earning

⁵⁷ Ministry of Panchayati Raj notification, Government of India, 'Strengthening of Panchayati Raj Institutions' (6 April 2022), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1814116> (accessed 20 January 2023).

⁵⁸ Mathur (n 8) 66–67.

⁵⁹ Ministry of Finance, Government of India, *Economic Survey 2018–19: Volume-1* (July 2019), <https://www.indiabudget.gov.in/budget2019-20/economicsurvey/doc/echapter.pdf> (accessed 24 January 2023).

⁶⁰ India Development Review (n 45) 3.

provisions, including the key power to impose taxes.⁶¹ Urban local bodies generate their revenue from internal and external sources. Internal revenue comes from taxes such as those on land or from property taxes, but also from non-tax sources such as rents and user fees. External revenue comes from a range of levies, tolls, duties, and fees that are due to local bodies and are collected by the state and federal governments. In addition, other important sources of revenue include grants-in-aid from the consolidated funds of the state; loans from the state and federal governments (though these are to be used for only capital expenditure); and monies from financial intermediaries, domestic institutions, capital markets, and even grants from donor agencies.⁶² Municipal bonds are also a popular instrument for raising resources. All in all, between 2017 and 2021, nine municipal corporations (including Ahmedabad, Greater Hyderabad, Bhopal, Ghaziabad, Surat, and Pune) managed to raise USD 1 billion.⁶³

In reality, ULBs (particularly those in smaller cities and towns) barely generate enough revenue to meet their own running expenses, let alone provide all the obligatory services. With their limited powers to impose taxes, local bodies still rely on grants from state governments and the central government. For example, between 2014/15 and 2018/19, ULBs' own revenue was always less than 50 per cent, with the highest level, 41 per cent, achieved in 2018/19.⁶⁴ Municipal revenues are in serious decline. They contributed only about 1 per cent of the country's

⁶¹ Article 243X of the Constitution entrusts state governments with the power to impose taxes, duties, tolls, and fees, and allows them to assign revenues from specific sources to ULBs. Article 243Y assigns state finance commissions (SFCs) the task of reviewing and recommending devolution of tax revenues and grants-in-aids to ULBs. See Jha (n 49) 11–12.

⁶² Reserve Bank of India, 'Municipal Finances in India: An Overview' (2022) 5–6, <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/01OVERVIEW88D43E7D95D444A187D2F0B18F724E84.PDF> (accessed 27 January 2023).

⁶³ TCA Sharad Raghavan "India's Urban Local Bodies Among Weakest Globally": RBI Decries Reliance on State, Central Grants' (11 November 2022) *The Print*, <https://theprint.in/india/governance/indias-urban-local-bodies-among-weakest-globally-rbi-decries-reliance-on-state-central-grants/1209487/> (accessed 27 January 2023).

⁶⁴ Comptroller and Auditor General (CAG), Government of India, 'Financial Resources of Urban Local Bodies' (2020) 12, https://cag.gov.in/uploads/download_audit_report/2020/Chapter%205%20Financial%20Resources%20of%20Urban%20local%20bodies-05f757c1fa0b4f3.80297299.pdf (accessed 25 January 2023).

GDP and reached a low of 0.43 per cent in 2017/18 ('the lowest in the last eight years').

This sharp decline is due largely to the passage of the GST Act in 2017. This took many of the local taxes away from municipalities. In addition, Amendment Act 74 mandated the establishment of state finance commissions (SFCs) to recommend revenue transfers for local bodies, but many states are delaying the Constitution of SFCs, and even where these have been established, actual implementation is usually delayed by states 'on some pretext or other'.⁶⁵ All in all, intergovernmental financial transfers to local bodies have been rendered ineffectual for decentralisation and have proved to be an inefficient way of financing third-tier institutions.⁶⁶

6 SUPERVISING LOCAL GOVERNMENT

Local government is recognised in the State List (Seventh Schedule of the Constitution), and the states enjoy overriding powers over *panchayats* and municipalities (except large corporations). State governments can supervise and control local governments in multiple ways: legislative, administrative, financial, and judicial. Being a creature of state legislation (following the Conformity Act passed by respective states in the wake of the 73rd CAA), the state legislature exercises controlling powers over local bodies via a range of new laws, amendments, and ordinances soliciting information regarding their performances and so on, which impacts directly on the functioning and autonomy of these bodies. However, the most effective tools are administrative and financial.

State government supervises the functioning of local bodies through designated officials drawn from district and block levels. States have overriding powers to decide on major appointments—such as those of officials, advisers, and office-bearers such as the president and vice-president—as well as on the removal of members. State governments are also vested with various powers, among them the power to approve by laws and rules framed by the *panchayats* and municipal bodies, and to issue memoranda and directives containing advice and suggestions. However, the most important aspect of administrative supervision lies in

⁶⁵ Ibid.

⁶⁶ The Fifteenth Finance Commission (2020) observed that 'tax devolutions are a more objective form of transfer of resources as compared to other forms of transfers which are more discretionary and empirically found to be less progressive'.

the state governments' complete control of the hiring and firing of the personnel of the local bodies. Although the 73rd and 74th CAAs bestow the title of 'self-governing institutions', many such institutions (especially the *panchayats*) have no personnel of their own. All the personnel of *panchayats* are drawn from block and district administration, with these under the control of the state governments. Even core maintenance and development functions are performed by the line departments of the state concerned.⁶⁷

The situation for the municipalities is a little better. They do have the right to employ clerks and class-IV employees, but this still depends on the approval of the state governments; moreover, since the provincialisation of municipal services, state governments have control over staffing from the post of assistant up. This control starts at the point of recruitment and includes questions of transfer, promotion, conditions of service, and conduct and discipline. Furthermore, the municipal commissioner (in the case of corporations) in whom the executive power is vested is someone appointed by the state government.⁶⁸

Of all the administrative powers that the state has over the local bodies, however, it is the power to dissolve or supersede local bodies under certain specific circumstances that is the most lethal. If, in the opinion of the government, any *panchayat* abuses its powers or is not competent to perform, makes persistent errors in the performance of its duties, or wilfully disregards any instruction issued by the competent authority, the government can choose to dissolve it.⁶⁹ Telangana, for instance, has given sweeping powers to the district collector to suspend or even dismiss a *sarpanch* for misconduct or embezzlement. Section 37 of the Telangana Gram Panchayat Act⁷⁰ allows the district collector to act against a

⁶⁷ Prabhat Kumar Datta and Inderjeet Singh Sodhi, 'The Rise of the Panchayati Raj Institutions as the Third Tier in Indian Federalism: Where the Shoe Pinches' (2021) *Indian Journal of Public Administration* 17–18.

⁶⁸ Ramanath Jha, 'Strengthening Municipal Leadership in India: The Potentials of Directly Elected Mayors with Executive Powers', *ORF Occasional Paper No.168* (2018), <https://www.orfonline.org/research/43785-strengthening-municipal-leadership-india-potential-directly-elected-mayors-executive-powers/> (accessed 27 January 2023).

⁶⁹ Mohindra Singh, Mohinder Singh, and Vijay Kumar, 'State Control Over Panchayati Raj Institutions' (April–June 2005) 66(2) *Indian Journal of Political Science* 223–224.

⁷⁰ Pradeep Chhibber and Pranav Gupta, 'There Is Hardly Any Autonomy at Panchayat Level' (21 January 2023) *The Hindu*, <https://www.thehindu.com/opinion/lead/there-is-hardly-any-autonomy-at-the-panchayat-level/article66414499.ece> (accessed 27 January 2023).

sarpanch or other elected officials if they refuse to carry out the orders of the district collector or commissioner or government. The only solace for local bodies facing dissolution is that elections to replace representatives have to be conducted within six months of dissolution.

Finally, the state governments supervise and control the activities of local bodies simply through their hold on the purse strings. Since the state is the source for grants-in-aid, it supervises the expenditures incurred by local bodies within the prescribed financial limits and undertakes checks or inspections from time to time in order to check on any misuse. In terms of articles 243J and 243Z of the Constitution, financial control of local bodies is also exerted through the sanctioning of the budget and auditing of accounts.

Thus, notwithstanding their constitutional status and the devolution of several functions, local governments (with the exception of large corporations) are tightly supervised and controlled by state governments. This has ensured that the autonomy of these institutions and their self-governing character remains a reality only on paper.

7 INTERGOVERNMENTAL RELATIONS

The twin amendments of 1992 formally added a third-tier to India's existing federal architecture.⁷¹ As with most three-tier federations, local governments in India do not enjoy direct relations with the federal government, even though central institutions try to engage, motivate, and facilitate a range of activities related to local governments. In India, three ministries—the Ministry of Panchayati Raj, the MoUD, and Housing and Urban Poverty Alleviation (HUPA)—have all established contacts and engagements with local bodies at multiple levels. The subordinate offices, departments, and agencies of these central ministries engage with local government through various contact points, with the overall aim being to supplement governance at local levels. With the central government's launch of various 'flagship' schemes in recent decades, intergovernmental

2023).

⁷¹ Ibid.

coordination with local governments (via the respective state departments or municipal councils) has deepened and been consolidated.⁷²

Federal initiatives such as the Jawaharlal Nehru National Urban Renewal Mission (launched in 2005) and the Smart Cities Mission (2015) have tried to engage institutions in consultative processes and sought to bring in urban bodies to address key issues such as transportation and city infrastructure.⁷³ The 2006 Mahatma Gandhi National Rural Employment Act made *Gram Panchayats* key actors in the implementation of this massive rural employment scheme. *Panchayats* across all the major states have found places in the consultative process engaged by the Ministry of Panchayati Raj and its departments and agencies. At the same time, though, these initiatives have created new flashpoints in federal relations as many states see them as instances of the central government's trespassing on their autonomy.⁷⁴

State government plays the primary role in sustaining intergovernmental relations with local governments. Local bodies remain within the ambit of the State List, and states' governments retain appellate and overriding powers over local institutions. In view of this, the standing or position of the local bodies in intergovernmental processes depends largely on the particular framework created by the state. In the absence of any formalised universal structure for intergovernmental coordination, together with the lack of organised local government associations or lobbies in both rural and urban areas, everything is effectively left to the prerogative of state governments. A handful of states (such as Kerala and Karnataka) have allowed adequate spaces for local governments in the new decentralised power-sharing framework. Most states, however, can be seen as deploying local bodies (with the exception of corporations)

⁷² See KK Pandey, 'Administration of Urban Development and Urban Service Delivery: Theme Paper for the 56th Annual Members' Conference' (2017) *Indian Institute of Public Administration*, <https://www.iipa.org.in/new/upload/theme2012.pdf> (accessed 27 January 2023).

⁷³ *The Economic Times*, 'JNNURM: Largest Urban Renewal Programme Comes with Strings, but Succeeding in Places' (17 March 2014), <https://economictimes.indiatimes.com/opinion/et-commentary/jnnurm-largest-urban-renewal-programme-comes-with-strings-but-succeeding-in-places/articleshow/32176241.cms> (accessed 27 January 2023).

⁷⁴ PS Arun, 'The Sustained Attack on Federalism' (6 July 2022) *The Hindu*, <https://www.thehindu.com/opinion/op-ed/the-sustained-attack-on-federalism/article37999902.ece> (accessed 25 January 2023).

simply as an extended arm of the state administration, rather than as self-governing units that are allowed to work autonomously.⁷⁵ On the whole, local governments are kept out of the decision-making processes engaged in by federal and state governments even when these have a bearing on local affairs.

To sum up, the standing of the local bodies in existing intergovernmental processes depends mainly on the framework created by the state. Aside from a small number of states, most simply use local bodies as an extended arm of the state administration and do not allow them to function as self-governing units. What has made matters worse for local bodies is that both the centre and the states have promoted (and financially and administratively invested in) dozens of parastatals (such as housing boards, improvement trusts, town and country planning boards, and development authorities) which handle the specific functions that, ideally, local bodies should be in charge of.⁷⁶ Paradoxically, the Covid-19 pandemic created greater opportunities for cooperation between local bodies and the higher orders of government.⁷⁷

8 POLITICAL CULTURE OF LOCAL GOVERNANCE

Since the passage of CAA 73 and 74, local bodies have emerged as key sites of political competition. Despite the norm of not permitting the display of party symbols in local elections, parties are fiercely competitive and leave no stone unturned in the fight to win local polls. Political parties like the Bharatiya Janata Party and Trinamool Congress fight *Panchayat* elections with the same vigour as in state or national elections.⁷⁸ Similarly, political competition at the level of municipalities (particularly in the large metropolitan governments) is equally intense.

The popularity of local governments is evident in a consistently high turnout by voters in local elections. Two main factors have generated

⁷⁵ Ibid.

⁷⁶ Pandey (n 72).

⁷⁷ TR Raghunandan, 'Local Governments in a State of Despair' (15 August 2022) *The Hindu*, <https://www.thehindu.com/opinion/op-ed/local-governments-in-a-state-of-disrepair/article65768571.ece?homepage=true> (accessed 26 January 2023).

⁷⁸ Richard Mahapatra, '*Panchayat* Elections are Set to Become All the More Important' (15 May 2017) *Down to Earth*, <https://www.downtoearth.org.in/news/governance/panchayats-in-presidential-india-57786> (accessed 26 January 2023).

strong participation in local polls, where the *panchayats*, in particular, have attracted unprecedented attention from parties and voters. The first is the simple fact that more than 70 per cent of development programmes are implemented by PRIs and these bodies play a crucial role in the identification of beneficiaries for several welfare schemes. The second is that the adoption of an elaborate system of affirmative action (which reserves a substantial number of seats for socially disadvantaged communities and for women) has generated much wider interest among disadvantaged groups in the local bodies than elsewhere.⁷⁹

The 73rd and 74th CAAs ensured the mandatory reservation of one-third of seats for women at all levels of the third-tier system, just as they did for members of the Scheduled Caste and Scheduled Tribes. This was intended to ensure the visible representation of women and caste and tribal members in local self-governing bodies. It has been an enabling process, particularly considering the gross underrepresentation of these groups in politics, and especially in parliament and state assemblies. The political representation scene at the *panchayat* level clearly vindicates the vision of the drafters of the new legislation.

Currently, India has 260,512 *panchayats*, with 3.1 million elected representatives no less than 1.3 million of whom are women (see Table 1). This figure represents the most successful dimension of India's affirmative action campaign for women. Compared to just 7–8 per cent representation in Parliament and the state assemblies, a full 49 per cent of elected representatives are women, with the figure reaching above 50 per cent in states such as Odisha and Bihar.⁸⁰ Furthermore, of the 1.3 million women representatives, 86,000 chair their respective local bodies.⁸¹ It is remarkable progress if one considers that, before 1985, PRIs in Punjab,

⁷⁹ Ministry of Panchayati Raj, Government of India, 'Report of the Working Group on Panchayati Raj Institutions and Rural Governance' (2011) 12–14, http://nrcddp.org/file_upload/Report%20of%20the%20Working%20Groupon%20panchayati%20raj%20insti..pdf (accessed 26 January 2023).

⁸⁰ Niranjan Sahoo, 'Decentralisation @25: Glass Half Full Yet', *Observer Research Foundation* (5 May 2018), <https://staging.orfonline.org/expert-speak/decentralisation25-glass-half-full-yet/> (accessed 26 January 2023).

⁸¹ *Ibid.*

Table 1 Elected women representatives at various levels of PRIs (2019)

| <i>Level of government</i> | <i>No. of panchayats</i> | <i>No. of elected representatives</i> | <i>No. of elected women representatives</i> |
|----------------------------|--------------------------|---------------------------------------|---|
| <i>Gram Panchayat</i> | 253,268 | 2,903,277 | 1,292,203 |
| <i>Block Panchayat</i> | 6614 | 180,000 | 75,620 |
| <i>District Panchayat</i> | 630 | 17,527 | 8091 |

Source Ministry of Panchayati Raj, Government of India, 2019

Madhya Pradesh, Gujarat, West Bengal, and Rajasthan had only two female participants, while there were none at all in Uttar Pradesh.⁸²

To sum up, local government has now firmly secured its place in the popular imagination and in local political culture. This is due largely to the fact of rising political competition at local levels and the growing importance of local bodies in the implementation of development schemes and socio-economic programmes. While this augurs well for democratic decentralisation, it is important to note that local bodies have become a key site of federal competition and contestation.

9 COVID-19'S IMPACT ON THE ROLE OF LOCAL GOVERNMENT

The Covid-19 pandemic had a major negative impact on India's economy and devastated its fragile health system. It also presented significant challenges to the capacities of federal and state governments, but, in doing so, it also opened a rare window of opportunity for local governments in India.⁸³

Given that urban areas emerged as hotspots for the spread of infection, the pandemic significantly tested the capacities of the ULBs. As municipalities are engaged in protecting 'public health (and) sanitation

⁸² Avantika Singh, 'Examining Women's Role in Panchayati Raj' (22 April 2021) *The Daily Guardian*.

⁸³ Niranjan Sahoo and Ambar Ghosh, 'The COVID-19 Challenge to Indian Federalism', *ORF Occasional Paper* (29 June 2021) 29 (2-4), <https://www.orfonline.org/research/the-covid-19-challenge-to-indian-federalism/> (accessed 26 January 2023).

conservancy’, maintaining ‘burials and burial grounds; cremations, cremation grounds and electric crematoriums’, and recording ‘vital statistics including registration of births and deaths’ (these duties as listed in the Twelfth Schedule of Constitution), the ULBs emerged as the first line of support for people. Given the proximity of ULBs, the federal government and states were quick to recognise their importance in managing the pandemic. Several municipal corporations occupied centre-stage in the fight against the pandemic. Mumbai’s Brihanmumbai Municipal Corporation (BMC) is a prime example of the key role played by ULBs in containing the spread of the virus and addressing related challenges. Placing itself on a war footing, the BMC provided a daily ‘COVID-19 Response War Room Dashboard’. This provided disaggregated information regarding factors such as Covid-19 cases as well as information on the availability of hospital beds, data regarding contact tracing, and details about containment zones.⁸⁴ Likewise, many other municipal corporations (such as the Greater Chennai Corporation, GCC) played a key role in vaccinating the city’s population.⁸⁵

Panchayats also emerged as frontline institutions in the battle against the pandemic, especially so in the vast rural regions, where health infrastructure is thin on the ground. Since PRIs in many states are vested with the important duties of maintaining primary health-care centres, hospitals and dispensaries, as well as engaging in social welfare, they formed the locus of implementing pandemic containment strategies in remote regions. In some states, the chief ministers conferred the authority of district magistrates on the *sarpanches* of the *Gram Panchayats*, significantly devolving power from the centre.⁸⁶ PRIs worked closely with other

⁸⁴ Malathi Iyer, ‘Mumbai: Private Hospitals Outdo BMC in Vaccinations on Friday, Saturday’ (30 May 2021) *The Times of India*, <https://timesofindia.indiatimes.com/city/mumbai/maharashtra-pvt-hosp-s-outdo-bmc-in-vaccinations-on-fri-sat/articleshow/83077570.cms> (accessed 24 May 2022).

⁸⁵ T Ramakrishnan, ‘25 per cent of Posts for Heads of Local Bodies Reserved for SC/STs’ (3 August 2016) *The Hindu*, <https://www.thehindu.com/news/cities/chennai/25-per-cent-of-posts-for-heads-of-local-bodies-reserved-for-scsts/article2480417.ece> (accessed 24 May 2022).

⁸⁶ Priya Ranjun Sahu, ‘Not Being Kept in Loop: Odisha’s Sarpanches on CM’s Power Decentralisation Move’ (14 May 2020) *Down to Earth*, <https://www.downtoearth.org.in/news/governance/not-being-kept-in-loop-odisha-s-sarpanches-on-cm-s-power-decentralisation-move-71113> (accessed 25 May 2022).

stakeholders (such as accredited health workers and school teachers) at the local level to spread awareness regarding pandemic mitigation measures.⁸⁷

Yet the active contribution of third-tier institutions in the fight against viral pandemic was not without a multitude of institutional and procedural challenges. The foremost of these was financial. Always low on revenue, local bodies found that pandemic-related activities exacerbated the financial crunch on them. Even the relatively large and prosperous Pune Municipal Corporation struggled to raise adequate funds during the pandemic. It received only a quarter of its estimated income from property tax in the first month of the fiscal year 2020, and only 0.001 per cent from development revenue (from activities such as construction).⁸⁸ Similarly, the BMC was forced to impose a flat 20 per cent cut to its revenue expenditure across all departments.⁸⁹

Apart from financial problems, the lack of policy-making influence among third-tier institutions, in addition to the prevalence of hierarchical intergovernmental relations, posed a major challenge to the development of effective localised responses to Covid-19. As the Ministry of Housing and Urban Affairs put it, '[T]here is a lack of autonomy in these urban local governing bodies' decision-making'.⁹⁰ Moreover, during the crisis, district magistrates (DMs) and members of the elite civil service had a number of overarching powers conferred upon them that infringed the autonomy of local governments. DMs in many states (such as Andhra

⁸⁷ Anwesha Dutta and Harry W Fischer, 'The Local Governance of COVID-19: Disease Prevention and Social Security in Rural India' (2021) 138 *World Development*, <https://doi.org/10.1016/j.worlddev.2020.105234> (accessed 25 May 2022).

⁸⁸ Jha (n 68).

⁸⁹ Chaitanya Marpakwar, '20 per cent Cut in BMC Revenue Expenditure Due to Increased Spending on Tackling Covid-19' (10 June 2020) *Mumbai Mirror*, https://mumbaimirror.indiatimes.com/coronavirus/news/20-cut-in-bmc-revenue-expenditure/articleshow/78244360.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed 25 May 2022).

⁹⁰ Karishma Mehrotra, 'Urban Affairs Ministry Recommends Amending Constitution for Greater Municipal Autonomy' (4 March 2021) *The Indian Express*, <https://indianexpress.com/article/india/urban-affairs-ministry-recommends-amending-constitution-for-greater-municipal-autonomy-7214029/> (accessed 21 May 2022).

Pradesh, Assam, and Uttar Pradesh) drew on emergency powers to take over medical facilities and allocate funds to local bodies.⁹¹

In spite of these challenges, local governments proved to be integral instruments of state policy during the pandemic. This was well acknowledged by the federal government in the course of fighting the pandemic.⁹²

10 EMERGING ISSUES AND TRENDS

Ideas of local self-governance and the spirit of decentralisation have taken root in India's federal system, notwithstanding numerous challenges. Democratic decentralisation (particularly after the passage of the twin Acts of 1992) has in many ways opened up and democratised the traditional political space by bringing new voices and fresh issues to the fore. The increase in the number of elected representatives, along with the emphasis on the inclusion of women at third-tier levels, is testimony to the legitimisation of local governance. Of the 3.1 million elected representatives, a record number of 1.3 million are women. As far as grassroots politics is concerned, this represents the most successful aspect of India's affirmative action policy for women.

Another major development has been the ever-increasing levels of voter participation in the local polls. This indicates that a much stronger political culture is taking root as people demonstrate their interest in and expectations of democratic institutions. More notably, since the enactment of the twin Acts, elections to local bodies are being held with greater regularity and the once-endemic arbitrary dissolution of local bodies by the states is now much less frequent.

Significantly, the pandemic opened the eyes of many to the resilience and usefulness of local bodies as the first line of defence for the majority

⁹¹ Mohammad Hanmza Farooqui and Sanjana Malhotra, 'Role of the District Collector in the COVID-19 Response' (May 2020) *Accountability Initiative: Centre for Policy Research*, <https://accountabilityindia.in/primer/role-of-the-district-collector-district-magistrate-or-deputy-commissioner-in-the-covid-19-response/> (accessed 25 January 2023).

⁹² 'Centre Identifies 4 Cities as Role Models for Handling Covid-19 Pandemic' (25 May 2020) *Hindustan Times*, <https://www.hindustantimes.com/india-news/centre-identifies-4-model-cities-for-covid-handling/story-9dm4dVcsqvZU0YGWMybnEN.html> (accessed 25 January 2023).

of the population. Despite their very limited resources and the many institutional constraints, rural and urban local bodies alike were able to offer conspicuous aid to the state governments in critical areas of pandemic management.

However, notwithstanding significant progress on many fronts, several notable challenges remain regarding the ability of local bodies to fulfil their constitutional mandate. A key factor in the stunted growth of local governments is the fact of very limited devolution. With the exception of a few states such as Kerala (which has devolved all 29 functions to *panchayats*), most states (Punjab, Jharkhand, Goa, and others) have stuck to limited devolution. The lack of definitive provisions for decentralisation has resulted in a continued lack of administrative and functional devolution. Several state governments are yet to grant appropriate powers and authority to grassroots institutions. However, the problem is not merely how many functions have, in fact, been devolved. For even those where this has happened, devolution remains largely in name only; added to this is the fact of continued resistance from state-level political and bureaucratic elites who see these institutions as a threat to their own continued power and domination. In addition, several states continue to create and promote parallel bodies to take over the functions assigned for *panchayats*, thus effectively undermining their legitimacy.

The devolution story is even worse in the case of urban bodies. According to one recent study, ‘no state has devolved all (18 of) the municipal functions, (making) the municipal bodies ... dependent on the state for funds and decision-making’.⁹³ Even when functions are delegated to urban bodies, they are decentralised in name only: formal decentralisation is often not translated into practice. Take, for instance, the case of Karnataka. Of the 18 subjects listed in the Twelfth Schedule, its ULBs have complete control of only three.⁹⁴ This challenge stems from the fact that ‘the (74th) Amendment Act failed to spell out a well-defined functional domain for ULBs’.⁹⁵

The weakness of the mayoral system (the commissioner system) in the large municipal corporations also reflects the lack of functional autonomy that urban bodies have despite their constitutional status. Mayors in most

⁹³ Praja Foundation (n 53).

⁹⁴ Nivedita and Viswanath (n 43).

⁹⁵ Jha (n 68) 23.

Indian cities are relegated to secondary status while, across the world, the trend is the significant strengthening of mayoral authority through the granting of executive powers. In India's eight major cities, mayors are responsible for managing no more than three of 10 critical functions, and do not have effective control over finance or staffing (the two areas most important for good governance).⁹⁶

A part of the problem here stems from the political elites' continued bias towards the rural voter (rural India comprises more than 65 per cent of the total population). For decades, political leaders at both the state and national levels have focused on the rural concerns of the majority of the population. Urban issues, in consequence, have received relatively little attention from political leaders and other key decision-makers. This has led to a somewhat skewed balance of power, one which favours rural issues and interests, in the attempt, as one analyst has put it, 'to get the votes in the village and use that power to rule and plunder the cities'.⁹⁷ The rural bias is compounded by parastatal organisations (created by states to handle specific portfolios such as health, water, and education) and the resistance from bureaucratic elites who see genuine devolution to third-tier local bodies as a considerable threat to their powers and authority. To sum up, cities and towns lack the power and autonomy necessary if they are to fulfil their constitutional mandate as the self-governing institutions deemed necessary to meet the urgent challenges of India's rapid urbanisation.

Finally, it needs to be fully acknowledged that corruption also poses a significant challenge to service delivery in PRIs and ULBs. With funds from numerous central and state-level welfare schemes flowing through *panchayats*, these have become major sites of corrupt practices. An important study of local governments in Karnataka found that 55–65 per cent of funds earmarked for development in local bodies are misappropriated by elected representatives, contractors, and government officials.⁹⁸ The

⁹⁶ Jason Miklian and Niranjan Sahoo, 'Supporting a More Inclusive and Responsive Urban India' (2016) 3 *PRIO Policy Brief*, <https://www.prio.org/publications/9011> (accessed 26 January 2023).

⁹⁷ Shekhar Gupta, 'Anticipating India' (26 April 2014) *The Indian Express*, <https://indianexpress.com/article/opinion/columns/anticipating-india/> (accessed 26 January 2023).

⁹⁸ V Vijayalakshmi, 'Corruption and Local Governance: Evidence from Karnataka' (2006) *Working Papers 311*, IDEAS, <https://ideas.repec.org/p/ess/wpaper/id311.html> (accessed 26 January 2023).

prevalence of corruption has contributed to the weakening of the institution of *panchayats*, demonstrating that the problem of corruption among PRIs is a deep national trend, one that stands as a significant barrier to both public welfare and effective local governance.

To conclude, for local bodies to emerge as institutions of self-governance, they need to fulfil at least three basic conditions.⁹⁹ First, they must have institutional existence in the sense that decisions are taken by the people's representatives. Secondly, they need to have the institutional capacity to make their own rules independently (including the hiring and firing of personnel); and, last but not least, they need financial viability in terms of the power to raise the finances necessary for meeting their responsibilities. In other words, local bodies should enjoy the necessary functional, administrative, and financial autonomy that alone will deliver the desired outcomes. Given the levels of resistance to all of this from the state-level politicians and higher bureaucracy, it is going to be a long, drawn-out battle for local governments to become an active agent in a truly decentralised federal system.

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⁹⁹ Mahi Pal, 'Panchayati Raj and Rural Governance' (10 January 2004) 39(2) *Economic and Political Weekly*, <https://www.epw.in/journal/2004/02/commentary/panchayati-raj-and-rural-governance.html> (accessed 26 January 2023).